

LAWRENCE G. WASDEN
Attorney General

MICHAEL WITRY – I.S.B. No. 7960
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
PO Box 83720
Boise, Idaho 83720-0043
Telephone No. (208) 334-4219
Facsimile No. (208) 334-4298
michael.witry@doi.idaho.gov

FILED
JAN 05 2021
Department of Insurance
State of Idaho

Attorneys for the Department of Insurance

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE
STATE OF IDAHO**

IDAHO DEPARTMENT OF INSURANCE,

Complainant,

vs.

SELECT ADJUSTERS LLC, an Arizona limited liability company holding Idaho Non-Resident Public Adjuster License No. 665639, and BRETT JOSEPH RAY, an individual holding Idaho Non-Resident Producer License No. 665636,

Respondents.

Docket No. 18-3798-20

**STIPULATION AND
FINAL ORDER**

COME NOW the staff of the Idaho Department of Insurance (“Department”); SELECT ADJUSTERS LLC (hereinafter “SELECT”), non-resident public adjuster under title 41 of the Idaho Code, holding Non-Resident Public Adjuster License No. 665639; and BRETT JOSEPH RAY (hereinafter “RAY”), non-resident public adjuster under title 41 of the Idaho Code, holding Non-Resident Public Adjuster License No. 665636, and do hereby agree and stipulate as follows:

FINDINGS OF FACT

1. SELECT is an Arizona limited liability company that is a licensed public adjuster in the state of Idaho, holding Non-Resident Public Adjuster License No. 665639, which license is due to expire on May 1, 2022. SELECT is subject to the provisions of title 41, Idaho Code, and to the rules of the Idaho Department of Insurance promulgated thereunder.

2. RAY is a licensed public adjuster in the state of Idaho, holding Non-Resident Producer License No. 665636, which license is due to expire on June 30, 2021. RAY is subject to the provisions of title 41, Idaho Code, and to the rules of the Idaho Department of Insurance promulgated thereunder.

3. The Director of the Department (“Director”) has jurisdiction over SELECT, RAY, and the subject matter herein pursuant to provisions of Idaho’s Public Adjuster Licensing Act, Idaho Code §§ 41-5801 *et seq.*, as well as the Idaho Insurance Code, Idaho Code §§ 41-101 *et seq.*

4. On July 6, 2020, the Department filed a Verified Complaint and Notice of Right to Hearing (hereinafter “Verified Complaint”), seeking revocation of SELECT and RAY’s public adjuster licenses and imposition of administrative penalties.

5. Among the allegations in the Verified Complaint were that SELECT and RAY permitted unlicensed individuals to conduct public adjuster business on their behalf in the state of Idaho.

CONCLUSIONS OF LAW

6. Idaho Code § 41-5811(1) provides that the Director of the Department may impose an administrative penalty of up to \$1,000, and suspend, revoke, or refuse to issue a public adjuster license for certain enumerated violations.

7. Idaho Code § 41-5802(6) provides that a public adjuster is a person who, for compensation or any other thing of value on behalf of the insured:

- a. Acts or aids, solely in relation to first party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;
- b. Advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or
- c. Directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy, for the insured.

8. Idaho Code § 41-5803(1) provides that a person shall not act or hold himself out as a public adjuster in Idaho unless the person is licensed as a public adjuster in accordance with title 41, chapter 58, Idaho Code.

9. Idaho Code § 41-5818(3) provides that a public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under title 41, chapter 58, Idaho Code.

10. Idaho Code § 41-5811(1)(b) gives cause for the imposition of a penalty and action against a public adjuster for “[v]iolating any insurance laws, or violating any rule, regulation, subpoena or order of the department or of another state’s insurance department.”

11. Idaho Code § 41-5811(1)(h) gives cause for the imposition of a penalty and action against a public adjuster for “[u]sing fraudulent, coercive or dishonest practices; or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.”

12. Idaho Code § 41-5811(1)(l) gives cause for the imposition of a penalty and action against a public adjuster for “[k]nowingly accepting insurance business from an individual who is not licensed but is required to be licensed by the Department.”

13. By allowing Jesse Barlow, Joseph Barlow, Sara Bleau, Wesley Hathcock, Brook Hills, and Jody Morales to solicit public adjuster business on their behalf, SELECT and RAY violated Idaho Code § 41-5818(3), thereby justifying discipline pursuant to Idaho Code § 41-5811(1)(b); Idaho Code § 41-5811(1)(h); and Idaho Code § 41-5811(1)(l).

14. The parties agree that this matter may be brought to a close by a negotiated and stipulated settlement and entry of this Stipulation and Final Order.

AGREEMENT

15. Based upon the foregoing, SELECT, RAY, and the Department stipulate and agree as follows:

- a. SELECT and RAY each admit to six violations of Idaho Code § 41-5811(1)(b) by permitting unlicensed individuals to solicit public adjuster business in violation of Idaho Code § 41-5818(3).
- b. SELECT and RAY each admit to six violations of Idaho Code § 41-5811(1)(h) by demonstrating incompetence and untrustworthiness by permitting unlicensed individuals to solicit public adjuster business on their behalf.
- c. SELECT and RAY each admit to six violations of Idaho Code § 41-5811(1)(l) by knowingly accepting insurance business from unlicensed individuals.
- d. As sanction for the violations referenced above, SELECT, RAY, and the Department agree to the penalties set forth below and agree that the Director of the Department may enter the Final Order attached hereto, which provides as follows:

- i. That the Stipulation be adopted in full and incorporated into the Final Order;
- ii. That SELECT's Idaho Non-Resident Public Adjuster License No. 665639 shall be REVOKED, and that SELECT shall not submit, nor shall the Department consider, any application by SELECT for issuance or reinstatement of a license under title 41, Idaho Code, for a period of five (5) years from the issuance of the Final Order;
- iii. That RAY's Idaho Non-Resident Public Adjuster License No. 665636 shall be REVOKED, and that RAY shall not submit, nor shall the Department consider, any application by RAY for issuance or reinstatement of a license under title 41, Idaho Code, for a period of five (5) years from the issuance of the Final Order;
- iv. That an administrative penalty shall be imposed against SELECT in the amount of Six Thousand Dollars (\$6,000), the entire amount of which shall be suspended;
- v. That, in the event SELECT submits to the Department an application for any type of Idaho license as authorized under title 41, Idaho Code, the total suspended amount of Six Thousand Dollars (\$6,000) shall be immediately due and payable;
- vi. That, before the Department shall consider any such application from SELECT, the balance of the administrative penalty in the amount of Six Thousand Dollars (\$6,000) shall be paid in full;

- vii. That an administrative penalty shall be imposed against RAY in the amount of Six Thousand Dollars (\$6,000), the entire amount of which shall be suspended;
 - viii. That, in the event RAY submits to the Department an application for any type of Idaho license as authorized under title 41, Idaho Code, the total suspended amount of Six Thousand Dollars (\$6,000) shall be immediately due and payable; and
 - ix. That, before the Department shall consider any such application from RAY, the balance of the administrative penalty in the amount of Six Thousand Dollars (\$6,000) shall be paid in full.
- e. SELECT and RAY further expressly agree that, in the event either submits to the Department an application for any Idaho license provided for and authorized under title 41, Idaho Code, the Department may consider the facts and allegations in the Verified Complaint in this action as true for the limited purpose of evaluating their character and fitness for licensure.

16. By entering into this Stipulation, SELECT and RAY knowingly and voluntarily waive any rights they would otherwise have to notice and a hearing at which they may be represented by counsel, present evidence, and examine witnesses. The parties hereto further waive their right of reconsideration, appeal, and other rights as set forth in title 67, chapter 52, Idaho Code, including the right to submit this matter for review by a court of competent jurisdiction.

17. The parties agree that the terms of this Stipulation and Final Order are appropriate and proper under the circumstances referenced herein.

18. SELECT and RAY acknowledge that they have read this Stipulation and Final Order and understand its contents; that they have been given the opportunity to discuss this Stipulation and Final Order with independent legal counsel of their choosing; and that they have entered into this Stipulation knowingly, voluntarily, and with full knowledge of any rights they may be waiving thereby.

19. SELECT and RAY acknowledge that this is an administrative action that may be required to be reported on license applications and license renewal forms and disclosed to other agencies through which SELECT and RAY hold a license.

20. This Stipulation is subject to approval by the Director or the Director's designee, and shall become effective and binding upon the Department, SELECT, and RAY upon such approval. Should the Director decline to approve this Stipulation and Final Order, the Department, SELECT, and RAY shall retain all of their rights, claims and/or defenses, and any factual and/or legal admissions made by SELECT and RAY herein shall be withdrawn.

21. This Stipulation constitutes the full and final resolution of all matters addressed herein, and the Department agrees that, subject to the Director's approval described above, the Department shall seek no further civil or administrative sanctions for the violations alleged in the Verified Complaint, Docket No. 18-3798-20, subject to the agreement set forth in Paragraph 15 above.

22. SELECT and RAY agree that, upon execution of this Stipulation and Final Order, no subsequent action or assertion shall be maintained or pursued in any manner asserting the invalidity of this Stipulation and Final Order and its provisions.


23. This Stipulation and Final Order embodies the entire agreement between the Department, SELECT, and RAY, and there are no agreements, understandings, representations, or warranties that are not expressly set forth herein.

24. Upon the Director's entry of the Final Order approving this stipulation, this Stipulation and Final Order shall be a public record under the Idaho Public Records Act.

AGREED this 31 day of DECEMBER, 2020.

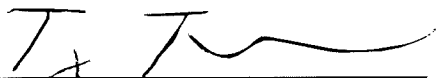
By: 

SELECT ADJUSTERS LLC

By: 

BRETT JOSEPH RAY


Approved as to Form:



Taylor Tondevoid
Attorney for the Respondents

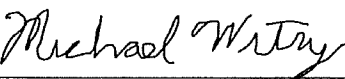
AGREED this 31st day of DECEMBER, 2020.

STATE OF IDAHO
DEPARTMENT OF INSURANCE

By: 
Randall M. Pipal
Bureau Chief, Consumer Affairs

Approved as to Form:

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By: 
Michael Witry
Deputy Attorney General
Attorney for the Department of Insurance

FINAL ORDER

The parties hereto, namely the Idaho Department of Insurance, SELECT ADJUSTERS LLC (“SELECT”), and BRETT JOSEPH RAY (“RAY”), having entered into the foregoing Stipulation, and the form of the order having been approved, the Director, having reviewed the same, does hereby find that there is a factual basis for entry of a Final Order herein and does hereby conclude that SELECT and RAY did violate title 41, Idaho Code, as stated in the Stipulation.

NOW, THEREFORE, based on the foregoing and in consideration of the premises,

IT IS HEREBY ORDERED that the foregoing Stipulation is approved and is incorporated herein as if set forth in full and made a part hereof; and,

IT IS FURTHER ORDERED that Idaho Non-Resident Public Adjuster License No. 665639 issued to SELECT is hereby REVOKED effective immediately, and that SELECT shall not submit, nor shall the Department consider, any application by SELECT for issuance or reinstatement of a license under title 41, Idaho Code, for a period of five (5) years from the issuance of this Final Order;

IT IS FURTHER ORDERED that an administrative penalty in the amount of Six Thousand Dollars (\$6,000.00) is hereby imposed against SELECT;

IT IS FURTHER ORDERED that the entire Six Thousand Dollars (\$6,000.00) of the administrative penalty is suspended;

IT IS FURTHER ORDERED that, in the event that SELECT submits to the Idaho Department of Insurance an application for any type of Idaho license as authorized under title 41, Idaho Code, the total administrative penalty of Six Thousand Dollars (\$6,000.00), shall be immediately due and payable;

IT IS FURTHER ORDERED that the Idaho Department of Insurance shall not consider any application from SELECT for any Idaho license as authorized under title 41, Idaho Code, until such time that the total administrative penalty has been paid in full;

IT IS FURTHER ORDERED that Idaho Non-Resident Public Adjuster License No. 665636 issued to RAY is hereby REVOKED effective immediately, and that RAY shall not submit, nor shall the Department consider, any application by RAY for issuance or reinstatement of a license under title 41, Idaho Code, for a period of five (5) years from the issuance of this Final Order;

IT IS FURTHER ORDERED that an administrative penalty in the amount of Six Thousand Dollars (\$6,000.00) is hereby imposed against RAY;

IT IS FURTHER ORDERED that the entire Six Thousand Dollars (\$6,000.00) of the administrative penalty is suspended;

IT IS FURTHER ORDERED that, in the event that RAY submits to the Idaho Department of Insurance an application for any type of Idaho license as authorized under title 41, Idaho Code, the total administrative penalty of Six Thousand Dollars (\$6,000.00), shall be immediately due and payable;

IT IS FURTHER ORDERED that the Idaho Department of Insurance shall not consider any application from RAY for any Idaho license as authorized under title 41, Idaho Code, until such time that the total administrative penalty has been paid in full.

DATED this 4th day of January, 2021.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



DEAN L. CAMERON
Director

NOTICE REGARDING REPORTABLE PROCEEDINGS

The foregoing is considered a reportable administrative proceeding. As such, it is a public record and is public information that may be disclosed to other states and reported to companies for which you are actively appointed. This information will be reported to the National Association of Insurance Commissioners (NAIC) and will appear in the online searchable database of the Idaho Department of Insurance. You should be aware that this proceeding must be disclosed on any insurance license application and must be reported to any and all states in which you hold an insurance license.

CERTIFICATE OF SERVICE

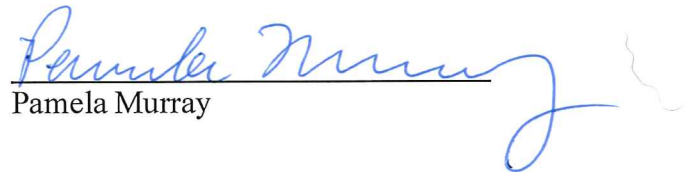
I HEREBY CERTIFY that, on this 5th day of January, 2021, I caused a true and correct copy of the foregoing, fully-executed STIPULATION AND FINAL ORDER to be served upon the following by the designated means:

Taylor Tondevoid
Tondevoid Law PLC
1635 N. Greenfield Rd., Ste. 138
Mesa, AZ 85205

- first class mail
- certified mail
- hand delivery
- via facsimile

Michael Witry
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

- first class mail
- certified mail
- hand delivery
- via facsimile


Pamela Murray
Pamela Murray