

LAWRENCE G. WASDEN
Attorney General

RICHARD B. BURLEIGH, ISB No. 4032
Deputy Attorney General
Idaho Department of Insurance
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Attorneys for the Department of Insurance

FILED 

MAR 12 2012

Department of Insurance
State of Idaho

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

In the Matter of:

AMANDA A. ANDERSEN-SCHMIDT,

Resident Producer License No. 289878,

Respondent.

Docket No. 18-2728-12

FINAL ORDER

The parties hereto, namely the Idaho Department of Insurance and AMANDA A. ANDERSEN-SCHMIDT, Resident Producer License No. 289878, along with their respective counsel of record, having entered into a STIPULATION CONCERNING VERIFIED COMPLAINT, a copy of which is attached hereto, and the Director having reviewed the same and based on the foregoing and in consideration of the premises,

IT IS HEREBY ORDERED that the STIPULATION CONCERNING VERIFIED COMPLAINT on file herein is approved and adopted as an Order of the Director, and is incorporated herein as if set forth in full and made a part hereof; and,

IT IS FURTHER ORDERED that RESPONDENT's Resident Producer License No. 289878 shall be suspended for a period of three hundred sixty five (365) days from the date of this Final Order. RESPONDENT shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance during said suspension; and,

IT IS FURTHER ORDERED that RESPONDENT shall pay to the Department a penalty in the amount of one thousand dollars (\$1,000.00), of which five hundred dollars (\$500.00) shall be due and payable within five (5) business days of the entry of this Final Order, and of which five hundred dollars (\$500.00) shall be due and payable in full on or before the expiration of the three hundred and sixty-five (365) day suspension period and as a prerequisite for the reinstatement of RESPONDENT's producer license; and,

IT IS FURTHER ORDERED that RESPONDENT's failure to comply with the terms of this Order shall result in the revocation of RESPONDENT's resident producer license and imposition of additional penalties pursuant to the Idaho Insurance Code.

IT IS SO ORDERED.

DATED this 12TH day of March, 2012.

By: _____


WILLIAM W. DEAL, Director
IDAHO DEPARTMENT OF INSURANCE

CERTIFICATE OF SERVICE

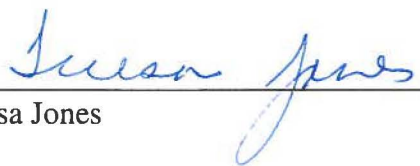
I HEREBY CERTIFY that I have, on this 13th day of March, 2012, caused a true and correct copy of the foregoing FINAL ORDER to be served upon the following by the designated means:

Shane O. Bengoechea
Bengoechea Law Office, PLLC
671 E. Riverpark Lane, Suite 120
Boise, ID 83706

☒ first class mail
☐ certified mail
☐ hand delivery
☐ via facsimile

Richard B. Burleigh
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street
Boise, Idaho 83720-0043

☐ first class mail
☐ certified mail
☒ hand delivery
☐ via facsimile



Teresa Jones

ORIGINAL

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Attorney General

RICHARD B. BURLEIGH, ISB No. 4032
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BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

AMANDA A. ANDERSEN-SCHMIDT,
Resident Producer License No. 289878,
Respondent.

Docket No. 18-2728-12

**STIPULATION CONCERNING
VERIFIED COMPLAINT**

The parties herein, namely the Idaho Department of Insurance (“**Department**”) and its counsel of record, Richard B. Burleigh, Deputy Attorney General, and AMANDA A. ANDERSEN-SCHMIDT, Resident Producer License No. 289878 (“**Respondent**”), and her counsel of record, Shane O. Bengoechea, Esq., attorney-at-law, do hereby agree and stipulate as follows:

1. That the Director of the Idaho Department of Insurance has jurisdiction over this matter pursuant to title 41, Idaho Code.

2. That on January 19, 2012, the Department did file and serve a *Verified Complaint and Right to Hearing* (hereinafter “**Verified Complaint**”) on the Respondent.

3. That on February 8, 2012, RESPONDENT did timely file an *Answer to Verified Complaint and Right to Hearing and Request for Hearing*.

4. That the Department’s Verified Complaint alleges various violations of Idaho Insurance Code, title 41, Idaho Code, and its rules, as follows:

a. RESPONDENT violated Idaho Code § 41-1024(1) and IDAPA 18.01.10.021 by using the Chow & Company Insurance Trust Account, account number ending in 2298, which Trust Account was maintained at Mountain West Bank (the “**Chow & Company Insurance Trust Account**”) to pay for her own personal services rendered to Chow & Company Insurance and to pay for commissions earned by another producer. Such payments should only be made from operational accounts of a producer, not from the trust account.

b. RESPONDENT violated Idaho Code 41-1016(1)(d) by misappropriating and converting fiduciary funds held in the Chow & Company Insurance Trust Account.

c. RESPONDENT violated Idaho Code 41-1016(1)(h) by demonstrating incompetence or financial irresponsibility or being a source of injury and loss to the public or others, in the conduct of business in” Idaho arising out of her misuse of fiduciary funds held in the Chow & Company Insurance Trust Account.

5. That Idaho Code § 41-1024 provides:

“All fiduciary funds received or collected by a producer shall be trust funds received by the producer in a fiduciary capacity, and the producer shall, in the applicable regular course of business, account for and pay the same to the person entitled to the funds. The producer shall establish a

separate account for funds belonging to others in order to avoid a commingling of such fiduciary funds with his own funds. The producer may deposit and commingle in such separate account all fiduciary funds so long as the amount of such deposit so held for all other persons is reasonably ascertainable from the records and accounts of the producer.”

6. That IDAPA 18.01.10.021. PROHIBITED PRACTICES provides:

“[a] producer shall not use fiduciary funds for personal use, including but not limited to:

Use Fiduciary Funds as a Personal Asset. Using or allowing other Persons to use fiduciary funds as a personal asset;”

7. That paying for personal services or commissions from fiduciary funds is not a permitted use of fiduciary funds under IDAPA 18.01.10.019.

8. That, among other things, the Department is prepared to present evidence that:

a. At all times relevant to the allegations in the Verified Complaint, RESPONDENT was employed by Schmidt Insurance Company, Inc., d/b/a/ Chow & Company Insurance, a resident agency/business entity producer whose producer license number 97841 was revoked by the Director on May 5, 2011.

b. On or about September 22, 2010, RESPONDENT wrote check number 1680 in the amount of \$400.00 and payable to Daniel Meyer on the Chow & Company Insurance Trust Account and RESPONDENT signed Robert Schmidt’s name on check number 1680.

c. On or about October 8, 2010, RESPONDENT wrote check number 1691 in the amount of \$845.00 and payable to Amanda Schmidt on the Chow & Company Insurance Trust Account. Check number 1691 appears to be signed by Robert J. Schmidt but RESPONDENT wrote the date, check amount, and on whose behalf it was written.

d. On or about October 8, 2010, RESPONDENT wrote check number 1692

in the amount of \$845.00 and payable to Amanda Schmidt on the Chow & Company Insurance Trust Account. Check number 1691 appears to be signed by Robert J. Schmidt but RESPONDENT wrote the date, check amount, and on whose behalf it was written.

e. On or about October 15, 2010, RESPONDENT wrote check number 1702 in the amount of \$845.00 and payable to Amanda Schmidt on the Chow & Company Insurance Trust Account. RESPONDENT signed Robert Schmidt's name on check number 1702.

9. RESPONDENT's contends that her alleged actions were at the instruction and direction of Robert J. Schmidt, who at the time of the allegations herein was a licensed producer and was the principal and owner of Schmidt Insurance Company, Inc., d/b/a/ Chow & Company Insurance, and that RESPONDENT was unaware that such instructions and direction were contrary to Idaho law as alleged by the Department. Nevertheless, without admitting any liability or violation of any part of the Idaho Insurance Code, title 41, Idaho Code, or its rules, RESPONDENT acknowledges that there is strong likelihood that the Department could prove its case.

10. That this matter can be brought to a close by a negotiated and stipulated settlement.

11. That, based on the foregoing, the parties agree and stipulate as follows:

a. RESPONDENT's Resident Producer License No. 289878 shall be suspended for a period of three hundred sixty five (365) days from the date of the entry of a Final Order by the Director of the Department of Insurance. RESPONDENT shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance during said suspension.

b. RESPONDENT shall pay to the Department a penalty in the amount of one thousand dollars (\$1,000.00), of which five hundred dollars (\$500.00) shall be due and payable within five (5) business days of the entry of a Final Order by the Director and of which five hundred dollars (\$500.00) shall be due and payable in full on or before the expiration of the three hundred and sixty-five (365) day suspension period and as a prerequisite for the reinstatement of RESPONDENT's producer license.

c. RESPONDENT's failure to comply with the terms of this stipulation shall result in the revocation of RESPONDENT's resident producer license and imposition of additional penalties pursuant to the Idaho Insurance Code.

12. That the parties waive their right to notice and hearing at which they may be represented by counsel, present evidence and examine witnesses. The parties waive their right to submit this matter for review by a court of competent jurisdiction.

13. That the parties agree that the terms of this Stipulation are appropriate and proper under the circumstances referenced herein, and that they have entered into this Stipulation knowingly, voluntarily and with full knowledge of any rights they may be waiving thereby.


14. That the parties hereby waive the right to seek reconsideration and judicial review of the Final Order to be entered herein.

15. That the parties hereto have reviewed the proposed Final Order, attached hereto as Exhibit A and incorporated herein by this reference, and agree as to its form and that said Final Order may be submitted to the Director of the Idaho Department of Insurance for his review and signature.

[Signatures on following pages.]

AGREED THIS 8 day of March, 2012.

IDAHO DEPARTMENT OF INSURANCE

By: 
Gina McBride
Bureau Chief, Consumer Services,
Idaho Department of Insurance

Approved as to Form:

OFFICE OF THE ATTORNEY GENERAL

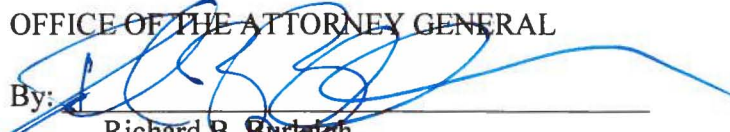
By: 
Richard B. Burleigh
Deputy Attorney General
Attorney for the Idaho Department of Insurance

EXHIBIT A
FINAL ORDER

LAWRENCE G. WASDEN
Attorney General

RICHARD B. BURLEIGH, ISB No. 4032
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IT IS FURTHER ORDERED that RESPONDENT's failure to comply with the terms of this Order shall result in the revocation of RESPONDENT's resident producer license and imposition of additional penalties pursuant to the Idaho Insurance Code.

IT IS SO ORDERED.

DATED this _____ day of _____, 2012.

By: _____
WILLIAM W. DEAL, Director
IDAHO DEPARTMENT OF INSURANCE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have, on this _____ day of _____, 2012, caused a true and correct copy of the foregoing FINAL ORDER to be served upon the following by the designated means:

Shane O. Bengoechea
Bengoechea Law Office, PLLC
671 E. Riverpark Lane, Suite 120
Boise, ID 83706

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