

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of)	
)	CONSENT ORDER
Rodney L. Swallers,)	
NPN 131920,)	CASE NO. AG-15-564
)	
Respondent.)	

TO: Rodney L. Swallers, P.O. Box 10, Granville, ND 58741

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 Rodney L. Swallers, NPN 131920 ("Respondent"), an individual who has held a North Dakota insurance producer license at all relevant times to this proceeding, the Commissioner has considered initiating 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. § 26.1-26-42(12) and N.D. Admin. Code § 45-02-02-14(2).

2. N.D.C.C. § 26.1-26-42 states, in relevant part:

26.1-26-42. License suspension, revocation, or refusal – Grounds. The commissioner may suspend, revoke, place on probation, or refuse to continue to 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:

...

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.

3. N.D. Admin. Code § 45-02-02-14(2) states:

45-02-02-14. Excessive or unnecessary coverage.

2. Suitability. In recommending the purchase of any accident and health, health service, life, annuity, or nursing home policy to any consumer over age sixty-five, or medicare supplement policy to any consumer, an insurance producer shall have reasonable grounds at the time of sale for believing that the recommendation is suitable for the consumer and shall make reasonable inquiries to determine suitability. The suitability of a recommended purchase of insurance will be determined by examination of the totality of the particular consumer's circumstances, including, but not limited to, the following:

- a. The consumer's income and assets;
- b. The consumer's need for insurance at the time of sale; and
- c. The values, benefits, and costs of the consumer's existing insurance program, if any, when compared to the values, benefits and costs of the recommended policy or policies.

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

5. On or about May 20, 2015, the Department received a complaint regarding the sale of three policies to a consumer aged 65 in September 2014. The insurer cancelled the three policies and refunded the premiums to the consumer, believing that the consumer was confused regarding the policies when they were sold to her.

6. On July 10, 2015, the Department requested that Respondent provide the suitability analysis performed for the policies sold to the consumer in September 2014 as

required pursuant to N.D. Admin. Code § 45-02-02-14. On July 16, 2015, Respondent provided a response stating:

I go over all approved facts and figures with all clients and all approved sales material. I let them know they should pick a policy that would work best for them at the time of need. Also to pick a policy that's most affordable now and in the future. I let my clients choose what works best for them. I do not make their decision for them. I leave a brochure with my clients after I leave with the prices on the one they choose.

7. Respondent's response does not fulfill the requirements of N.D. Admin. Code § 45-02-02-14 which requires the Respondent to determine the suitability of a product by examining the totality of the consumer's circumstances.

8. As discussed above, Respondent's conduct constitutes violations of N.D.C.C. § 26.1-26-42(12) and N.D. Admin. Code § 45-02-02-14(2).

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent agrees to pay a fine of \$500 by money order, cashier's check, or credit card to the North Dakota Insurance Department within 30 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 11th day of September, 2015.



Adam Hamm
Insurance Commissioner
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, Rodney L. Swallers, 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 signing of this Consent to Entry of Order he voluntarily 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 8 day of Sept., 2015.

Rodney Swallers
Rodney L. Swallers

Subscribed and sworn to before me

this 8th day of September, 2015.

Nona Geer
Notary Public

State of North Dakota

County of Ward

My commission expires:

