

APR 26 2010

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

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IN THE MATTER OF:	)	CASE NO. INS-2009-93
	)	
NICOLE SIBLEY,	)	TEMPORARY CEASE AND DESIST
in her capacity as a licensed insurance	)	ORDER
producer, License # 704887, and	)	
	)	
BRANDON FRENCH,	)	
individually,	)	
Respondents.	)	

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The State Auditor in her capacity as Commissioner of Securities and Insurance of the State of Montana (Commissioner), pursuant to the authority of the Insurance Code of Montana, Mont. Code Ann. § 33-1-101, *et seq.*, hereby issues the following allegations of fact, proposed conclusions of law, order and notice of right to a public hearing:

**ALLEGATIONS OF FACT**

1. Sibley is a licensed insurance producer, license number 704887, and has been licensed since September 25, 2006.
2. Sibley was appointed with State Farm beginning on or about October 6, 2008. Sibley's appointment with State Farm terminated on or about September 24, 2009.
3. French is a farmer and contract fence builder living in Medicine Lake, Montana.
4. On or about May 1, 2009, the Department received a complaint from State Farm Insurance Company (State Farm) alleging Sibley had submitted a fraudulent insurance claim regarding an accident involving a car owned by her mother. The car was allegedly driven by

French, Sibley's boyfriend and father of her child, when the accident occurred. The claim is against French's insurance policy, but Sibley and her mother are the parties who would benefit were the claim paid.

3. Investigator Catrina Higgins (Higgins) investigated this matter. Pursuant to standard investigation procedures, Higgins obtained a copy of State Farm's claims file relevant to the claim. Higgins also spoke with French and Sibley, as well as State Farm's fraud investigator, Kirk Linse (Linse).

4. Higgins' investigation indicates Sibley filed the claim against French's policy with an inaccurate date for the accident. The claim indicated the date of loss as March 27, 2009. However, it appears the second repair shop to inspect the vehicle after the accident saw it on March 6, 2009, three weeks prior to the alleged accident. On or about May 1, 2009 Linse taped interview his interview of Sibley during which Sibley admitted she "picked the day out of the air" for when the accident allegedly occurred. Interview transcript, page 13. She further indicated to Linse that her standard practice is to file claims with dates she "picked out of the air." Id. In an interview conducted by State Farm representative Eric Rude on or about April 24, 2009, French indicated the accident occurred on March 27, 2009. Interview transcript page 2. French then threatened Linse he would obtain an attorney to force State Farm to pay the claim.

5. Additionally, the mechanics who viewed the damage to the fuse box indicated they did not know how the damage could have been caused by the accident as it was described by Sibley and/or French. It also appeared either French or Sibley asked one repair shop to alter the date on the repair order for the vehicle in question.

## CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter pursuant to Mont. Code Ann. § 33-1-101, *et seq.*
2. Pursuant to Mont. Code Ann. § 33-1-1202 (1), a person commits the act of insurance fraud when the person presents an insurer a written statement containing false information concerning any fact as part of a claim for payment, for the purpose of obtaining money.
3. Pursuant to Mont. Code Ann. § 33-1-1202 (2), a person commits the act of insurance fraud when the person assists, abets, solicits, or conspires with another to make any written or oral statement, containing false, incomplete, or misleading information concerning any fact or thing material to support of a claim for payment or other benefit pursuant to an insurance policy.
4. Sibley violated Mont. Code Ann. § 33-1-1202 (1) by submitting claims to State Farm that contained false information, including a false date of loss and false information as to the state of the car as a result of the claimed accident for the purpose of obtaining the benefit of having the expenses paid for repairing the car she relied upon for transportation.
5. French violated Mont. Code Ann. § 33-1-1202 (2) by assisting and abetting Sibley in her false claim to State Farm by providing incomplete, false or misleading information in support of the claim.
6. Pursuant to Mont. Code Ann. § 33-17-1001 (1) (c), the Commissioner may suspend or revoke an insurance producer's license when that person violates a provision of the Insurance Code.

7. Pursuant to Mont. Code Ann. § 33-17-1001 (1) (f), the Commissioner may suspend or revoke an insurance producer's license when that person, in conduct of the affairs under her license uses fraudulent practices or is untrustworthy or a source of loss and injury to the public.

8. Sibley violated Mont. Code Ann. § 33-17-1001 (1) (c) and (f) by violating the provisions of the Insurance Code found in Mont. Code Ann. § 33-1-1202 (1), showing Respondent uses fraudulent practices, is untrustworthy and is a source of loss and injury to the public.

### **ORDER**

Pursuant to Mont. Code Ann. § 33-17-1001, it appears to the Commissioner that the above named Respondents committed acts constituting violations of the Insurance Code of Montana, including acts constituting insurance fraud, and, therefore, hereby orders Respondents to cease and desist any actions or activity wherein Respondents act in violation of the Insurance Code of Montana.

### **NOTICE**

Respondents are notified that the Commissioner has issued this order temporarily ordering them to cease and desist violating the insurance code. If Respondents wish to contest the allegations herein, they shall make a written request for a hearing to Roberta Cross Guns of this office within 15 days of receipt of this order. The hearing shall then be held within 20 days of the Commissioner's receipt of the hearing request unless otherwise agreed by the parties. If no hearing is requested within 15 days of receipt of this order by Respondents, and the Commissioner orders none, this cease and desist order shall become permanent.

Should Respondents request a hearing, they have the right to be accompanied, represented and advised by counsel. If the counsel Respondents choose has not been admitted to the practice of law in the State of Montana, he or she must comply with the requirements of *Application of American Smelting and Refining Co.*, 164 Mont. 139, 520 P.2d 103 (1973), and *Montana Supreme Court Comm'n on the Unauthorized Practice of Law v. O'Neil*, 2006 MT 284, 334 Mont. 311, 147 P.3d 200.

DATED this 26<sup>th</sup> day of April, 2010.

MONICA LINDEEN  
Commissioner of Securities and Insurance

Robert W. Moon  
BY: Robert W. Moon  
Deputy Insurance Commissioner

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served on the 26<sup>th</sup> day of April, 2010, by US mail, certified first-class postage paid, to the following:

Brandon French  
PO Box 211  
Medicine Lake, MT 59247

Nicole Sibley  
701 B 11<sup>th</sup> Avenue NE  
Minot, ND 58703

Steven Thuesen  
Attorney at Law  
PO Box 953  
Red Lodge, MT 59068

Susan Paulson-Davis