

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Phillip Montano,)	AND DEFAULT ORDER
NPN 14818562,)	
)	CASE NO. AG-14-451
Respondent.)	

TO: Phillip Montano, 5265 East Seneca Street, Apt. 3, Vernon, NY 13476-4406

On February 12, 2014, a Complaint for Revocation of License was filed with the Insurance Commissioner by Kelvin W. Zimmer, Director of Producer Licensing for the North Dakota Insurance Department, alleging Phillip Montano, NPN 14818562 (“Respondent”), committed various violations of North Dakota insurance statutes.

The Complaint was mailed to Respondent at the address on file with the Department by the United States Postal Service via certified mail, return receipt requested, on March 25, 2014. The mailing was returned to the Department marked “Unclaimed” on April 21, 2014. Proof of service of the Complaint is annexed to these Findings. Respondent failed to answer the Complaint within 20 days as required under N.D.C.C. § 28-32-21(1)(e). As such, on April 25, 2014, an Application for Default Order was made deeming the allegations made in the Complaint to be admitted pursuant to N.D.C.C. § 28-32-30.

Based on the allegations made in the Complaint and on the evidence presented in the Affidavits filed in support of the Complainant’s Application for Default Order, the following Findings of Fact, Conclusions of Law, and Default Order are entered:

FINDINGS OF FACT

I

Respondent is presently, and has at all times pertinent to this action, been an insurance producer licensed in North Dakota.

II

The Complaint was mailed to Respondent at the address on file with the Department by the United States Postal Service via certified mail, return receipt requested, on March 25, 2014. The mailing was returned to the Department marked "Unclaimed" on April 21, 2014. Respondent failed to provide a written response to the Complaint.

III

Respondent has not answered the Complaint within 20 days as required under N.D.C.C. § 28-32-21(1)(e).

IV

On or about July 27, 2012, Respondent self-reported two criminal convictions to the Department. The convictions were Issuing Bad Check in 2005 and Unlawful Imprisonment/Reckless Endangerment in 2008. On or about November 15, 2010, Respondent applied for a North Dakota nonresident producer license and failed to disclose the convictions on the initial application. Respondent's failure to disclose the criminal convictions on the initial application is in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(1).

V

According to information obtained by the Department, on or about January 5, 2013, California denied a nonresident license to Respondent due to criminal convictions. Respondent failed to report the California administrative action within 30 days to the Department in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-45.1.

VI

According to information obtained by the Department, on or about April 10, 2013, New York imposed a \$750 fine for Respondent's misstatement regarding criminal convictions on an application for a producer license. Respondent failed to report the New York administrative action within 30 days to the Department in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-45.1.

VII

According to information obtained by the Department, on or about May 10, 2013, Wyoming revoked Respondent's nonresident license for failure to make a required disclosure on an application, failure to report other states' actions, and his criminal history. Respondent failed to report the Wyoming administrative action within 30 days to the Department in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-45.1.

VIII

According to information obtained by the Department, on or about May 28, 2013, Idaho revoked Respondent's nonresident license for failure to make a required disclosure on an application, failure to report other states' actions, and his criminal history. Respondent failed to report the Idaho administrative action within 30 days to the Department in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-45.1.

IX

According to information obtained by the Department, on or about October 22, 2013, Virginia revoked Respondent's nonresident license due to a complaint investigation, failure to respond, failure to make a required disclose on an application, and his criminal history. Respondent failed to report the Virginia administrative action within 30 days to the Department in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-45.1.

X

On or about November 25, 2013, an email was sent to Respondent requesting information regarding the administrative actions in the other states and why the administrative actions were not reported to the Department. Respondent failed to respond to the Department's request for information. 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).

XI

Respondent's actions constitute violations of N.D.C.C. §§ 26.1-26-15, 26.1-26-42(1) and (14), and 26.1-26-45.1 and are grounds for revocation of Respondent's insurance agent license.

CONCLUSIONS OF LAW

1. Respondent was properly served with the Complaint in accordance with the North Dakota Rules of Civil Procedure.
2. Because of his failure to answer the Complaint within 20 days of its proper service, Respondent is in default under N.D.C.C. § 28-32-30.

3. Because Respondent is in default, the allegations in the Complaint are deemed admitted pursuant to N.D.C.C. § 28-32-30.

4. Respondent's violations of N.D.C.C. §§ 26.1-26-15, 26.1-26-42(1) and (14), and 26.1-26-45.1 are grounds for revocation of his insurance producer license.

5. Under N.D.C.C. § 26.1-26-42, the Commissioner of Insurance has authority to revoke Respondent's producer license for the violations cited above.

DEFAULT ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, IT IS ORDERED that the North Dakota insurance producer license of Phillip Montano, NPN 14818562, be **REVOKED** effective after the time for filing a motion to vacate a Default Order pursuant to N.D.C.C. § 28-32-30 expires.

DATED at Bismarck, North Dakota, this 25th day of April, 2014.



Adam Hamm
Commissioner
N.D. Insurance Department
600 East Boulevard Avenue
Bismarck, ND 58505
(701) 328-2440

TO: Mr. Phillip Montano
P.O. Box 364
Vernon, NY 13476-0364

SENDER: Nancy Brady

REFERENCE: Phillip Montano

9314 8699 0430 0001 5532 88

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	0.90
	Certified Fee	3.30
	Return Receipt Fee	1.35
	Restricted Delivery	0.00
	Total Postage & Fees	5.55

US Postal Service
**Receipt for
Certified Mail**
No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

3/25/14

English

Customer Service

USPS Mobile

Register / Sign In



Search USPS.com or Track Packages

Quick Tools

Track

Enter up to 10 Tracking # Find

Find USPS Locations

Buy Stamps

Schedule a Pickup

Calculate Postage

Look Up ZIP Code

Hold Mail

Change of Address

Ship a Package

Send Mail

Manage Your Mail

Shop

Business Solutions

USPS Tracking™



Customer Service ›
Have questions? We're here to help.

Tracking Number: 931486990430 0001553288

Product & Tracking Information

Postal Product:
First-Class Mail®

Features:
Certified Mail™

DATE & TIME	STATUS OF ITEM	LOCATION
April 21, 2014 , 11:31 am	Delivered	BISMARCK, ND 58505
April 20, 2014 , 5:05 pm	Processed through USPS Sort Facility	FARGO, ND 58102
April 19, 2014	Depart USPS Sort Facility	WHITE PLAINS, NY 10610
April 18, 2014 , 10:46 pm	Processed through USPS Sort Facility	WHITE PLAINS, NY 10610
April 15, 2014 , 6:59 am	Unclaimed	VERNON, NY 13476
April 3, 2014 , 7:01 am	Available for Pickup	VERNON, NY 13476
March 29, 2014 , 9:46 am	Available for Pickup	VERNON, NY 13476
March 29, 2014 , 8:20 am	Arrival at Unit	VERNON, NY 13476
March 28, 2014 , 10:08 pm	Processed through USPS Sort Facility	SYRACUSE, NY 13220
March 28, 2014	Depart USPS Sort Facility	SYRACUSE, NY 13220
March 27, 2014	Depart USPS Sort Facility	FARGO, ND 58102
March 27, 2014 , 12:22 am	Processed through USPS Sort Facility	FARGO, ND 58102
March 26, 2014	Depart USPS Sort Facility	BISMARCK, ND 58504
March 25, 2014 , 7:04 pm	Processed through USPS Sort Facility	BISMARCK, ND 58504
March 24, 2014	Electronic Shipping Info Received	

Available Actions

Return Receipt Electronic

USPS Text Tracking™

Email Updates

Track Another Package

What's your tracking (or receipt) number?
