

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Danyel R. Smith,)	AND DEFAULT ORDER
NPN 14034181,)	
)	CASE NO. AG-15-554
Respondent.)	

TO: Danyel R. Smith, 1929 Victory Street, Apt. 17, Lacrosse, WI 54601-2000

On July 27, 2015, 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 Danyel R. Smith, NPN 14034181 (“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 July 27, 2015. Delivery of the certified mail was accepted on July 30, 2015. 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 August 28, 2015, 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 July 27, 2015. Delivery of the certified mail was accepted on July 30, 2015. 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

The Commissioner has come into information that alleges Respondent contacted a client of the agency with which she was employed, American Benefit, Ltd., and informed him that she would become his agent and review his coverages with him. She informed the client multiple times that she was not asking him to purchase anything. Respondent, despite multiple telephone conversations with the client, failed to clearly explain to the client that she represents the insurer, Settlers Life Insurance Company, and that she was seeking to sell him a Settlers Life policy. Instead, Respondent provided the client with information and blank applications. Respondent asked the client the application questions during a telephone conversation and directed the client to sign a blank application and return it to her.

V

The recordings of Respondent's telephone conversations with the client demonstrate that the client was agitated and confused. Despite this, Respondent persisted in the sale of the policy. At the time of the sale, the client was 77 years of age.

VI

The Commissioner has come into information that, as a result of Respondent's conduct in selling the Settlers Life Insurance Company policy to the client, Respondent was terminated from her position at American Benefit, Ltd. and her appointment with Settlers Life Insurance Company was terminated. Respondent failed to update her business address with the Department within 30 days after the termination of her employment and the business address remains unchanged.

VII

During the investigation of the complaint in this matter, the Commissioner came into information that Respondent was convicted on April 7, 2014, of Driving Under the Influence of Alcohol. Respondent failed to report this conviction within 30 days. Department employee, Kelvin Zimmer, contacted Respondent regarding the failure to report on June 5, 2015. Respondent failed to respond.

VIII

Respondent's conduct while selling the Settlers Life policy to the client constitutes violations of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(6) and N.D. Admin. Code § 45-04-01-05(2) and are grounds for revocation of Respondent's individual insurance producer license.

IX

Respondent's failure to update her business address constitutes a violation of N.D.C.C. § 26.1-26-33 and is grounds for revocation of Respondent's individual insurance producer license.

X

Respondent's failure to report her April 7, 2014, conviction constitutes a violation of N.D.C.C. § 26.1-26-45.1 and is grounds for revocation of Respondent's individual insurance producer license.

XI

Respondent's failure to respond to Mr. Zimmer's June 5, 2015, correspondence constitutes a violation of N.D.C.C. § 26.1-26-42(14) and is grounds for revocation of Respondent's individual insurance producer 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 her 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, 26.1-26-33, 26.1-26-42(6) and (14), and 26.1-26-45.1 and N.D. Admin. Code § 45-04-01-05(2) are grounds for revocation of her 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 Danyel R. Smith, NPN 14034181, 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 28th day of August, 2015.



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

TO: Danyel R. Smith
1929 Victory Street, Apt. 17
La Crosse, WI 54601-2000

SENDER: Jeff Ubben

REFERENCE: Danyel Smith

9314 8699 0430 0015 2636 78

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	1.42
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Date: July 30, 2015

Nancy Brady:

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Address of Recipient :



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