

STATE OF NORTH DAKOTA  
BEFORE THE INSURANCE COMMISSIONER

In the Matter of	)	
	)	CONSENT ORDER
Gary B. Sutherland,	)	
NPN 2196201,	)	CASE NO. AG-13-423
	)	
Respondent.	)	

TO: Gary B. Sutherland, NAPLIA, 161 Worcester Road, Suite 504, Framingham, MA 01701-5315

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 Gary B. Sutherland, NPN 2196201 (“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. §§ 26.1-26-15, 26.1-26-42(14), and 26.1-26-45.1.

2. N.D.C.C. § 26.1-26-15 requires that an applicant for a license 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:

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:

...

14. The applicant or licensee has refused to respond within twenty days to a written request by the commissioner for information regarding any potential violation of this section.

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

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.

5. According to information received by the Department, on February 9, 2012, Respondent was ordered by the Kentucky Department of Insurance to pay a \$500 fine for failure to timely file surplus lines tax reports and failure to respond to multiple notices of the Kentucky Department of Insurance. Respondent disclosed the Kentucky action to the Department on September 10, 2012. Respondent should have disclosed the Kentucky action by March 9, 2012, in order to be in compliance with N.D.C.C. § 26.1-26-45.1. Respondent's failure to disclose the Kentucky action to the Department within 30 days is in violation of N.D.C.C. § 26.1-26-45.1.

6. According to information received by the Department, on October 16, 2012, Respondent entered into a Consent Order with the Delaware Department of Insurance and was ordered to pay a \$250 fine for failing to report the Kentucky action of failing to timely file surplus lines tax reports. Respondent failed to disclose the

Delaware action to the Department within 30 days in violation of N.D.C.C. § 26.1-26-45.1.

7. According to information received by the Department, on June 3, 2013, Respondent entered into a Consent Order with the South Dakota Division of Insurance and was ordered to pay a \$500 fine for failing to report the Kentucky action of failing to timely file surplus lines tax reports and for failing to respond to inquiries by the South Dakota Division of Insurance. Respondent failed to disclose the South Dakota action to the Department within 30 days in violation of N.D.C.C. § 26.1-26-45.1.

8. On or about June 7, 2013, an email was sent to Respondent requesting copies of the Delaware and South Dakota orders. Respondent was also asked to provide a written statement regarding the actions and a statement of why the actions were not reported to the Department within 30 days as is required by N.D.C.C. § 26.1-26-45.1. Respondent failed to respond to the email request within 20 days. Respondent's failure to respond to a written request for information by the Department within 20 days is a violation of N.D.C.C. 26.1-26-42(14).

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

10. 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.

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

12. 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 \$800 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 producer 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 14 day of November, 2013.



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Adam Hamm  
Insurance Commissioner  
State of North Dakota

#### CONSENT TO ENTRY OF ORDER

The undersigned, **Gary B. Sutherland**, 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.

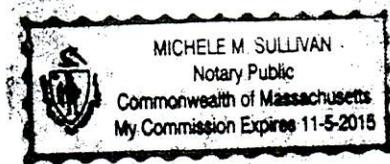
DATED this 5<sup>th</sup> day of November, 2013.

Gary B. Sutherland  
Gary B. Sutherland

Subscribed and sworn to before me this 5<sup>th</sup> day of November, 2013.

Michele M. Sullivan  
Notary Public

County of Norfolk  
State of Massachusetts



My commission expires: