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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

BRIAN WAITS,

Respondent.

Case No. INS-2024-00141

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

TO: Brian Waits
5473 US Hwy 93 S
Conner, MT 59827

The Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI or the Commissioner) has cause to believe that Ben Waits (Respondent) has violated the Montana Insurance Code, Mont. Code Ann. §§ 33-1-101, *et seq.* The Commissioner proposes to issue a final order finding Respondent committed civil or administrative insurance fraud in violation of § 33-1-1202(1), MCA. Additionally, the Commissioner proposes to order a \$5,000 fine and will seek payment of any costs incurred for any proceedings if Respondent requests a hearing on this matter. § 33-1-317, MCA. CSI has the authority to undertake this action pursuant to the Montana Insurance Code, including §§ 33-1-311, 33-1-217, and 33-1202 and 1211, MCA.

The following is a proposed agency action. Acceptance of the 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 Respondent chooses not to accept the proposed action, an administrative hearing must be requested. That request must be in writing and received by CSI within 24 days of the date of this Notice, as described in the Statement of Rights below. Failure to timely request a hearing can result in entry of a default order as stated in the Possibility of Default section below.

FACTUAL ALLEGATIONS

1. During the period at issue in this matter, Respondent was a resident of Montana, residing at 5473 US Highway 93 S in Conner, MT 59827.
2. During the period at issue in this matter, Respondent was the owner of a 2011 Tiffin Allegro Breeze RV ("RV"). The RV was insured through Progressive Direct Insurance Company ("Progressive") beginning on March 9, 2023, for a one-year period. The policy lapsed on March 9, 2024, for failure to renew.
3. Between March 9, 2024, and March 12, 2024, the RV was not insured.
4. At some time prior to 9:37 a.m. on March 11, 2024, Respondent was driving the RV near Stevensville, Montana when an object struck and cracked the windshield. Respondent took the RV to Bretz RV & Marine ("Bretz") in Missoula. Bretz employee(s) took photographs of the damage to the windshield. A screenshot of the file containing the photographs shows the photos were taken between 9:37 and 10:10 a.m. on March 11, 2024.
5. That same day, Respondent paid the premium due to renew coverage under his lapsed Progressive insurance policy. Progressive reinstated coverage effective March 12, 2024.
6. On March 13, 2024, Novus Glass Repair and Placement provided Bretz a customer quote estimating the cost of repair for the RV at \$5,227.11.
7. On March 18, 2024 at 7:55 am, Respondent filed claim number 24-8971395001 with

Progressive for the damage caused by the object. He reported the date of loss as March 17, 2024. On March 18, 2024, at 12:11 p.m., in a recorded conversation with a Progressive claims processor, Respondent stated, "I don't remember the time [of the accident], it was in the afternoon. It was Saturday . . . which was the 16th of, I believe, of March."

8. On March 28, 2024, Progressive determined that Respondent did not have insurance coverage at the time of incident and denied his claim.
9. On April 4, 2024, Progressive referred this matter to CSI.

ASSERTIONS OF LAW

10. The Commissioner has jurisdiction over this matter pursuant to § 33-1-311, MCA.
11. The Commissioner is authorized to act in protection of insurance consumers and act in the public interest. § 33-1-311, MCA. The Commissioner is also tasked with enforcement of the Montana Insurance Code, including the Insurance Fraud Protection Act. §§ 33-1-1202, MCA, *et. seq.*
12. A person commits the act of administrative insurance fraud under § 33-1-1202(1), MCA, when the person, for the purposes of obtaining money or another benefit, presents or causes to be presented to an insurer any written or oral statement that contains false, incomplete, or misleading information regarding a fact material to a claim for payment or other benefit under the policy.
13. Respondent committed administrative insurance fraud on December 28, 2023 by stating to Progressive that the collision occurred after he had renewed coverage under his policy. Respondent's statements were false and were intended to support his claim for payment.
14. If, after conducting a hearing under § 33-1-701, MCA, the Commissioner determines that

a person has violated the Montana Insurance Code by committing civil or administrative insurance fraud, the Commissioner may require the person to pay the costs of the proceeding and impose a fine of up to \$25,000 per violation. §§ 33-1-317, 33-1-1211(1)(b) MCA.

PROPOSED AGENCY ACTION

WHEREFORE, the Commissioner, in his discretion, considering the gravity and intentionality of the offense, and to protect the health, safety, and welfare of the public, proposes to order the following:

1. A finding that Respondent committed insurance fraud in violation of § 33-1-1202(1), MCA;
2. Payment of a fine of \$5,000 pursuant to § 33-1-317, MCA, plus interest at the statutory rate from the date of the Commissioner's final order; and
3. Payment of the costs of the proceedings if Respondent requests a hearing, pursuant to §§ 33-1-317, 33-1-1211(1)(b), MCA.

STATEMENT OF RIGHTS

Respondent is entitled to contest the Commissioner's proposed action by requesting a hearing; this is called an administrative or "contested case" hearing. § 2-4-102(4), MCA. To do so, **within 24 days** of the date this Notice, Respondent must submit a written hearing request to CSI at 840 Helena Avenue, Helena, MT 59601 or CSILegalService@mt.gov. A hearing request may, but does not have to, include a response to the allegations set forth above. If a hearing is requested, the Commissioner may appoint an impartial hearing examiner to conduct the

proceedings under the provisions of the Montana Administrative Procedures Act, Mont. Code Ann. Title 2, Chapter 4, Part 6. §§ 2-4-611, 33-1-701, MCA; Admin. R. Mont. 1.3.218. Respondent may also waive formal proceedings pursuant to § 2-4-603, MCA, in which case the hearing examiner would handle this case under the process for Informal Proceedings pursuant to § 2-4-604, MCA. Respondent will be provided notice of the time, place, and nature of the hearing; and will be entitled to participate in the contested case process and respond and present evidence and arguments on all issues involved in this action. §§ 2-4-601, -612, MCA. Respondent has the right to retain legal counsel to represent, accompany, and advise them at all stages of this proceeding or may also elect to represent themselves; 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. Admin. R. Mont. 1.3.214.

DATED November 1, 2025.

SPH

By: _____

JACK CONNORS

Chief Legal Counsel

Commissioner of Securities and Insurance

Office of the Montana State Auditor

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2025, I caused a true and accurate copy of the *Notice of Proposed Agency Action and Opportunity for Hearing* to be served on the following person by priority mailing through the United States Postal Service with tracking capability:

Brian Waits
5473 US Hwy 93 S
Conner, MT 59827



Paralegal