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Attorney General

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Department of Insurance  
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*Attorneys for the Department of Insurance*

**FILED**

**SEP 29 2016**

Department of Insurance  
State of Idaho

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE**

**STATE OF IDAHO**

IDAHO DEPARTMENT OF INSURANCE,

Complainant,

vs.

SHAWN MATTHEW HEGEMANN,  
Nonresident Producer License No. 468096,

Respondent.

Docket No. 18-3151-16

**ORDER OF DEFAULT**

The Director of the Idaho Department of Insurance ("Director") having reviewed the record herein; and SHAWN MATTHEW HEGEMANN ("RESPONDENT"), who currently holds Nonresident Producer License No. 468096, having been lawfully served the Verified Complaint and Notice of Right to Hearing, a copy of which is attached hereto as Exhibit A and incorporated herein, and, as evident from the Affidavit of Judy L. Geier, having failed to file an answer thereto and having failed to request a hearing regarding said Verified Complaint; and the Director having

found as a result thereof that RESPONDENT has waived his rights regarding the opportunity for hearing; and in consideration of the above;

IT IS HEREBY ORDERED that Nonresident Producer License No. 468096 issued to RESPONDENT is REVOKED effective immediately.

IT IS HEREBY FURTHER ORDERED that an administrative penalty in the total amount of Nine Thousand Dollars (\$9,000) is imposed against RESPONDENT, with said penalty to be paid prior to submission by RESPONDENT of any new application or any application for reinstatement of RESPONDENT's nonresident producer license.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 41-1027(1), that RESPONDENT shall immediately return Nonresident Producer License No. 468096 to the Idaho Department of Insurance, P.O. Box 83720, Boise, Idaho 83720-0043.

IT IS SO ORDERED.

DATED this 28 day of September, 2016.

STATE OF IDAHO  
DEPARTMENT OF INSURANCE



DEAN L. CAMERON  
Director

### **NOTIFICATION REGARDING REPORTABLE PROCEEDINGS**

This 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 of which you are actively appointed. This information will be reported to the National Association of Insurance Commissioners (NAIC) and will appear in the Idaho Department of Insurance's online searchable database. Be aware that you may be required to disclose this proceeding on any license application, and you may be required to report this action to any and all states in which you hold an insurance license.

### **NOTIFICATION OF RIGHTS**

This constitutes a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency 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 to the district court does not itself stay the effectiveness or enforcement of the order under appeal.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have, on this 29 day of September, 2016, caused a true and correct copy of the foregoing ORDER OF DEFAULT to be served upon the following by the designated means:

Shawn Matthew Hegemann  
3000 S. 46<sup>th</sup> Street  
Lincoln, NE 68506-3336

☒ first class mail  
☐ certified mail  
☐ hand delivery

Judy L. Geier  
Deputy Attorney General  
Idaho Department of Insurance  
700 W. State Street, 3<sup>rd</sup> Floor  
P.O. Box 83720  
Boise, ID 83720-0043

☐ first class mail  
☐ certified mail  
☒ hand delivery

  
\_\_\_\_\_  
Kelly Grady

LAWRENCE G. WASDEN  
Attorney General

JUDY L. GEIER, ISB No. 6559  
Deputy Attorney General  
State of Idaho  
Department of Insurance  
700 W. State Street, 3<sup>rd</sup> Floor  
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judy.geier@doi.idaho.gov

**FILED**  
**AUG 29 2016** *WJW*  
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.

SHAWN MATTHEW HEGEMANN,  
Nonresident Producer License No. 468096,

Respondent.

Docket No. 18-3151-16

**VERIFIED COMPLAINT AND  
NOTICE OF RIGHT TO HEARING**

The Idaho Department of Insurance (“**Department**”), by and through its undersigned counsel of record, hereby files this Verified Complaint and Notice of Right to Hearing and complains and alleges as follows:

**JURISDICTION**

1. Jurisdiction is founded in the Idaho Insurance Code, Idaho Code §§ 41-101 *et seq.*, including Idaho Code § 41-210, which authorizes the Department’s Director (“**Director**”) to enforce the provisions of title 41, Idaho Code, including those that relate to Respondent’s activities

as a nonresident producer.

2. Jurisdiction is further founded in Idaho Code § 41-213, which authorizes the Department to institute such proceedings as deemed necessary for the enforcement of any provision of the Idaho Insurance Code, including but not limited to suspension or revocation of insurance licenses and the imposition of administrative penalties.

3. Jurisdiction is further founded in Idaho Code § 41-1016(5), which authorizes the Department to retain authority to enforce the Idaho Insurance Code against a person who is under investigation or charged with a violation even if the person's license has been surrendered, has lapsed, or if the person was never licensed.

4. Shawn Matthew Hegemann ("**Respondent**") was issued Nonresident Producer License No. 468096 on November 14, 2013, which license expired on January 31, 2016. To date, Respondent has not attempted to renew Nonresident Producer License No. 468096.

### **FACTUAL ALLEGATIONS**

5. Between November 14, 2013, and January 31, 2016, Respondent sold disability/health and life insurance lines within the state of Idaho through Transamerica Premier Life Insurance.

6. On or about September 14, 2015, Ms. Tonya Thomson contacted the Respondent requesting assistance finding a Medicare Supplement Insurance Policy for her elderly mother, Barbara J. Dives. Ms. Dives, who is 80 years old, suffers from [REDACTED]

7. Prior to contacting Respondent, Ms. Thomson had moved her mother, Ms. Dives, on August 8, 2015, from Lancaster, California, to an assisted care facility located in Twin Falls, Idaho, so that she would be nearby and her care could be more easily monitored.

8. Not long after the move, Ms. Thomson discovered that Ms. Dives' supplemental

health insurance through Kaiser Permanente was not supported in Southern Idaho.

9. Shortly thereafter, Ms. Thomson consulted with Respondent for the purpose of obtaining a different supplemental healthcare policy that would support the care providers in the Twin Falls area.

10. Respondent sent Ms. Thomson an email on September 14, 2015, stating the following:

Hi Tonya,

I went ahead [sic] and attached a PDF of all the available Plan F's in your zip code.

Aetna is the most affordable at \$180.84. So they would be my recommendation if **we are able to get your mother qualified for guaranteed issue**. Otherwise, the only company that would take her with her having [REDACTED], would be United Healthcare. United Healthcare would be \$325.00 a month.

Please let me know how your conversation with Kaiser goes. **We just need a letter on their stationary that says they won't cover her anymore because of her moving to Idaho.**

Call, email, or text at your convenience.

Thanks and have a good evening,

Shawn

[Emphasis added].

11. Ms. Thomson understood from Respondent's communications that her mother would not be able to obtain another policy without first receiving a letter terminating the existing policy with Kaiser Permanente.

12. On October 21, 2015, Kaiser Permanente sent a voluntary cancellation letter to Ms. Thomson. However, the letter did not state that cancellation was due to Ms. Dives' relocation to Idaho. The letter simply informed of the policy cancellation as follows:

We have processed your request to cancel your health benefits enrollment.

The effective date of cancellation of your coverage is September 30, 2015. No monthly premium will be withheld from your November payment, (which is your annuity payment for the previous month).

**It is our pleasure to serve you.**

13. Ms. Thomson emailed a copy of the cancellation letter to Respondent on the same day that she received it, *i.e.*, October 21, 2015;

14. Respondent did not inform Ms. Thomson that a voluntary termination would prohibit Ms. Dives from qualifying as a “guaranteed issue” pursuant to Section 1851(g) (3)(B) of the Social Security Act as incorporated by IDAPA 18.01.54, or that a corrected letter would be necessary for Ms. Dives to avoid the repercussions of Ms. Dives’ not qualifying as a “guaranteed issue” or even what the repercussions would be. Respondent did not indicate that the letter received by Ms. Thomson was deficient in any manner or that anything more was needed.

15. On November 3, 2015, Ms. Thomson received an email from Respondent with an Aetna Medicare Supplemental Insurance application attached. Ms. Thomson completed the application on behalf of her mother, including answering the medical history questions contained in the application. She then returned the application to Respondent via email on the same day.

16. Respondent did not inform Ms. Thomson that disclosing Ms. Dives’ medical history is unnecessary on a “guaranteed issue” application or that insurers are prohibited from considering pre-existing conditions if an application for “guaranteed issue” is received within an applicable open enrollment period. Respondent did not inform Ms. Thomson that a 63-day open enrollment timeline is triggered by a qualifying cancellation letter and that to qualify, the cancellation letter must state termination was due to relocation.

17. On November 19, 2015, Ms. Thompson sent Respondent via email the following



message:

Hey Shawn how are things going? I haven't heard anything from Aetna isn't that that ins [sic] is through?

18. On November 23, 2015, Respondent sent the following response to Ms. Thomson via email:

Hi Tonya,

I just checked with Aetna and they are still underwriting your mom's application.

This is their busy time of the year so unfortunately they are a bit behind. I'll be checking again tomorrow and Wednesday. I will keep you posted as soon as anything changes.

Shawn

19. Between November 23, 2015, and December 28, 2015, Ms. Thomson made several attempts to contact Respondent by telephone,

20. On December 28, 2015, Ms. Thomson contacted Aetna directly regarding her mother's supplemental health insurance policy and discovered that Aetna had no record of her mother's application.

21. Respondent was unaware and/or failed to advise Ms. Thomson and Ms. Dives that:

- a) A voluntary termination of the Kaiser Permanente policy would prohibit Ms. Dives from qualifying as a "guarantee issue";
- b) Ms. Dives' needed a revised termination letter that properly identified her relocation as the rationale for terminating coverage;
- c) If Ms. Dives failed to qualify as "guarantee issue" her pre-existing conditions would be considered in obtaining supplemental coverage and would place her at risk for denial of coverage and/or higher premiums; and
- d) Even if Ms. Dives' obtained a revised letter, she must obtain a supplemental

policy within the 63-day open enrollment period.

22. As a result of Ms. Thomson's and Ms. Dives' reliance on Respondent's guidance or lack thereof, they were unaware that: a) a revised termination letter was needed; b) Ms. Dives' medical history should not be provided on her application to Aetna; and c) an open enrollment period existed and lapsed without Ms. Dives obtaining supplemental coverage. As such, Ms. Dives has been without supplemental health insurance since October 21, 2015.

23. On December 30, 2015, Ms. Thomson submitted a Complaint Report with the Senior Health Insurance Benefits Advisors ("SHIBA") section of the Department, detailing the issues she experienced with Respondent.

24. In accordance with Idaho Code § 41-247, the Department forwarded a letter via email on January 27, 2016, with a copy of Ms. Thomson's consumer complaint to Respondent, querying about the status of any application for Medicare Supplement Insurance filed with Respondent on behalf of Ms. Dives and requesting certain information, including but not limited to copies of: all applications that he filed for Medicare Supplement Insurance for Ms. Dives and all correspondence, telephone conversation recordings and notes regarding any applications made by Ms. Dives and/or Ms. Thomson on behalf of Ms. Dives.

25. On February 1, 2016, Respondent contacted the Department via telephone and gave assurances that he would respond with the information by the end of the week, *i.e.*, Friday, February 5, 2016.

26. On February 11, 2016, the Department sent a second letter to Respondent advising that Respondent was in jeopardy of violating Idaho Code § 41-247 by failing to respond to the Department's request.

27. On February 17, 2016, the Department received an incomplete response from

Respondent.

28. On February 19, 2016, the Department sent a third letter to Respondent requesting a written response to the following by no later than February 25, 2016:

Thank you for your response dated February 17, 2016. However, your response did not include all of the information I requested in my January 27, 2016 letter. Please answer the following questions:

1. Please provide all records you have concerning Ms. Dives' application for insurance. I would like to see a copy of any and all applications and declination letters or other correspondence relating to Medicare Supplement policy applications.
2. Specifically, did you submit an application to Aetna/Continental Life Insurance Company of Brentwood, TN? If so, what was the result of that application?
3. If you did not submit an application to Aetna/Continental Life Insurance Company of Brentwood, TN please explain why you did not submit that application and how that information was communicated to Ms. Thomson/Ms. Dives.
4. Please provide proof of when and how you notified Ms. Thomson/Ms. Dives that her policy was not submitted.
5. Please include all correspondence, telephone conversation recordings, and agency notes regarding any applications made by Ms. Dives and/or Tonya Thomson on behalf of Ms. Dives.
6. Please provide the contact information you use for Aetna/Continental Life Insurance Company of Brentwood, TN.

29. To date, the Department has not received a complete response from Respondent. Specifically, Respondent has failed to confirm that he submitted an application to Aetna, or to any insurance provider, on behalf of Ms. Dives.

**COUNTS ONE THROUGH FOUR:**  
**SOURCE OF INJURY OR LOSS TO PUBLIC**  
**IN VIOLATION OF IDAHO CODE § 41-1016(1) (h)**

30. Paragraphs 1 through 29 are re-alleged as if set forth in full.

31. Idaho Code § 41-1016(1)(h) prohibits under risk of sanction a producer from “[u]sing 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.”

32. Pursuant to Idaho Code § 41-4404, the Department may adopt minimum standards for supplemental health insurance policies, including rules addressing pre-existing conditions and open enrollment. Pursuant to IDAPA 18.01.54.027.02(b), *Guaranteed Issue for Eligible Persons*, a person is eligible to for a guaranteed issue of supplemental insurance if the prior provider no longer services the person due to a change in residence location. Further, pursuant to IDAPA 18.01.54.027.02 and .03(b), a person need not disclose pre-existing conditions if supplemental insurance is sought during an open enrollment period, which is within 63 days after the date prior coverage is terminated.

33. Idaho Code § 41-1016(1) (b) provides for sanctions against a licensed nonresident producer who “violat[es] any provision of title 41, Idaho Code”, including suspension or revocation of a license, and authorizes the Department to seek an administrative penalty not to exceed \$1,000 per violation. Pursuant to Idaho Code § 41-1016(5), the Director may impose such a sanction and/or penalty even if Respondent’s license lapsed.

34. Respondent demonstrated incompetence and/or untrustworthiness in four separate manners, each a separate violation creating injury, by providing inaccurate advice and/or by failing to properly advise on Idaho statutes and rules governing the issuance of supplemental health insurance as follows by failing to advise:

- a) that a voluntary termination of coverage would prohibit Ms. Dives from qualifying for a “guarantee issue” of supplemental coverage;

- b) to obtain a revised termination letter that specifically states that Ms. Dives' relocation was the rationale for the termination of her policy;
- c) that if Ms. Dives failed to qualify as "guarantee issue" her pre-existing conditions would be considered in obtaining supplemental coverage and would place her at risk for denial of coverage and/or higher premiums;
- d) not to disclose Ms. Dives' medical history on the application for medical health insurance;
- e) of the existence of an open enrollment period; and
- f) or act to preserve Ms. Dives' ability to qualify as a "guaranteed issue" and thus obtain supplemental health insurance coverage without disclosing pre-existing conditions and within the 63-day open enrollment period.

35. As a result of Respondent's demonstrated incompetence and/or untrustworthiness, Ms. Dives has suffered injuries in that she was unable to obtain supplemental coverage within the Open Enrollment Period; she now is required to disclose pre-existing conditions that she otherwise would not have been required to disclose; she is now limited as to the carriers, if any, that will provide supplemental coverage given her pre-existing conditions; and she is experiencing or will experience higher premium rates if she is able to obtain supplemental coverage that services her pre-existing condition.

36. Pursuant to Idaho Code § 41-1016(1)(h), the Department has cause and is entitled to an order revoking Respondent's Idaho Nonresident Producer License No. 468096 and imposing an administrative penalty of \$1,000 per violation for an administrative penalty of not less than \$6,000.

**COUNT FIVE THROUGH SEVEN;**  
**FAILURE TO RESPOND TO INFORMATION REQUESTS**  
**IN VIOLATION OF IDAHO CODE §§ 41-247, 1016(1) (b) & (3), and 41-117**

37. Paragraphs 1 through 36 are re-alleged as if set forth in full.

38. Idaho Code § 41-1037 authorizes the Department to license nonresident producers and to regulate their practices and transactions. Idaho Code § 41-247 authorizes the Department “to direct an inquiry in writing to any person subject to [the Director’s] jurisdiction with respect to any insurance transaction or matter relative to a subject of insurance resident, located, or to be performed in this state” and imposes an obligation on the recipient of that inquiry to respond within a timely manner.

39. Idaho Code § 41-1016(1) (b) provides for sanctions against a licensed nonresident producer who “violat[es] any provision of title 41, Idaho Code”, including suspension or revocation of a license, and authorizes the Department to seek an administrative penalty not to exceed \$1,000 per violation. Pursuant to Idaho Code § 41-1016(5), the Director may impose such a sanction and/or penalty even if Respondent’s license lapsed.

40. Idaho Code § 41-117 also provides authority for the Department to deny, suspend or revoke a license and seek an administrative penalty of \$1,000 per violation for each violation of the Insurance Code.

41. Respondent violated Idaho Code § 41-247 by failing to provide complete responses to each of the Department’s three requests for information regarding Ms. Thomson’s and Ms. Dives’ transaction.

42. The Department has cause for and is entitled to seek an order revoking Respondent’s Idaho Nonresident Producer License No. 468096 and to seek imposition of an administrative penalty of \$1,000 for each violation for a total of not less than \$3,000.

### **REQUEST FOR RELIEF**

43. Based on the foregoing, the Department seeks an order revoking Idaho Nonresident Producer License No. 468096.

44. The Department also seeks an order imposing an administrative penalty in the total amount of not less than \$9,000 against Respondent, with said penalty to be paid prior to any application for reinstatement of Respondent's nonresident producer license. Said administrative penalty is calculated as follows:

- a) \$1,000 for failing to advise Ms. Thomson and Ms. Dives that a voluntary termination of coverage would prohibit Ms. Dives from qualifying for a "guarantee issue" of supplemental coverage;
- b) \$1,000 for failing to advise Ms. Thomson and Ms. Dives to obtain a revised termination letter that specifically stated that Ms. Dives' relocation was the rationale for the termination of her policy ;
- c) \$1,000 for failing to advise Ms. Thomson and/or Ms. Dives that if Ms. Dives failed to qualify as "guarantee issue" her pre-existing conditions would be considered in obtaining supplemental coverage and would place her at risk for denial of coverage and/or higher premiums;
- d) \$1,000 for failing to advise that Ms. Thomson and Ms. Dives not to disclose pre-existing conditions on the application for supplemental coverage;
- e) \$1,000 for failing to inform Ms. Thomson and Ms. Dives of the existence of an open enrollment period;
- f) \$1,000 for failing to timely and properly advise or act to preserve Ms. Dives' ability to qualify as a "guaranteed issue" and thus obtain supplemental health

insurance coverage without disclosing pre-existing conditions and within the 63-day open enrollment period; and

- g) \$3,000 for failing to provide complete responses to the Department's three efforts to obtain information regarding the application(s), if any, that Respondent submitted to carriers on behalf of Ms. Dives.

### **NOTICE OF RIGHT TO A HEARING**

Pursuant to Idaho Code § 41-232A, Respondent has the right to a hearing on this matter. In order to exercise this right, 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 written 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 in the Complaint, pursuant to Idaho Code § 41-232A(2).

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

Dean L. Cameron, Director  
Idaho Department of Insurance  
P.O. Box 83720  
Boise, ID 83720-0043

A copy shall also be provided to the Department's counsel in this matter, Judy L. Geier, Deputy Attorney General, at the following address:

Judy L. Geier  
Deputy Attorney General  
Idaho Department of Insurance  
P.O. Box 83720  
Boise, ID 83720-0043

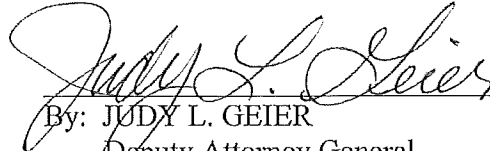
In lieu of a hearing, this matter may be resolved by negotiation, stipulation, agreed settlement, or consent order, pursuant to Idaho Code § 67-5241. Should you wish to discuss these



options, please contact the undersigned deputy attorney general. If you fail to submit a timely written response to the allegations within 21 days of the service of this Complaint, a final order will be entered imposing the relief described above.

DATED this 29<sup>th</sup> day of August, 2016.

OFFICE OF THE ATTORNEY GENERAL

  
By: JUDY L. GEIER  
Deputy Attorney General  
Attorney for the Department of Insurance

VERIFICATION

STATE OF IDAHO    )  
                              : ss.  
County of Ada        )

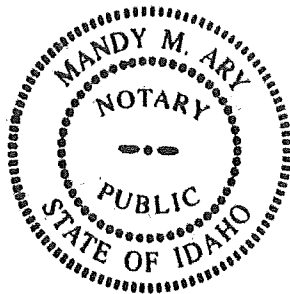
Elaine Mellon, Consumer Services Bureau Chief for the Idaho Department of Insurance,  
being first duly sworn, deposes and says:

I have read the foregoing Verified Complaint and Notice of Right to Hearing and know  
the contents thereof, and the same are true to the best of my knowledge and belief and based on  
the records of the Department.

DATED this 26 day of August, 2016.

Elaine Mellon  
ELAINE MELLON

SUBSCRIBED AND SWORN to before me this 26<sup>th</sup> day of August, 2016.



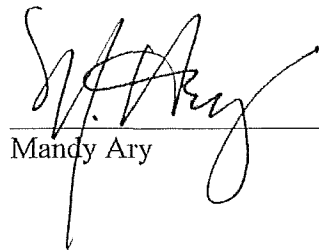
Mandy M. Ary  
Notary Public for Idaho  
My commission expires on 7/24/2018

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 29<sup>th</sup> day of August, 2016, and in compliance with Idaho Code § 41-232A, I caused a true and correct copy of the foregoing VERIFIED COMPLAINT AND NOTICE OF RIGHT TO HEARING to be served upon the following by the designated means:

Shawn Matthew Hegemann  
3000 S. 46<sup>th</sup> Street  
Lincoln, NE 68506-3336

☒ first class mail  
☒ certified mail  
☐ hand delivery

  
\_\_\_\_\_  
Mandy Ary