

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of)	
)	
Eugene L. Zaderaka,)	CONSENT ORDER
NPN 5738505,)	
DOB 1/12/36,)	CASE NO. AG-09-258
)	
Respondent.)	

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 Eugene L. Zaderaka, NPN 5738505, DOB 1/12/36 ("Respondent"), the Commissioner has considered scheduling a formal hearing to determine whether Respondent's conduct as alleged constitutes a basis for imposition of a civil penalty or any other action the Commissioner deems necessary. Respondent's conduct is alleged to be in violation of the following state laws relating to the regulation of insurance producers:

N.D.C.C. § 26.1-26-15 (licensee must be deemed trustworthy and of good personal and business reputation);

N.D.C.C. § 26.1-26-42(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);

N.D.C.C. § 26.1-26-42(5) (licensee has been convicted of an offense determined by the Commissioner to have a direct bearing on a person's ability to serve the public as an insurance producer);

N.D.C.C. § 26.1-26-42(6) (the licensee has shown oneself to be untrustworthy);
and

N.D.C.C. § 26.1-26-45.1(2) (the licensee has failed to report within 30 days a criminal conviction).

2. N.D.C.C. § 26.1-26-15 states:

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 part:

26.1-26-42. License suspension, revocation, or refusal - Grounds. 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:

...

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.
5. The applicant or licensee has been convicted of a felony or convicted of an offense, as defined by section 12.1-01-04, determined by the commissioner to have a direct bearing upon a person's ability to serve the public as an insurance producer, insurance consultant, or surplus lines insurance producer, or the commissioner finds, after conviction of an

offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

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 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.

5. Respondent has been a licensed resident insurance producer in North Dakota since January 23, 1968.

6. On July 20, 2009, the Department received information that indicated Respondent had been convicted of forgery in federal court two years ago.

7. On July 22, 2009, the Department sent a letter to Respondent asking him to provide a written explanation regarding the criminal conviction, why he failed to report it to the Department, and whether he continued to serve on the Board of Directors of West McLean County Farmers Mutual Insurance Company.

8. On August 1, 2009, Respondent provided a written response which indicated that Respondent has been retired from the insurance business since September 2006 and he thought his license would be cancelled at that time. He also stated that his last term as director for West McLean County Farmers Mutual Insurance Company expired in March 2007.

9. By his actions of failing to report his criminal conviction, Respondent has shown himself to be untrustworthy, financially irresponsible, and not of good personal reputation. This conduct constitutes a violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(4) and (6).

10. Respondent's license is properly revoked now because issuance of the license would have been refused had the criminal convictions been known to the Commissioner at the time of issuance. N.D.C.C. § 26.1-26-42(4).

11. Respondent has been convicted of offenses that have a direct bearing on a person's ability to serve the public as an insurance producer. This conduct constitutes grounds for revocation of Respondent's license pursuant to N.D.C.C. § 26.1-26-42(5).

12. Respondent's failure to report a criminal conviction to the Department within 30 days of the conviction is a violation of N.D.C.C. § 26.1-26-45.1(2) and constitutes grounds for revocation of Respondent's license.

13. N.D.C.C. § 26.1-02.1-02.1(3)(a) provides that a person convicted of a felony involving dishonesty or breach of trust may not participate in the business of insurance. Respondent's criminal conviction of forgery is a crime of dishonesty and Respondent is thus prohibited from participating in the business of insurance.

14. Respondent's actions constitute violations of N.D.C.C. §§ 26.1-26-15, 26.1-26-33, 26.1-26-42(4), (5), and (6) and 26.1-26-45.1 and are grounds for revocation of Respondent's insurance agent license.

15. 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.

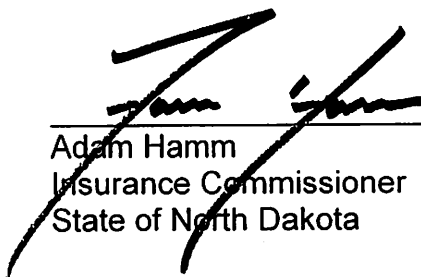
16. Respondent has agreed to informal disposition of this matter, without a hearing, as provided under N.D.C.C. § 28-32-22.

17. For purposes of resolving this matter, without further administrative proceedings, Eugene Zaderaka and the Commissioner have agreed to enter into the following order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent's resident insurance agent license is hereby **REVOKED** effective upon the Commissioner's execution of this Order.
2. Respondent may not engage in the business of insurance in any manner, including acting as an officer, director, employee or agent of any insurer.
3. No administrative fine or other civil penalty is imposed.
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 9th day of November, 2009.



Adam Hamm
Insurance Commissioner
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, **Eugene Zaderaka**, 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 hereto, there being no other promises or agreements, either expressed or implied.

DATED this 5th day of November, 2009.

Eugene Zaderaka
Eugene Zaderaka

State of ND
County of Mclean

Subscribed and sworn to before me
this 5th day of November, 2009.

Stacy Tomlinson
Notary Public

My commission expires: 8/20/2010

STACY TOMLINSON
Notary Public
State of North Dakota
My Commission Expires Aug. 20, 2010