STATE OF NORTH DAKOTA

BEFORE THE INSURANCE COMMISSIONER

In the Matter of	)	
	)	
Jennifer Janecek-Hartman,	)	**CONSENT ORDER**
NPN 17682633,	)	
	)	**CASE NO. AG-16-655**
Respondent.	)	

TO: Jennifer Janecek-Hartman, 2841 Warwick Loop, Bismarck, ND 58504

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 Jennifer Janecek-Hartman, NPN 17682633 ("Respondent"), an individual who has held a North Dakota resident insurance producer license at all relevant times to this proceeding, 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. § 26.1-25-16.

2. N.D.C.C. § 26.1-25-16 provides:

26.1-25-16. Rebates prohibited - Exception.

1. No insurance producer may knowingly charge, demand, or receive a premium for any insurance policy except in accordance with this chapter. No

insurer or employee of an insurer, and no broker or agent may pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in an insurance policy, or any special favor or advantage in the dividends or other benefits to accrue on the policy, or any valuable consideration or inducement whatever, not specified in the insurance policy, except to the extent provided for in applicable filing. No insured named in an insurance policy, nor any employee of the insured, may knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit, or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. This section does not prohibit the payment of commissions or other compensation to licensed insurance producers, nor any insurer from allowing or returning to its participating policyholders, members, or subscribers dividends, savings, or unabsorbed premium deposits. As used in this section, "insurance" includes suretyship and "policy" includes bond.

2. Notwithstanding any other provision in this section, if the cost does not exceed an aggregate retail value of fifty dollars per person per year, an insurance producer may give a gift, prize, promotional article, logo merchandise, meal, or entertainment activity directly or indirectly to a person in connection with marketing, promoting, or advertising the business. As used in this subsection, "person" means the named insured, policy owner, or prospective client or the spouse of any of these individuals, but the term does not include a certificate holder, child, or employee of the named insured, policy owner, or prospective client. Subject to the limits of this subsection, an insurance producer may give a gift card for specific merchandise or services such as a meal, gasoline, or car wash but may not give cash, a cash card, any form of currency, or any refund or discount in premium. **An insurance producer may not condition the giving of a gift, prize, promotional article, logo merchandise, meal, or entertainment activity on obtaining a quote or a contract of insurance.** Notwithstanding the limitation in this

> subsection, an insurance producer may make a donation to a nonprofit organization that is exempt from federal taxation under Internal Revenue Code section 501(c)(3) [26 U.S.C. 501(c)(3)] in any amount as long as the donation is not given as an inducement to obtain a quote or a contract of insurance. (Emphasis added)

3. The Commissioner has come into information that evidences that on or about May 5, 2016, Respondent personally created and published an advertisement with the following offer:

> Call me . . . for a home or auto insurance quote and receive a $25 gift card to Buffalo Wild Wings or Texas Roadhouse. Must be a new client. Only one card per house hold. (NO PURCHASE NECESSARY). Message me for details or to set up an appointment.
> **#Homeandautoinsurancequotes**

4. During an interview with a Department employee, Respondent informed said employee that Respondent had given away approximately 10 gift cards pursuant to the offer described in paragraph 3 or pursuant to a similar offer.

5. Respondent's actions in advertising a gift card conditioned on the receiving of an insurance quote and issuing 10 gift cards pursuant to this offer or a similar offer violates N.D.C.C. § 26.1-25-16 and constitutes 10 separate instances of illegal rebating.

6. Respondent acknowledges that at the time of signing this Consent to Entry of Order, she is aware of or has been advised of her 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.

7. Respondent has agreed to informal disposition of this matter, without a hearing, as specifically set forth in this Order.

8. There are no covenants, promises, undertakings or understandings other than as specifically set forth in this Order.

9. Respondent consents to the Commissioner's continuing jurisdiction over her regarding any issues which may subsequently arise related to Respondent's activities.

10. For purposes of resolving this matter without further administrative proceedings, Respondent and the Commissioner have agreed to enter into the following Order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent agrees to pay a fine in the total amount of $1,000 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 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 2nd day of September, 2016.

Adam Hamm
Insurance Commissioner
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, **Jennifer Janecek-Hartman**, states that she has read the foregoing Consent Order, that she knows and fully understands its contents and effect; that she 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 she 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 26 day of August, 2016.

Jennifer Janecek-Hartman

County of Mountrail
State of North Dakota

Subscribed and sworn to before me this 26 day of August, 2016.

Lisa Danks
Notary Public

My commission expires:

LISA DANKS NOTARY MY COMMISION EXPIRES AUG. 19, 2021 PUBLIC STATE OF NORTH DAKOTA