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Department of Insurance
State of Idaho

COPY

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

STATE OF IDAHO, DEPARTMENT OF
INSURANCE,

Complainant,

vs.

TIMOTHY H. HEFFNER,
Resident Producer License No. 70368,

Respondent.

Docket No. 18-3085-15

**ORDER DENYING REQUEST FOR
RECONSIDERATION**

The Findings of Fact, Conclusions of Law and Preliminary Order (hereinafter Preliminary Order) were issued on March 15, 2016. On March 25, 2016 the Respondent, Mr. Timothy Heffner filed a timely Motion for Reconsideration and supporting Memorandum. The Department of Insurance filed a Response on March 31, 2016.

Mr. Heffner in his Motion has requested that the Hearing Officer reexamine the Findings of Fact based upon several grounds. First upon an allegation that other practicing resident producers do not utilize a trust account. Additionally, Mr. Heffner asserts that his practice during the time period the subject events occurred, was undergoing a transition and that a portion of his work was undertaken from his home resulting in a "chaotic" work environment. Mr. Heffner argues that the subsequent funds were likely lost or stolen and not misappropriated.

As to the deficiencies of documentation provided to the Department Mr. Heffner asserts the Department had all relevant materials generated regarding the transactions and that he was avoiding unnecessary duplication of materials. Mr. Heffner further notes the efforts which he undertook to resolve the issues with the clients and the difficulties in scheduling meetings with them to finalize these efforts. Mr. Heffner then emphasizes that ultimately the clients were reimbursed.

This is followed by a plea for leniency, with Mr. Heffner arguing that the penalties imposed carry unduly severe consequences.

The Department in the Response Memorandum notes first that an allegation concerning the failure of other insurance producers to maintain trust accounts is unsupported by evidence in the record. Furthermore, it is asserted that an argument of this type does not excuse Mr. Heffner's violations. The Department then reiterates that pursuant to Idaho Code § 41-1024 fiduciary funds received or collected by a producer are to be handled in a specific manner which Mr. Heffner failed to do. The Department also contends that the claim the funds were ultimately paid to either the insurance company or the client does not excuse the underlying violations.

Next the Department argues that Mr. Heffner's rationale for the failure to produce documents when requested is unsupported by the record. The Department contends that Mr. Heffner could have simply responded to the Department's request with all materials which he did in fact possess whether he believed the Department already had copies of these items or not. The Department notes that the multiple requests made to Mr. Heffner for document production concerned materials which he was required to maintain under the licensing requirements established by Idaho Code § 41-1036.

Next as to the claims that Mr. Heffner attempted on multiple occasions to meet and resolve the issues with the clients it is argued that such efforts provide no explanation for why only a portion of the premium dollars paid by the clients to Mr. Heffner were ultimately forwarded to the insurance company. The Department argues that any contended difficulty in conferring with the clients provides no explanation as to why the premiums were not initially paid in the entirety to the insurance company.

As to a plea for leniency the Department asserts that the severity of the consequence does not represent relevant evidence which would justify a revision of the finding of the violations or penalty imposed.

The Department concludes by noting the fact that Mr. Heffner did not provide a refund to the clients until after complaints were filed. Further, the clients were without coverage even though premium dollars had been paid to Mr. Heffner. Ultimately the funds were in fact never directly accounted for. The Department asserts that the Request for Reconsideration should be denied in its entirety.

As to the matters raised by Mr. Heffner in his motion, initially as to the argument that Mr. Heffner's informal survey with other resident producers shows that few utilize trust fund accounts, this claim fails to establish a rationale which excuses his violations. Even if such claims were true, this does not support a contention that the provisions of the Idaho Code cannot or should not be enforced in Mr. Heffner's case.

Mr. Heffner's failure to comply with Idaho Code § 41-1024 is also tied to the still unanswered questions of what happened to the funds received from the clients and why those proceeds were not paid to the insurance company. The violations he committed in

failing to follow the requirements for properly handling the funds contributed to the further breach of his duty to forward these proceeds to the insurance company.

Mr. Heffner's excuse for the failure to make the payments is his claim of a chaotic work place environment. While such circumstances could potentially provide reason or explanation as to why the events occurred, in the circumstances of this case, this again fails to constitute an adequate excuse, certainly not one to provide grounds to overturn the determination that multiple violations occurred.

Mr. Heffner claims in essence his conduct is merely an example of deficient record keeping. This ignores or attempts to minimize, however, the nature of the deficiency and the acts which followed the revelation of the premium payment shortfall. Not only were the funds handled incorrectly in that no trust fund account was used, in addition to this, the entire amount of funds received were not ever timely paid to the insurance company. Findings of Fact 7, 9, 16. The clients paid premiums in advance for a set period of policy coverage. Instead only a portion of this amount was paid by Mr. Heffner to the insurance company. *Id.* In the case of one customer only one month out of a payment of nine months of premiums (made by way of a single lump payment by the client) went to the company, Finding of Fact 7. Trust fund account or not, especially with the method Mr. Heffner used in purchasing money orders, (Finding of Fact 29) this matter goes beyond simple record keeping requirements.

An argument that whether it was known that those proceeds should or should not have been placed in a trust account ignores the additional failure on Mr. Heffner's part to properly forward these premiums to the company after they were received. In addition to deficient record keeping an issue of misappropriation or mismanagement of the funds is

present. The multiple violations in this matter concern more than the use of trust fund accounts or record keeping procedures.

Next the harm suffered by the clients was ultimately compounded when little or no efforts were undertaken to remediate or cure the situation. Mr. Heffner was notified on more than one occasion by the clients who in turn were assured that the problem would be remedied. Instead the matter was not addressed. The result was a termination of coverage for these clients. Mr. Heffner claims that the ultimate repayment of the funds to the clients in essence mitigates against a finding that harm was suffered by these individuals. This argument is unpersuasive. Repayment is not viewed by the Hearing Officer as exculpatory in these circumstances.

The Hearing Officer also takes note that, as emphasized by the Department, Mr. Heffner failed to provide reimbursement to the clients until after complaints had been formally filed with the Department. Mr. Heffner's claims of the difficulties in coordinating meetings with the clients doesn't answer why through repeated email communications prior to the filing of the Complaints, Mr. Heffner was otherwise unable to pay the premium amounts due or provide for a reimbursement to the clients.

Next, the answers and information given by Mr. Heffner to the Department regarding the Complaints belie the now claimed explanation for the limited nature of the responses given during the course of exchange between Mr. Heffner and the Department. It is not readily apparent why the partial and potentially evasive responses should now be excused when instead characterized as a means to avoid duplication of presented documentation or again claimed ignorance of the record keeping requirements. A full and complete disclosure of the course of events and all materials present, whether

deficient or not, at the outset of the Department's investigation, would in all likelihood have saved substantial time in this investigation.

The matters as discussed in the original Order of March 15, 2016 continue to weigh in favor of imposing both monetary penalties and a revocation of Mr. Heffner's license. Mr. Heffner's recent request for reconsideration has failed to present sufficient grounds to warrant a modification of the penalties listed in the preliminary order of that date.

Based upon the matters discussed above, Mr. Heffner's request for reconsideration is denied.

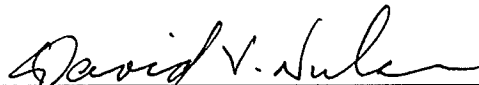
DATED this 7th day of April, 2016.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of April, 2016, 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 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 <input type="checkbox"/> Electronic Mail
Timothy H. Heffner Heffner Ins 3607 W. Overland Road Boise, ID 83705	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Electronic Mail



David V. Nielsen

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MAR 16 2016

Department of Insurance
State of Idaho

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Respondent.

Docket No. 18-3085-15

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

PROCEDURAL HISTORY

This matter came before the Hearing Officer on February 4, 2016 at 1:00 p.m. Richard B. Burleigh, Deputy Attorney General, appeared on behalf of the Department of Insurance. Timothy R. Heffner appeared representing himself. The Department in a Verified Complaint presented five (5) separate counts concerning alleged violations of Idaho Code §§ 41-247, 41-1024, 41-1036, 41-1016(1)(d) and 41-1016(1)(h).

FINDINGS OF FACT

1. Mr. Heffner is licensed under the Idaho Department of Insurance, Resident Producer License No. 70368. Mr. Heffner's office is located in Boise, ID.
2. In his agency operations Mr. Heffner received premium payments directly from clients and was responsible for forwarding these payments to the respective insurance company for the

clients' policy payments. Hrg. Trans. p. 17 ll. 12-17 (hereinafter page/line); Idaho Code § 41-1024(1).

3. Mr. Heffner in August 2014 received proceeds in cash from a client (Bizhen Zhang) for premiums to be paid on a health insurance policy. Hrg. Trans. 102/2-3; Department of Insurance Exhibit 1.

4. The amount given to Mr. Heffner was intended to cover the time period for nine months of premium payments from September 2014 through May 2015. *Id.*

5. Mr. Heffner provided a receipt to the client for the payment made. Hrg. Trans. 102/5-18; Department of Insurance Exhibit 1.

6. In February of 2015 the client was notified by the insurance company (Blue Cross of Idaho) that the policy coverage had been cancelled as a result of non payment of the monthly premiums. Hrg. Trans. 104/15-16; Department of Insurance Exhibit 1.

7. The client contacted the insurance company and was informed that only one of the monthly payments had been made by Mr. Heffner. Hrg. Trans. 104/24-25; Exhibit 1.

8. The client contacted Mr. Heffner and was informed that he would obtain a second policy to provide for coverage. Hrg. Trans. 102/19-25; 103/1-8; Exhibit 1.

9. A second policy was issued, but was cancelled for non-payment one month later. Hrg. Trans. 103/9-14; Exhibits 1 and 23.

10. Also in August 2014 Mr. Heffner received proceeds from another client (Ruixue Zhuang) again for the payment of premiums of a health insurance policy. Hrg. Trans. 17/12-17; 70/11-19; Exhibit 15.

11. The payment made to Mr. Heffner was intended to cover the time period for premiums owed for the months of September 2014 through May 2015. Hrg. Trans. 70/20-24.

12. The client paid Mr. Heffner in cash and was provided a receipt for this payment. Hrg. Trans. 70/7-16; Exhibit 15.
13. Starting in October of 2014 the client began receiving correspondence from the insurance company (Blue Cross of Idaho) regarding non payment of premiums. Hrg. Trans. 75/1-14.
14. The client contacted Mr. Heffner regarding the correspondence received from the insurance company and was informed that the matter would be addressed. Hrg. Trans. 75/15-18; 76/16-19; 77/12-25.
15. In February 2015 the client received correspondence from the insurance company notifying the client the policy had been cancelled as a result of non payment of monthly premiums. Hrg. Trans. 72/1-7; Exhibit 15.
16. The client contacted the insurance company and obtained further information regarding the premiums paid on the policy. It was learned that approximately half of the premiums had gone unpaid. The client then paid the outstanding balance owed on the policy to reinstate and continue coverage. Hrg. Trans. 72/15-20; 74/7-13; Exhibit 15.
17. The client continued to inquire of Mr. Heffner the status of payments and his failure to forward the money she paid for policy premiums. No definitive explanation regarding this failure to make the premium payments was provided to the client. Hrg. Trans. 77/12-25.
18. In April 2015 both clients filed complaints with the Department of Insurance. Exhibits 1 and 15.
19. The Department sent correspondence to Mr. Heffner regarding the complaints filed by the respective clients. Exhibits 3 and 17.

20. The Department pursuant to Idaho Code § 41-247 requested information regarding the matters complained of along with copies of documentation concerning the subject transactions and policies for the clients. *Id.*

21. Mr. Heffner initially provided a written response concerning one client (Ruixue Zhuang) noting difficulties in coordinating appointments with the client and further indicating that he would provide a refund to the client for a calculated amount of the premiums which were not forwarded to the insurance company. Exhibit 18; Hrg. Trans. 135/9; 136/22-23.

22. Mr. Heffner in separate correspondence to the Department indicated that he would provide a refund for the other client (Bizhen Zhang). Exhibit 4.

23. The Department continued the investigation and renewed the request for information previously asked from Mr. Heffner concerning the two clients. Exhibits 5 and 19.

24. Mr. Heffner in response indicated that he was attempting to ascertain information regarding tracking of the funds received from one of the clients (Bizhen Zhang) and that he had issued a refund check to the other client (Ruixue Zhuang). Exhibits 7 and 21.

25. The Department continued to request information from Mr. Heffner concerning the clients. Exhibits 9 and 25.

26. Mr. Heffner undertook efforts to provide refunds to the two clients. A payment made to one of the clients (Ruixue Zhuang) initially failed to clear the bank and was later replaced by a second payment in the form of a money order. Hrg. Trans. 83/1-25; 84/1-25; Exhibits 15, 18, 22, and 36. The other client (Bizhen Zhang) also received a refund payment. Hrg. Trans. 107/6-22; Exhibits 12, 13 and 36.

27. The Department made additional requests for information from Mr. Heffner regarding the clients and the details concerning the premium payments and procedures he used in the handling of the subject premium payments. Exhibit 28.

28. Further contact with Mr. Heffner by the Department provided little if any substantive response to the repeated requests for pertinent information. Hrg. Trans. 23/21-25; 24/2-25; 25/1-22; 38/4-25; 39/1-10; 44/4-19; 45/21-24; 46/3-13; 47/14-25; 48/1-24; 53/40-25; 54/1-17.

29. Mr. Heffner in his insurance practice when receiving cash from clients followed a method where he purchased money orders with the cash and then forwarded those money orders to the insurance carrier as payments for the corresponding premium. Hrg. Trans. 124/9-25; 130/1-5; Exhibit 29.

CONCLUSIONS OF LAW

30. The evidence presented in this matter establishes that Mr. Heffner failed to appropriately handle and account for premium payments made by, at a minimum, two (2) clients. The evidence also establishes that on at least two (2) occasions after receiving money from clients Mr. Heffner failed to deposit these proceeds into an agent fiduciary/ trust fund account and ultimately forward the payments to the insurance carrier for the respective clients. Additionally, Mr. Heffner failed after inquiry by the Department of Insurance to promptly furnish the requested information regarding the transactions.

31. Under Idaho Code § 41-247 the Director of the Department of Insurance has the power to direct an inquiry to a producer with respect to any insurance transaction. Following this inquiry:

The person to whom such an inquiry is addressed shall upon receipt thereof promptly furnish to the Director all requested information which is in his possession or subject to his control.

32. Idaho Code § 41-1024 states the following:

(1) 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 comingling of such fiduciary funds with his own funds...

(2) Fiduciary funds shall include all funds collected by an insurance producer from or on behalf of a client or premium finance company that are to be paid an insurance company, ...

33. Idaho Code § 41-1036 provides as follows:

(1) A producer holding a license under this chapter shall make available through his principal place of business complete records of transactions placed through or counter signed through the producer.

(2) Records as provided in subsection (1) of this section shall include, but not be limited to:

- (a) the names and addresses of insurer and client;
- (b) the number and expiration date of the policy or contract;
- (c) the premium payable as to the policy or contract;
- (d) the date, time, insurer, client and coverage of every binder made by the producer;...

34. Of further note, pursuant to the Department of Insurance Idaho Administrative Code Provisions found under 18.01.10 Section 014; fiduciary fund accounts are to be administered in a specific manner. Section 014 subpart 03 states as follows:

03. All Other Fiduciary Funds. All other fiduciary funds received by the producer, except as described under Subsections 014.01 and 014.02 must be deposited into a fiduciary fund account according to the following schedule:

a. If in the form of cash, within seven (7) days of receipt, except that, when a producer holds fiduciary funds in the form of cash that exceed Two Thousand Dollars (\$2,000.00), such funds may be deposited within three (3) business days.

35. As also stated in subpart 04 of Section 14 the producer is required to document and preserve records regarding the receipt of the fiduciary funds. Under this provision:

04. Document the Receipt Of Fiduciary Funds. A producer who receives fiduciary funds shall document the receipt of those

funds in sufficient detail to determine, at a minimum, the date received, the name of the payee, and the amount received. If the producer receives cash, the producer shall give the payer a detailed receipt at the time of payment. The receipt shall include an indication that cash was received, the date received, the amount received, the payer's name, the payee's name, the purpose of payment, and other information important to the transaction. The producer shall maintain the receipt records as records of a transaction, and keep those records for a period of at least five (5) years.

36. Under Idaho Code § 41-1016(1)(b) the Director may impose an administrative penalty for a violation of any provision of Title 41 Idaho Code.

37 Subpart (1)(d) of Idaho Code § 41-1016 establishes that a violation exists if a licensee:

improperly withholds, misappropriates or converts any monies received in the course of doing business.

38. § 41-1016(1)(h) provides that a violation exists if a licensee uses:

fraudulent, coercive or dishonest practices, or demonstrates incompetence, untrustworthiness or financial irresponsibility, or is a source of injury and loss to the public in the conduct of business.

39. Mr. Heffner notes that in his years of licensing as a resident producer prior to the incidents giving rise to the subject complaint he has had no reported violations or charges against him. Hrg. Trans. 123/15-22; 125/19-20.

40. Mr. Heffner acknowledged that deficiencies existed with his record keeping. Hrg. Trans. 140/1-3.

41. Mr. Heffner did claim that in part, as an explanation for some of his actions, that he was unaware of the requirement for establishing a fiduciary/ trust account. Hrg. Trans. 116/25; 117/1-25; 118/1-7; 127/4-9.

42. Further explanation provided by Mr. Heffner focused on the fact the two clients were college students and that the efforts to procure health insurance policies for students entailed

labors more involved than health care coverage for non students. Of note were additional procedural requirements, financing issues and pressing time constraints. Hrg. Trans. 126/1-22; 131/13-16; 124/4-8; 139/1-25; 140/1-14.

43. This appears to have resulted in a chaotic activity level for Mr. Heffner which created or contributed to a pattern of deficient accounting and inaccurate limited record keeping. Compounding this was an apparent absence of any regular formal office policy regarding the handling of client funds. Hrg. Tran. 112/9-24; 127/4-8.

44. At the hearing Mr. Heffner provided no substantive defense to the Department's allegations concerning the ultimate failure to make payment in full to the insurance company the funds received from the clients for the designated policy premiums. Mr. Heffner also provided no information which answered the underlying question of what ultimately happened to the funds paid by the two clients and where this money went. Hrg. Trans. 130/1-25; 131/1-8; 135/1-23; 138/20-25; 139/1-15; 141/12-25.

45. The evidence presented shows that Mr. Heffner has committed multiple violations of Title 41 of the Idaho Code. While Mr. Heffner asserts that he was not aware of a number of duties imposed upon him as a resident producer, neither this claimed ignorance or the requirements of his workload are sufficient to provide either a defense or excuse for the activities brought to light.

46. Mr. Heffner failed, initially to establish and maintain a fiduciary/ trust fund account for funds received and then, improperly withheld these funds and failed to pay them in full to the insurance company. Further, following the disclosure that these monies had not been properly paid to the insurance company Mr. Heffner failed to ascertain the reason that the premiums had not been paid, acknowledge and explain this to the clients, and undertake efforts to ensure

reinstatement of the policies. Again, the deficiencies in following the required accounting procedures not only created these problems but further contributed to their lack of remediation.

47. Mr. Heffner also inadequately responded to the Department's repeated requests for information and provide an answer to the question of what in fact happened to the funds received by him from the two clients. It is not known if Mr. Heffner lost other monies received from different clients and the subject funds were used to replace those missing proceeds or if in turn the funds were diverted or otherwise misappropriated.

48. Mr. Heffner's fiduciary role as a resident producer is clear. The duties imposed as a result of that fiduciary status are straight forward under both the Idaho Code and the Administrative Rules. In the relationship which a client has with a resident producer it is crucial that the producer follow regular uniform procedures to safeguard and account for funds received and ultimately paid to an insurance company as policy premiums. The regulations are directly designed to establish procedures to protect clients from the very circumstances present in this case. Had Mr. Heffner adhered to the mandates of the administrative rules found under IDAPA 18.01.10 Section 014 as well as the requirements of Idaho Code §41-1024 the subject insurance policies would not have been cancelled.

49. The fiduciary standard imposed on a resident producer under Idaho law requires that funds be handled and treated in a verifiable manner which ensures proper accounting and ultimate application of the monies received. While Mr. Heffner may not have had an improper or ill intent in his actions, the outcome of his deficiencies resulted in the consequence of policy cancellation for both of these clients. From the perspective of the clients this created an unacceptable risk of significant harm. Even under the circumstances presented in this case,

where the clients were fortunate to not have specific loss claims arise during the period when the policies were cancelled, the significance of this risk exposure is still unacceptable.

50. Concerning the receipts generated Mr. Heffner further failed to satisfy the requirements detailed in IDAPA 18.01.01 Subpart 014.04. While receipts of a form were created they lacked the detail required for such records. Furthermore, of note is the fact that the subject receipts themselves were inconsistent as to what information Mr. Heffner provided in each receipt generated. Exhibits 1 and 15.

51. Mr. Heffner breached his fiduciary responsibilities in a number of regards. This includes:

1. The failure to establish a fiduciary/ trust fund account;
2. Deposit the funds received from the client into the fiduciary/ trust account in a timely manner;
3. Provide proper detailed receipts to the client;
4. Properly withdraw the funds and account for the withdrawal;
5. Pay/apply the funds in the full amount to the appropriate policy premiums owed.

52. Also of note was the failure of Mr. Heffner to promptly and thoroughly respond to the Department's requests for information. The Department made repeated inquiry of Mr. Heffner and received only limited responses without a clear statement of why the requested information could not be provided, or in the case of missing documentation, a full recitation of the course of events and explanation of the existing records.

53. As to Count 1 the evidence establishes that Mr. Heffner violated Idaho Code § 41-247 by failing to appropriately and timely respond to the records requests made by the Department.

54. As to Count 2 the evidence establishes that Mr. Heffner was in violation of Idaho Code § 41-1024(1) by failing to establish a separate trust/fiduciary account and by not depositing funds received from two clients into this account.

55. As to Count 3 the evidence establishes that Mr. Heffner was in violation of Idaho Code § 41-1036 by failing to maintain and make available to the Department records concerning the subject insurance transactions involving the two clients.

56. As to Count 4 the evidence establishes that only a portion of the funds received by Mr. Heffner were paid to the insurance company as premium payments. As a result Mr. Heffner was in violation of Idaho Code § 41-1016(1)(d) by improperly withholding, misappropriating and converting monies received by the two clients in the course of doing insurance business.

57. As to Count 5 the evidence establishes that Mr. Heffner failed to properly account, record, apply/disburse, funds received from clients. As a result Mr. Heffner was in violation of Idaho Code § 41-1016(1)(h) by demonstrating incompetence, untrustworthiness and financial irresponsibility and has been a source of injury and loss to the two clients. The source of injury and/or loss is represented not only by the fact that the clients suffered cancelation of the policies but for at least one client the necessity of making a second separate payment directly to the insurance company for a policy already paid for directly to Mr. Heffner.

IT IS ORDERED as a result of the aforementioned violations that Timothy H. Heffner pay the following administrative penalties; the sum of \$1,000.00 for the violation listed in each Count indicated above for a total administrative penalty in the amount of \$5,000.00 and that Timothy H. Heffner's resident producer licenses number 70368 be revoked.

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 15th day of March, 2016.

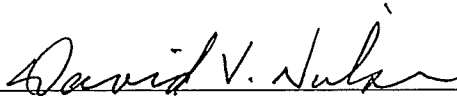
By: _____

David V. Nielsen
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March, 2016, 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 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 <input type="checkbox"/> Electronic Mail
Timothy H. Heffner Heffner Ins 3607 W. Overland Road Boise, ID 83705	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Electronic Mail



David V. Nielsen