STATE OF NORTH DAKOTA

BEFORE THE INSURANCE COMMISSIONER

In the Matter of	)	
	)	
Robert Schmitz,	)	
NPN 658790,	)	**CEASE AND DESIST ORDER**
DOB 07/30/1962, and	)	**AND NOTICE OF OPPORTUNITY**
	)	**FOR HEARING**
Schmitz Insurance Agency,	)	
NPN 8789056,	)	**CASE NO. AG-12-_ _ _**
	)	
Respondents	)	
	)	

TO: Robert Schmitz, and Schmitz Insurance Agency, P.O. Box 230, Grandin, ND 58038

Insurance Commissioner Adam Hamm ("Commissioner") has determined as follows:

1. N.D.C.C. § 26.1-01-03.1 authorizes the Commissioner to issue an Order to cease and desist when it appears that any person or business entity is or has engaged in an act or practice which violates or may lead to a violation of the North Dakota Century Code.

2. N.D.C.C. Chapter 26.1-26 regulates the licensing of insurance producers.

3. Robert J. Schmitz, NPN 658790, DOB 07/30/1962, is presently and has been at all times pertinent to this action a licensed North Dakota resident individual insurance producer and Schmitz Insurance Agency, NPN 8789056, is presently and has

been at all times pertinent to this action, a licensed North Dakota resident business entity insurance producer (collectively referred to as "Respondents"),

4. N.D.C.C. § 26.1-02.1-02.1 states, in part:

   A person may not commit a fraudulent insurance act.

5. N.D.C.C. § 26.1-26-15 states:

   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.

6. N.D.C.C. § 26.1-26-42 states, in 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.

   7. A misrepresentation of the terms of any actual or proposed insurance contract.

   . . .

   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.

   . . .

18. The applicant or licensee knowingly fails to pay state income tax or comply with a court order directing payment of state income tax.

7. The Commissioner has come into information that alleges one or both Respondents have failed to pay state income tax and federal income tax and that a tax lien was filed against one or both Respondents by the Internal Revenue Service on August 30, 2010, for $371,210.00 and by the North Dakota State Tax Department on April 27, 2011, for $52,808.00. By these actions, Respondents have shown themselves to be incompetent, untrustworthy, or financially irresponsible.

8. The Commissioner has come into information that alleges Respondents have knowingly and intentionally engaged in deceitful and dishonest practices against residents of the State of North Dakota by accepting money and improperly converting money belonging to insurance clients, and in issuance of one or more falsified insurance policies. By these actions Respondents have also shown themselves incompetent, untrustworthy, or financially irresponsible in the conduct of affairs under the license.

9. The Commissioner has come into information that alleges Respondents accepted premium payments from clients but failed to pay those premiums to the respective insurers in a timely fashion. Clients received notices of cancellation due to nonpayment. By these actions, Respondents have shown themselves to be incompetent, untrustworthy, or financially irresponsible.

10. The Commissioner has come into information that alleges Respondents accepted premium payments from clients but when Respondents made the payment to the insurer, the check was dishonored by Respondents' bank due to nonsufficient funds.

By these actions, Respondents have shown themselves to be incompetent, untrustworthy, or financially irresponsible.

11. The Commissioner has come into information that alleges Respondents issued one or more pay checks to an employee which was dishonored by Respondents' bank due to nonsufficient funds. By these actions, Respondents have shown themselves to be incompetent, untrustworthy, or financially irresponsible.

12. The Commissioner has come into information that alleges Respondent Robert J. Schmitz was convicted of Issuing Check or Draft Without Sufficient Funds or Credit in Traill County District Court on June 25, 2008. By these actions, Respondent Robert J. Schmitz has shown himself to be incompetent, untrustworthy, or financially irresponsible.

13. Respondents' conduct constitutes violations of N.D.C.C §§ 26.1-02.1-02.1, 26.1-26-15 and 26.1-26-42(6), (7), (10) and (18).

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to N.D.C.C. § 26.1-01-03.1 that Respondents, whether acting in the State of North Dakota as an insurer, a risk retention group, a purchasing group, an insurance producer, a business entity, or otherwise engaging in the business of insurance, either directly or indirectly through named and unnamed persons, entities, agents, or otherwise, shall immediately **CEASE AND DESIST** from soliciting, transacting, or otherwise engaging in the business of insurance.

IT IS FURTHER ORDERED pursuant to N.D.C.C. § 26.1-01-03.1 that Respondents may make a written request for a hearing on this matter within 30 days of the date of this Order.

If the Respondents fail to request a hearing in writing within 30 days after being served with a copy of this Cease and Desist Order, the Commissioner shall make the Cease and Desist Order permanent, as the facts require.

DATED this 16th day of July, 2012.

Adam Hamm
Commissioner
North Dakota Insurance Department
600 East Boulevard Avenue, Dept. 401
Bismarck, ND 58505
(701) 328-2440