

STATE OF NORTH DAKOTA  
BEFORE THE INSURANCE COMMISSIONER

In the Matter of	)	
	)	
Rex L. Graves,	)	CONSENT ORDER
NPN 7541532,	)	
DOB 5/24/52,	)	CASE NO. AG-09-235
	)	
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 Rex L. Graves, NPN 7541532, DOB 5/24/52 (hereinafter "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 come into information which alleges that Respondent has knowingly and intentionally engaged in deceitful and dishonest practices against residents of the State of North Dakota; further, that, in his actions on and between July 14, 2008, and continuing at least through December 26, 2008, of frequently maintaining negative balances in his agency checking account and incurring numerous overdraft fees, Respondent has shown himself incompetent, untrustworthy, or financially irresponsible in the conduct of affairs under the license; and further, that, in his actions on and between September 22, 2008, and continuing at least through March 7, 2009, of accepting money and converting to his own use moneys belonging to several insurance clients, Respondent has improperly withheld, misappropriated, or converted to his own use, moneys belonging to policyholders.

5. On and between July 14, 2008, and December 26, 2008, Respondent incurred 42 separate overdraft charges in his agency checking account, each charge

indicating that Respondent maintained inadequate funds in his account at the time he was to make a transaction in the conduct of affairs under his license. Respondent's repeated conduct of maintaining inadequate funds in the course of his insurance business constitutes a violation of N.D.C.C § 26.1-26-42(6).

6. On or about September 22, 2008, Respondent, acting as insurance agent, accepted \$3348.25 from Owen and Elena Olson for payment of one or more insurance premiums on one or more policy previously issued through the insurance agency of Respondent. Respondent applied the money received from the Olson's to his own personal use and failed to maintain current payments on the Olson's insurance in violation of N.D.C.C. § 26.1-26-42(6) and (10).

7. On or about November 6, 2008, Respondent, acting as insurance agent, accepted approximately \$10,200.00 from Tom and Paul Wiley for payment of one or more insurance premiums on one or more policy previously issued through the insurance agency of Respondent. Respondent applied some money received from the Wiley's to his own personal use and failed to maintain current payments on the Wiley's insurance in violation of N.D.C.C. § 26.1-26-42(6) and (10).

8. On or about November 25, 2008, Respondent, acting as insurance agent, accepted \$3500.75 from Owen and Elena Olson for payment of one or more insurance premiums on one or more policy previously issued through the insurance agency of Respondent. Respondent applied some money received from the Olson's to his own personal use and failed to maintain current payments on the Olson's insurance in violation of N.D.C.C. § 26.1-26-42(6) and (10).

9. On or about December 2, 2008, Respondent, acting as insurance agent, accepted \$10,123.00 from Richard and Janice Huebner for payment of one or more

insurance premiums on one or more policy previously issued through the insurance agency of Respondent. Respondent applied some money received from the Huebner's to his own personal use and failed to maintain current payments on the Huebner's insurance in violation of N.D.C.C. § 26.1-26-42(6) and (10).

10. On or about March 7, 2009, Respondent, acting as insurance agent, accepted \$3471.24 from Tom and Paul Wiley for payment of one or more insurance premiums on one or more policy previously issued through the insurance agency of Respondent. Respondent applied some money received from the Wiley's to his own personal use and failed to maintain current payments on the Wiley's insurance in violation of N.D.C.C. § 26.1-26-42(6) and (10).

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

12. 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.

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

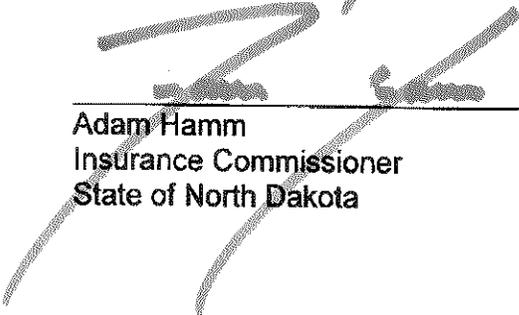
14. For purposes of resolving this matter, without further administrative proceedings, Rex L. Graves and the Commissioner have agreed to enter into the following order.

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. 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<sup>th</sup> day of May, 2009.

  
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Adam Hamm  
Insurance Commissioner  
State of North Dakota

#### CONSENT TO ENTRY OF ORDER

The undersigned, **Rex L. Graves**, 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 hereto, there being no other promises or agreements, either expressed or implied.

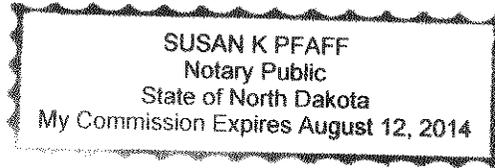
DATED this 13 day of May, 2009.

  
\_\_\_\_\_  
Rex L. Graves

Subscribed and sworn to before me

this 13 day of May, 2009.

Susan K Pfaff  
Notary Public



My commission expires: August 12, 2014