

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of)	
)	
Jacob Murack,)	CONSENT ORDER
NPN 14979462,)	
)	CASE NO. AG-14-464
)	
Respondent.)	

TO: Jacob Murack, 7022 Ninth Street North, Moorhead, MN 56560

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 Jacob Murack, NPN 14979462 (“Respondent”), the Commissioner has begun 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. §§ 26.1-26-15 and 26.1-26-42(6) and N.D. Admin. Code § 45-02-02-14(2).

2. N.D.C.C. § 26.1-26-15 states, in relevant part:

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 relevant 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:

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.

4. N.D. Admin. Code § 45-02-02-14(2) states:

Suitability. In recommending the purchase of any accident and health, health service, life, annuity, or nursing home policy to any consumer over age sixty-five, or medicare supplement policy to any consumer, an insurance producer shall have reasonable grounds at the time of sale for believing that the recommendation is suitable for the consumer and shall make reasonable inquiries to determine suitability. The suitability of a recommended purchase of insurance will be determined by examination of the totality of the particular consumer's circumstances, including, but not limited to, the following:

- a. The consumer's income and assets;
- b. The consumer's need for insurance at the time of sale; and
- c. The values, benefits, and costs of the consumer's existing insurance program, if any, when compared to the values, benefits, and costs of the recommended policy or policies.

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

6. In November 2013, a complaint was filed with the Department by Darcy Pope-Fuchs on behalf of her mother, Joan Pope. The Department's investigation of the complaint established that Respondent faxed Washington National Insurance Company insurance applications to Joan Pope to sign and the Respondent failed to determine by examination of the totality of Joan Pope's circumstances the suitability of the accident and health products recommended and sold to Joan Pope.

7. Washington National Insurance Company (“Washington National”) is the company writing the policies, and faxing applications to consumers for signatures is prohibited as a standard business practice of Washington National. It is Washington National’s business practice to require producers to be present when applicants sign applications. Respondent’s failure to follow Washington National’s standard business practices is a violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(6).

8. In telephone interviews conducted by the Department with the Respondent, the Respondent made statements establishing he was aware Joan Pope was over 65 years of age, he did not go over Joan Pope’s income and he did not determine the other health insurance held by Joan Pope prior to recommending and selling Washington National insurance policies to Joan Pope. Respondent’s failure to adequately consider the suitability of the recommendation and sale of the policies is in violation of N.D. Admin. Code § 45-02-02-14(2).

9. Respondent’s violation of Washington National’s business practices and statutory suitability examination requirements are violations of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(6) and N.D. Admin. Code § 45-02-02-14(2) and are grounds for revocation of Respondent’s individual insurance producer license.

10. Respondent acknowledges that at the time of signing the Consent to Entry of Order, he was aware of or had been advised of his 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.

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

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

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

14. 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 issuance by the Commissioner of a conditional license for a period of two years.

2. Respondent agrees to pay a fine in the amount of \$200 payable by money order, cashier's check, or credit card to the North Dakota Insurance Department within 20 days of the effective date of this Order.

3. Further, the Department may, during the two-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 the Respondent and after investigation of the merits of said complaint, notifies the Respondent that he has, in the Commissioner's opinion, violated the laws of the State of North Dakota. Respondent further agrees that any action taken against his license or in furtherance of this action during the period of the two year conditional license period is not appealable.

4. 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 15 day of May, 2014.

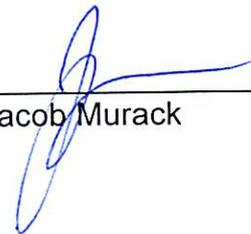


Adam Hamm
Insurance Commissioner
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, **Jacob Murack**, 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 the signing of this Consent to Entry of Order he 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 12 day of may, 2014.



Jacob Murack

Subscribed and sworn to before me

this 12th day of may, 2014.



Notary Public

State of Minnesota
County of Clay

My commission expires: 1-31-18

