

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

|                            |   |                           |
|----------------------------|---|---------------------------|
| <b>In the Matter of</b>    | ) |                           |
|                            | ) |                           |
| <b>Jeffrey A. Swanson,</b> | ) | <b>CONSENT ORDER</b>      |
| <b>NPN 24728</b>           | ) |                           |
|                            | ) | <b>CASE NO. AG-12-388</b> |
|                            | ) |                           |
| <b>Respondent.</b>         | ) |                           |

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 Jeffrey A. Swanson, NPN 24728 (“Respondent”), an individual who held a North Dakota insurance producer license until it expired on August 31, 2012, 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, 26.1-26-42(1), (2), (4), and (6), and 26.1-26-45.1

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:

1. A materially untrue statement in the license application.
2. An acquisition or attempt to acquire a license through misrepresentation.  
...
4. Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner at the time of issuance.  
...
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.C.C. § 26.1-26-45.1 states, in relevant part:

2. Within thirty days after a criminal conviction, an insurance producer shall report to the commissioner any criminal conviction of the insurance producer taken in any jurisdiction. The report must include a copy of the initial complaint, the order issued by the court, and any other relevant legal documents. (emphasis added).

5. The Commissioner has come into information which alleges that Respondent failed to report six criminal convictions to the Department, including the following: On March 21, 1994, Swanson was found guilty of Issuing a Check Without Funds. On January 24, 1995, Swanson was again found guilty of Issuing a Check Without Funds. On January 22, 1999, Swanson was again found guilty of Issuing a Check Without Funds. On August 29, 2000, Swanson was found guilty of Simple

Assault. On October 5, 2001, Swanson was found guilty of Interfering with a Phone During Emergency Call. Finally, on September 8, 2009, Swanson was found guilty of Driving Under the Influence.

6. Respondent's actions in Paragraph 5 above constitute violations of N.D.C.C. §§ 26.1-26-15, 26.1-26-42 and 26.1-26-45.1.

7. Respondent entered into a Consent Order with the Department in 1990 ("1990 Consent Order"), in which Respondent agreed to a probationary period of five years during which Respondent agreed to "fully comply with all of the laws of the state and the lawful orders of the Commissioner of Insurance".

8. Respondent acknowledges that his criminal convictions for Issuing a Check Without Funds on March 21, 1994, and January 24, 1995, were direct violations of the 1990 Consent Order in which Respondent agreed to "fully comply with all of the laws of the state and the lawful orders of the Commissioner of Insurance".

9. Respondent has demonstrated conduct which constitutes financial irresponsibility in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(6), including admitting to owing \$61,269.68 in unpaid federal income taxes, \$6,054.90 in unpaid North Dakota state income taxes, and owing at least \$800 in civil judgments as of October 24, 2012.

10. Respondent's actions in violation of N.D.C.C. §§ 26.1-26-15, 26.1-26-42 and 26.1-26-45.1 are 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.

11. 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.

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

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

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

15. 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 five years.

2. Respondent agrees to pay a fine in the amount of \$2,000 payable by money order, cashier's check, or credit card to the North Dakota Insurance Department within 60 business days of the effective date of this Order.

3. Respondent agrees to provide proof to the Department that Respondent's tax liens with the State of North Dakota have been resolved within 60 days of the effective date of this Order.

4. Respondent agrees Respondent will not handle client funds during the five-year conditional license period required by this Order.

5. 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 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 is not appealable.

6. 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 4<sup>th</sup> day of February, 2013.



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Adam Hamm  
Insurance Commissioner  
State of North Dakota

**CONSENT TO ENTRY OF ORDER**

The undersigned, **Jeffrey A. Swanson**, 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 1 day of Feb, 2013.

  
Jeffrey A. Swanson

Subscribed and sworn to before me

this 1 day of Feb, 2013.

  
\_\_\_\_\_  
Notary Public

State of North Dakota  
County of Cass

My commission expires: 6/26/15

