



Protecting Montana's consumers through insurance and securities regulation

EXHIBIT 15  
DATE 3/11/05  
SB 43

## Illegal Insurance Transactions SB 114

*Protecting Montanans from fake insurance and scams*

### **Background:**

The General Accounting Office reported 144 fake health insurers sold more than 200,000 bogus policies between 2000 and 2002, resulting in \$252 million in unpaid claims. During this time period the number of fake insurers almost doubled. Many of these insurers operate across state borders.

In Montana, hospitals such as Saint Vincent Healthcare in Billings have reported seeing hundreds of these. Further, complaints about fake insurance have been received from Sidney to Libby. As of July 2004, the Montana State Auditors office had issued cease and desist orders on 15 entities.

Frequent targets of unauthorized insurance plans are the elderly and small businesses looking to reduce insurance costs. Fake insurance is attractive because it is typically less expensive than legal policies.

During 2004, two small contractors were victimized by a fake surety entity that sold fake bid bonds. One of the contractors only discovered the fraud after the bid had been accepted and work had begun on a project partially funded by federal dollars. When it was discovered that his bond was issued by a fake surety entity he was in a position to have the contract cancelled. It could have been a business-ending situation for this small business.

### **Bill Details:**

This legislation aims to reduce the number of fake insurance scams in the state, by increasing penalties on these criminal acts.

- The National Association of Insurance Commissioners is beginning the process of drafting model legislation. The model is not yet adopted, but because of the level of activity here in Montana this past year it's important that this bill pass now to protect our citizens.
- The selling of insurance without authorization from the State Auditor's office will be considered insurance fraud and a felony offense.
- Soliciting insurance or selling insurance in any other state or county from within the state of Montana, without specific authorization from the Montana State Auditor's Office, will be considered a felony offense.
- Selling fake insurance and all other forms of insurance fraud will be punishable under deceptive practice statutes.

SB 114 was passed by the Senate on a unanimous vote of 50-0.

**GRIZZLY SECURITY ALARMS INC.****P.O. BOX 7746****KALISPELL, MT. 59904-0746****Phone (406) 755-4089 Fax (406) 257-2634****E-mail [alarmed@digisys.net](mailto:alarmed@digisys.net)**

Dear Sirs,

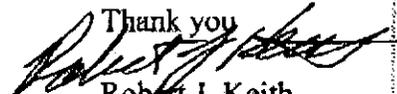
I am writing this letter today with the intention of helping to inform you of the need for tougher penalties for company's operating outside of the laws of the State of Montana. You see I was a victim of one of those companies. I am an owner of a security company here in the state and I was trying to get a substantial job for my company. This job required a bid bond as well as a construction bond. I contacted several bonding companies' here in the state and was told that I might not have enough time to get a bond in place by the deadline. Several months prior to that I had received a letter from a company outside of Montana that advertised bonding so I gave them a call and proceeded to get my bonding through them. I sent them a check for approximately \$1000.00 for the bid bond and received documentation that led me to believe that I was bonded. I was successful in my bid and sent them another check for almost \$10,000 and received all of the legal looking paperwork necessary.

I had just finished purchasing all of the equipment for the job and had started into the wiring stage when the State of Montana Auditors office informed me that the bonding company was not legitimate. Montana's Auditors office put a cease and desist order on the project. It seems that not only were they not licensed in the state but didn't have the funds to back the bond to start with. I was in a predicament to say the least. Not only was the job put on hold but also I was still liable for the product purchased from my suppliers. Parts were already installed and I was responsible for the job.

I put a stop payment on the second check and was lucky that the bonding company hadn't cashed it but I still had a large problem. I was not bonded and was unable to proceed with the project until legitimate bonding was obtained.

There is a good ending to the potential tragedy. Thanks to the Montana Auditors office and my people being able to perform in a crunch time I was able to obtain the necessary bonding and was able to proceed and ultimately complete the job. However it was at some expense. I know that if I was not notified of this bogus company as early in the project as I was that I most likely would have lost the job and ultimately possibly my business. The state needs to take this very seriously! I am sure that most of you are aware of the struggles of a small business and how difficult it is to survive. I also know that fraudulent activity takes place every day and I feel that one way to curb this behavior is to make the penalty substantial. If the penalty is not substantial we are in essence inviting that type of activity to our state.

I may seem a little long-winded with this letter but that is only because of how strongly I feel about this. If we don't have strong punishment for this crime then we are doing our state and ourselves a grave injustice.

Thank you  
  
Robert J. Keith



MONTANA STATE AUDITOR  
JOHN MORRISON

COMMISSIONER OF INSURANCE  
COMMISSIONER OF SECURITIES

**FOR IMMEDIATE RELEASE:**  
Tuesday, August 24, 2004

**CONTACT:** Sarah Elliott  
406-444-2495

## **Contractors Sold Fake Surety Insurance and Bid Bonds *Cease and Desist Issued – Accused Still At Large***

(HELENA) A Cease and Desist order has been issued on a man suspected of participating in a scam that used insurance certificates and fake contractor bonds to win bids of public works projects. The man, Robert Joe Hanson, 46, of Las Vegas Nevada uses the company name Individual Surety, LTD and is not licensed in the State of Montana. Several small contracting companies in Montana have already been victimized by this scam. Cease and Desist orders have also been issued in Nevada, Florida and Georgia against Hanson and Individual Surety, LTD and there is a warrant out for his arrest in California.

“Criminals will go to great lengths to commit fraud,” said State Auditor John Morrison. “I will continue to fight these unauthorized insurers preying on Montana’s small contractors and businesses.”

Hanson is accused of acting as an insurance producer and selling fraudulent surety insurance, bid and performance bonds to small contractors in Montana. The majority of solicitations were made in the in Butte area for construction projects at three locations in the State of Montana. Hanson illegally guaranteed surety bonds for \$185,000, \$13,900 and \$43,000. The construction bids made with these bonds totaled over \$4 million in Montana.

Investigators believe there are more Montana victims. Robert Joe Hanson’s last known address was 2867 Destino Lane, Henderson, Nevada and Individual Surety, LTD was last listed at 6402 McLeod Dr. #5, Las Vegas, Nevada. He has previously done business as Millennium Bonding and Global Bonding. And recently has been operating a business called I.S., a Native American Corporation. If you are contacted by any of these entities or think you have been sold fraudulent surety insurance or bid bonds, please contact the Investigations Unit at the State Auditor’s Office at 1-800-332-6148.

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# MONTANA STATE AUDITOR

JOHN MORRISON  
STATE AUDITOR



COMMISSIONER OF INSURANCE  
COMMISSIONER OF SECURITIES

## ILLEGAL INSURER TAKES ADVANTAGE OF THE ELDERLY

On March 8, 2004 the Montana State Auditor's Office began an investigation precipitated by 77-year-old Sidney, Montana resident Clarence Sheetz. Mr. Sheetz trusted his longtime insurance agent, Steven G. Polesky, Glendive, Montana, and purchased from him what appeared to be less expensive Medicare supplement coverage in order to meet fixed income requirements. After reading an article published by AARP referencing insurance scams, Mr. Sheetz contacted the Department to verify the validity of the company Mr. Polesky claimed offered this great deal. It was revealed the supplemental product purchased by Mr. Sheetz was an unlicensed/illegal nonexistent company created by his trusted agent Mr. Polesky and that 9 other elderly insurance clients also bought this fake plan from Mr. Polesky.

Mr. Polesky haphazardly created a plan to invent an insurance company, Supplemental Benefits Association, and sold bogus Medicare supplement coverage to persons already receiving adequate coverage from bonified insurance companies, most of which were previously sold by him. This ruse by Polesky placed 10 people who trusted him in a circumstance that jeopardized their health care insurance coverage. Of those 10 victims, the average age was 77.5 years, and at least 9 believed the plan Mr. Polesky sold was insurance or a replacement to their existing Medicare Supplement coverage. Additionally, Mr. Polesky received approximately \$12,470 from these victims, not nearly enough to cover claims that were accruing while the investigation was being conducted. One of Mr. Polesky's victims was in a Billings hospital at the time the Department was investigating the problem. This one victim accrued more than \$10,000 in medical costs for medical testing and care he received while in this Billings hospital.

This post World War II group of Montana citizens represent the passing of that trusting generation of Americans that would solidify a deal with a handshake and their word. Today, this trusting generation is lost in Hi-tech procedures that changes faster than ever before, and they are placed at risk without proper protections from the legislature.

Phone: 1-800-332-6148 / (406) 444-2040 / Fax: (406) 444-3497

840 Helena Avenue Helena, MT 59601 Website: [www.discoveringsmontana.com/sao](http://www.discoveringsmontana.com/sao) E-Mail: [stateauditor@state.mt.us](mailto:stateauditor@state.mt.us)



**PRIVATE HEALTH INSURANCE**

**Employers and Individuals Are Vulnerable to Bogus or Unauthorized Entities Selling Coverage**

**Why GAO Did This Study**

Health insurance premiums have increased at double-digit rates over the past few years. While searching for affordable options, some employers, especially including small employers, and individuals have purchased coverage from certain entities that are not authorized by state insurance departments to sell this coverage. Such bogus or unauthorized entities may collect premiums and not pay some or all of the medical claims filed by policyholders. GAO was asked to identify the number of these entities that operated from 2000 through 2002, the number of employers and policyholders covered, the amount of unpaid claims, and the methods state and federal governments employed to identify such entities and to stop and prevent them from operating.

GAO analyzed information on these entities obtained from the Department of Labor (DOL) and 48 states and the District of Columbia that responded to a GAO survey. In addition, GAO interviewed federal officials at DOL headquarters and at three regional offices and state officials at insurance departments in four states responsible for investigating these entities.

**What GAO Found**

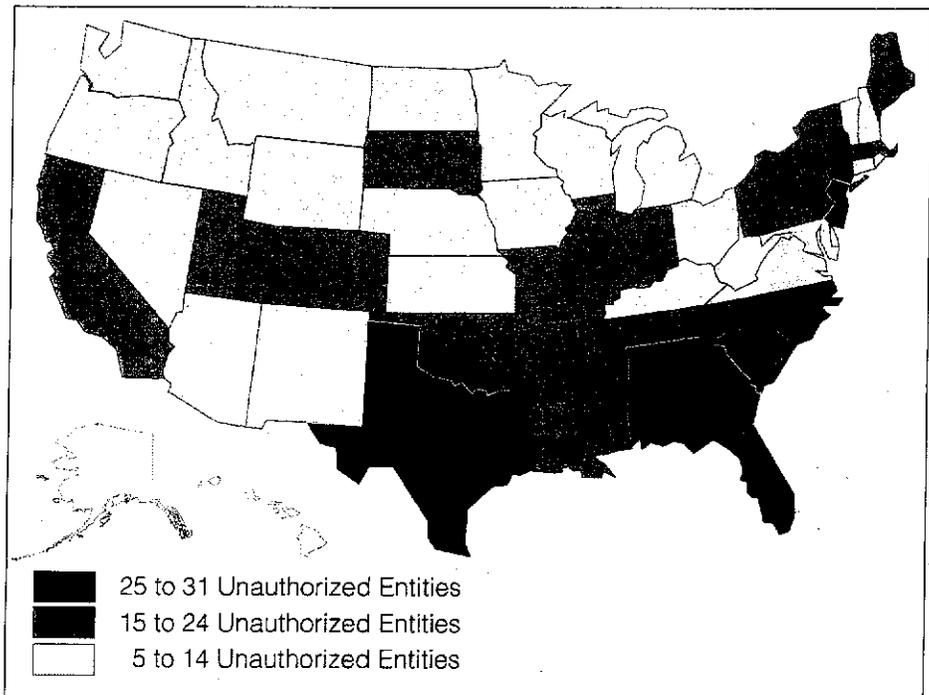
DOL and the states identified 139 unique entities not authorized to sell health benefits coverage from 2000 through 2002. The number of entities newly identified increased each year, almost doubling from 30 in 2000 to 57 in 2002. Many of these entities targeted employers and policyholders in multiple states, and most often operated in the South with 31 operating in Texas, the most of any state.

DOL and the states reported that the 139 unique entities

- sold coverage to at least 15,000 employers, including many small employers;
- covered more than 200,000 policyholders; and
- left at least \$252 million in unpaid medical claims, only about 21 percent of which had been recovered at the time of GAO's 2003 survey.

Overall, 10 entities accounted for nearly two-thirds of employers sold coverage, more than half of covered policyholders, and nearly half of unpaid claims.

Consumers played a major role in helping states and DOL identify these entities. DOL often relied on states to stop these entities within their borders while DOL focused its investigations on larger entities operating in multiple states and, in three cases, obtained court orders to stop these entities nationwide. Much of the states' prevention activities were geared to increasing public awareness and notifying the agents who sold this coverage, while DOL focused its efforts on alerting employer groups and small employers.



Source: GAO analysis of DOL and state data.  
 Note: Some of the unauthorized entities operated in more than one state so the total number of entities operating in all states exceeds the total of 139 unique entities.

[www.gao.gov/cgi-bin/getrpt?GAO-04-312](http://www.gao.gov/cgi-bin/getrpt?GAO-04-312).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Kathryn G. Allen at (202) 512-7118.

## **DRAFT**

### **Appendix IV**

#### **Consumer Alert Developed by the National Association of Insurance**

#### **Commissioners**

The National Association of Insurance Commissioners (NAIC) developed a consumer alert to help prevent unauthorized entities from operating. The consumer alert—which NAIC developed in the fall of 2001, distributed to all the states, and is also available on its Web site—is intended to be a model states can use to help inform the public about these entities. The alert provides tips that consumers can follow to help protect themselves from the entities and sources to contact for additional information about these entities.

(See fig. 6.)

# DRAFT

Figure 6: Consumer Alert from NAIC



## Consumer Alert from the NAIC: Protect Yourself Against Illegal Health Plans

*If it seems too good to be true, it probably is. Nationwide, the health insurance marketplace is facing tough times. The cost of health insurance is rising. Those seeking to make a profit by selling fraudulent health insurance claim that state insurance laws don't apply. These entities recruit insurance agents to sell "ERISA plans" or "union plans" that falsely claim to be exempt from state law. Here are some tips from the National Association of Insurance Commissioners (NAIC) to help you protect yourself against illegal health insurance plans.*

### 1. Legitimate ERISA Plans

Legitimate ERISA plans (plans governed by the federal Employee Retirement Income Security Act of 1974) and union plans may be exempt from state insurance regulation, which is why criminals try to fool people by making these claims. However, legitimate ERISA or union plans are established by a union for its own members or by an employer for the employer's own employees. They are not sold by insurance agents.

### 2. Get the Facts

Consumers and employers should take care to ask their agents whether the health coverage they are purchasing is fully insured by licensed insurers. A "union plan" sold by an agent, health coverage that seems unusually "cheap," health coverage that is issued with few questions about the applicant's health condition or plan material that refers only to a "stop-loss" insurer should alert a consumer to question the selling agent or contact the state insurance department.

### 3. How the Scam Works

A typical fraudulent health insurance scam attempts to recruit as many local insurance agents as possible to market the coverage. The health coverage is not approved by the state insurance department. Agents are told it is regulated by federal, not state law. In fact, it is totally illegal. The coverage is typically offered regardless of the applicant's health condition and at lower rates and with better benefits than can be found from licensed insurers. The scam seeks to collect a large amount of premium as rapidly as possible.

While claims may be paid initially, the scam will soon begin to delay payment and offer excuses for failure to pay. Unsuspecting consumers who thought they were covered for their medical needs are left responsible for huge medical bills. Employers may be liable for the medical bills of their employees as well.

### 4. Avoid Becoming the Next Victim

How can the average consumer avoid becoming the next victim? Ask hard questions and do your homework. Read all materials and scrutinize Web sites carefully. Here are some circumstances and product characteristics that should prompt consumers to question a health plan before purchasing it. These include:

- Coverage that boasts low rates and minimal or no underwriting should be a signal to look deeper.
- Make sure your insurance agent is selling a state-licensed insurance product. If an insurance agent is trying to sell you a union plan, report them to your state insurance department.
- Deal with reputable agents. If the person trying to sell you coverage says he or she doesn't need a license because the coverage isn't insurance or is exempt from regulation, watch out. Contact your state insurance department if you have any questions.
- Ask your agent for the name of the insurer and check the benefit booklet you receive to see whether it names a licensed insurer that is fully insuring the coverage.
- If your agent or the marketing material says that the plan is covered only by "stop-loss insurance" or that the plan is an "ERISA" or "union" plan, contact your state insurance department.

### 5. Get More Information

Your state insurance department is your best source for information on company and agent licensing requirements, as well as available products. For a list of state health contacts, visit [www.naic.org](http://www.naic.org) and click on MEWA Contacts. You can also link to your insurance department's Web site by clicking on "State Insurance Regulators Web Sites," then click on your state.

*The National Association of Insurance Commissioners is a voluntary organization of the chief insurance regulatory officials of the 50 states, the District of Columbia and four U.S. territories. The overriding objectives of state regulators are to protect consumers and help maintain the financial stability of the insurance industry. If you would like more information or wish to be removed from the "Consumer Alert" media list, please contact the Communications Department at (816) 842.3600 or [Communications@naic.org](mailto:Communications@naic.org).*

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### Appendix V

#### Department of Labor Memo and Insurance Tips for Small Employers

On August 6, 2002, the Secretary of Labor sent a memorandum to over 70 business leaders and associations asking them to distribute insurance tips for small employers to follow when they purchased health insurance for their employees.<sup>34</sup> Because, according to the Secretary, “scam artists” were aggressively targeting small employers and their employees, the Secretary advised small employers to take extra precautions when obtaining health care coverage. The tips—“How to Protect Your Employees When Purchasing Health Insurance”—informed small employers that, among other things, they should verify with a state insurance department whether any unfamiliar companies or agents were licensed to sell health benefits coverage. The Department of Labor (DOL) has updated these tips and makes them available on DOL’s Web site. Figure 7 includes the current version of DOL’s tips.

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<sup>34</sup>DOL sent the memorandum to such groups as the Independent Insurance Agents of America, National Association for the Self-Employed, National Federation of Independent Business, National Restaurant Association, Society of Professional Benefit Administrators, and the U.S. Chamber of Commerce.

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Figure 7: Insurance Tips for Small Employers

## Fact Sheet



U.S. Department of Labor  
Employee Benefits Security Administration  
October 2003

### How to Protect Your Employees When Purchasing Health Insurance

- **Compare insurance coverage and costs.** Always compare the benefits and costs of multiple insurance products. If one product appears to offer similar benefits at a dramatically lower cost, ask questions.
- **Confirm** that the person offering the product is a licensed insurance agent with a proven record of reliability. Promoters of insurance scams often engage unlicensed insurance agents to market their product as a cheaper alternative to traditional insurance. Check out unknown agents with your state insurance department.
- **Verify** that any unfamiliar company, organization or product is approved by your state insurance department.
- **Examine the policy** to determine the actual coverage and whether the promised benefits are fully insured by a licensed insurance company. Do not confuse representations about stop-loss coverage with a guarantee of group health benefits. Stop-loss coverage often protects only the issuer, not the insured individuals.
- **Request references** of employers enrolled with the provider and get information from employers about benefit payment history and claim turn around time.
- **Ask about the allocation of premiums** charged for commissions, fees and administration expenses. Allocation of a high percentage of the premiums to commissions, fees and administrative expenses may indicate a problem with the product or insurer.
- **Contact** your Regional Office of the Employee Benefits Security Administration (U.S. Department of Labor) through its toll-free number at 1-866-444-EBSA (3272) or at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) to report problems.

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