

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of)	
)	CONSENT ORDER
Kristopher Smith,)	
NPN 7154612,)	CASE NO. AG-16-686
)	
Respondent.)	

TO: Kristopher Smith, 1 Second Street North, Suite 114, Fargo, ND 58102-4807

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 Kristopher Smith, NPN 7154612 (“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. As more fully described below, Respondent’s conduct is alleged to be in violation of N.D.C.C. § 26.1-26-45.1(1).

2. N.D.C.C. § 26.1-26-45.1 states, in part:

26.1-26-45.1. Reporting of actions.

1. An insurance producer shall report to the commissioner any administrative action taken against the insurance producer’s license in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the

matter. This report must include a copy of the order, consent to order, or other relevant legal documents.

3. Respondent has been licensed as a nonresident insurance producer in North Dakota since August 12, 2009.

4. According to information received by the Department, on or about February 11, 2016, FINRA took action against Respondent by suspending him from association with any FINRA member in any capacity for 10 days and fined Respondent \$5,000. The FINRA information stated that without admitting or denying the findings, Respondent consented to the sanctions and to the entry of findings that he exercised discretion when placing hundreds of securities transactions in customers' brokerage accounts. The findings stated that although the affected customers accepted Respondent's discretionary trading, his member firm prohibited the practice, except in limited circumstances that were inapplicable to the accounts at issue. Respondent was aware of this prohibition, having twice been instructed by his firm to stop exercising discretion in customers' accounts. The FINRA action should have been reported to the Department within 30 days and it was not. Respondent's failure to report a FINRA action within 30 days is in violation of N.D.C.C. § 26.1-26-45.1(1).

5. Respondent's actions constitute violations of N.D.C.C. § 26.1-26-45.1(1).

6. Respondent acknowledges that at the time of signing the Consent to Entry of Order, he was aware of or had been advised of the right 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 provided under N.D.C.C. § 28-32-22.

8. For purposes of resolving this matter without further administrative proceedings, Respondent has agreed to enter into the following order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent agrees to pay a fine in the amount of \$100 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.

2. 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 22nd day of November, 2016.




Adam Hamm
Insurance Commissioner
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, **Kristopher Smith**, 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 the right to a hearing in this matter, the right to be represented by legal counsel, the right to present evidence and arguments to the Commissioner, and the 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, there being no other promises or agreements, either expressed or implied.

DATED this 16th day of November, 2016.


Kristopher Smith

County of Cass
State of North Dakota

Subscribed and sworn to before me this 16th day of November, 2016.



Notary Public

My commission expires:

