

**STATE OF NORTH DAKOTA**  
**BEFORE THE INSURANCE COMMISSIONER**

<b>In the Matter of</b>	)	
	)	
<b>Janet M. Lulay,</b>	)	<b>CONSENT ORDER</b>
<b>NPN 5741368,</b>	)	
<b>DOB 10/15/1950,</b>	)	<b>CASE NO. AG-10-281</b>
	)	
<b>Respondent.</b>	)	

**TO: Janet M. Lulay, 3201 20<sup>th</sup> Street South, Apt. 223, Fargo, ND 58104**

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

1. As a result of information obtained by the North Dakota Insurance Department ("Department") regarding the conduct of Janet M. Lulay, NPN 5741368, DOB 10/15/50 ("Respondent"), the Commissioner has considered scheduling a formal hearing to determine whether Respondent's conduct as alleged constitutes a basis for 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. §§ 26.1-26-15 and 26.1-26-42(6) and (10).

2. 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.

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

**26.1-26-42. License suspension, revocation, or refusal - Grounds.** 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:

...

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.

...

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.

4. The Commissioner has information that indicates Respondent has knowingly and intentionally engaged in deceitful and dishonest practices against residents of the State of North Dakota. In her actions on or about July 31, 2010, of accepting money belonging to an insurance client, Respondent improperly withheld client money and failed to submit the funds and applications for insurance to the intended insurer. Respondent's conduct of accepting money intended to be used for insurance premiums and then failing to remit the money and other documents to the appropriate insurer constitutes a violation of N.D.C.C §§ 26.1-26-15 and 26.1-26-42(6).

5. At all times relevant to this Order, Respondent is or was employed as an insurance producer for First International Insurance in Fargo, North Dakota. In this

capacity, she sold property and casualty insurance including homeowners and motor vehicle insurance and collected premium for policies she sold.

6. On July 31, 2010, a First International Insurance customer, E.R., gave a check in the amount of \$1,127.65 to Lulay to pay premiums on a homeowner's policy but left the payee line blank. The memo line of the check reads "Insurance". Lulay's name was later written on the payee line in penmanship that differs from that on the rest of the check. Lulay's signature appears on the back of the check as endorser and it was deposited into Lulay's personal bank account on August 6, 2010. Lulay's signature also appears on the deposit slip dated August 6, 2010, that was used to deposit the check. During a subsequent interview, Lulay admitted to her employer that she deposited E.R.'s premium payment into her personal bank account to cover her personal expenses.

7. Lulay applied the money received from an insurance consumer to her personal use and her conduct constitutes violations of N.D.C.C. §§ 26.1-02.1-02.1, 26.1-26-15 and 26.1-26-42(6) and (10).

8. Respondent's actions constitute violations of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(6) and (10) and are grounds for revocation of Respondent's insurance agent license.

9. Respondent acknowledges that at the time of signing the Consent to Entry of Order, she was aware of or had been advised of her rights to a hearing in this matter, to consult an attorney, to present argument to the Commissioner, to appeal from any adverse determination after a hearing, and Respondent expressly waives those rights.

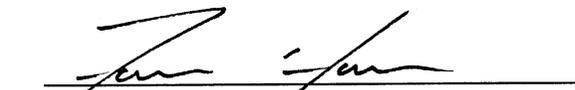
10. Respondent has agreed to informal disposition of this matter, without a hearing, as provided under N.D.C.C. § 28-32-22.

11. For purposes of resolving this matter, without further administrative proceedings, Janet M. Lulay and the Commissioner have agreed to enter into the following order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent's resident insurance agent license is hereby **REVOKED** effective upon the Commissioner's execution of this Order.
2. No administrative fine or other civil penalty is imposed.
3. 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 18<sup>th</sup> day of October, 2010.

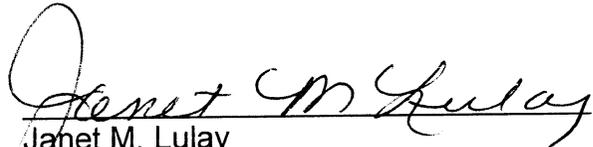
  
Adam Hamm  
Insurance Commissioner  
State of North Dakota

#### CONSENT TO ENTRY OF ORDER

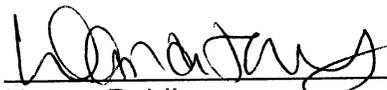
The undersigned, **Janet M. Lulay**, states that she has read the foregoing Consent Order, that she knows and fully understands its contents and effect; that she has been advised of her right to a hearing in this matter, her right to be represented by legal counsel, her right to present evidence and arguments to the Commissioner, and her right to appeal from an adverse determination after hearing; and that by the signing of this Consent to Entry of Order she waives those rights in their entirety, and consents

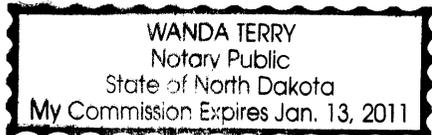
to entry of this Order by the Commissioner. It is further expressly understood that this Order constitutes the entire settlement agreement between the parties and there are no other promises or agreements, either expressed or implied.

DATED this 6 day of October, 2010.

  
Janet M. Lulay

Subscribed and sworn to before me  
this 6<sup>th</sup> day of October, 2010.

  
Notary Public



My commission expires: Jan 13, 2011