

REASONS FOR ACTION

There is probable cause to believe that the following facts, if true, justify and support such specific action. Furthermore, there is reason to believe that the following facts will be proven true, and, therefore, justify and support the return any money collected regarding surety business in the state of Montana. The Respondent is already under a Permanent Cease and Desist Order in the state of Montana and therefore is in violation of that Order.

ALLEGATIONS OF FACT

1. Respondent's last known addresses are 10162 Bedec Ave., Las Vegas, NV, 89183-4267 and 8210 39th, New Town, ND, 58763.
2. Respondent worked for Native American Funds Management Services, Inc. (NAFMS), whose last known addresses were: 2510 E. Sunset #5, Suite #543, Las Vegas, NV, 89120 and 5300 Sequoia NW #104, Albuquerque, NM, 87120-1288.
3. NAFMS is not registered as a business entity or assumed name with the Montana Secretary of State's Office or the Nevada Secretary of State's Office.
4. Respondent legally is known as Robert Joe Hanson. Respondent Lyon is also known as Joe Lyon, Dennis Joe Lyon, and Chief Joe Blue Eyes.
5. Respondent is not registered to produce insurance in the state of Montana.
6. On February 22, 2007, the CSI ordered a permanent Cease and Desist Order against Robert Joe Hanson and his companies. The CSI also fined Mr. Hanson and his companies \$490,000. To date, neither Respondent nor his affiliated companies have paid any portion of the fine.
7. On or about October, 2009, Respondent communicated with Jim Bell, a representative of Fort Belknap Tribal Construction Corporation (Ft. Belknap College). In these

communications, Respondent held himself out to be the owner of Native American Fund Services Management.

8. Respondent and Fort Belknap College entered into a bonding arrangement whereby NAFMS would provide surety for a construction project for an addition for the Ft. Belknap College.

9. Ft. Belknap College is a registered Montana business, licensed by the Secretary of State, license # D174481 under its tribal name, Aaniiih Nakoda College.

10. On or about December 22, 2009, the performance bonds with Ft. Belknap were finalized. The total amount of the project was \$528,213.22. This was for the first phase of the contract. Fort Belknap College paid NAFMS \$29,660.66 for bonding cost and fees.

11. On or about September 30, 2010, Fort Belknap College submitted an amended contract of phase two of the project to OIC Marianas Insurance Corp. totaling \$2,276,465.00. NAMFS received \$118,376.19 from the Fort Belknap Tribe for bonding costs and fees.

12. Respondent failed to pay \$148,036.85 in performance surety bonds on behalf of Ft. Belknap College.

13. On or about October 25, 2010, Respondent communicated with Gabriel Renville, a representative of Blackfeet Nation, a Montana tribe licensed to do business with the Secretary of State, license #D023387 (Blackfeet). Respondent provided Mr. Renville with information regarding NAFMS.

14. On or about October 25, 2010, Respondent informed Mr. Renville that surety bonds offered to tribes did not need to be registered with the home state's department of insurance.

15. OIC is not properly licensed nor does it have a certificate of authority to provide insurance products in Montana.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter pursuant to Mont. Code Ann. 2-15-1903 and § 33-1-101, et seq.

2. Montana Code Annotated § 33-1-202(3) defines “Person” as an individual, insurer, company, association, organization, partnership, business trust, corporation, or any other legal entity.

3. Respondent is a “Person” as defined by Mont. Code Ann. § 33-1-202(3).

4. Tribal businesses registered with the Montana Secretary of State are “Persons” as defined by Mont. Code Ann. § 33-1-202(3).

5. Insurance is a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies. Mont. Code Ann. § 33-1-201(5)(a).

6. Every person engaged as an indemnitor, surety, or contractor in the business of entering contracts of insurance is an insurer. Mont. Code Ann. § 33-1-201(6).

7. With respect to insurance, “transact” means to solicit, negotiate, sell or effectuate a contract of insurance or transact matters subsequent to effectuation of the contract of insurance and arising out of it. Mont Code Ann. § 33-1-201(9).

8. Surety insurance includes insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship. Mont. Code Ann. § 33-2-111.

9. Respondent solicited surety bonds to two Montana residents and therefore transacted insurance in Montana.

10. A person acting as an insurer and an insurer transacting insurance in this state must have a subsisting certificate of authority issued by the Commissioner. Mont. Code Ann. § 33-2-101(1).

11. Respondent does not have a certificate of authority to transact insurance business in Montana; in fact, Respondent has a Permanent Cease and Desist Order against him. The Respondent could not legally provide coverage that he promised to the Ft. Belknap College, or to Blackfeet Tribal Nation.

12. A person commits insurance fraud if the person accepts premium money knowing that coverage will not be provided. Mont. Code Ann. § 33-1-1202(4).

13. Respondent committed insurance fraud by accepting money when he knew that no coverage would be provided.

RELIEF REQUESTED

WHEREFORE, the CSI seeks the following relief:

1. Pursuant to Mont. Code Ann. § 33-1-317, imposition of a fine not to exceed \$5,000 per violation of the Code and a maximum fine up to \$25,000;

2. Pursuant to Mont. Code Ann. § 33-1-1202(4), a finding that Respondent committed insurance fraud by accepting premium money knowing that coverage would not be provided;

3. Pursuant to Mont. Code Ann. § 33-1-1211(1), a person who commits insurance fraud is subject to the provisions of Mont. Code Ann. § 33-1-317 and may be ordered by the Commissioner to pay the costs of a proceeding;

4. Pursuant to Mont. Code Ann. § 33-1-1211(3), the Commissioner shall order a person who commits insurance fraud to make restitution for all financial loss sustained as a result of the insurance fraud. Restitution owed to Ft. Belknap by Respondent is in the total amount of \$144,786.75.

STATEMENT OF RIGHTS

You are entitled to a hearing to respond to this notice, present evidence and arguments on all issues involved in this case. You have a right to be represented by an attorney at any and all stages of this proceeding. You may demand a formal hearing before a hearing examiner appointed by the Commissioner pursuant to the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-601, et seq., including § 2-4-631. If you demand a hearing, you will be given notice of the time, place and the nature of the hearing.

If you want to contest the proposed action under the jurisdiction of the Commissioner, you must advise the Commissioner within 15 days of the date you receive this notice. You must advise the Commissioner of your intent to contest the proposed action by writing to Brett O'Neil, State Auditor's Office, 840 Helena Avenue, Helena, Montana 59601. Your letter must clearly indicate whether you demand a hearing, or whether you waive formal proceedings and, if so, what informal proceedings you prefer for disposition of this case. Pursuant to Mont. Code Ann. § 2-4-603(2), 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 on the matters raised in this Notice, a hearing must be held within 45 days of the request, unless postponed by mutual consent of the parties, pursuant to Mont. Code Ann. § 33-1-701(3).

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, and *Montana Supreme Court Commission on the Unauthorized Practice of Law v. O'Neil*, 2006 MT 284, 334 Mont. 311, 147 P.3d 200.

CONTACT WITH COMMISSIONER'S OFFICE

If you have questions or wish to discuss this matter, please contact Brett O'Neil, legal counsel for the CSI, at 840 Helena Avenue, Helena, MT, 59601, 406-444-2040. If an attorney represents you, 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 informal procedure within 15 days will result in the entry of a default order imposing the disciplinary sanctions against you without further notice to you, pursuant to Mont. Admin. R. 6.2.101, and the Attorney General's Model Rule 10, Mont. Admin. R. 1.3.214.

DATED this 5th day of March, 2012.



BRETT O'NEIL
Attorney for CSI

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served on the 6 day of March, 2012, by US mail, certified first-class postage paid, to the following:

Dennis Lyon
8210 39th
New Town, ND 58763


