

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of)	
)	CONSENT ORDER
McManus Peard Gesl, Inc.,)	
FEIN 16-1312180,)	CASE NO. AG-12-344
)	
Respondent.)	

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

1. As a result of information obtained by the North Dakota Insurance Department (hereinafter "Department") regarding the conduct of Skip R. Mulvey, NPN 7278492, DOB 05/04/1972, an individual who does not hold a North Dakota insurance producer's license, and McManus Peard Gesl, Inc., FEIN 16-1312180, an entity that holds a North Dakota business entity insurance producer license, the Commissioner has considered taking administrative action regarding the conduct of McManus Peard Gesl, Inc. (hereinafter "Respondent") 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. § 26.1-26-43.

2. N.D.C.C. § 26.1-26-43 states:

26.1-26-43. License suspension, revocation, or refusal - Business entity - Additional ground. The license of a business entity may be suspended, revoked, or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the business entity and the violation was not reported to the commissioner nor corrective action taken in relation to the violation.

3. The Commissioner has come into information which alleges that Skip R. Mulvey, an officer, director or employee of Respondent, did, on or about June 9, 2010, sell,

solicit, or negotiate insurance, or all of these, to BK Towing of Bathgate, North Dakota, and did act as an insurance producer, although he did not hold a North Dakota insurance producer license, in violation of N.D.C.C. § 26.1-26-03.

4. N.D.C.C. § 26.1-26-03 states in relevant part:

26.1-26-03. License required – Acting as insurance producer or consultant without license prohibited – penalty.

No person may act as or hold oneself out to be an insurance producer, insurance consultant, or surplus lines insurance producer unless licensed under this chapter. A person may not sell, solicit, or negotiate insurance in this state for any class of insurance unless the person is licensed for that line of authority in accordance with this chapter....

5. Respondent knew or should have known of Skip R. Mulvey's action, did not report the action to the Commissioner, and did not take corrective action.

6. Respondent's action or omission in Paragraph 5 constitutes a violation of N.D.C.C. § 26.1-26-43.

7. Respondent's action in violation of N.D.C.C. § 26.1-26-43 is grounds for imposition of a civil penalty pursuant to N.D.C.C. § 26.1-26-50, which states in relevant part:

26.1-26-50. Civil penalty for violation of chapter.

In addition to or in lieu of any applicable denial, suspension, or revocation of a license, any person violating this chapter may, after hearing, be subject to a civil fine not to exceed ten thousand dollars for each violation.

8. Respondent acknowledges that at the time of signing the Consent to Entry of Order, it was aware of or had been advised of its 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.

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

10. There are no covenants, promises, undertakings, or understanding other than as specifically set forth in this Order.

11. Respondent consents to the Commissioner's continuing jurisdiction over it regarding any issues which may subsequently arise related to Respondent's activities.

12. For purposes of resolving this matter, without further administrative proceedings, Respondent and the Commissioner have agreed to enter into the following order.

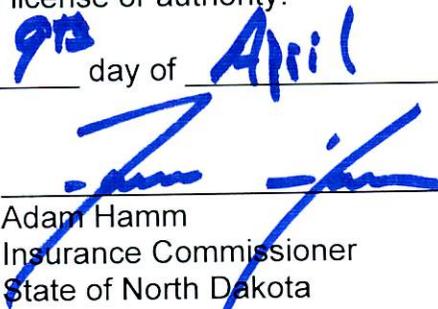
NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent agrees to pay a fine in the amount of \$500 payable by money order, cashier's check, or credit card to the North Dakota Insurance Department within five business days of the effective date of this Order.

2. Respondent agrees to develop and submit to the Commissioner for prior approval a remediation plan setting out the corrective actions Respondent will implement and maintain to prevent future violations of the sort alleged in this Consent Order. The Commissioner will not unreasonably withhold his consent from a properly submitted remediation plan.

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 9th day of April, 2012.



Adam Hamm
Insurance Commissioner
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, a person authorized to sign on behalf of **McManus Peard Gesl, Inc.** states that the signer has read the foregoing Consent Order, that the signer knows and fully understands its contents and effect; that McManus Peard Gesl, Inc. has been advised of its right to a hearing in this matter, its right to be represented by legal counsel, its right to present evidence and arguments to the Commissioner, and its right to appeal from an adverse determination after hearing; and that by the signing of this Consent to Entry of Order McManus Peard Gesl, Inc. waives those rights in their entirety, and consents to entry of this Order by the Insurance Commissioner. It is further expressly understood that this Order constitutes the entire settlement agreement between the parties hereto, there being no other promises or agreements, either expressed or implied.

DATED this 22 day of March, 2012.

Jeanne Allaire

Name

JEANNE ALLAIRE

Print name

President

Title

Subscribed and sworn to before me this 30 day of March, 2012.

William C. Garner

Notary Public

State of _____

County of _____

William C. Garner
Notary Public, State of New York
Qualified in Erie County
My Commission Expires June 30, 2015

My commission expires: