

JESSE LASLOVICH
BRETT O'NEIL
Office of the Commissioner of Securities and Insurance
Montana State Auditor
840 Helena Avenue
Helena, MT 59601
406-444-2040

Attorneys for the CSI

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

IN THE MATTER OF)	CASE NO. INS-2013-130
)	
STATE FARM FIRE AND CASUALTY)	NOTICE OF PROPOSED AGENCY
COMPANY, STATE FARM GENERAL)	ACTION AND OPPORTUNITY FOR
INSURANCE COMPANY, AND STATE)	HEARING
FARM MUTUAL AUTOMOBILE)	
INSURANCE COMPANY,)	
)	
Respondents.)	

Staff of the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101 et seq. (Code), is proposing to the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), that she take specific action against the above-captioned State Farm companies (Respondent) for violations of the Code. The Commissioner has authority to take such action under the provisions of §§ 33-1-102, 33-1-301, 33-1-311, 33-1-315, 33-1-317, and 33-1-318. Service of process is pursuant to § 33-1-314.

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 an appropriate fine.

ALLEGATIONS OF FACT

1. On May 17, 2013, the CSI issued a request via certified mail to Respondent to produce information regarding a potential violation of § 33-18-223. The CSI gave Respondent until May 31, 2013, to respond to that request. (Exhibit 1.)
2. On May 21, 2013, Respondent received that request. (Exhibit 2.)
3. Respondent failed to respond to that request, failed to produce the requested information by May 31, 2013, and failed to request an extension of the May 31, 2013, deadline.
4. On several occasions prior to the May 17, 2013, letter, the CSI requested information and Respondent gave inadequate or evasive responses.
5. Respondent still has not responded to the CSI's request for information.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter pursuant to § 33-1-101 et seq.
2. A "person" is an individual, insurer, company, association, organization, partnership, business trust, corporation, or any other legal entity. (§ 33-1-202(3).)
3. Respondent is a "Person" as defined by § 33-1-202(3).
4. A person who knowingly fails to answer and produce records requested by the Commissioner is subject the provisions of § 33-1-317. (§ 33-1-315(5).)

RELIEF REQUESTED

WHEREFORE, the CSI seeks the following relief:

1. Pursuant to § 33-17-317, imposition of a fine not to exceed \$25,000 per violation of the Code for each identifiable violation of the Code.

STATEMENT OF RIGHTS

You are entitled to a hearing to respond to this notice, and to 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, § 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 wish to contest the proposed action under the jurisdiction of the Commissioner, you must advise the Commissioner within 21 days of the date you receive this notice. You must advise the Commissioner of your intent to contest the proposed action by writing to Jesse Laslovich, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 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 § 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 § 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.

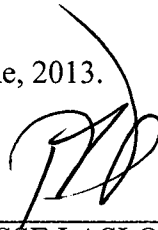
CONTACT WITH COMMISSIONER'S OFFICE

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. 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 27th day of June, 2013.

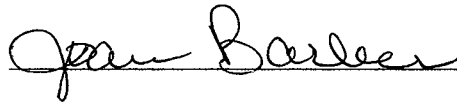


JESSE LASLOVICH
BRETT O'NEIL
Attorneys for the CSI

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served on the 27th day of June, 2013, by US mail, first-class postage paid, to the following:

State Farm Fire and Casualty Company
State Farm General Insurance Company
State Farm Mutual Automobile Insurance Company
ATTN: Eileen Flynn
1000 Wilmington
Dupont, WA 98327

 _____

COMMISSIONER OF SECURITIES & INSURANCE

MONICA J. LINDEEN
COMMISSIONER



OFFICE OF THE MONTANA
STATE AUDITOR

May 17, 2013

State Farm Companies
Attn.: Legal Department
One State Farm Plaza
Bloomington, IL 61710

Re: Montana Insurance Code

Dear Counsel:

On behalf of the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), the purpose of this correspondence is to put the State Farm Companies on notice that the following State Farm Companies may be in violation of the Montana Insurance Code, §§ 33-1-101 et seq. (Insurance Code):

1. State Farm Fire and Casualty Company
2. State Farm General Insurance Company
3. State Farm Mutual Automobile Insurance

As you know, the CSI is charged with enforcing the Montana Insurance Code.

First, Mont. Code Ann. § 33-18-223 prohibits, among other things, the State Farm Companies from using a glass broker to set a price that a glass repair shop must meet as a condition precedent to a glass repair shop doing work for it. The State Farm Companies are also prohibited from establishing a price that is below the market price as provided in § 33-18-222. *Id.* The CSI has reason to believe that some or all of the State Farm Companies may be using a glass broker in Montana that may be setting prices in violation of Montana law, and, accordingly, such State Farm Companies appear to have violated the aforementioned statutes. To assist the CSI in determining whether violations have occurred, please provide the following in writing to the CSI **no later than May 31, 2013.**

1. Copies of any contracts entered into with a third-party billing vendor for purposes of serving as a glass broker.
2. Copies of any contracts entered into with Montana glass repair facilities that show pricing agreed to by the facility and each of the State Farm Companies.
3. Copies of any analyses conducted by each of the State Farm Companies or its third-party vendor that show the prevailing competitive rate in local areas throughout Montana.

In addition to the foregoing, please also provide the CSI with the following:

Phone: 1-800-332-6148 / (406) 444-2040 / Main Fax: (406) 444-3497
Securities Fax: (406) 444-5558 / PHS Fax: (406) 444-1980 / Legal Fax: (406) 444-3499
840 Helena Ave., Helena MT 59601 Website: www.csi.mt.gov E-Mail: csi@mt.gov



State Farm Companies
Attn.: Legal Department
May 17, 2013
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4. Confirmation to the CSI that each State Farm Company does not utilize a paint cap or threshold for paint and materials for which an automobile body repair business invoices.

Please be advised that the CSI considers an automobile body repair business invoice to be credible.

Finally, the CSI reminds the State Farm Companies of § 33-18-224(1)(a)(iii) which prohibits an insurer from unilaterally disregarding a repair operation or cost identified by an estimating system that a State Farm Company and an automobile body repair business or location have agreed to utilize in determining the cost of repair. Please also include in your response prior to May 31, 2013, confirmation that the State Farm Companies are not unilaterally disregarding such costs. If the CSI receives documentation that the State Farm Companies are unilaterally disregarding such costs, the CSI will initiate an agency action.

The CSI appreciates your prompt attention to the foregoing and looks forward to your timely response. To the extent all of the State Farm Companies fail to adequately respond to this request prior to May 31, 2013, the CSI will initiate an administrative action.

Sincerely,



JESSE LASLOVICH
Chief Legal Counsel

JAL/sls

(Sent by certified mail return receipt requested.)

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> State Farm Companies Attn: Legal Department One State Farm Plaza Bloomington, IL 61710 </div>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7011 2000 0001 0420 5485</p>
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

UNITED STATES POSTAL SERVICE

First Class Mail
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• Sender: Please print your name, address, and ZIP+4 in this box •

MONICA J LINDEEN
 COMMISSIONER OF SECURITIES & INSURANCE
 MONTANA STATE AUDITOR
 840 HELENA AVENUE
 HELENA MT 59601

Attn: Sub 1

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 STATE AUDITORS
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 FEB 20 2004

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EXHIBIT
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