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**FILED** *TJ*  
**JAN 15 2013**  
Department of Insurance  
State of Idaho

*Attorneys for Department of Insurance*

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

STATE OF IDAHO, DEPARTMENT OF  
INSURANCE,

Complainant,

vs.

EARL WILLIAM ROWE, an Idaho non-  
resident bail agent holding Idaho Non-resident  
Bail Agent License No. 100032,

Respondent.

Docket No. 18-2824-12

**ORDER OF DEFAULT REVOKING  
IDAHO NON-RESIDENT BAIL  
AGENT LICENSE**

The Director of the Idaho Department of Insurance (Director), having reviewed the record on file herein; and it appearing therefrom that EARL WILLIAM ROWE, the Respondent herein, has been duly served with a copy of the "Complaint for Revocation of Idaho Non-resident Bail Agent License" (Complaint) filed on December 17, 2012, by the Idaho Department of Insurance (Department) in this administrative proceeding, which Complaint, a copy of which

is attached hereto as Exhibit A, alleged violations of the Idaho Insurance Code by the Respondent; and further, as shown by the Affidavit of A. René Martin, Deputy Attorney General, on file in this proceeding, that the Respondent has failed to request a hearing or to otherwise dispute in writing the allegations set forth in such Complaint; and good cause appearing therefor,

NOW, THEREFORE, IT IS HEREBY ORDERED that Idaho Non-resident Bail Agent License No. 100032 issued to EARL WILLIAM ROWE is HEREBY REVOKED.

IT IS FURTHER ORDERED that EARL WILLIAM ROWE shall immediately return Idaho Non-resident Bail Agent License No. 100032 to the Idaho Department of Insurance at P.O. Box 83720, Boise, Idaho 83720-0043.

**IT IS SO ORDERED.**

DATED this 15<sup>th</sup> day of January, 2013.

STATE OF IDAHO  
DEPARTMENT OF INSURANCE

  
\_\_\_\_\_  
WILLIAM W. DEAL  
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 as to which the Respondent is 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. The Respondent should be aware that

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this proceeding must be disclosed on any insurance license application and must be reported to any and all states in which the Respondent holds an insurance license.

### **NOTIFICATION OF RIGHTS**

This Order constitutes a final order of the Director. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Director 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 § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal it by filing a petition for judicial review in the district court of the county in which: (1) the hearing was held; or (2) the final agency action was taken; or (3) the aggrieved party resides or operates its principal place of business in Idaho; or (4) the real property or personal property that was the subject of the agency decision is located. An appeal must be filed within twenty-eight (28) days of: (a) the service date of this final order; or (b) an order denying a petition for reconsideration; or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See*, Idaho Code § 67-5273. The filing of a petition for judicial review does not itself stay the effectiveness or enforcement of the order under appeal.

**CERTIFICATE OF SERVICE**

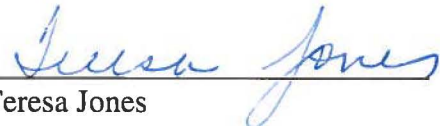
I HEREBY CERTIFY that, on this 15<sup>th</sup> day of January, 2013, I caused a true and correct copy of the foregoing ORDER OF DEFAULT REVOKING IDAHO NON-RESIDENT BAIL AGENT LICENSE to be served upon the following by the designated means:

Earl William Rowe  
P.O. Box 7816  
Missoula, MT 59807-7816

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

Seneca Insurance Company  
160 Water Street  
New York, NY 10038-4922

- ☒ first class mail
- ☐ certified mail
- ☐ hand delivery

  
Teresa Jones

FILED

DEC 17 2012

Department of Insurance  
State of Idaho

*Attorneys for Department of Insurance*

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

Docket No. 18-2824-12

# COMPLAINT FOR REVOCATION OF IDAHO NON-RESIDENT BAIL AGENT LICENSE

**VS.**

Respondent.

COMES NOW the State of Idaho, Department of Insurance (Department), William W. Director (Director), by and through its counsel, A. René Martin, Deputy Attorney General, explain and allege as follows:

1. This administrative proceeding is brought under the provisions of the Idaho Insurance Code, Idaho Code § 41-101 *et seq.*, including Idaho Code § 41-1016, which authorizes the Department to initiate a contested case against an Idaho-licensed bail agent, seeking revocation of the licensee's Idaho bail agent license, if the Director finds as to the licensee that any one (1) or more of the causes or violations enumerated in subsections (1)(a) through -(n) of that section exist.

### **RESPONDENT**

2. EARL WILLIAM ROWE (the Respondent) resides in Missoula, Montana, and has held Idaho Non-Resident Bail Agent License No. 100032 since 2003. Such license authorizes the Respondent to transact bail business in Idaho. The Respondent has held an appointment with Seneca Insurance Company, Inc. since March 19, 2003. The Respondent engages in bail business under the company name "The Bondsman." The Respondent has held an insurance producer license in the state of Montana from October 17, 1990, to the current date.

### **FACTS**

3. In or about 1979, the Respondent was convicted of the crime of burglary, a felony, in the state of Montana. Apparently arising from the same acts, the Respondent was also convicted of criminal trespass to property in the state of Montana during the same time period.

4. In or around September of 2002, the Respondent filled out an application seeking an Idaho insurance producer license to transact the line of property insurance, which license would authorize the Respondent to engage in bail business in Idaho (INITIAL APPLICATION). The Respondent submitted the INITIAL APPLICATION to the Department shortly thereafter.

5. Question No. 1 of the INITIAL APPLICATION inquired as follows: "Have you ever been convicted of, or are you currently charged with committing a crime, whether or not

adjudication was withheld?” Despite the Respondent’s felony and misdemeanor convictions in the state of Montana as referenced in paragraph 3 above, the Respondent answered “No.”

6. On or about December 24, 2009, the Respondent pleaded guilty in the state of Montana to the misdemeanor crime of writing an insufficient funds check, which check was written to the Montana court in conjunction with the Respondent’s bail business conducted in Montana. The court imposed the sanction of a \$1,000 penalty plus payment of court costs for such crime. Although the Respondent maintained an Idaho bail agent license at the time, he failed to report the 2009 Montana criminal action to the Department.

7. Around the same time as the Respondent submitted the insufficient funds check to the Montana court that is referenced in paragraph 6 above, the Respondent also issued another insufficient funds check in conjunction with a bail transaction to the Yellowstone County Justice Court. The Respondent’s issuance of a second insufficient funds check to a Montana court in conjunction with a bail transaction was apparently settled and did not result in a criminal action against the Respondent.

8. On or about February 22, 2010, the Commissioner of Securities and Insurance for the State of Montana, Montana’s insurance regulator, entered into an agreement with the Respondent under which the Respondent was sanctioned for his acts of issuing insufficient funds checks to two Montana courts, as referenced in paragraphs 6 and 7 above (CONSENT AGREEMENT). The terms of the CONSENT AGREEMENT required the Respondent to pay a \$2,000 fine to the State of Montana, to maintain a balance in his bail business trust account sufficient for all checks written on such account to clear, to refrain from paying forfeiture amounts from his personal accounts in the future, and to comply with all Montana insurance

statutes and related rules. Although the Respondent maintained an Idaho bail agent license at the time, he failed to report the entry of such CONSENT AGREEMENT to the Department.

9. In October of 2012, the Respondent submitted to the Department a renewal application for the purpose of renewing his Idaho non-resident bail agent license (RENEWAL APPLICATION). Idaho's producer license renewal process at that time required that the applicant be fingerprinted and that a criminal history report be generated and provided to the Department.

10. Question 1 of the RENEWAL APPLICATION asked: "Have you been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime, which has not been previously reported to this insurance department?" The Respondent replied "No."

11. Question 2 of the RENEWAL APPLICATION 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 insurance department?" The Respondent replied "No."

12. The criminal history report revealed to the Department the Respondent's felony burglary conviction and misdemeanor criminal trespass to property conviction in the state of Montana. It further revealed his guilty plea to the misdemeanor crime of issuing an insufficient funds check, which occurred in the state of Montana.

13. Pursuant to the Department's background check conducted during the process for renewal of an insurance producer license, the Department was informed of the CONSENT AGREEMENT referenced in paragraph 8 above, which had not been reported to the Department by the Respondent.



### **CONCLUSIONS OF LAW AND VIOLATIONS**

#### ***COUNT ONE: BEING CONVICTED OF OR PLEADING GUILTY TO ANY FELONY***

14. Paragraphs 2 through 13 above are fully incorporated herein by this reference.

15. Idaho Code § 41-1016(1)(f) provides that the Director may revoke or refuse to continue an insurance producer license issued under chapter 10 of the Idaho Insurance Code, to include a bail agent license, if the licensee has been convicted of or pleaded guilty to any felony.

16. The Respondent's conviction of the crime of burglary, a felony, as referenced in paragraph 4 above, authorizes the Director to revoke or refuse to continue the Respondent's Idaho bail agent license, pursuant to Idaho Code § 41-1016(1)(f).

#### ***COUNT TWO: PROVIDING INCORRECT, MISLEADING, INCOMPLETE, OR MATERIALLY UNTRUE INFORMATION IN THE LICENSING APPLICATION***

17. Paragraphs 2 through 13 above are fully incorporated by this reference.

18. Idaho Code § 41-1016(1)(a) provides that the Director may revoke or refuse to continue an insurance producer license issued under chapter 10 of the Idaho Insurance Code, to include a bail agent license, if the licensee provides incorrect, misleading, incomplete, or materially untrue information in the license application.

19. The Respondent's negative answer to Question 1 on the INITIAL APPLICATION, which question sought information concerning the Respondent's criminal history, in view of his prior convictions of both felony burglary and misdemeanor criminal trespass to property, authorizes the Director to revoke or refuse to continue the Respondent's Idaho bail agent license, pursuant to Idaho Code § 41-1016(1)(a).

#### ***COUNTS THREE AND FOUR: PROVIDING INCORRECT, MISLEADING, INCOMPLETE, OR MATERIALLY UNTRUE INFORMATION IN THE LICENSING APPLICATION***

20. Paragraphs 2 through 13 above are fully incorporated herein by this reference.

21. Idaho Code § 41-1016(1)(a) provides that the Director may revoke or refuse to continue any insurance producer license issued under chapter 10 of the Idaho Insurance Code, to include a bail agent license, if the licensee provides incorrect, misleading, incomplete or materially untrue information in the license application.

22. The Respondent's untruthful answers to Questions 1 and 2 of the RENEWAL APPLICATION, in view of the Respondent's prior criminal history and the entry of the CONSENT AGREEMENT as referenced above, authorizes the Director to revoke or refuse to continue the Respondent's Idaho bail agent license, pursuant to Idaho Code § 41-1016(1)(a). The Respondent's omission of his criminal history and the entry of the CONSENT AGREEMENT each constitutes a separate basis for the Director to revoke or refuse to continue the Respondent's Idaho bail agent license, pursuant to Idaho Code § 41-1016(1)(a).

*COUNT FIVE: FAILURE TO REPORT AN ADMINISTRATIVE ACTION  
WITHIN THIRTY (30) DAYS OF THE FINAL DISPOSITION*

23. Paragraphs 2 through 13 above are fully incorporated herein by this reference.

24. Idaho Code § 41-1021(1) provides that an insurance 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.

25. The Respondent's failure to report the CONSENT AGREEMENT he entered into with the Montana insurance regulator, sanctioning him for writing insufficient funds checks in connection with bail transactions, as referenced in paragraph 8 above, constitutes a violation of Idaho Code § 41-1021(1).

26. Idaho Code § 41-1016(1)(b) provides that the Director may revoke or refuse to continue any license issued under chapter 10 of the Idaho Insurance Code, including a bail agent license, for any violation of the Idaho Insurance Code. The Respondent's violation of Idaho

Code § 41-1021(1) authorizes the Director to revoke or refuse to continue the Respondent's Idaho bail agent license, pursuant to Idaho Code § 41-1016(1)(b).

*COUNT SIX: ENGAGING IN FRAUDULENT OR DISHONEST PRACTICES,  
OR DEMONSTRATING INCOMPETENCE, UNTRUSTWORTHINESS OR FINANCIAL  
IRRESPONSIBILITY, OR BEING A SOURCE OF INJURY AND LOSS TO THE  
PUBLIC AND OTHERS, IN THE CONDUCT OF BUSINESS*

27. Paragraphs 2 through 13 above are fully incorporated herein by this reference.

28. Idaho Code § 41-1016(1)(h) provides that the Director may revoke or refuse to continue an insurance producer license issued under chapter 10 of the Idaho Insurance Code, to include a bail agent license, if the Director finds that the licensee engaged in fraudulent or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility, or constituted a source of injury and loss to the public or others, in the conduct of business in this state or elsewhere.

29. The fact that the Respondent issued two (2) insufficient funds checks to Montana courts in connection with transacting bail business demonstrates the Respondent's incompetence and financial irresponsibility within the meaning of Idaho Code § 41-1016(1)(h), authorizing the Director to revoke or refuse to continue the Respondent's Idaho bail agent license.

**RELIEF REQUESTED**

30. Based on the foregoing, and pursuant to Idaho Code § 41-1016(1)(a), -(b), -(f), and -(h), and Idaho Code § 41-1021(1), the Department prays that the Director enter an order revoking Idaho Non-Resident Bail Agent License No. 100032 held by the Respondent.

**NOTICE OF RIGHT TO A HEARING**

THE RESPONDENT IS HEREBY NOTIFIED, pursuant to Idaho Code § 41-232A(2) and Rule 270 of the Idaho Rules of Administrative Procedure of the Attorney General (IRAP), located at IDAPA 04.11.01.270, that a written request for a hearing must be filed and served

upon the Department within twenty-one (21) days after service of this Complaint. Failure to file and serve a request for a hearing upon the Department within the 21-day time period shall be deemed a waiver of the opportunity for a hearing and to contest the allegations and requested relief set forth in the Complaint.

Any written request for a hearing shall be served on the Director of the Idaho Department of Insurance, addressed as follows:


William W. Deal, Director  
Idaho Department of Insurance  
P.O. Box 83720  
Boise, ID 83720-0043

A copy of such request for a hearing shall also be provided to the Department's counsel in this matter, A. René Martin, Deputy Attorney General, at the following address:

A. René Martin  
Deputy Attorney General  
Idaho Department of Insurance  
P.O. Box 83720  
Boise, ID 83720-0043

DATED this 17<sup>th</sup> day of December, 2012.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

  
A. RENÉ MARTIN  
Deputy Attorney General

**CERTIFICATE OF SERVICE**

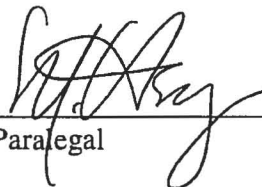
I HEREBY CERTIFY that on this 17<sup>th</sup> day of December, 2012, I served a true and correct copy of the foregoing COMPLAINT FOR REVOCATION OF IDAHO NON-RESIDENT BAIL AGENT LICENSE on the following by the designated means:

Earl William Rowe  
P.O. Box 7816  
Missoula, MT 59807-7816

☒ U.S. mail, postage prepaid  
☒ Certified mail  
☐ Facsimile

Seneca Insurance Company  
160 Water Street  
New York, NY 10038-4922

☒ U.S. mail, postage prepaid  
☐ Certified mail  
☐ Facsimile

  
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Paralegal