STATE OF NORTH DAKOTA

BEFORE THE INSURANCE COMMISSIONER

In the Matter of	)	
	)	
Tim Lee Everett,	)	**CEASE AND DESIST ORDER**
NPN 16156356,	)	
DOB 2/10/69,	)	**CASE NO. AG-12-356**
	)	
Respondent.	)	

TO: Tim Lee Everett, 802 18th Street Northwest, East Grand Forks, MN 56721

Insurance Commissioner Adam Hamm ("Commissioner") has determined as follows:

1. N.D.C.C. § 26.1-01-03.1 authorizes the Commissioner to issue an Order to cease and desist when it appears that any person or business entity is or has engaged in an act or practice which violates or may lead to a violation of the North Dakota Century Code.

2. N.D.C.C. Chapter 26.1-26 regulates the licensing of insurance producers.

3. Tim Lee Everett, NPN 16156356, DOB 2/10/69 ("Respondent"), is presently and has been at all times pertinent to this action a licensed North Dakota resident insurance agent.

4. N.D.C.C. § 26.1-02.1-02.1(1) states:

A person may not commit a fraudulent insurance act.

5. N.D.C.C. § 26.1-04-03 states, in part:

> **26.1-04-03. Unfair methods of competition and unfair or deceptive acts or practices defined.** The following are unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:
>
> . . .
>
> 12. Misrepresentation in insurance applications. Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, insurance producer, or individual.

6. N.D.C.C. § 26.1-26-15 states:

> **26.1-26-15. License requirement – Character.** An applicant for any license under this chapter must be deemed by the commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation.

7. N.D.C.C. § 26.1-26-42 states, in part:

> The commissioner may suspend, revoke, place on probation, or refuse to continue or refuse to issue any license issued under this chapter if, after notice to the licensee and hearing, the commissioner finds as to the licensee any of the following conditions:
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> . . .
>
> 6. In the conduct of affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or has shown oneself to be incompetent, untrustworthy, or financially irresponsible.
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> . . .
>
> 10. An improper withholding of, misappropriating of, or converting to one's own use any moneys belonging to policyholders, insurers,

beneficiaries, or others received in the course of one's insurance business.

11. The licensee has been found guilty of any unfair trade practice defined in this title or fraud.

8. The Commissioner has come into information which alleges that Respondent has knowingly and intentionally engaged in fraudulent insurance acts and deceitful and dishonest practices against residents of the State of North Dakota in his actions on and between March 2012 and continuing at least through April 1, 2012, of applying on behalf of clients for insurance products that the clients did not want.

9. Respondent is believed to have been paid commissions for insurance policies that clients did not request.

10. Sometime in approximately March 2012, Respondent contacted M.K, the manager of a small business in Grand Forks, on several occasions in an attempt to sell her employees accident insurance policies issued by American Family Life Assurance Company of Columbus (AFLAC). M.K. told Respondent that none of her employees were interested in the policies that Respondent was selling. M.K. had no further contact with Respondent. AFLAC's records indicate that policies sold by Respondent were issued to six employees of M.K.'s company. M.K. stated that her business has only two employees and that none of the six people listed as having AFLAC policies sold by Respondent work for her.

11. Respondent contacted another Grand Forks small business which is managed by K.B. Over a period of time from approximately March 2012 to April 2012, Respondent met with various employees. The Department secured a list from AFLAC of

the employees that had current policies. The list contained the names of 18 employees that had coverage although they had never signed up for it and did not want coverage.

12. Respondent is believed to have received commissions for the unwanted AFLAC policies he created for the employees, or fictitious employees, of the businesses managed by M.K. and K.B.

13. The Commissioner has come into information which alleges that Respondent has knowingly and intentionally engaged in fraudulent insurance acts and deceitful and dishonest practices against residents of the State of North Dakota by his actions on and between March 2012, and continuing at least through April 2012, of creating fictitious applications for insurance policies on behalf of clients for insurance products that the clients did not want.

14. By creating applications for insurance policies that clients did not want and accepting commissions for those policies, Respondent improperly presented to an insurer false or misleading information as part of, in support of, or concerning a fact material to an application for the issuance or renewal of an insurance policy and by accepting commissions for the policies, Respondent engaged in an act of theft by deception or otherwise, or embezzlement, abstracting, purloining, or conversion of moneys, funds, premiums, credits or other property of an insurer, reinsurer, or person engaged in the business of insurance in violation of N.D.C.C. § 26.1-02.1-02.1(1).

15. By creating applications for insurance policies that clients did not want and accepting commissions for those policies, Respondent engaged in unfair methods of competition and unfair and deceptive acts or practices in the business of insurance by making misrepresentations in insurance applications or making false or fraudulent

statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, insurance producer, or individual in violation of N.D.C.C. § 26.1-04-03(12).

16. By creating applications for insurance policies that clients did not want and accepting commissions for those policies, Respondent has shown himself not competent, trustworthy, financially responsible, or of good personal and business reputation in violation of N.D.C.C. § 26.1-26-15.

17. By creating applications for insurance policies that clients did not want and accepting commissions for those policies, Respondent has, in the conduct of affairs under his license, used fraudulent, coercive, or dishonest practices, or has shown himself incompetent, untrustworthy, or financially irresponsible. He has also engaged in an improper withholding of, misappropriating of, or converting to his own use moneys belonging to policyholders, insurers, beneficiaries, or others received in the course of insurance business. Respondent has also shown himself to have engaged in an unfair trade practice. These practices are all violations of N.D.C.C. § 26.1-26-42.

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to N.D.C.C. § 26.1-01-03.1 that Respondent, whether acting in the State of North Dakota as an insurer, a risk retention group, a purchasing group, an insurance producer, or otherwise engaging in the business of insurance, either directly or indirectly through named and unnamed persons, entities, agents, or otherwise, shall immediately **CEASE AND DESIST** from soliciting, transacting, or otherwise engaging in the business of insurance.

IT IS FURTHER ORDERED pursuant to N.D.C.C. § 26.1-01-03.1 that Respondent may make a written request for a hearing on this matter within 30 days of the date of this Order.

If the Respondent fails to request a hearing in writing within 30 days after being served with a copy of this Cease and Desist Order, the Commissioner shall make the Cease and Desist Order permanent, as the facts require.

DATED this 14th day of May, 2012.

Adam Hamm
Commissioner
North Dakota Insurance Department
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Bismarck, ND 58505
(701) 328-2440