

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

[bo'neil@mt.gov](mailto:bo'neil@mt.gov)  
[mkakuk@mt.gov](mailto:mkakuk@mt.gov)

Attorneys for the CSI

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

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IN THE MATTER OF	)	CASE NO. INS-2014-205
	)	
SAFELITE GROUP, INC,	)	<b>NOTICE OF PROPOSED AGENCY</b>
	)	<b>ACTION AND OPPORTUNITY FOR</b>
Respondent.	)	<b>HEARING</b>
	)	

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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 Safelite Group, Inc., 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, 33-1-317, 33-1-318, and 33-17-603. Service of process is pursuant to § 33-1-314.

**REASONS FOR ACTION**

There is reason 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 justify and support an appropriate fine.

## **ALLEGATIONS OF FACT**

1. Respondent Safelite Group, Inc. (Safelite), primarily through its affiliate or subsidiary Safelite Solutions LLC, handles automobile glass repair claims for several Montana insurers including, but not limited to, Allstate Insurance Company (Allstate), Farmers Insurance Exchange (Farmers), Geico General Insurance Company (Geico), Progressive Casualty Insurance Company (Progressive), Liberty Mutual Group (Liberty), QBE, and USAA Casualty Insurance Company (USAA), and their respective affiliates who issue automobile insurance policies in Montana.

2. Safelite operates a network of automobile glass repair shops in Montana. Some of those repair shops are owned and operated by Safelite, while other repair shops contract with Safelite to be part of its network.

3. For Allstate, Farmers, Geico, Liberty, and USAA, Safelite handles insureds' claims regarding automobile glass repair. For Allstate, Farmers, Geico, Progressive, Liberty, and USAA (collectively, Respondent Insurers), Safelite handles bills and payments from automobile glass repairers, whether from Safelite's network or from independent automobile glass repairers.

4. At least for QBE, Safelite employees refer to themselves as a third party administrator.

5. Insureds are required to speak with Safelite to have glass claims processed by Safelite. On the backside, Safelite informs glass repair shops what price must be met in repairing the glass.

6. Safelite is not licensed as a third party administrator with the CSI.

## **CONCLUSIONS OF LAW**

1. The Commissioner has jurisdiction over this matter pursuant to the Code.

2. A “person” is an individual, insurer, company, association, organization, partnership, business trust, corporation, or any other legal entity. § 33-1-202(3).
3. Each Respondent is a “person” as defined by § 33-1-202(3).
4. An “administrator” is a person who adjusts or settles insurance claims. § 33-17-102(3)(a).
5. Respondent Safelite is an “administrator” as defined by § 33-17-102(3)(a) because it settles and processes insurance claims with glass repair shops. Safelite does not meet any of the exceptions listed in § 33-17-102(3)(b).
6. It is a violation for any person to operate as an administrator in the State of Montana without registering as such with the CSI. § 33-17-603.
7. Safelite acted and continues to act as an administrator without registering as such with the CSI, in violation of § 33-17-603.
8. A person who violates § 33-17-603 is subject to a fine of up to \$25,000 per violation, pursuant to § 33-1-317.
9. The CSI may enjoin violations of the Code pursuant to § 33-1-318.

**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.
2. Pursuant to § 33-1-318, entering of an order enjoining Respondent Safelite from acting as an unlicensed administrator in violation of § 33-17-603.

## 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 nature of the hearing.

If you want 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 Brett O'Neil or Michael A. Kakuk, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Avenue, Helena, Montana 59601.

Your written notice must clearly indicate whether you request a hearing, or whether you waive formal proceedings and, if so, what informal proceedings you prefer for handling 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. If you request a hearing, you will be given notice of the date, time, and place of 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.*, 164 Mont. 139, 520 P.2d 103 (1973), 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 either Brett O'Neil or Michael A. Kakuk, legal counsel for the CSI, by telephone at (406) 444-2040, or by email at [bo'neil@mt.gov](mailto:bo'neil@mt.gov), or [mkakuk@mt.gov](mailto:mkakuk@mt.gov). 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 13<sup>th</sup> of May, 2015.

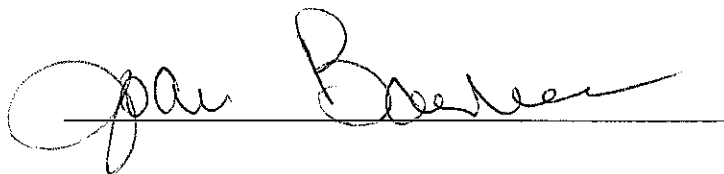
  
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BRETT O'NEIL  
MICHAEL A. KAKUK  
Attorneys for the CSI

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 13<sup>th</sup> day of May, 2015, a true and correct copy of this Notice of Proposed Agency Action and Opportunity for Hearing was served upon the following by certified mail, postage prepaid, return receipt requested:

Corporation Service Company  
PO Box 1691  
26 W Sixth Ave  
Helena, MT 59624-1691

Safelite Group, Inc.  
Attn: Cindy Elliott  
2400 Farmers Drive  
Columbus, OH 43235

A handwritten signature in cursive script, appearing to read "Paul B. Baker", is written over a horizontal line.