**STATE OF NORTH DAKOTA**

**BEFORE THE INSURANCE COMMISSIONER**

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| **In the Matter of** | ) | |
| | ) | |
| **Randall J. Lee,** | ) | **ORDER OF LICENSE REVOCATION** |
| **NPN 22634,** | ) | |
| **DOB 9/10/66,** | ) | **FILE NO. AG-11-297** |
| | ) | |
| **Respondent.** | ) | |

Insurance Commissioner Adam Hamm ("Commissioner") has determined as follows:

1. Randall J. Lee, NPN 22634, DOB 9/10/66 ("Respondent"), is presently and has been at all times pertinent to this action, a licensed nonresident North Dakota insurance producer.

2. Respondent held a resident insurance producer license issued by the State of Iowa.

3. N.D.C.C. § 26.1-26-42.1 states, in part, that:

> . . . [A]ny nonresident license issued pursuant to this chapter may be suspended or revoked without notice and hearing to the licensee and without proceeding in conformity with chapter 28-32, upon evidence in the form of a certified copy that the authority which issued the resident license to the North Dakota nonresident licensee has revoked or suspended the resident license.

4. According to a certified copy of an Order of Revocation and Order of summary Suspension and Notice of Opportunity for Hearing obtained by the Department, Respondent's resident insurance producer license was revoked by the State of Iowa on October 25, 2010. See Attachment 1. Since the Respondent no

longer holds an active resident insurance producer license from another state, he no longer qualifies to hold a nonresident insurance producer license in this state and, therefore, is subject to license revocation without notice and hearing pursuant to N.D.C.C. §§ 26.1-26-17, 26.1-26-42(4) and (13), and 26.1-26-42.1.

NOW, THEREFORE, IT IS HEREBY ORDERED that Respondent's nonresident insurance producer license is **REVOKED** effective immediately.

This Order is effective this 5th day of April, 2011.

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

**ATTACHMENT 1**

BEFORE THE IOWA INSURANCE COMMISSIONER

| | | |
|---|---|---|
| IN THE MATTER OF<br><br>RANDALL LEE<br><br>National Producer License Number: 22634 | ) | **ORDER OF REVOCATION**<br><br>Division Docket No.: 68910 |

Pursuant to Iowa Code sections 17A.18A and IAC 191-3.31, this matter comes before the Commissioner of Insurance upon an application by the Iowa Insurance Division for an Order of Revocation of the insurance producer license of Randall Lee.

## PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Susan E. Voss, administers and enforces the Iowa Licensing of Insurance Producers Act, Chapter 522B, pursuant to Iowa Code § 505.8.

2. Randall Lee (Lee) is an individual with a last known mailing address of 9219 Cowden Drive, Johnston, Iowa 50131.

## FACTUAL BACKGROUND

3. On September 20, 2010, the Division issued an Order of Summary Suspension and Notice of Opportunity for Hearing (Order).

4. Lee was served the Order in accordance with the provisions of Iowa Administrative Rule 191-3.5..

5. Lee did not request a hearing on the matter within thirty days as was required by the Order.

IT IS HEREBY CERTIFIED THAT THIS IS A TRUE AND CORRECT COPY OF AN INSTRUMENT ON FILE IN THE IOWA INSURANCE DIVISION AND SECURITIES BUREAU IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE SEAL OF THE IOWA INSURANCE DIVISION, AT DES MOINES, IOWA, THIS DAY.

Susan E. Voss
COMMISSIONER OF INSURANCE

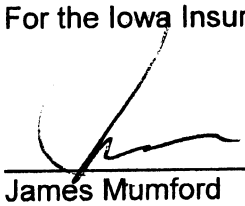
BY: David D. Cunningham

DATE: 03-04-2011

## ORDER

THEREFORE, IT IS ORDERED THAT the Iowa insurance producer license of Randall Lee is hereby revoked.

For the Iowa Insurance Division,



James Mumford
First Deputy Commissioner of Insurance

October 25, 2010
Date

This Order is a final administrative decision pursuant to Iowa Administrative Rule 191-326. Parties to this proceeding may appeal this decision within thirty (30) days from the date this decision was issued pursuant to Iowa Code Chapter 17A and Iowa Administrative Rule 191-3.27.

SENT BY FIRST CLASS MAIL TO:

Randall Lee
9219 Cowden Drive
Johnston, IA 50131
RESPONDENT

Matthew Gardner
Sullivan and Ward, PC
6601 Westown Parkway, Suite 200
West Des Moines, IA 50266
ATTORNEY FOR THE RESPONDENT

BEFORE THE IOWA INSURANCE COMMISSIONER

| | | |
|---|---|---|
| IN THE MATTER OF<br><br>RANDALL LEE<br><br>National Producer License Number: 22634 | ) | **ORDER OF SUMMARY SUSPENSION and NOTICE OF OPPORTUNITY FOR HEARING**<br><br>Division Docket No.: 68910 |

Pursuant to Iowa Code sections 17A.18A and IAC 191-3.31, this matter comes before the Commissioner of Insurance upon an application by the Iowa Insurance Division for an Order of Summary Suspension of the insurance producer license of Randall Lee.

## PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Susan E. Voss, administers and enforces the Iowa Licensing of Insurance Producers Act, Chapter 522B, pursuant to Iowa Code § 505.8 (2009).

2. Randall Lee (Lee) is an individual with a last known mailing address of 9219 Cowden Drive, Johnston, Iowa 50131.

3. Lee has engaged in acts and practices constituting violations of Iowa Code chapter 522B and any rule or order adopted or issued pursuant to Iowa Code chapter 522B. The Commissioner of Insurance is authorized to issue this Order of Summary Suspension pursuant to Iowa Code sections 17A.18A, 522B.11 and IAC rule 191-3.31.

## FACTUAL BACKGROUND

Reasonable evidence exists to demonstrate the following:

4. Lee is licensed as a resident insurance producer in the State of Iowa.

5. Lee's company, RDS Group, was authorized to act as a Managing General Agent for Western Heritage Insurance Company from October 1, 1996 until May 22, 2010 when RDS Group's authority was terminated by Western Heritage.

6. Lee is obligated as a guarantor to Western Heritage Insurance Company according to a signed Continuing Guaranty Agreement between Western Heritage and RDS Group dated August 16, 2004.

7. Lee, acting as an insurance producer, is alleged to have failed to forward $307,075.20 for payment of insurance premiums on one or more Western Heritage policies. Lee applied premium money that was to be paid to Western Heritage to personal use and failed to forward the monies to Western Heritage as required by the General Agency Agreement.

## VIOLATIONS OF LAW

8. The Division realleges and incorporates by reference paragraph 1-7 above as if fully set forth herein.

9. Iowa Code § 522B.11(1)(d) states that the commissioner may suspend or revoke an insurance producer's license for improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business.

10. Iowa Code § 522B.11(1)(h) states that the commissioner may suspend or revoke an insurance producer's license for using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

THE PUBLIC SAFETY AND WELFARE REQUIRE EMERGENCY ACTION, since it is likely that Lee will continue to access, convert, misappropriate or withhold customer and insurance company funds and demonstrate untrustworthiness and financial irresponsibility in the conduct of business in the State of Iowa. The commissioner has authority to order the summary suspension of the insurance producer license of an individual under Iowa Code sections 17A.18A and 522B.11 (2009) and Iowa Administrative Code 191-3.31.

THEREFORE, IT IS ORDERED THAT:

1. The Iowa insurance producer license of Lee is suspended immediately;

2. Lee shall immediately cease and desist from participating in the business of insurance in Iowa;

3. The failure of Lee to request a hearing within 30 days of the date of this Order of Summarily Suspension shall be deemed to be a waiver of the right to a hearing and result in the entry of an Order of Revocation of Insurance Producer Registration.

For the Iowa Insurance Division,

James Mumford
First Deputy Commissioner of Insurance

9/10/10
Date

## NOTICE OF RIGHT TO REQUEST HEARING

NOTICE IS HEREBY GIVEN that Randall Lee or any individual representing Lee may request a hearing in this matter. This request must be in writing and must be filed within thirty (30) calendar days of the date of this Order with Michelle Engler, Enforcement Attonrey, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. A notice of the hearing shall be prepared and shall be given at least fifteen (15) days before the date of the hearing unless the parties agree to an earlier date. The hearing shall be held within forty-five (45) days after the date of the notice of the hearing unless extended by the presiding officer for good cause with at least fifteen days notice to the parties. The resulting hearing will be held in accordance with Iowa Code Chapter 17A (2009).

## NOTICE REGARDING FAILURE TO REQUEST A HEARING

If you fail to request a hearing within thirty (30) days of the date of this Order of Summary Suspension, the Order shall be a final Order of the Commissioner of Insurance and shall be enforceable by the Commissioner of Insurance in an administrative or court proceeding.

## NOTICE REGARDING EXHAUSTION OF ADMINISTRATIVE REMEDIES AND RIGHT TO SEEK JUDICIAL REVIEW

The failure to request a hearing can constitute a failure to exhaust your administrative remedies and limit the issues subject to judicial review. You may seek judicial review of this Order pursuant to Iowa Code chapter 17A after the Order becomes final. The Order becomes final thirty (30) days after it is issued if you do not timely request a

contested case hearing, or following hearing if you do timely request a contested case hearing.

**NOTICE OF PENALITIES FOR WILLFUL VIOLATION OF THIS ORDER**

YOU ARE NOTIFIED that any person who willfully violates this order shall be deemed in contempt of the order pursuant to Iowa Code section 522B.17. The commissioner may petition the district court to hold a hearing to enforce the order as certified by the commissioner. The district court may assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation and may issue further orders as it deems appropriate.

SENT BY RESTRICTED CERTIFIED AND FIRST CLASS MAIL TO:

Randall Lee
9219 Cowden Drive
Johnston, IA 50131
RESPONDENT

Matthew Gardner
Sullivan and Ward, PC
6601 Westown Parkway, Suite 200
West Des Moines, IA 50266
ATTORNEY FOR THE RESPONDENT