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Department of Insurance
State of Idaho
num pro tunc 1/9/12

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

LOREN L. THETFORD,

Non-Resident Producer License No. 87325,

Docket No. 18-2717-11

**HEARING OFFICER'S FINDINGS
OF FACT, CONCLUSIONS OF LAW
AND PRELIMINARY ORDER**

This matter came before the Hearing Officer on a evidentiary hearing on December 20, 2011 at 2:00 p.m. Richard B. Burleigh, appeared on behalf of the Department of Insurance. Loren L. Thetford appeared telephonically representing himself.

FINDINGS OF FACT

I.

1. Loren L. Thetford held a Non Resident Producer License No. 87325. Mr. Thetford is a resident of the State of Oklahoma. Department of Insurance, Exhibit 1.
2. On July 29, 2011, Mr. Thetford submitted an online application to the Department of Insurance for a renewal of his Non Resident Producer License. Department of Insurance, Exhibit 1.
3. Mr. Thetford holds Non Resident Producer Licenses in a number of states. The exact number of states in which Mr. Thetford was licensed was not indicated with certainty but was revealed to be at least thirty five. Hearing Transcript 34/14 (hereinafter Hrg. Tr. pg/ln.)

4. A question on the Idaho application form asked “have you been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration, which has not been previously reported to this State?” In response to that inquiry Mr. Thetford answered “yes.” Department of Insurance, Exhibit 1.

5. As part of the application process Mr. Thetford provided documentation which explained his affirmative answer to the question. Actions had occurred in three other states, Oklahoma, Louisiana, and Missouri. Department of Insurance, Exhibits 2, 5, 6, and 7.

6. These materials established that Mr. Thetford had been the subject first of a complaint filed against him by a former employee. A formal proceeding was brought against Mr. Thetford by the Insurance Commissioner of the State of Oklahoma. The Oklahoma charges focused on allegations concerning improprieties with Mr. Thetford’s compliance certification and continuing education requirements. The Oklahoma Insurance Commission alleged that Mr. Thetford had violated an Oklahoma statute by “using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business”. Department of Insurance, Exhibit 2.

7. In lieu of a hearing Mr. Thetford stipulated to a consent order where he acknowledged that his conduct was in violation of certain Oklahoma regulatory provisions and agreed to the imposition and payment of a fine. Department of Insurance, Exhibit 2.

8. The Oklahoma consent order was signed and filed in June of 2009. Department of Insurance, Exhibit 2.

9. Next, it was also revealed that Mr. Thetford’s requested renewal of his Non Resident Producer License in the State of Louisiana had been denied. Department of Insurance, Exhibit 4.

10. These documents established that the actions of the Louisiana Department of Insurance were based upon the earlier Oklahoma consent order and fine. Department of Insurance, Exhibit 4.

11. The decision rendered by the Louisiana Department of Insurance cited two regulatory provisions as the basis for the denial, the first was the use of “fraudulent, coercive or dishonest practices... in the conduct of business” and the second was Mr. Thetford’s “having admitted or been found to have committed any insurance unfair trade practice...”. The license renewal was denied in May of 2010. Department of Insurance, Exhibit 4.

12. Mr. Thetford did not appeal the decision of the Louisiana Department of Insurance regarding the denial of license renewal. Department of Insurance, Exhibit 5.

13. Next, documentation was obtained concerning the State of Missouri Department of Insurance which brought an administrative action against Mr. Thetford based upon his failure to report the denial of his license in the state of Louisiana. Department of Insurance, Exhibit 7.

14. In this action Mr. Thetford voluntarily agreed to pay a fine in lieu of any action to revoke or suspend his license. This Missouri penalty was imposed in December 2010. Department of Insurance, Exhibit 7.

15. Prior to his application for renewal of his license in Idaho, which was filed on July 29, 2011, Mr. Thetford did not directly report to the Idaho Department of Insurance any of the actions taken by the respective departments in the states of Oklahoma, Louisiana, and Missouri. Hrg. Tr. 17/9-10; 20/1-3; 24/21-23.

16. The Department denied Mr. Thetford’s application for the renewal of his license.

17. Mr. Thetford contested this denial and requested a hearing on his matter.

CONCLUSIONS OF LAW

1. Idaho Code § 41-1016(1) provides the Director of the Department of Insurance the authority to deny an applicant's request for a producer license (or renewal of that license) based upon the following:

(b) Violating any provision of Title 41, Idaho Code, department rule, subpoena or order of the director or of another state's insurance director; ...

(h) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility, or being a source of injury and loss to the public or others, in the conduct of business in this state or elsewhere; ...

(i) Having an insurance license denied, suspended or revoked in any other state, province, district or territory;

2. Additionally, pursuant to Idaho Code § 41-1021(1) a requirement exists where:

A producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

3. The Department raises three counts against Mr. Thetford in this present action.

4. Count One contends that Mr. Thetford violated Idaho Code § 41-1021(1) by failing to report to the Director of the Idaho Department of Insurance the administrative actions taken against him in the states of Oklahoma, Louisiana and Missouri within thirty (30) days of the final disposition of these respective actions. The Department further contends that these violations present grounds under Idaho Code § 41-1016(1)(b) for the refusal to continue/revoke his license.

5. Count Two asserts that the Department has cause under Idaho Code § 41-1016(1)(h) to refuse continuation/revoke Mr. Thetford's Non Resident Producer License based upon his

actions in the state of Oklahoma (concerning his improprieties with compliance of his continuing education requirements).

6. Count Three asserts that the Department has cause under Idaho Code § 41-1016(1)(i) to refuse continuation/revoke Mr. Thetford's Non Resident Producer License based upon the denial of his license renewal by the Louisiana Insurance Commissioner.

7. The Department of Insurance requests the imposition of an administrative penalty in the amount of \$3,000.00 (\$1,000.00 for each of three violations of Idaho Code § 41-1021(1); and an order allowing the revocation/refusal to renew Mr. Thetford's Non-Resident Producer License Number 87325.

8. The provisions in Idaho Code § 41-1016(1) providing for the licensing and regulation of an insurance producer represent an exercise of the police power of the state. *Williams v. O-Connell*, 76 Idaho 121, 278 P.2d 196 (1954). Pursuant to the language of Idaho Code § 41-1016(1) the Director of the Department may impose an administrative penalty as well as revoke or refuse issuance/renewal of an already existing license, when an applicant has violated provisions of Title 41 of the Idaho Code. Further, the Director may also impose these penalties based upon a finding that certain enumerated acts occurred. This includes those items expressed under subsections (h) and (i).

9. The language of Idaho Code § 41-1021(1) is also clear, "a producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency within thirty (30) days of the final disposition of the matter." (Emphasis added).

10. Testimony was presented by representatives of the Department of Insurance including the licensing supervisor for the Department Lisa Tordjman as well as Bureau Chief Georgia Siehl.

These individuals provided relevant information regarding the renewal application process and the subsequent review procedures undertaken by the Department in light of the materials submitted by Mr. Thetford. Hrg. Tr. Pgs 5-32.

11. Mr. Thetford to his credit, freely acknowledged in his renewal application the administrative actions undertaken by first the Oklahoma Department of Insurance and the follow up actions by next Louisiana's and then Missouri's Departments of Insurance. Hrg. Tr. 14/3.

12. The Department raises no allegations concerning misrepresentation by Mr. Thetford or a failure on his part to submit the information requested in connection with his license renewal application.

13. It was also apparent from the evidence submitted that Mr. Thetford was non evasive in his responses both on the renewal application to the Idaho Department of Insurance and in his testimony at hearing.

14. Mr. Thetford in his defense does not deny that he failed to report, prior to his submission of the renewal application, the actions undertaken by the three other states against him. His defense is in essence that he was unaware of the requirements found in Idaho Code § 41-1021(1). Hrg. Tr. 36/1-8; 39/14-19.

15. As noted by Mr. Thetford he is licensed in numerous jurisdictions for the purposes of maintaining flexibility to allow potential insurance sales in any number of jurisdictions in which he is licensed. In other words Mr. Thetford does not actively solicit insurance business in the state of Idaho but maintains as with a number of other states a Non Resident Producer License should the need arise to transact business in the respective state. Hrg. Tr. 34/11-23; 37/19-25-38/1.

16. While it is notable that Mr. Thetford desires greater market access by his multi-jurisdiction licensing, nevertheless, this hearing officer cannot ignore that such endeavors must also be recognized as incurring the corresponding burden of compliance with each state's regulations.

17. From review, it was determined that the licensing requirements (by statute were applicable) in Louisiana and Missouri are similar to those of Idaho. That is, if an individual (or entity) is licensed under the insurance regulatory agency of that state, it is required that this licensed party provide pertinent timely information to that agency regarding matters which impact the licensee's status in the respective jurisdiction.

18. It is apparent that Mr. Thetford suffered a scenario where his licensing status in the states of Louisiana and Missouri underwent a domino like progression as a result of the original administrative action undertaken in the state of Oklahoma. This same situation is present here in Idaho.

19. What is not apparent, however, is why Mr. Thetford, following the events in Oklahoma, and after having been subsequently denied a renewal in the state of Louisiana, then in turn as a result of that denial, a fine by the Department of Insurance of the state of Missouri, failed to undertake a examination of the applicable regulatory requirements of those other jurisdictions in which he was licensed. The evidence also establishes that the violations imposed on Mr. Thetford in the states of Louisiana and Missouri occurred when Mr. Thetford pursued renewal applications, (Department of Insurance Exhibit 4; Hrg. Tr. 41/12-22.) which is similar to that present in the matter at hand. This unfortunately supports a conclusion that Mr. Thetford apparently concerns himself with regulatory compliance (at least as far as informing certain states of disciplinary actions) only when confronted with a pending urgency, here satisfying the

filing requirements associated with a renewal application. This is clearly insufficient. Producer license status carries the burden of ongoing regulatory compliance, not merely at the time when renewal application filings are being made.

20. A producer when licensed under the Idaho Department of Insurance is required to provide pertinent timely information to the agency regarding matters which impact the producer's license status in other jurisdictions. Idaho Code § 41-1021(1).

21. It is clear from the evidence submitted in this case that the acts of Mr. Thetford represent a violation of Idaho Code § 41-1021(1). No dispute exists that Mr. Thetford did in fact fail to report in a timely manner to the Director of the Idaho Department of Insurance the administrative actions taken against him in the states of Oklahoma, Louisiana and Missouri. This represents in turn grounds under Idaho Code § 41-1016(1)(b) to impose an administrative penalty.

22. Next, is the question of whether Mr. Thetford's acts also establish further grounds for the imposition of a penalty under Idaho Code § 41-1016(1), in particular pursuant to subsections (h) and (i).

23. As to Idaho Code § 41-1016(1)(i) the answer is clearly yes. This subsection establishes cause based upon the denial of his license by the Louisiana Department of Insurance.

24. Regarding Idaho Code § 41-1016(1)(h) the Department asserts that the original acts which form the subject matter of the Oklahoma disciplinary charges and consent order are sufficient to satisfy a showing under this provision.

25. Mr. Thetford in his testimony disputed the allegations originally made by the Oklahoma Department of Insurance regarding his improper practices and states that he instead chose a pragmatic course of agreeing to the consent order and imposition of a financial penalty. Hrg. Tr. 35/1-25; 36/13-16. In essence rather than fighting the charges Mr. Thetford agreed to not contest

a fine. He notes in the present hearing, that in hindsight, had the domino like consequences been foreseen, he would have instead disputed the charges. Hrg. Tr. 35/5-17. This though does not change the effect of the record.

26. The evidence, does establish by way of the order entered in Oklahoma (Department of Insurance, Exhibit 2) an admission by Mr. Thetford that the alleged activities did in fact occur. The consent order contains stipulated facts establishing actions within the scope of Idaho Code § 41-1016(1)(h). Id. This again, provides cause to impose sanctions against Mr. Thetford.

PRELIMINARY ORDER

Based upon the foregoing, it is hereby ordered that Loren L. Thetford pay the following administrative penalties:

As a result of three violations of Idaho Code § 41-1021(1) the sum of One Thousand Dollars (\$1000.00);

It is further ordered that the refusal to continue/renew and/or revoke Loren L. Thetford's Non-Resident Producer License Number 87325 by the Department of Insurance is upheld and affirmed.

IT IS SO ORDERED.

NOTIFICATION OF RIGHTS

This is a preliminary order of the Hearing Officer. It can and will become final without further action of the Department of Insurance unless any party petitions for reconsideration before the Hearing Officer or appeals to the Director for the Department

of Insurance (or the designee of the Director). Any party may file a motion for reconsideration of this preliminary order with the Hearing Officer within fourteen (14) days of the service date of this order. The Hearing Officer will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See* Idaho Code § 67-5243(3).

Within fourteen (14) days after (a) the service date of this preliminary order, (b) the service date of the denial of a petition for reconsideration of this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration of this preliminary order, any party may in writing appeal or take exception to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the Director of the Department of Insurance (or the designee of the Director.) Otherwise, this preliminary order will become a final order of the Department of Insurance.

If any party appeals or takes exception to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal within the Department of Insurance. Written briefs in support of or taking exception to the preliminary order shall be filed with the Director of the Department of Insurance (or the designee of the Director). The Director may review the preliminary order on his own motion.

If the Director of the Department of Insurance (or his designee) grants a petition to review the preliminary order, the Director (or his designee) will allow all parties an opportunity to file briefs in support of or taking exception to the preliminary order and may schedule oral argument in the matter before issuing a final order. The Director (or his designee) will issue a final order within fifty-six (56) days of receipt of the written

briefs or oral argument, whichever is later, unless waived by the parties for good cause shown. The Director (or his designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

Pursuant to Idaho Code §§ 67-5270 and 67-5272, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (1) the hearing was held, (2) the final agency action was taken, (3) the party seeking review of the order resides, or operates its principal place of business in Idaho, or (4) the real property or personal property that was the subject of the Department's action is located.

This appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. *See* Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

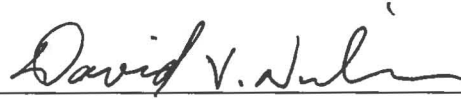
DATED this 9th day of January, 2012.

By: David V. Nielsen
David V. Nielsen
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of January, 2012, I served a true and correct copy of the foregoing by delivering the same to each of the following party, by the method indicated below, addressed as follows:

Richard B. Burleigh, Deputy Attorney General Idaho Department of Insurance 700 W. State Street P.O. Box 83720 Boise, ID 83720-0043	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight mail <input type="checkbox"/> Facsimile
Loren L. Thetford 4835 S. Fulton Avenue, Suite 101 Tulsa, OK 74135-6976	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight mail <input type="checkbox"/> Facsimile



David V. Nielsen