

STATE OF NORTH DAKOTA

BEFORE THE INSURANCE COMMISSIONER

In the Matter of)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Mark S. Mitchell,)	AND DEFAULT ORDER
NPN 496238,)	
)	CASE NO. AG-15-532
Respondent.)	

TO: Mark S. Mitchell, 2571A Coral Way East, Daytona Beach, FL 32118-5517

On April 10, 2015, a Complaint for Revocation of License was filed with the Insurance Commissioner by Kelvin W. Zimmer, Director of Producer Licensing for the North Dakota Insurance Department, alleging Mark S. Mitchell, NPN 496238 ("Respondent"), committed various violations of North Dakota insurance statutes.

The Complaint was mailed to Respondent at the address on file with the Department by the United States Postal Service via certified mail, return receipt requested, on April 10, 2015. The certified mail was returned to the Department marked "unclaimed" on April 30, 2015. Proof of service of the Complaint is annexed to these Findings. Respondent failed to answer the Complaint within 20 days as required under N.D.C.C. § 28-32-21(1)(e). As such, on June 2, 2015, an Application for Default Order was made deeming the allegations made in the Complaint to be admitted pursuant to N.D.C.C. § 28-32-30.

Based on the allegations made in the Complaint and on the evidence presented in the Affidavits filed in support of the Complainant's Application for Default Order, the following Findings of Fact, Conclusions of Law, and Default Order are entered:

FINDINGS OF FACT

I

Respondent is presently, and has at all times pertinent to this action, been an insurance producer licensed in North Dakota.

II

The Complaint was mailed to Respondent at the address on file with the Department by the United States Postal Service via certified mail, return receipt requested, on April 10, 2015. The certified mail was returned to the Department marked "unclaimed" on April 30, 2015. Respondent failed to provide a written response to the Complaint.

III

Respondent has not answered the Complaint within 20 days as required under N.D.C.C. § 28-32-21(1)(e).

IV

Respondent has been licensed as a nonresident insurance producer in North Dakota since October 21, 2013.

V

According to information obtained by the Department, on or about January 31, 2003, Florida suspended Respondent's nonresident producer license. This administrative action should have been disclosed on Respondent's nonresident application for an insurance producer license in North Dakota and it was not. Respondent's failure to disclose the administrative action on a license application is in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(1).

VI

According to information obtained by the Department, on or about December 9, 2013, South Dakota denied a license application by Respondent. Respondent failed to

report the South Dakota administrative action within 30 days to the Department in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-45.1.

VII

According to information obtained by the Department, on or about December 11, 2013, Wisconsin denied a license application by Respondent. Respondent failed to report the Wisconsin administrative action within 30 days to the Department in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-45.1.

VIII

According to information obtained by the Department, on or about April 21, 2014, Louisiana fined Respondent \$250 for failing to reporting another state's action and for failing to comply with a previous order. Respondent failed to report the Louisiana administrative action within 30 days to the Department in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-45.1.

IX

According to information obtained by the Department, on or about June 30, 2014, Iowa revoked Respondent's nonresident producer license. Respondent failed to report the Iowa administrative action within 30 days to the Department in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-45.1.

X

According to information obtained by the Department, on or about September 26, 2014, California revoked Respondent's nonresident producer license. Respondent failed to report the California administrative action within 30 days to the Department in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-45.1.

XI

According to information obtained by the Department, on or about November 25, 2014, Kansas revoked Respondent's nonresident producer license. Respondent failed to report the Kansas administrative action within 30 days to the Department in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-45.1.

XII

According to information obtained by the Department, on or about January 9, 2015, Washington revoked Respondent's nonresident producer license. Respondent failed to report the Washington administrative action within 30 days to the Department in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-45.1.

XIII

On or about February 5, 2015, an email was sent to Respondent requesting information regarding the numerous administrative actions and why they were not disclosed on Respondent's initial application or reported to the Department within 30 days. The email was returned as "not listed". On or about February 12, 2015, a letter was sent to Respondent's address on file requesting information regarding the numerous administrative actions and why they were not disclosed on Respondent's initial application or reported to the Department within 30 days. Respondent failed to respond to the Department's request for information. Respondent's failure to respond to a written request for information by the Department within 20 days is a violation of N.D.C.C. § 26.1-26-42(14).

XIV

Respondent's actions constitute violations of N.D.C.C. §§ 26.1-26-15, 26.1-26-42(1) and (14), and 26.1-26-45.1 and are grounds for revocation of Respondent's insurance producer license.

CONCLUSIONS OF LAW

1. Respondent was properly served with the Complaint in accordance with the North Dakota Rules of Civil Procedure.
2. Because of his failure to answer the Complaint within 20 days of its proper service, Respondent is in default under N.D.C.C. § 28-32-30.
3. Because Respondent is in default, the allegations in the Complaint are deemed admitted pursuant to N.D.C.C. § 28-32-30.
4. Respondent's violations of N.D.C.C. §§ 26.1-26-15, 26.1-26-42(1) and (14), and 26.1-26-45.1 are grounds for revocation of his insurance producer license.
5. Under N.D.C.C. § 26.1-26-42, the Commissioner of Insurance has authority to revoke Respondent's producer license for the violations cited above.

DEFAULT ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, IT IS ORDERED that the North Dakota insurance producer license of Mark S. Mitchell, NPN 496238, be **REVOKED** effective after the time for filing a motion to vacate a Default Order pursuant to N.D.C.C. § 28-32-30 expires.

DATED at Bismarck, North Dakota, this 2nd day of June, 2015.



Adam Hamm
Commissioner
N.D. Insurance Department
600 East Boulevard Avenue
Bismarck, ND 58505
(701) 328-2440

TO: Mark S. Mitchell
2571A Coral Way East
Daytona Beach, FL 32118-5517

SENDER: Jeff Ubben

REFERENCE: Mark Mitchell

9314 8699 0430 0012 2088 49

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	1.40
	Certified Fee	3.30
	Return Receipt Fee	1.35
	Restricted Delivery	0.00
	Total Postage & Fees	6.05

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Features:
Certified Mail™

Available Actions

Return Receipt Electronic

DATE & TIME	STATUS OF ITEM	LOCATION
May 15, 2015 , 10:19 am	Delivered	BISMARCK, ND 58505

Your item was delivered at 10:19 am on May 15, 2015 in BISMARCK, ND 58505

May 15, 2015 , 2:19 am	Departed USPS Facility	BISMARCK, ND 58504
May 14, 2015 , 8:13 pm	Arrived at USPS Facility	BISMARCK, ND 58504
May 12, 2015 , 10:40 pm	Departed USPS Facility	TAMPA, FL 33630
May 12, 2015 , 10:37 am	Arrived at USPS Facility	TAMPA, FL 33630
April 30, 2015 , 3:50 pm	Unclaimed	DAYTONA BEACH, FL 32118
April 13, 2015 , 1:49 pm	Notice Left (No Authorized Recipient Available)	DAYTONA BEACH, FL 32118
April 13, 2015 , 1:03 am	Departed USPS Facility	ORLANDO, FL 32824
April 12, 2015 , 1:09 pm	Arrived at USPS Facility	ORLANDO, FL 32824
April 11, 2015 , 6:16 am	Departed USPS Facility	BISMARCK, ND 58504
April 11, 2015 , 12:05 am	Arrived at USPS Facility	BISMARCK, ND 58504
April 9, 2015	Pre-Shipment Info Sent to USPS	

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