

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF COMMERCE

In the Matter of the Insurance Producer  
License of Randall Eason

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION**

The above-entitled matter comes before Chief Administrative Law Judge Raymond Krause pursuant to a Notice and Order for Hearing, Order for Summary Suspension, and Statement of Charges (Statement of Charges) issued by the Minnesota Department of Commerce (Department).<sup>1</sup> The hearing in this matter was held at the Office of Administrative Hearings in St. Paul, Minnesota, on January 3, 2012, at which time the evidentiary record closed. The parties submitted and filed proposed findings and conclusions on January 30, 2012. The record of the contested case proceeding closed at that time. Minn. Rule 1400.7800(J) (2011).

Christopher M. Kaisershot, Assistant Attorney General, 445 Minnesota Street, Ste. 900, St. Paul, Minnesota 55101, appeared on behalf of the Department. Patrick Moore, Esq., Joslin & Moore Law Offices, P.A., 221 Second Avenue N.W., Cambridge, MN 55008 appeared on behalf of Randall Eason (Respondent).

**STATEMENT OF ISSUES**

The issue in this case is whether Respondent is subject to discipline by the Commissioner of the Department of Commerce for committing the following violation:

Randall Eason participated in, directed, or authorized, or failed to learn about, diligently investigate, or prevent the scheme to alter bail bond files after the fact and in anticipation of the Colorado Department of Insurance's market conduct examination. As a result, at least 4,000 false entries were made in Minnesota Surety & Trust Company's books, reports, or statements with the intent to deceive a lawfully appointed insurance examiner and to misrepresent the terms of actual insurance contracts. Respondent committed unfair methods of competition and unfair and deceptive acts or practices, engaged in fraudulent, coercive, or

---

<sup>1</sup> The Statement of Charges contains allegations against Randall Eason and Peter Plunkett. The allegations against Mr. Plunkett were bifurcated and consolidated with a pending action against Minnesota Surety & Trust Company (OAH 3-1004-22234-2).

dishonest practices in connection with the insurance business, engaged in acts or practices that demonstrate he is untrustworthy and otherwise incompetent or unqualified to act under the license granted by the Commissioner, and failed to observe high standards of commercial honor and just and equitable principles of trade in the conduct of his insurance business. Minn. Stat. §§ 45.027, subd. 7(a)(4), 60K.43, subd. 1(2), (5), (7) and (8), 72A.19, subd. 1, and 72A.20, subd. 18(b) (2010), and Minn. Rule 2795.1000 (2011).

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

### FINDINGS OF FACT

1. On November 30, 1989, the Department issued Respondent a resident insurance producer license, No. 40600.<sup>2</sup>

2. Respondent's license has been summarily suspended since the Department served the Statement of Charges.<sup>3</sup> In addition to being suspended, Respondent did not renew his license pending the outcome of this disciplinary action and it lapsed effective October 31, 2011.<sup>4</sup>

3. Respondent's highest level of formal education is high school graduation. Respondent was an employee or agent for Minnesota Surety & Trust Company (MSTC) at all times relevant to the allegations set forth in the Statement of Charges. MSTC had significant bail bond operations in the State of Colorado. Respondent reported directly to MSTC's president, Peter Plunkett (Plunkett), a licensed attorney and licensed insurance producer in Minnesota. Respondent was issued a property and casualty license within the last two years in order to service non-bail bond files.<sup>5</sup>

4. Respondent has not been subject to other disciplinary action since he was issued the license in 1989.<sup>6</sup>

5. Respondent's initial job duties with MSTC are set forth in a June 22, 2009, letter from Plunkett, whereby Respondent would be compensated for his "work as a surety bond auditor during the summer months" and that he would have at his disposal "a company vehicle, credit cards, and a monthly per diem of \$400.00."<sup>7</sup>

---

<sup>2</sup> Ex. A.

<sup>3</sup> See Statement of Charges (containing order for summary suspension); see also Minn. Stat. §§ 45.027, subd. 7(b), and 60K.43, subd. 2(a) (2010); Testimony of Mike Pinnell.

<sup>4</sup> Randall Eason Testimony (Eason Test.)

<sup>5</sup> Eason Test.

<sup>6</sup> *Id.*

<sup>7</sup> Ex. 21; see also Ex. 17 at DOC002486.

6. Respondent also sat on MSTC's board of directors, although he did not exercise day-to-day control over the company's operations.<sup>8</sup>

7. Respondent described his functions at MSTC as a clerk delivering bail bond forms to the various Colorado agents and as an "auditor". Respondent did not perform financial audits. He did perform compliance audits which were meant to ensure compliance with company policies. Respondent performed this type of auditing on MSTC's behalf prior to the commencement of the market conduct examination in 2010 and in 2011.<sup>9</sup>

8. As part of his duties for MSTC, in approximately June 2010, Respondent also drafted the "Colorado Bail Bond Manual" for distribution to all MSTC's agents in Colorado.<sup>10</sup>

9. On December 3, 2010, the Colorado Division of Insurance (DOI) notified MSTC that a market conduct examination of its affairs would commence in February 2011, covering the time period from January 1 to December 31, 2010. DOI indicated that the scope of the examination would "principally address bail bond business," including reviewing MSTC's agents' files for "Underwriting: Applications, Forms, Rates, and Cancellations/Declinations" and "Producers/Agents."<sup>11</sup>

10. Plunkett identified himself to DOI as the Minnesota Surety Examination Coordinator for the market conduct examination.<sup>12</sup>

11. Plunkett traveled to Colorado in early-January 2011, and met with Dave Hyatt, an executive from Pioneer General Insurance Company (Pioneer), which is another bail surety company. Pioneer had recently been fined \$533,000 following a market conduct examination by DOI, and Hyatt provided Plunkett with the examination report and examples of violations that DOI found Pioneer to have committed. Plunkett, concerned about whether MSTC could afford a similar fine, circulated to Respondent and MSTC's agents working in Colorado the Pioneer market conduct examination report, as well as the market conduct examination report that resulted in a fine against International Fidelity Insurance Company (IFIC).<sup>13</sup>

---

<sup>8</sup> Eason Test.; *see also* Ex. 9 at DOC001925, DOC001943; Ex. 62 (at approximately 9:40); Ex. 63 at DOC005241 - DOC005242; Testimony of Mike Williams (Mr. Williams sat on the board of directors with Messrs. Plunkett and Eason, but resigned before DOI notified MSTC about the market conduct examination).

<sup>9</sup> Eason Test.; *see also* Ex. 9 at DOC001853 (October 19, 2010, email from Plunkett to Respondent); Ex. 16 at DOC002477; Ex. 21; Exs. 35-36; Exs. 37-41, 43-45; Ex. 62 (at approximately 42:10); Ex. 63 at DOC005258.

<sup>10</sup> Eason Test.; *see* Ex. 49 at DOC003988 - DOC004053 (bail bond manual); *see also* Ex. 9 at DOC001850 (November 9, 2010, email from Plunkett to Eason); Ex. 42 (July 26, 2010, email from Plunkett to Eason).

<sup>11</sup> Ex. 18.

<sup>12</sup> Ex. 2 at DOC005199.

<sup>13</sup> Ex. 3 at DOC000029 - DOC000030; Ex. 9 at DOC001770; *see also* Ex. 23 at DOC002543 - DOC002544, DOC002581 - DOC002590 (emails concerning Pioneer report and an examination report against Lexington National Insurance Company); Ex. 27 (IFIC report); Ex. 47 (Pioneer report).

12. Plunkett also recognized that MSTC committed similar violations in Colorado and feared that DOI would impose a substantial fine that MSTC could not afford to pay.<sup>14</sup> As such, Plunkett devised a strategy whereby he hoped to reduce the fine by making it appear that MSTC was in compliance with the applicable law.

13. In advance of DOI's market conduct examination, Respondent participated in, directed, or authorized the alteration of MSTC's active and inactive bail bond documents to include statutorily required language and disclosures that were otherwise missing from the files. Specifically, for all bail bond transactions that were subject to the pending market conduct examination, Plunkett directed Respondent to cause the following language to be "stamped" in ink on MSTC's file copies:

- If a refund is ordered by the court after the bond is posted, premium will be returned in the amount and within the time specified by the court order. If the bail bond is not posted within twenty four (24) hours, as required by law, all monies paid to the agent must be returned within forty-eight (48) hours.
- Collateral will be returned after the surety receives a Certificate of Discharge or a true copy of the court order releasing and discharging the Bail Bond. Collateral will be returned within ten (10) working days. Trust deeds will be returned within (30) working days. If the bail bond is not posted within twenty-four (24) hours of receipt of full payment or a signed contract for payment collateral must be returned and lien released within forty-eight (48) hours.
- Translation Certificate: The undersigned translator makes this affidavit and hereby certifies, under penalty of perjury, that he/she has read verbatim and translated this entire document, including the reverse side, and all related bond application documents including disclosures, promissory notes, security instruments and trust deeds to the indemnitor(s) signing below in his/her primary language.

TRANSLATOR (signature)\_\_\_\_\_ (print name)\_\_\_\_\_  
(Date)\_\_\_\_\_

- It is unlawful to knowingly provide false, incomplete or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete or misleading facts or information to a policy holder or claimant for the purpose of defrauding or attempting to defraud the policy holder or claimant with regard to a settlement or award payable

---

<sup>14</sup> Eason Test.; *see also* Jason Armstrong Testimony (Armstrong Test.); Ex. 8 at DOC000674 (January 5, 2011 email).

from insurance proceeds shall be reported to the Colorado division of insurance within the Department of regulatory agencies. 10-1-128(8)(a) C.R.S.<sup>15</sup>

These disclosures were required to be made to the consumer under Colorado law at the time of any bail bond transaction.

14. Altering MSTC's files after-the-fact did not cure MSTC's failure to provide mandatory notifications to the consumers as required by the applicable law or otherwise bring its files into compliance. In addition, Respondent did not make any attempt to keep records of which files were "stamped" or otherwise altered in anticipation of the market conduct examination.<sup>16</sup>

15. Plunkett's "market conduct do list" provided to Respondent on January 6, 2011, confirmed that the goal of the file stamping the bail bond files was to deceive DOI: "I know it is after the fact but it is very unlikely that the examiners will get a hold of the consumer's receipts to compare them to."<sup>17</sup>

16. Plunkett caused four sets of ink stamps to be created and sent Respondent and another employee of MSTC, Heather Selmecki to Colorado from Minnesota in January and February of 2011, to alter bail bond documents in advance of the market conduct examination.<sup>18</sup>

17. On January 25, 2011, Respondent drove out to Colorado and started visiting all of MSTC's agents with the stamps and new forms to be used going forward. In addition to personally stamping documents, Respondent also directed MSTC's agents to stamp their active and closed bail bond documents, as well as insert forms into the files that were not part of the file at the time the bail bond was issued.<sup>19</sup>

18. Respondent understood from Plunkett that he was supposed to have stamps affixed to all of the 2010 bail bond documents before the market conduct examination commenced. Once Respondent started this project, however, it became apparent that he would not have time to alter all the documents before the start of the examination.<sup>20</sup>

19. Selmecki was licensed at the time in Minnesota as an insurance producer; however, she was hired as a temporary worker to assist MSTC with its bookkeeping. Selmecki spent approximately one week in Colorado stamping file documents in the office of MSTC agent Jason Armstrong. She was told by Plunkett that she was to make the files "complete" in anticipation of the market conduct exam. During her time in

---

<sup>15</sup> See, e.g., Exs. 10-11, 20.

<sup>16</sup> Eason Test.

<sup>17</sup> Ex. 9 at DOC001755 and DOC001757; see also Ex. 62 (at approximately 1:38:29); Ex. 63 at DOC005284.

<sup>18</sup> Eason Test.; Heather Selmecki Testimony (Selmecki Test.).

<sup>19</sup> Ex. 16 at DOC002470; Eason Test.

<sup>20</sup> Eason Test.; Ex. 9 at DOC001741.

Colorado, Selmecki was supervised by Respondent.<sup>21</sup> Selmecki never heard or saw anything that led her to believe Respondent understood that fraud was being committed.<sup>22</sup>

20. On or about February 7, 2011, one of the Colorado MSTC agents, Richard Tyson, notified DOI that MSTC was altering documents in advance of the pending market conduct examination. Thereafter, on February 10, 2011, Mr. Tyson provided a sworn statement to DOI concerning the alteration of bail bond files in advance of the market conduct examination.<sup>23</sup>

21. On February 15, 2011, DOI issued an interim cease and desist order against MSTC that provided, in part, as follows:

Immediately cease and desist from any stamping, alteration, modification, redaction or revision of any books, records, accounts, . . . or any other documents related to the property, business, assets or affairs of Minnesota Surety and Trust Company's bail bond operations in the state of Colorado.<sup>24</sup>

22. DOI also issued multiple subpoenas to MSTC's agents, including Respondent, to produce records and provide testimony.<sup>25</sup> Respondent, Plunkett, Selmecki, and numerous Colorado agents appeared and provided sworn testimony to DOI concerning their pre-market conduct examination activities.<sup>26</sup>

23. MSTC never provided notice to or obtained consent from the consumers that MSTC wished to alter its agents' bail bond files after the fact. Neither MSTC nor any of its employees requested an exception from the Colorado cease and desist order to notify consumers of the stamped language.

24. During Respondent's sworn statement to DOI on February 18, 2011, he testified that he knew it was misleading and illegal to stamp the documents after-the-fact.<sup>27</sup> Respondent also admitted that he knew, in hindsight, the ultimate goal was to intentionally deceive the regulators from DOI when they conducted their market conduct examination.<sup>28</sup> During Respondent's sworn statement to DOI on March 23, 2011, he confirmed that there was no question in his mind that the intent of the file stamping was to deceive DOI.<sup>29</sup>

---

<sup>21</sup> Selmecki Test; Ex. 46 at DOC003500, DOC003505 (Selmecki was a temporary worker at MSTC paid by "Manpower").

<sup>22</sup> Selmecki Test.

<sup>23</sup> Exs. 51 and 54; *see also* Ex. 23 at DOC002591.

<sup>24</sup> Ex. 19 at DOC002529 - DOC002530.

<sup>25</sup> *See, e.g.*, Ex. 19 at DOC002527 - DOC002528.

<sup>26</sup> Exs. 3-4 (Plunkett), 16-17 (Eason), 46 (Selmecki), 48 (Jason Armstrong), 52 (Granville Lee), 56 (Frankie Garcia), 58 (Christine Mitchell), 59 (Felix Rivera), and 61 (Norma Jean Taylor).

<sup>27</sup> Ex. 16 at DOC002476 - DOC002477.

<sup>28</sup> Ex. 16 at DOC002478 - DOC002480.

<sup>29</sup> Ex. 17 at DOC002500, DOC002506.

25. On September 16, 2011, Respondent provided sworn testimony to the Department that his wife, who does not work in the insurance industry, questioned him before he left for Colorado as to the legality of the plan to stamp MSTC's active and closed files with new language.<sup>30</sup> Respondent raised the question with Plunkett. Plunkett told Respondent that as an attorney and someone who had gone through market conduct exams in the past, he (Plunkett) knew Colorado law and that what they were doing was legal. In addition, Respondent believed that a Colorado attorney, Jay Labe, who was Chair of the Colorado Commercial Bail Insurance Company Roundtable, also endorsed the legality of what Plunkett was proposing. Respondent was not in an attorney/client relationship with either attorney.<sup>31</sup>

26. Respondent testified that he complied with Plunkett's directives, in part, because Plunkett was an attorney.<sup>32</sup> He also relied on Respondent's Exhibit B, which shows a Colorado DORA Bulletin stating that insurance agencies may engage in corrective measures to rectify policies and procedures which did not conform to Colorado laws or regulations and could lead to fines and regulatory actions against the agency. Exhibit B explains that these corrective measures may be performed before examinations or the offenses are discovered by regulators. It says taking these corrective measures may abate or reduce fines if the regulators believe the agency was trying to correct its mistakes.<sup>33</sup> Respondent had never been involved in a prior market conduct exam.<sup>34</sup>

27. Respondent did agree to alter MSTC's files in advance of the market conduct examination.<sup>35</sup> Respondent did not benefit financially in any way beyond his normal rate of pay by participating in the scheme to alter files.<sup>36</sup>

28. Respondent and Armstrong claimed that they were told at some point that it was Plunkett's plan to send notice to the affected consumers whose files were stamped. No documents were introduced into the record to support these claims and neither Respondent nor Armstrong mentioned any such conversation with Plunkett during their sworn statements to Colorado authorities.<sup>37</sup>

29. On April 6, 2011, DOI commenced a formal action against MSTC by issuing a Notice of Show Cause Hearing, which alleged that MSTC failed to comply with numerous insurance laws and regulations.<sup>38</sup>

30. On or about April 22, 2011, MSTC and Plunkett, individually, executed a Stipulation for Entry of Final Agency Order re: Notice of Show Cause Hearing (Stipulation), which included admissions of the following misconduct:

---

<sup>30</sup> Ex. 62 (at approximately 1:01:15 and 1:51:30); *see also* Ex. 63 at DOC005267 and DOC005292 .

<sup>31</sup> Eason Test.

<sup>32</sup> Eason Test; *see also* Ex. 62 (at approximately 1:49:40); Ex. 63 at DOC5291.

<sup>33</sup> Ex. B.

<sup>34</sup> Eason Test.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Exs. 16-17, and 48.

<sup>38</sup> Ex. 2 at DOC005198 - DOC005199.

- MSTC failed to comply with DOI's market conduct examination scope and data requests, and produced certain files in a duffle bag which were in disarray and missing required documents.
- MSTC made alterations to the entries and memorandum upon the books and papers of the company or upon any statement filed or offered to be filed with DOI in the course of any examination, inquiry or investigation, in a manner that could result in deception to DOI.
- MSTC created four sets of ink "stamps," which contained information required by statute and regulation to be contained on bail bond documents written in Colorado, with the intent to use the "stamps" after the fact on bail bond documents written in Colorado in 2010.
- In January and February 2011, MSTC's agents placed ink "stamps" onto a minimum of 4,000 bail bond documents that were actually written and effectuated in calendar year 2010, causing hundreds of consumers, indemnitors, or defendants who secured bail bonds from MSTC to possess copies of bail bond documents that were different than the bail bond documents which were retained by MSTC due to the fact that the copies or originals retained by MSTC were altered after the fact.
- MSTC's agents placed "translation stamps" upon many files after the fact, which are intended to confirm that the bail bond documents were read in their entirety to a person who does not speak English as a primary language.
- MSTC's agents placed "rate deviation forms" in many files after the fact, which could have resulted in the appearance that the files were compliant during the market conduct examination.
- MSTC's "demonstrated negligence" in altering bail bond documents could have resulted in deception to DOI by making the files appear to be in compliance at the time the bail bond was written in 2010.
- MSTC negligently oversaw and directed its agents, negligently altered material facts in its files, and negligently omitted or failed to make true entries in its business records.
- MSTC's alteration of its files rendered them in a condition whereby they could not be fully or completely examined for compliance with Colorado law.

- MSTC should have known about the unfair business practices of its insurance producers.<sup>39</sup>

31. While Respondent was not individually named in the Stipulation, he was one of its directors, agents, or employees that performed the above-referenced misconduct on MSTC's behalf. Respondent did not disagree with any of the facts as stipulated by MSTC and Plunkett.<sup>40</sup>

32. Based on the admitted misconduct, MSTC consented to the revocation of its certificate of authority in the State of Colorado, effective May 22, 2011. MSTC was also ordered to pay a \$1.2 million civil penalty, with \$1 million of that civil penalty stayed on multiple conditions, including that Plunkett may not apply for any insurance-related license in Colorado for at least five years and that Plunkett may not conduct or otherwise be involved in any insurance-related business in Colorado for at least five years.<sup>41</sup>

33. On October 27, 2011, the Department and Selmecki entered into a Consent Order to resolve allegations related to her role in the scheme to alter bail bond files after the fact and in anticipation of the market conduct examination. Specifically, the Department suspended Selmecki's insurance producer license for two years and ordered her to cease and desist from violating any laws, rules, and orders related to the duties and responsibilities entrusted to the Commissioner.<sup>42</sup>

34. On November 17, 2011, MSTC and Plunkett entered into a Consent Order to resolve a pending administrative action brought by the Department concerning the scheme to alter bail bond files after the fact and in anticipation of the market conduct examination. Among the discipline imposed by that order were the revocation of Plunkett's insurance producer license, the imposition of a \$50,000 civil penalty, jointly and severally, against Plunkett and MSTC (with \$40,000 stayed on multiple conditions), and the liquidation of MSTC.<sup>43</sup>

35. On November 22, 2011, the Honorable John Guthman entered a Liquidation Order allowing the Department to commence the liquidation of MSTC pursuant to Minn. Stat. ch. 60B (2010).<sup>44</sup>

---

<sup>39</sup> Ex. 2.

<sup>40</sup> Eason Test.

<sup>41</sup> Ex. 1.

<sup>42</sup> Ex. 64.

<sup>43</sup> Ex. 66.

<sup>44</sup> Ex. 67.

Based on the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS OF LAW**

1. The Administrative Law Judge and the Commissioner of Commerce are authorized to consider the charges against Respondent under Minn. Stat. §§ 14.50, 45.027, subd. 7 and 11, 60K.43 (2010).

2. Respondent received due, proper, and timely notice of the charges against him, and of the time and place of the hearing. This matter is, therefore, properly before the Commissioner and the Administrative Law Judge.

3. The burden of proof in this proceeding is on the Department to show by a preponderance of the evidence that Respondent committed the alleged violations.<sup>45</sup>

4. Respondent failed to show cause, as ordered, why discipline should not be imposed against him.<sup>46</sup>

5. Respondent's claim that he was merely following Plunkett's orders is not a valid defense for violating the law. Respondent knew or should have known that it was improper to alter the bail bond documents under these circumstances.

6. The Department proved by a preponderance of the evidence that Randall Eason participated in, directed, or authorized, or failed to learn about, diligently investigate, or prevent the scheme to alter bail bond files after the fact and in anticipation of DOI's market conduct examination and, as such, committed unfair methods of competition and unfair and deceptive acts or practices, engaged in fraudulent, coercive, or dishonest practices in connection with the insurance business, engaged in acts or practices that demonstrate he is untrustworthy and otherwise incompetent or unqualified to act under the license granted by the Commissioner, and failed to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their insurance business in violation of Minn. Stat. §§ 45.027, subd. 7(a)(4), 60K.43, subd. 1(2), (5), (7) and (8), 72A.19, subd. 1, and 72A.20, subd. 18(b) (2010), and Minn. Rule 2795.1000 (2011).

7. An Order imposing discipline against Respondent is in the public interest.

---

<sup>45</sup> Minn. Rule 1400.7300, subp. 5 (2011).

<sup>46</sup> Minn. Stat. §§ 45.027, subd. 7(b) and 60K.43, subds. 2 and 5 (2010).

Based on the Conclusions of Law, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS RECOMMENDED that the Department impose appropriate discipline against Respondent.

Dated: February 10, 2012

s/Raymond R. Krause

---

RAYMOND R. KRAUSE  
Chief Administrative Law Judge

Reported: Digitally recorded

### **NOTICE**

This report is a recommendation, not a final decision. The Commissioner of Commerce (the Commissioner) will make the final decision after a review of the record. The Commissioner may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendations. The parties have 10 calendar days after receiving this report to file Exceptions to the report. At the end of the exceptions period, the record will close. The Commissioner then has 90 working days to issue his final decision. Parties should contact Michael Rothman, Commissioner of Commerce, Suite 500, 85 Seventh Place East, St. Paul, MN 55101, (651) 296-6025, to learn the procedure for filing exceptions or presenting argument.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

### **MEMORANDUM**

There is no question that the scheme to alter the bail bond insurance files in Colorado was concocted by Peter Plunkett. There is also no question that the point of the scheme was to deceive the Colorado regulatory authorities that were about to conduct an examination of the business. There is no question that Respondent participated in the scheme.

Respondent's defense rests on three premises. First, as a man of limited education, Respondent had no reason to know that his actions might be illegal or unethical. Second, that he was just following the orders given to him by his boss. Third, that he did his due diligence by asking Plunkett whether altering files after the fact was a proper thing to do.

Although Respondent has only a high school education, he is clearly not without ability to think for himself and draw reasonable conclusions. He successfully operated as a bail bondsman for many years. As such, he was licensed and was obligated to

know and understand the substantive and ethical demands of that business. His instincts told him, as did his wife, that this did not sound like a normal course of business. He had the presence of mind to question his boss about the legality of this scheme and go beyond that to question a second attorney in Colorado. He did have the knowledge or should have had the knowledge as a licensed bail bondsman with years of experience that altering the files after the transaction has long been done is, at a minimum, unethical. Respondent's claim that Plunkett's plan was to communicate with the consumers thereby making the alterations less deceiving is not supported by the evidence.

Respondent next pleads that he was just a low level employee who had to do what his boss told him to do. He was not a mere clerk. He was hired because of his knowledge and experience in the bail bond business. He was in charge of compliance audits of MSTC agents and developed the compliance manual himself. However perfunctory was his service on the MSTC board of directors, he was important enough to question his boss and did so.

Respondent did ask his boss whether the job he was assigned to do was legal. The unrefuted evidence demonstrates that Plunkett used his position as an attorney to try to convince Respondent that everything was on the up and up. Respondent still was uncomfortable and sought the opinion of a Colorado attorney who knew the business. What actually transpired between them is unclear on the evidence presented, but Respondent did come away with some reassurance.

Was this effort to seek an assurance enough to insulate Respondent from the consequences of bad advice? Respondent makes a sympathetic argument that his reliance on his more experienced boss who was an attorney and a second attorney familiar with the local regulatory practice should be enough. Respondent was not, however, in an attorney-client relationship with Plunkett. However reprehensible Plunkett's conduct, Plunkett did not provide any written document giving Respondent that assurance. The same is true of the Colorado attorney.

Ultimately, Respondent was a licensed insurance producer who was expected to know the relevant law and ethical requirements of the profession on his own. He admits that in hindsight, he should have realized that the scheme was not right. He testified that, subsequent to this experience, he took an ethics continuing education course that showed him in retrospect that the "red flags" were obvious in Plunkett's scheme. This is the crux of the matter. A licensed insurance producer must be and must remain familiar with the substantive and ethical requirements of the profession. If one does not, they have only themselves to blame.

**R. R. K.**