

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of)	
)	CONSENT ORDER
Steven R. Anderson,)	
NPN 24721,)	CASE NO. AG-14-488
)	
Respondent.)	

TO: Steven R. Anderson, 5825 14th Street South, Fargo, ND 58104

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

1. As a result of information obtained by the North Dakota Insurance Department ("Department") regarding the conduct of Steven R. Anderson, NPN 24721 ("Respondent"), an individual who has held a North Dakota insurance producer license at all relevant times to this proceeding, the Commissioner has considered initiating administrative proceedings regarding Respondent's conduct as alleged below and regarding the imposition of a civil penalty or any other action the Commissioner deems necessary. Respondent's conduct is alleged to be in violation of N.D.C.C. §§ 26.1-04-03(2), 26.1-26-42(6), and 26.1-26-42(12) and N.D. Admin. Code §§ 45-04-10-02, 45-04-10-03, 45-04-10-04, and 45-04-10-05.

2. N.D.C.C. § 26.1-04-03 states, in relevant 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:

...

2. False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of that person's insurance business, which is untrue, deceptive, or misleading.

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

26.1-26-42. License suspension, revocation, or refusal – Grounds. The commissioner may suspend, revoke, place on probation, or refuse to continue 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:

...

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.

...

12. A violation of or noncompliance with any insurance laws of this state or a violation of or

noncompliance with any lawful rules or orders of the commissioner or of a commissioner of another state.

4. N.D. Admin. Code § 45-04-10-02 states:

45-04-10-02. Applicability.

1. This chapter applies to any advertisement of life insurance or any annuity product intended for dissemination in this state and which advertisement is disseminated in any manner by or on behalf of an insurance company, agent, or broker.
2. Every insurer shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of its policies. All such advertisements, regardless of by whom written, created, designed, or presented, are the responsibility of the insurer. However, this does not in any way prohibit enforcement of this chapter against individual agents, brokers, and agencies.

5. N.D. Admin. Code § 45-04-10-03 states, in relevant part:

45-04-10-03. Disclosure Requirements.

1. The information required to be disclosed by this chapter may not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.
2. No advertisement may omit material information or use words, phrases, statements, references, or illustrations if such omission or such use has the capacity, tendency, or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable, or state or federal tax consequences. The fact that the policy

offered is made available to a prospective insured for inspection prior to consummation of the sale, or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

3. In the event an advertisement uses "Non-Medical", "No Medical Examination Required", or similar terms where issue is not guaranteed, such terms must be accompanied by a further disclosure of equal prominence and in juxtaposition thereto to the effect that issuance of the policy may depend upon the answers to the health questions.
4. An advertisement may not use as the name or title of a life insurance policy any phrase which does not include the words "life insurance" unless accompanied by other language clearly indicating it is life insurance.
5. The policy must prominently describe the type of policy advertised.
- ...
7. An advertisement for a policy containing graded or modified benefits must prominently display any limitations of benefits. If the premium is level and coverage decreases or increases with age or duration, such fact must be prominently disclosed.

6. N.D. Admin. Code § 45-04-10-04 states:

45-04-10-04. Identity of insurer.

1. The name of the insurer, insurance agency, agent, or broker must be clearly identified on all advertisements, and if any specific individual policy is advertised it must be identified either by form number or other appropriate description. An advertisement may not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the

insurer, agent, broker, or agency, service mark, slogan, symbol, or other device or reference without disclosing the name of the insurer, agent, broker, or agency if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer, agent, broker, or agency or create the impression that an entity other than the insurer would have any responsibility for the financial obligation under a policy.

2. No advertisement may use any combination of words, symbols, or physical materials which by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with such governmental program or agency.

7. N.D. Admin. Code § 45-04-10-05 states, in relevant part:

45-04-10-05. Jurisdictional licensing and status of insurer.

1. An advertisement may not create the impression that the insurer, its financial condition or status, or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by any governmental entity. However, where a governmental entity has recommended or endorsed a policy form or plan, such fact may be stated if the entity authorizes its recommendation or endorsement to be used in an advertisement.

8. At all times relevant to this Order, Respondent held a resident insurance producer license issued by the North Dakota Insurance Department.

9. On or about July 28, 2014, the Department received a mailer advertising “a state-regulated program” to pay for “final expenses **regardless of your medical condition...**” The mailer, in small print at the bottom, states: “Please verify the address for this information request. This information is not affiliated with or endorsed by government agencies. You may be contacted by Steven Anderson ND Lic. #24721 an insurance licensed representative.” No insurance company name was provided.

10. The lead card company, Kramer Direct, sent 5,269 of the above-referenced mailers to North Dakota addresses on behalf of Respondent. United Heritage Life Insurance Company paid Kramer Direct and then deducted the cost from Respondent's commissions.

11. The mailer does not include the name of the insurance company whose product is being advertised.

12. The mailer does not state that this is an advertisement for a life insurance product.

13. The mailer states that the product is a “state-regulated program to pay for your final expenses ...” which the Department finds to be misleading and implies that this is a government program.

14. The mailer states that the product pays for “final expenses regardless of your medical condition...” but fails to disclose that health questions must be answered.

15. The mailer fails to disclose the change in benefits as the insured ages or time lapses.

16. Respondent has stated that he was unaware that the insurance company name was required to be included on the mailer and that he relied upon Kramer Direct to ensure that the mailers were compliant with North Dakota law.

17. On July 26, 2013, Respondent was issued an admonishment letter by the Department regarding a previous mailing. In the admonishment letter, Respondent was specifically informed that the mailer must include both the name of the agent and the name of the insurer. Respondent was also informed that he is responsible for ensuring that mailers sent at his request are compliant with North Dakota law.

18. The 5,269 mailers sent to North Dakota addresses on Respondent's behalf constitute 5,269 separate violations of North Dakota advertising rules and unfair acts and practices law.

19. As discussed above, Respondent's conduct constitutes violations of N.D.C.C. §§ 26.1-04-03(2), 26.1-26-42(6), and 26.1-26-42(12) and N.D. Admin. Code §§ 45-04-10-02, 45-04-10-03, 45-04-10-04, and 45-04-10-05.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent Steven R. Anderson agrees to issuance by the Commissioner of a conditional license for a period of five years.

2. Respondent Steven R. Anderson agrees that he committed a total of 5,269 separate advertising violations and violations of the unfair acts and practices law for the 5,269 mailers sent to North Dakota addresses on his behalf.

3. Respondent agrees to pay a fine of \$5,000 by money order, cashier's check, or credit card to the North Dakota Insurance Department within 30 days of the effective date of this Order.

4. Further, the Department may, during the five-year conditional license period, revoke, suspend, or take such further action as may be deemed necessary against Respondent's insurance license without Notice of Hearing or the issuance of a Complaint, if the Department receives a complaint from any source against Respondent and after investigation of the merits of said complaint, notifies the Respondent that the Respondent has, in the Commissioner's opinion, violated the laws or rules of the State of North Dakota. Respondent further agrees that any action taken against Respondent's license or in furtherance of this action is not appealable.

5. The use of this Consent Order for competitive purposes by an insurance agent or agency holding a license in the State of North Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority.

DATED at Bismarck, North Dakota, this 16th day of October, 2014.



Adam Hamm
Insurance Commissioner
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, Steven R. Anderson, states that he has read the foregoing Consent Order, that he knows and fully understands its contents and effect; that he has been advised of his right to a hearing in this matter, his right to be represented by legal counsel, his right to present evidence and arguments to the Commissioner, and his right to appeal from an adverse determination after hearing; and that by signing of this

Consent to Entry of Order he voluntarily waives those rights in their entirety and consents to entry of this Order by the Commissioner. It is further expressly understood that this Order constitutes the entire settlement agreement between the parties, there being no other promises or agreements, either expressed or implied.

DATED this 10th day of October, 2014.

Steven R. Anderson
Steven R. Anderson

Subscribed and sworn to before me

this 10th day of October, 2014.

[Signature]
Notary Public

State of Minnesota

County of Clay

My commission expires:

