

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of)	CEASE AND DESIST ORDER
)	AND NOTICE OF
Rex L. Graves,)	OPPORTUNITY FOR HEARING
NPN 7541532,)	
DOB 5/24/52,)	
)	CASE NO. AG-09-235
Respondent.)	

TO: Rex L. Graves, P.O. Box 1866, Jamestown, ND 58401

Insurance Commissioner Adam Hamm (hereinafter "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. Rex L. Graves, NPN 7541532, DOB 5/24/52 (hereinafter "Respondent"), is presently and has been at all times pertinent to this action a licensed North Dakota resident insurance agent.

4. 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.

...

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.

5. The Commissioner has come into information which alleges that Respondent has knowingly and intentionally engaged in deceitful and dishonest practices against residents of the State of North Dakota; further, that, in his actions on and between July 14, 2008, and continuing at least through December 26, 2008, of frequently maintaining negative balances in his agency checking account and incurring numerous overdraft fees, Respondent has shown himself incompetent, untrustworthy, or financially irresponsible in the conduct of affairs under the license; and further, that, in his actions on and between September 22, 2008, and continuing at least through March 7, 2009, of accepting money and converting to his own use moneys belonging to several insurance clients, Respondent has improperly withheld, misappropriated, or converted to his own use, moneys belonging to policyholders.

6. On and between July 14, 2008, and December 26, 2008, Respondent incurred 42 separate overdraft charges in his agency checking account, each charge indicating that Respondent maintained inadequate funds in his account at the time he was to make a transaction in the conduct of affairs under his license. Respondent's repeated conduct of maintaining inadequate funds in the course of his insurance business constitutes a violation of N.D.C.C § 26.1-26-42(6).

7. On or about September 22, 2008, Respondent, acting as insurance agent, accepted \$3,348.25 from Owen and Elena Olson for payment of one or more insurance premiums on one or more policies previously issued through the insurance agency of Respondent. Respondent applied the money received from the Olson's to his own personal use and failed to maintain current payments on the Olson's insurance in violation of N.D.C.C. § 26.1-26-42(6) and (10).

8. On or about November 6, 2008, Respondent, acting as insurance agent, accepted approximately \$10,200.00 from Tom and Paul Wiley for payment of one or more insurance premiums on one or more policies previously issued through the insurance agency of Respondent. Respondent applied some money received from the Wiley's to his own personal use and failed to maintain current payments on the Wiley's insurance in violation of N.D.C.C. § 26.1-26-42(6) and (10).

9. On or about November 25, 2008, Respondent, acting as insurance agent, accepted \$3,500.75 from Owen and Elena Olson for payment of one or more insurance premiums on one or more policies previously issued through the insurance agency of Respondent. Respondent applied some money received from the Olson's to his own personal use and failed to maintain current payments on the Olson's insurance in violation of N.D.C.C. § 26.1-26-42(6) and (10).

10. On or about December 2, 2008, Respondent, acting as insurance agent, accepted \$10,123.00 from Richard and Janice Huebner for payment of one or more insurance premiums on one or more policies previously issued through the insurance agency of Respondent. Respondent applied some money received from the Huebner's to his own personal use and failed to maintain current payments on the Huebner's insurance in violation of N.D.C.C. § 26.1-26-42(6) and (10).

11. On or about March 7, 2009, Respondent, acting as insurance agent, accepted \$3,471.24 from Tom and Paul Wiley for payment of one or more insurance premiums on one or more policies previously issued through the insurance agency of Respondent. Respondent applied some money received from the Wiley's to his own personal use and failed to maintain current payments on the Wiley's insurance in violation of N.D.C.C. § 26.1-26-42(6) and (10).

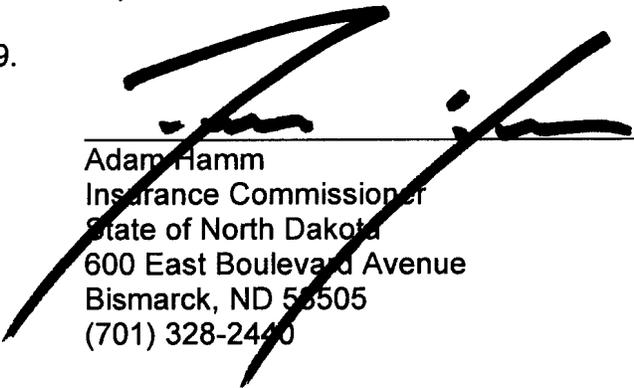
12. Respondent's conduct constitutes violations of N.D.C.C § 26.1-26-42(6) and (10).

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to N.D.C.C. § 26.1-01-03.1 that Respondent, whether acting in the State of North Dakota as an insurer, a risk retention group, a purchasing group, an insurance producer, 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 Respondent may make a written request for a hearing on this matter within 30 days of the date of this Order.

If the Respondent fails 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 20th day of April, 2009.



Adam Hamm
Insurance Commissioner
State of North Dakota
600 East Boulevard Avenue
Bismarck, ND 58505
(701) 328-2440