

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

In the Matter of	)	
	)	
E. Brent Lundgren,	)	<b>CONSENT ORDER</b>
NPN 658102,	)	
	)	<b>CASE NO. AG-13-440</b>
	)	
Respondent.	)	

**TO: E. Brent Lundgren, and his attorney, Chris Kennelly, Kennelly O’Keeffe,  
P.O. Box 2105, Fargo, ND 58107-2105**

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 E. Brent Lundgren, NPN 658102 (“Respondent”), the Commissioner has commenced administrative proceedings regarding Respondent’s conduct as alleged below and regarding the imposition of a civil penalty or any other action the Commissioner deems necessary. Respondent’s conduct is alleged to be in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(6) and (12) and N.D. Admin. Code §§ 45-04-02-08 and 45-04-04-10.

2. N.D.C.C. § 26.1-26-15 states, in relevant part:

**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 relevant 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.

...

12. A violation of or noncompliance with any insurance laws of this state or a violation of or noncompliance with any lawful rules or orders of the commissioner or of a commissioner of another state.

4. N.D. Admin. Code § 45-04-02-08 states, in part:

**45-04-02-08. Eligibility of agents to sell or solicit variable annuity contracts.**

...

2. Any person, having been licensed as a securities salesman and being associated with the variable contract business, shall immediately report to the commissioner of insurance and the commissioner of securities (a) any suspension or revocation of the person's variable annuity contract agent's license or life insurance agent's license in any other jurisdiction, or (b) the imposition of any disciplinary action (including suspension or expulsion from membership, denial or

suspension or revocation of registration, or other adverse order or directive) upon the person by any self-regulatory securities association, securities exchange, or any governmental agency with jurisdiction over securities or contracts of a variable nature, or (c) any judgment or injunction entered against the person on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

5. N.D. Admin. Code § 45-04-04-10 states, in part:

**45-04-04-10. Qualification of agents for the sale of variable life insurance.**

...

2. **Reports of disciplinary actions.** Any person qualified in this state under this section to sell or offer to sell variable life insurance shall immediately report to the commissioner:
  - a. Any suspension or revocation of that person's agent's license in any other state or territory of the United States.
  - b. The imposition of any disciplinary sanction, including suspension or expulsion from membership, suspension or revocation of or denial of registration, imposed upon that person by any national securities exchange, or national securities association, or any federal, state or territorial agency with jurisdiction over securities or variable life insurance.
  - c. Any judgment or injunction entered against that person on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

6. At all times relevant to this Order, Respondent held a resident insurance producer license issued by the North Dakota Insurance Department.

7. On or about August 13, 2013, the North Dakota Securities Commissioner ("Securities Commissioner") issued an Order to Summarily Postpone the Approval of Respondent's Application for Registration, Order for Rescission, Notice of Proposed Order Refusing Registration, and Notice of Right to Request a Hearing. Respondent failed to timely request a hearing as required by N.D.C.C. § 10-04-12 and the Securities Commissioner's September 20, 2013 Order.

8. On or about September 20, 2013, the Securities Commissioner issued an Order Refusing Registration as an Agent against Respondent. The Securities Commissioner's September 20, 2013, Order states, in part:

Pursuant to the facts set forth above, Respondent, Edwin Brent Lundgren, has violated the securities laws and engaged in dishonest, fraudulent or unethical practices in the securities industry. As such, there are sufficient grounds for the Commissioner to revoke an agent's registration under N.D.C.C. § 10-04-11 and such acts constitute a sufficient ground for a finding by the Commissioner that Respondent is "not of good business reputation" as defined in N.D.C.C. § 10-04-10(6) and that approval of his application for registration should therefore be refused.

9. The conduct addressed in the Securities Department's August 13, 2013, and September 20, 2013, actions taken against the Respondent, namely selling a speculative and illiquid investment with no reasonable basis to believe the sale was suitable and falsely signing a certificate, are in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42 and are sufficient grounds for revocation of Respondent's insurance producer license.

10. Respondent failed to timely report to the Department the September 20, 2013, action taken by the Securities Commissioner. Respondent's conduct of failing to timely report the action taken by the Securities Commissioner is a violation of N.D. Admin. Code §§ 45-04-02-08 and 45-04-04-10 and N.D.C.C. § 26.1-26-42 and are sufficient grounds for revocation of Respondent's insurance producer license.

11. 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.

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

13. There are no covenants, promises, undertakings, or understanding other than as specifically set forth in this Order.

14. Respondent consents to the Commissioner's continuing jurisdiction over him regarding this matter and any issues which may subsequently arise related to Respondent's activities.

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

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent agrees to issuance by the Commissioner of a conditional license for a period of 60 months and after expiration of 60 months the license will remain conditional for 61 days, to allow the Department to determine whether

Respondent completed probation successfully or to enforce any violation of this agreement that occurred during the 60-month probationary period. After the aforementioned time period has expired, the license will become unrestricted if no enforcement action has been initiated

2. Respondent agrees to pay a fine in the amount of \$5,000 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.

3. Within 24 months of the effective date of this Order, Respondent agrees to complete 50 hours of in-classroom insurance-related continuing education classes, of which 10 hours must be in direct relation to ethics. These 50 hours do not include, but are completely in addition to, the statutory 2 years for completion of 24 hours of insurance-related continuing education, of which 3 hours must be ethics education, required by North Dakota law.

4. Within 20 days of the effective date of this Order, Respondent agrees to report the Securities Commissioner's September 20, 2013, Order to all state insurance regulatory authorities where he holds a license to sell insurance.

5. Within 20 days of the effective date of this Order, Respondent agrees to report this Order to all state insurance regulatory authorities where he holds a license to sell insurance.

6. Respondent agrees, during the 60-month conditional license period, to report to the Commissioner any administrative action taken against his insurance license in this state or any action taken against his insurance license in any other state or jurisdiction within 30 days of the final disposition of the matter.

7. Respondent agrees, during the 60-month conditional license period, to report to the Commissioner any criminal conviction in this state or in any other state or jurisdiction within 30 days of the final disposition of the matter.

8. Respondent agrees, during the 60-month conditional license period and 61-day review period allowed under paragraph 1, the Department may, revoke, suspend, or take such further action as may be deemed necessary against Respondent's insurance license without Notice of Hearing or the issuance of a Complaint if the Department receives credible information and the Commissioner determines the Respondent has violated any of the terms of this Order.

9. Respondent agrees that the Department may, during the 60-month conditional license period and the 61-day review period allowed under paragraph 1, revoke, suspend, or take such further action as may be deemed necessary against Respondent's insurance license without Notice of Hearing or the issuance of a Complaint if the Department receives a complaint from any source against the Respondent and after investigation of the merits of said complaint, notifies the Respondent that he has, in the Commissioner's opinion, committed a violation of North Dakota law, except for minor traffic offenses.

10. Respondent further agrees that any action taken by the Department under the terms of this Order is not appealable and by signing this agreement, hereby waives any right Respondent may have to appeal any action taken by the Department under the terms of this Order.

11. 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.

12. The Department will not take further action against Respondent's insurance license on the sole basis of other regulatory or civil action alone that may arise out of the same specific facts as outlined in the current Consent Order. Respondent understands and agrees that nothing in this Consent Order prevents the Department from taking action on new information that comes to the attention of the Department in the future.

DATED at Bismarck, North Dakota, this 15<sup>th</sup> day of May, 2014.

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Adam Hamm  
Insurance Commissioner  
State of North Dakota



**CONSENT TO ENTRY OF ORDER**

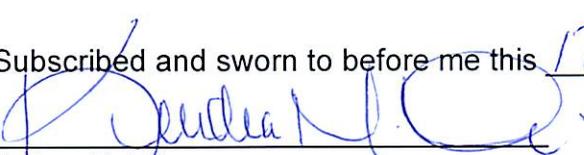
The undersigned, **E. Brent Lundgren**, states that he has read the foregoing Consent Order, that he knows and fully understands its contents and effect; that he has been advised of his right to a hearing in this matter, his right to be represented by legal counsel, his right to present evidence and 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, there being no other promises or agreements, either expressed or implied.

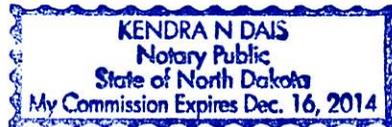
DATED this 12<sup>th</sup> day of May, 2014.

  
\_\_\_\_\_  
E. Brent Lundgren

Subscribed and sworn to before me this 12<sup>th</sup> day of May, 2014.

  
\_\_\_\_\_  
Notary Public

State of North Dakota  
County of Cass



My commission expires: 12.16.2014

**RECEIVED**  
MAY 14 2014  
NORTH DAKOTA  
INSURANCE DEPARTMENT

MEMORANDUM  
History Public  
State of North Dakota  
The Commission Expires Dec. 18, 2014