

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

<b>In the Matter of</b>	)	
	)	
<b>Vivian V. Gwin,</b>	)	<b>FINDINGS OF FACT,</b>
<b>NPN 5739209,</b>	)	<b>CONCLUSIONS OF LAW,</b>
<b>DOB 12/20/52,</b>	)	<b>AND ORDER</b>
	)	
<b>Respondent.</b>	)	<b>CASE NO. AG-10-266</b>

**BACKGROUND**

On March 9, 2010, a Complaint was filed with the Insurance Commissioner by Rebecca L. Ternes, Deputy Commissioner of the North Dakota Insurance Department ("Department"), alleging Vivian V. Gwin, NPN 5739209, DOB 12/20/52 ("Respondent"), committed various violations of North Dakota insurance statutes. The Complaint was served on Respondent via U.S. mail, certified, return receipt requested, on March 9, 2010. Proof of service of the Complaint is annexed to these Findings as Exhibit 1. Respondent filed a document in response to the Complaint on April 18, 2010. The Department treated Gwin's response as a request for a hearing and requested designation of an Administrative Law Judge from the Office of Administrative Hearings. Gwin's response did not, however, contain an answer to the allegations in the Complaint. On May 26, 2010, the Department made a Motion to Dismiss which was granted on June 22, 2010, and the recommended Order of the Administrative Law Judge that the allegations in the Complaint are admitted and the matter is dismissed was adopted. Respondent did not file any other responsive documents regarding the allegations in the Complaint within 20 days as required under N.D.C.C. § 28-32-21(1)(e).

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 Order of Revocation, the following Findings of Fact, Conclusions of Law, and 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

On March 9, 2010, the Complaint of Rebecca Ternes was duly served on Respondent in accordance with the North Dakota Rules of Civil Procedure and the Administrative Procedures Act, N.D.C.C. Chapter 28-32.

III

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

IV

Respondent failed to report to the Department multiple disciplinary actions taken against her by other administrative entities.

### **CONCLUSIONS OF LAW**

1. The Insurance Commissioner has jurisdiction over these proceedings pursuant to N.D.C.C. §§ 26.1-01-03 and 26.1-26-42 and N.D.C.C. chapter 28-32.
2. N.D.C.C. chapter 26.1-26 governs the qualifications and procedures for the licensing of insurance producers in the State of North Dakota.
3. N.D.C.C. § 26.1-26-15 requires that an applicant for a license must be deemed by the Commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation.

3. Respondent was properly served with the Complaint in accordance with the North Dakota Rules of Civil Procedure.

4. Respondent failed to make an appropriate response to the Complaint within 20 days of its service.

5. The allegations in the Complaint are deemed admitted pursuant to N.D.C.C. § 28-32-30.

6. Respondent's failure to timely report disciplinary action by other administrative entities is a violation of N.D.C.C. §§ 26.1-26-15, 26.1-26-42, and 26.1-26-45.1 and constitutes grounds for revocation of her license.

7. Under N.D.C.C. §§ 26.1-26-42 and 26.1-26-45.1, the Commissioner of Insurance has authority to revoke Respondent's agent license for the violations cited above.

#### ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, IT IS ORDERED that the North Dakota insurance agent license of Vivian V. Gwin, NPN 5739209, DOB 12/20/52, be **REVOKED**.

DATED at Bismarck, North Dakota, this 16<sup>th</sup> day of July, 2010.

  
\_\_\_\_\_  
Adam Hamm  
Commissioner  
N.D. Insurance Department  
600 East Boulevard Avenue, Dept. 401  
Bismarck, ND 58505  
(701) 328-2440

Ms. Vivian Gwin  
**TO:** 1886 Bonn Boulevard  
Bismarck, ND 58504

**EXHIBIT 1**

**SENDER:** Nancy Brady

**REFERENCE:** Vivian Gwin

7160 3820 3530 0674 5381

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	0.78
	Certified Fee	2.80
	Return Receipt Fee	1.10
	Restricted Delivery	0.00
	<b>Total Postage &amp; Fees</b>	<b>4.68</b>

US Postal Service

**Receipt for  
Certified Mail**

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

3/9/10



Date: 03/11/2010

Nancy Brady:

The following is in response to your 03/11/2010 request for delivery information on your Certified Mail(TM) item number 7160 3820 3530 0674 5381. The delivery record shows that this item was delivered on 03/10/2010 at 10:56 AM in BISMARCK, ND 58504. The scanned image of the recipient information is provided below.

Signature of Recipient:

70	
8	Vivian Gwin

Address of Recipient:

70	1882 Bohn
----	-----------

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service