

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
OFFICE OF THE MONTANA STATE AUDITOR**

In the Matter of the Proposed Agency  
Action Against Dalton's Body Shop

Case No. INS-2022-00337

**FINAL AGENCY ACTION AND  
DEFAULT ORDER**

On June 29, 2023, the Commissioner of Securities and Insurance, Office of the Montana State Auditor ("Commissioner"), served a Notice of Proposed Agency Action and Opportunity for Hearing ("NOPAA") on Dalton's Body Shop ("Respondent") by US Mail with tracking capability.

The NOPAA was delivered July 3, 2023. A copy of the tracking receipts are attached and marked as Exhibit A. A copy of the NOPAA is attached as Exhibit B. The NOPAA provided Respondent an opportunity for an administrative hearing if requested within 24 days of the date of the NOPAA. The deadline for Respondent to request an administrative hearing to challenge the NOPAA was July 23, 2023. The NOPAA warned that failure to respond and request a hearing by the deadline would result in a default order.

Therefore, a default order will issue, since Respondent has failed to request an administrative hearing or pay the outstanding fine. Mont. Admin. R. 1.3.214.

The Commissioner considered the evidence and exhibits and makes the following determinations:

**FINDINGS OF FACT**

1. During the period of time at issue in this matter, Dalton's operated as a repair shop business, with a location at 133 Riverside Dr., Eureka, Montana 59917.

2. On November 21, 2021, Valerie McMaster ("McMaster") damaged her 2003 Dodge Ram 2500 (the "Truck") in a single vehicle collision including severe front-end damage.

3. On December 6, 2022, USAA, McMaster's auto insurance provider filed an estimate of record for \$3,599.50 to repair the damage done to the Truck.

4. On December 7, 2021, USAA issued a check to McMaster for \$3,099.50; the estimated amount less McMaster's deductible.

5. On January 3, 2022, Dalton's ordered a replacement bumper, license bracket, fog lamp, hood panel, and hood hinges from Keystone, a parts distributor, to repair the Truck.

6. On January 10, 2022, McMaster delivered the Truck to Dalton's for the repair work to be performed.

7. Dalton's performed work on the Truck including replacing the bumper, license bracket, fog lamp, hood panel, and hood hinges.

8. On January 25, 2022, Dalton's sent an invoice to McMaster for \$3,599.50 itemized as Insurance and Deductible.

9. On February 21, 2022, Dalton's delivered the Truck to McMaster's home with an invoice for \$3,774.52 itemized as Insurance, Deductible, Sea Foam 2 bottles, and Invoice from Big Sky Exxon. During this visit Dalton's also informed McMaster that they would be waiving her deductible.

10. McMaster noticed inadequacies with the repair work including scratches on the hood, dents in the hood, hammer marks on the hood, bent hood hinges, old hood hinges, alignment of the hood, and latching of the hood. This included aesthetic defects as well as safety concerns.

11. McMaster took her vehicle to several shops based on concerns with Dalton's repair including Butts Auto Body on February 25, 2022; Don K Whitefish on April 21, 2022; OHS Body Shop on April 28, 2022; and Deep Creek Diesel Performance on May 27, 2022. All shops confirmed the inadequacies with the repair conducted by Dalton's.

12. On March 4, 2022, McMaster filed a complaint with the Commissioner of Securities and Insurance, Policy Holder Services Division ("PHS") claiming she took her vehicle to Dalton's for repairs, but that the repairs were done poorly, and Dalton's did not use the parts purchased by the insurance company.

13. On March 8, 2022, PHS referred McMaster's claim to the CSI Investigations Bureau.
14. On March 11, 2022, USAA issued a second check to McMaster for \$96.48.
15. On March 14, 2022, USAA filed a supplemental invoice for \$5,384.66.
16. On March 15, 2022, USAA issued a check to Dalton's for \$1,785.16.
17. On April 11, 2022, Dalton's submitted to USAA a supplemental estimate, written by Angela Kaufman ("Kaufman"), for the work that was completed on McMaster's truck. The estimate stated the hood hinges and hood were replaced with a new hood and new hinges.
18. When CSI Investigator Harker called Dalton's to discuss this case on August 16, 2022, Kaufman, the business office representative, said she ordered, received, and checked in the "aftermarket" hood and hinges.
19. On August 16, 2022, Investigator Harker sent Kaufman an email. Kaufman replied that a surplus hood was ordered, but arrived with damage, Dalton's had to repair the hood because they could not order another one, one of the body technicians remembered spending a long time adjusting the hood hinges so the hood would align properly, and she wonders if the hood was damaged

before it ever shipped. Lastly, she admitted that it does look like the body technicians did not replace the hood hinges.

### **CONCLUSIONS OF LAW**

20. The Commissioner takes this action under the authority granted to him by the Montana Insurance Code (Mont. Code Ann. § 33-1-101, *et seq.*), which authorizes the Commissioner to act in protection of insurance consumers and in the public interest.

21. After following the procedures provided by Mont. Code Ann. § 33-1-701, and upon a finding by the Commissioner that a violation of the Montana Insurance Code has occurred, the Commissioner may impose a fine of up to \$25,000 upon a person who violates Mont. Code Ann. § 33-1-1202. *See* § Mont. Code Ann. 33-1-317.

22. A person commits the act of administrative insurance fraud under § 33-1-1202(1), MCA, when the person causes a written or oral statement to be presented to an insurer for the purpose of obtaining money or another benefit that contains false, incomplete, or misleading information regarding a fact material to a claim for payment or other benefit under the policy.

23. Dalton's committed insurance fraud on March 15, 2022, by misrepresenting the use of new parts and completion of adequate repairs to the Truck when it accepted full payment from USAA.

24. Under Mont. Code Ann. § 30-14-225, a person engaged in the business of automobile repair may not credit or rebate part or all of an insurance deductible.

25. Dalton's committed an unlawful act under Mont. Code Ann. §30-14-225, on February 21, 2022, by waiving McMaster's insurance deductible.

**ORDER**

THEREFORE, based on the foregoing findings of fact and conclusions of law, it is hereby ORDERED that:

1. Respondent shall pay a fine of \$5,000 to the State of Montana within 30 days of the date of this Order. Payment must be made by check or money order payable to the State of Montana.

2. Payment shall be sent to the Commissioner of Securities and Insurance, Office of the Montana State Auditor, Attn: Brandy Morrison, Paralegal, 840 Helena Avenue, Helena, MT 59601.

DATED this 31<sup>st</sup> day of August 2023.



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**TROY DOWNING**  
Commissioner of Securities & Insurance,  
Office of the Montana State Auditor

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and accurate copy of the foregoing

Final Agency Action and Default Order to be mailed to:

Dalton's Body Shop Inc  
c/o Dalton D Mee  
133 Riverside Dr., Eureka, MT 59917  
P.O. Box 390, Eureka, MT 59917

DATED: August 31, 2023

A handwritten signature in blue ink that reads "Brandy Ann Mullan". The signature is written in a cursive style and is positioned to the right of the date.

Tracking Number:

Remove X

## 9114901496451299472142

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

### Latest Update

Your item has been delivered and is available at a PO Box at 12:55 pm on July 3, 2023 in EUREKA, MT 59917.

### Get More Out of USPS Tracking:

USPS Tracking Plus®

Feedback

#### Delivered

Delivered, PO Box

EUREKA, MT 59917

July 3, 2023, 12:55 pm

#### No Such Number

EUREKA, MT 59917

July 3, 2023, 10:17 am

#### Out for Delivery

EUREKA, MT 59917

July 3, 2023, 8:38 am

#### Arrived at Post Office

EUREKA, MT 59917

July 3, 2023, 8:27 am

#### In Transit to Next Facility

July 2, 2023

#### In Transit to Next Facility





July 2, 2023, 3:27 am

**Departed USPS Regional Facility**  
MISSOULA MT DISTRIBUTION CENTER  
July 2, 2023, 2:37 am

**Arrived at USPS Regional Facility**  
MISSOULA MT DISTRIBUTION CENTER  
July 2, 2023, 1:44 am

**Arrived at USPS Regional Facility**  
GREAT FALLS MT DISTRIBUTION CENTER  
June 30, 2023, 9:59 pm

**Hide Tracking History**

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**Text & Email Updates**



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**USPS Tracking Plus®**



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**Product Information**



**See Less** ^

Track Another Package

Enter tracking or barcode numbers

## Need More Help?

Contact USPS Tracking support for further assistance.

**FAQs**

Tracking Number:

Remove X

## 9114901496451299472135

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

### Latest Update

Your item has been delivered and is available at a PO Box at 12:58 pm on July 3, 2023 in EUREKA, MT 59917.

#### Get More Out of USPS Tracking:

**USPS Tracking Plus®**

Feedback

#### Delivered

**Delivered, PO Box**

EUREKA, MT 59917  
July 3, 2023, 12:58 pm

#### Out for Delivery

EUREKA, MT 59917  
July 3, 2023, 8:32 am

#### Arrived at Post Office

EUREKA, MT 59917  
July 3, 2023, 8:21 am

#### In Transit to Next Facility

July 2, 2023

#### In Transit to Next Facility

July 2, 2023, 3:27 am

#### Departed USPS Regional Facility

MISSOULA MT DISTRIBUTION CENTER

July 2, 2023, 2:37 am

**Arrived at USPS Regional Facility**

MISSOULA MT DISTRIBUTION CENTER

July 2, 2023, 1:43 am

**Arrived at USPS Regional Facility**

GREAT FALLS MT DISTRIBUTION CENTER

June 30, 2023, 9:59 pm

**Hide Tracking History**

**Text & Email Updates**



**USPS Tracking Plus®**



**Product Information**



**See Less** ^

Track Another Package

Enter tracking or barcode numbers

## Need More Help?

Contact USPS Tracking support for further assistance.

**FAQs**

KEVIN BRATCHER  
Legal Counsel  
Commissioner of Securities and Insurance  
Office of the Montana State Auditor  
840 Helena Avenue  
Helena, MT 59601  
Phone: (406) 444-2040  
Fax: (406) 444-3497  
Email: kevin.bratcher@mt.gov  
**E-Service: CSI.LegalService@mt.gov**

*Attorney for the Commissioner of Securities and Insurance*

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
OFFICE OF THE MONTANA STATE AUDITOR**

In the Matter of the Proposed Agency  
Action Against Dalton's Body Shop

Case No. INS-2022-00337

**NOTICE OF PROPOSED AGENCY  
ACTION AND OPPORTUNITY  
FOR HEARING**

TO: Dalton's Body Shop  
c/o Dalton D Mee  
133 Riverside Dr., Eureka, MT 59917  
P.O. Box 390, Eureka, MT 59917

The Commissioner of Securities and Insurance, Office of the Montana State Auditor ( "Commissioner or CSI") has cause to believe that Respondent Dalton's Body Shop ("Dalton's") has violated the Montana Insurance Code, Mont. Code Ann. §§ 33-1-101, *et seq.* The CSI proposes a fine of \$5,000.00 for administrative insurance fraud. The Commissioner has the authority to take these actions under Mont. Code Ann. §§ 33-1-311, -317, -1202, and -1211, and as more fully described



below. The following is a proposed agency action. Acceptance of the Commissioners proposed action will resolve this matter and it will be deemed a Final Agency Action based on the facts and law set out below. If Dalton's chooses not to accept the proposed action, it may demand an administrative hearing, but that demand must be in writing and received by the Commissioner within 24 days of the date of this Notice, as described in the Statement of Rights below. Failure to timely request an administrative hearing will result in entry of a default order as described below.

### **FACTUAL ALLEGATIONS**

1. During the period of time at issue in this matter, Dalton's operated as a repair shop business, with a location at 133 Riverside Dr., Eureka, Montana 59917.
2. On November 21, 2021, Valerie McMaster ("McMaster") damaged her 2003 Dodge Ram 2500 (the "Truck") in a single vehicle collision including severe front-end damage.
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#### **ASSERTIONS OF LAW**

20. The Commissioner has jurisdiction over this matter pursuant to Mont. Code Ann. § 33-1-311.

21. The Commissioner is tasked with enforcement of the Montana Insurance Code, including the Insurance Fraud Protection Act, Mont. Code Ann. § 33-1-1201, *et seq.*

22. If, after conducting a hearing under Mont. Code Ann. § 33-1-701, the Commissioner determines that a person has committed administrative or civil insurance fraud, the Commissioner may impose a penalty. Mont. Code Ann. § 33-1-317. That fine can be up to \$ 25,000. Mont. Code Ann. § 33-1-317.



23. “A person commits administrative or civil insurance fraud when the person, for the purpose of obtaining any money or benefit, presents or causes to be presented to any insurer, purported insurer, producer, or administrator, as defined in 33-17-102, any written or oral statement, including computer-generated documents, containing false, incomplete, or misleading information concerning any fact or thing material to, as part of, or in support of a claim for payment or other benefit pursuant to an insurance policy.” Mont. Code Ann. § 33-1-1202.

24. Dalton’s committed insurance fraud on March 15, 2022, by misrepresenting the use of new parts and completion of adequate repairs to the Truck when it accepted full payment from USAA.

25. Under Mont. Code Ann. § 30-14-225, a person engaged in the business of automobile repair may not credit or rebate part or all of an insurance deductible.

26. Dalton’s committed an unlawful act under Mont. Code Ann. §30-14-225, on February 21, 2022, by waiving McMaster’s insurance deductible.

### **PROPOSED AGENCY ACTION**

The Commissioner in his discretion, considering the gravity, number of offenses, and financial loss involved, and to protect the public health, safety, and welfare of the public, and after a hearing conducted under Mont. Code Ann. §§ 33-1-317, 33-1-1211 proposes a fine of \$5,000.00.

## STATEMENT OF RIGHTS


Dalton's is entitled to contest CSI's proposed action by requesting an administrative hearing. To do so, within 24 days of the date of this Notice, Dalton's must submit a hearing request in writing to CSI at 840 Helena Avenue, Helena, MT 59601 or [CSI.LegalService@mt.gov](mailto:CSI.LegalService@mt.gov). A hearing request "must specify the grounds relied upon as the basis for the relief sought at the hearing." Mont. Code Ann. § 33-1-701. It may also include a response to the allegations set forth above. If a hearing is requested, Dalton's will be provided notice of the time, place, and nature of the hearing. Dalton's will be entitled to attend this hearing and respond and present evidence and argument on all issues involved in this action.

Administrative hearings are conducted by an impartial hearing examiner appointed by the CSI under the provisions of the Montana Administrative Procedures Act. Formal proceedings may be waived pursuant to Mont. Code Ann. § 2-4-603. Dalton's has the right to be represented by an attorney at any and all stages of this proceeding. However, a business entity may not appear on its own behalf or through an agent other than an attorney licensed to practice law. Admin. R. Mont. 1.3.231.

**POSSIBILITY OF DEFAULT**

Failure to timely provide a written hearing request shall result in the entry of a default order imposing the CSI's proposed action, without additional notice, pursuant to Montana Administrative Rule 1.3.214.

DATED June 29, 2023.

By:   
Kevin Bratcher  
Commissioner of Securities and Insurance  
Office of the Montana State Auditor

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and accurate copy of the foregoing Notice of Proposed Agency Action to be mailed to:

Dalton's Body Shop Inc  
c/o Dalton D Mee  
133 Riverside Dr., Eureka, MT 59917  
P.O. Box 390, Eureka, MT 59917

DATED: June 29, 2023

