**STATE OF NORTH DAKOTA**

**BEFORE THE INSURANCE COMMISSIONER**

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| **In the Matter of** | ) | |
| | ) | **CONSENT ORDER** |
| **Douglas Kleingartner,** | ) | |
| **NPN 5739865,** | ) | **CASE NO. AG-16-626** |
| | ) | |
| **Respondent.** | ) | |

**TO: Douglas Kleingartner, 1121 55th Avenue South, Fargo, ND 58104**

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 Douglas Kleingartner, NPN 5739865 ("Respondent"), an individual who has held a North Dakota insurance producer license at all times relevant to this proceeding, the Commissioner has considered initiating 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. § 26.1-26-42(6).

2. 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.

3. The Commissioner has come into information that evidences on or about March 18, 2015, Respondent was notified that his client, Rabbit River Construction, needed to provide an application for flood insurance and receipt showing payment of premium to Bell State Bank in order to timely close on a loan through the bank. Respondent, despite the fact that no policy was written and no premium paid, provided a quote for flood insurance and a receipt showing premium payment of $2,500 by credit card so that the loan could close.

4. Respondent knew that the receipt did not document an actual payment of premium by Rabbit River.

5. The above constitutes violation of N.D.C.C. § 26.1-26-42(6) and is grounds for revocation of Respondent's insurance producer license.

6. Respondent acknowledges that at the time of signing this Consent to Entry of Order, he is aware of or has 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.

7. Respondent has agreed to informal disposition of this matter, without a hearing, as specifically set forth in this Order.

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

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

10. 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 Douglas Kleingartner agrees to issuance by the Commissioner of a conditional license for a period of five years and after expiration of five years, the license will remain conditional for 61 days, to allow the Department to determine whether Respondent completed probation successfully or to enforce any violation of this agreement that occurred during the five year conditional period. After the aforementioned time period has expired, the license will become unrestricted if no enforcement action has been initiated.

2. Respondent Douglas Kleingartner agrees to pay a fine in the amount of $5,000 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. Respondent Douglas Kleingartner agrees that the Department may, during the five-year conditional license period and the 61-day review period allowed under paragraph 1, 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 Respondent and, after investigation of the merits of said complaint, notifies the Respondent that Respondent has, in the Commissioner's opinion, violated the laws of the State of North Dakota. Respondent further agrees that any action taken against Respondent's license or in furtherance of this action 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 26th day of May, 2016.

Adam Hamm
Insurance Commissioner
State of North Dakota

**CONSENT TO ENTRY OF ORDER**

The undersigned, **Douglas Kleingartner,** 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 voluntarily 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 20 day of April, 2016.

Douglas Kleingartner

Douglas Kleingartner

Subscribed and sworn to before me this 20th day of April, 2016.

Notary Public

State of ND
County of Cass

ALI ABERLE
Notary Public
State of North Dakota
My Commission Expires Sept. 6, 2018

My commission expires: Sept. 6th 2018