

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

<b>In the Matter of</b>	)	
	)	
<b>Bart Winterton,</b>	)	<b>CONSENT ORDER</b>
<b>NPN 8682255,</b>	)	
<b>DOB 12/31/78,</b>	)	<b>CASE NO. AG-12-354</b>
	)	
<b>Respondent.</b>	)	

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 Bart Winterton, NPN 8682255, DOB 12/31/78 (“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. Respondent’s conduct is alleged to be in violation of N.D.C.C. §§ 26.1-26-03, 26.1-26-15, and 26.1-26-42.

2. N.D.C.C. § 26.1-26-03 states:

**26.1-26-03. License required – Acting as insurance producer or consultant without license prohibited – penalty.** No person may act as or hold oneself out to be an insurance producer, insurance consultant, or surplus lines insurance producer unless licensed under this chapter. A person may not sell, solicit, or negotiate insurance in this state for any class of insurance unless the person is licensed for that line of authority in accordance with this chapter. Any person willfully violating this section is guilty of a class C felony.

3. N.D.C.C. § 26.1-26-15 states:

**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.

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

**26.1-26-42. License suspension, revocation, or refusal - Grounds.** 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:

...

5. The applicant or licensee has been convicted of a felony or convicted of an offense, as defined by section 12.1-01-04, determined by the commissioner to have a direct bearing upon a person's ability to serve the public as an insurance producer, insurance consultant, or surplus lines insurance producer, or the commissioner finds, after conviction of an offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

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.

5. Respondent submitted to the Department an application for an individual nonresident insurance producer license, on or about January 16, 2012, in which Respondent answered in the affirmative when asked on background question 1, "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?".

6. Respondent was convicted on October 17, 2007, of Forgery, a third degree felony, in the Eighth Judicial District Court, Uintah County, Utah. Respondent was sentenced and placed on probation for a term of 18 months. The conviction was reduced from a third degree felony to a Class A misdemeanor Attempted Forgery on December 15, 2008.

7. Respondent was denied a nonresident insurance producer license by the State of Colorado on March 17, 2009, due to his criminal record.

8. Respondent did willfully, on or about March 25, 2011, in Ward County, North Dakota, act as or hold himself out to be an insurance producer, insurance consultant, or surplus lines producer when Respondent sold an insurance policy issued by Star Insurance Company to H2K, LLC, of Minot, North Dakota, despite not being licensed for any line of authority in this state under N.D.C.C. ch. 26.1-26.

9. Respondent did willfully, on or about May 10, 2011, in Williams County, North Dakota, act as or hold himself out to be an insurance producer, insurance consultant, or surplus lines producer when Respondent sold an insurance policy issued by Star Insurance Company to Reidle Logistics, Inc., of Williston, North Dakota, despite not being licensed for any line of authority in this state under N.D.C.C. ch. 26.1-26.

10. Respondent did willfully, on or about May 18, 2011, in Williams County, North Dakota, act as or hold himself out to be an insurance producer, insurance

consultant, or surplus lines producer when Respondent sold an insurance policy issued by Star Insurance Company to RGD Trucking, Inc., of Williston, North Dakota, despite not being licensed for any line of authority in this state under N.D.C.C. ch. 26.1-26.

10. Respondent did willfully, on or about May 25, 2011, in Williams County, North Dakota, act as or hold himself out to be an insurance producer, insurance consultant, or surplus lines producer when Respondent sold an insurance policy issued by Star Insurance Company to Holmes Trucking, LLC, of Williston, North Dakota, despite not being licensed for any line of authority in this state under N.D.C.C. ch. 26.1-26.

11. Respondent did willfully, on or about August 24, 2011, in Williams County, North Dakota, act as or hold himself out to be an insurance producer, insurance consultant, or surplus lines producer when Respondent sold an insurance policy issued by Star Insurance Company to Pat's Offroad, Inc., of Williston, North Dakota, despite not being licensed for any line of authority in this state under N.D.C.C. ch. 26.1-26.

12. Respondent did willfully, on or about August 26, 2011, in Williams County, North Dakota, act as or hold himself out to be an insurance producer, insurance consultant, or surplus lines producer when Respondent sold an insurance policy issued by Star Insurance Company to Storbakken & Sons of Williston, North Dakota, despite not being licensed for any line of authority in this state under N.D.C.C. ch. 26.1-26.

13. Respondent did willfully, on or about October 1, 2011, in Williams County, North Dakota, act as or hold himself out to be an insurance producer, insurance consultant, or surplus lines producer when Respondent sold an insurance policy issued by Star Insurance Company to Pat's Offroad, Inc., of Williston, North Dakota, despite not being licensed for any line of authority in this state under N.D.C.C. ch. 26.1-26.

14. Respondent did willfully, on or about October 25, 2011, in Williams County, North Dakota, act as or hold himself out to be an insurance producer, insurance consultant, or surplus lines producer when Respondent sold an insurance policy issued by Star Insurance Company to Noble Casing of Williston, North Dakota, despite not being licensed for any line of authority in this state under N.D.C.C. ch. 26.1-26.

15. Respondent did willfully, on or about November 12, 2011, in Mountrail County, North Dakota, act as or hold himself out to be an insurance producer, insurance consultant, or surplus lines producer when Respondent sold an insurance policy issued by Star Insurance Company to Badlands Drilling Fluids & Supply, LLC, of New Town, North Dakota, despite not being licensed for any line of authority in this state under N.D.C.C. ch. 26.1-26.

16. Respondent did willfully, on or about November 12, 2011, in Mountrail County, North Dakota, act as or hold himself out to be an insurance producer, insurance consultant, or surplus lines producer when Respondent sold an insurance policy issued by Star Insurance Company to Trustland Oilfield Services, LLC, of New Town, North Dakota, despite not being licensed for any line of authority in this state under N.D.C.C. ch. 26.1-26.

17. Respondent did willfully, on or about December 16, 2011, in Williams County, North Dakota, act as or hold himself out to be an insurance producer, insurance consultant, or surplus lines producer when Respondent sold an insurance policy issued by Star Insurance Company to C Company General Contractors of Williston, North Dakota, despite not being licensed for any line of authority in this state under N.D.C.C. ch. 26.1-26.

18. Respondent did willfully, on or about February 1, 2012, in Williams County, North Dakota, act as or hold himself out to be an insurance producer, insurance consultant, or surplus lines producer when Respondent sold an insurance policy issued by Star Insurance Company to Stateline Services of Williston, North Dakota, despite not being licensed for any line of authority in this state under N.D.C.C. ch. 26.1-26.

19. Respondent's actions constitute violations of N.D.C.C. §§ 26.1-26-03, 26.1-26-15, and 26.1-26-42 for which the Commissioner may refuse to issue any license under N.D.C.C. ch. 26.1-26. Further, these violations are grounds for imposition of a civil penalty pursuant to N.D.C.C. § 26.1-26-50.

20. Respondent was under the mistaken impression that his activities were lawful because the agency with which he was employed, Leavitt Group Insurance Agency of Vernal, Inc., had a valid North Dakota nonresident business entity license at the time he engaged in the activities described above.

21. 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.

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

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

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent's nonresident insurance producer license application is **REFUSED.**

2. Respondent waives the hearing provided by N.D.C.C. § 26.1-26-40 for refusal of his nonresident insurance producer license.

3. Respondent shall pay a civil fine in the amount of \$15,325.00, due and payable by money order or cashier's check to the North Dakota Insurance Department within 30 days of execution of this Order.

4. The Commissioner reserves the right to take further action in this matter if Respondent does not timely pay the fine imposed in this Order.

5. The use of this Order for competitive purposes by an insurance producer 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 17<sup>th</sup> day of September, 2012.

  
\_\_\_\_\_  
Adam Hamm  
Insurance Commissioner  
State of North Dakota

#### CONSENT TO ENTRY OF ORDER

The undersigned, **Bart Winterton**, states that he has read the foregoing Consent Order, that he knows and fully understands its contents and effect; 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 hereto, there being no other promises or agreements, either expressed or implied.

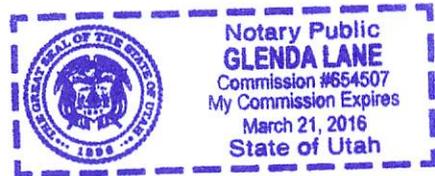
DATED this 27 day of August, 2012.



\_\_\_\_\_  
Bart Winterton

Subscribed and sworn to before me

this 27 day of August, 2012.

  
Notary Public

My commission expires: 3-21-16

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CLARENCE LANE  
MAY 11 1978  
BY JAMES H. HARRIS  
CLARENCE LANE

