The Montana Insurance Commissioner (Commissioner), pursuant to the authority of the Insurance Code of Montana, Section 33-1-101, et seq., Mont. Code Ann. (2001), determines that there is reason to believe that the following allegations, if true, justify and support disciplinary treatment.

ALLEGATIONS

1. Paul Lybeck was the insurance producer for the

2. He was the insurance producer for the renewal of the policy in 1997 and 1998 when American States Insurance Company insured the , SAFECO bought American States in 1997.

3. In 1999 and 2000, the was insured by SAFECO Insurance Company of America. Again, Lybeck was the insurance producer.

2. The property of the is located in

3. Paul Lybeck lives in North Dakota, has a North Dakota insurance producer license, but does not have a Montana non-resident insurance producer license.

4. SAFECO Insurance Company of America never filed an appointment of Paul Lybeck
with the Montana Department of Insurance.

CONCLUSIONS

1. The State Auditor is the Commissioner of Insurance pursuant to section 2-15-1903, Mont. Code Ann.

2. The insurance department is under the control and supervision of the Commissioner pursuant to section 33-1-301, Mont. Code Ann.

3. The Commissioner shall administer the Department of Insurance to protect insurance consumers pursuant to section 33-1-311, Mont. Code Ann.

4. SAFECO Insurance Company of America is in violation of section 33-17-236, Mont. Code Ann in that SAFECO Insurance Company of America did not file an appointment with the Montana Department of Insurance for the appointment of Paul Lybeck.

II.

SAFECO Insurance Company of America (SAFECO) stipulates and consents to the following:

A. To pay a fine of $3500.

B. To comply with the insurance Code of Montana;

C. To waive the right to a hearing on the allegations and by entering into this consent, SAFECO neither admits nor denies the allegations.

D. That SAFECO states that it has read the foregoing Consent Agreement, that SAFECO knows and fully understands its contents and effect;

E. SAFECO understands that the Consent Agreement is a part of the file, which is a public record. As a public record it may not be sealed.

F. It is further understood that this Consent Agreement constitutes the entire agreement
between the parties, there being no other promises or agreements, either express or implied.

III.

Pursuant to the stipulation and consent of SAFECO, the Commissioner, under the 
authority of the Insurance Code of Montana and Section 2-4-603, MCA, hereby agrees that if the 
terms and conditions of this Consent Agreement are fully met, he will not initiate any civil or 
administrative action against SAFECO regarding the allegations contained therein pursuant to 
Sections 33-1-317 and 33-17-1001, MCA. In consideration for the Commissioner not initiating 
any civil or administrative action, SAFECO fully and forever releases and discharges the Office 
of the State Auditor and all State Auditor employees from any and all actions, claims, causes of 
action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or 
unknown, foreseen or unforeseen, arising out of the above entitled administrative action.

Dated this 28 day of October, 2002.

RESPONDENT

[Signature]

By: [Signature]

Its: Assistant Vice President

Subscribed and Sworn to before me this 28 day of October, 2002.

(SEAL)

Notary Public for the 
State of Washington 
Residing at Seattle, WA

Kevin F. Phillips 
Staff Attorney
BEFORE THE STATE AUDITOR
AND COMMISSIONER OF INSURANCE
HELENA, MONTANA

IN THE MATTER OF: ) CASE NO. 2002-8
)
)
)
)

THE PROPOSED DISCIPLINARY ) NOTICE OF PROPOSED AGENCY
TREATMENT OF PAUL LYBECK and ) ACTION AND OPPORTUNITY FOR
SAFECO INSURANCE COMPANY OF ) HEARING (LICENSE DISCIPLINE
AMERICA, ) AND ADMINISTRATIVE FINE)
)
)
)
)

Respondents.

TO: Paul Lybeck
P.O. Box 9034
Fargo, ND 58106-9034

SAFECO Insurance Company of America
John Hilderbrand
Managing Analyst, Northwest Region
SAFECO Ins. Co. of America
4854 154th Place NE
Redmond, WA 98052-9664

PLEASE TAKE NOTICE

Staff of the Insurance Division of the office of the State
Auditor and Commissioner of Insurance of the state of Montana
(Commissioner), pursuant to the authority of the Insurance Code
of Montana, Section 33-1-101, et seq., Montana Code Annotated
(2001) (MCA), is proposing to the Commissioner that he take
disciplinary action against the entities named above for
violations of the Montana Code. The Commissioner has authority
to take such action under the provisions of Sections 33-1-317,
33-2-119, 33-17-411, 33-17-1001, and 33-17-1002, MCA.

Notice of Proposed Agency Action and Opportunity for
Hearing (License Discipline and Administrative Fines)
It is the intent of the legislature and the declared policy of the state that occupational licensure be granted or revoked as a police power of the state in its protection of the public health, safety, and welfare pursuant to section 37-1-202, MCA.

Service of process is pursuant to section 33-1-314, MCA.

**REASONS FOR ACTION**

There is reason to believe that the following facts, if true, justify and support such disciplinary treatment.

**ALLEGATIONS**

1. Paul Lybeck sold a SAFECO Insurance Company of America (SAFECO) policy to insure the _____

2. The property of the _____ is located in _____

3. Paul Lybeck lives in North Dakota, has a North Dakota insurance producer license, but does not have a Montana non-resident insurance producer license.

4. SAFECO never filed an appointment of Paul Lybeck with the Montana Department of Insurance.

**CONCLUSIONS**

1. The State Auditor is the Commissioner of Insurance pursuant to section 2-15-1903, Mont. Code Ann.

2. The insurance department is under the control and supervision of the Commissioner pursuant to section 33-1-301, Mont. Code Ann.

3. The Commissioner shall administer the Department of
Insurance to protect insurance consumers pursuant to section 33-1-311, Mont. Code Ann.

4. Paul Lybeck violated section 33-17-201, Mont. Code Ann., in that he sold an insurance policy for coverage in Montana and he was not licensed by the Montana Department of Insurance.

5. SAFECO is in violation of section 33-17-236, Mont. Code Ann in that SAFECO did not file an appointment with the Montana Department of Insurance for the appointment of Paul Lybeck.

**STATEMENT OF RIGHTS**

You are entitled to a hearing and to respond to this notice and present evidence and arguments on all issues involved in this case. You may have a formal hearing before a hearing examiner appointed by the Commissioner. This is provided for by the Montana Administrative Procedure Act, sections 2-4-601, MCA, and following, including Section 2-4-631, MCA. If you demand a hearing, you will be given notice of the time, place and the nature of the hearing. Pursuant to section 33-1-701, the hearing shall be held within 45 days after receipt of the demand by the commissioner, unless postponed by mutual consent.

You have a right to be represented by an attorney at any and all stages of this proceeding.

If you want to resist the proposed action under the jurisdiction of the Commissioner, you must so advise him within fifteen (15) days of the date you receive this notice. You may so advise him by writing to Kevin Phillips, Insurance Attorney,
State Auditor’s Office, 840 Helena Ave, Helena, Montana 59604-4009. While so advising Mr. Phillips, you should make clear whether you demand a hearing, or whether you waive formal proceedings and, if so, what informal proceedings you prefer for handling this case. Pursuant to section 2-4-603(2), Mont. Code Ann., you may not request to proceed informally if the action could result in suspension, revocation or any other adverse action against a professional license.

Should you request a hearing, you have the right to be accompanied, represented, and advised by counsel. If the counsel you choose has not been admitted to practice law in the state of Montana, he or she must comply with the requirements of Application of American Smelting and Refining Co., (1973), 164 Mont. 139, 520 P.2d 103.

CONTACT WITH INSURANCE COMMISSIONER’S OFFICE

If you have questions or wish to discuss this matter, please contact Kevin Phillips, legal counsel for the State Auditor, 840 Helena Ave, Helena, MT, 59604-4009, (406)444-3496 or, within Montana, (800)332-6148. If you are represented by an attorney, please make any contacts with this office through your attorney.

POSSIBILITY OF DEFAULT

Failure to give notice or to advise of your demand for a hearing or form of informal procedure within twenty (20) days, will result in the entry of a default order imposing the disciplinary sanctions against you and your license, all without
any more notice to you, pursuant to 6.2.101, Administrative Rules of Montana and the Attorney General's Model Rule 10, 1.3.214.

DATED this [illegible] day of April, 2002.

JOHN MORRISON
State Auditor and Commissioner of Insurance

By: Kevin F. Phillips
Insurance Attorney
CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of
the foregoing NOTICE OF PROPOSED AGENCY ACTION AND OPPORTUNITY
FOR HEARING (LICENSE DISCIPLINE AND ADMINISTRATIVE FINE) to the
following persons by depositing the same in the U.S. Mail,
certified, return receipt requested, on this 12 day of

April, 2002.

TO: Paul Lybeck
    P.O. Box 9034
    Fargo, ND 58106-9034

    SAFECO Insurance Company of America
    John Hilderbrand
    Managing Analyst, Northwest Region
    SAFECO Ins. Co of America
    4854 154th Place NE
    Redmond WA 98052-9664

[Signature]
State Auditor's Office