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I.S.B. No. 3873

**FILED**

**OCT 25 2016** 

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.

ERIK ASTHEIMER, an individual holding  
inactive Idaho Resident Producer License  
No. 484584,

Respondent.

Docket No. 18-3193-16

**ORDER OF DEFAULT REVOKING  
IDAHO RESIDENT PRODUCER  
LICENSE**

The Director of the Idaho Department of Insurance (“Director”) having reviewed the record herein; and ERIK ASTHEIMER (“RESPONDENT”), who currently holds inactive Idaho Resident Producer License No. 484584, 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 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 Idaho Resident Producer License No. 484584 issued to RESPONDENT is REVOKED effective immediately and that, pursuant to Idaho Code § 41-1026(3), RESPONDENT shall not be issued any license under title 41, Idaho Code, for a period of five (5) years, after which RESPONDENT must petition and show good cause why this revocation should not be deemed a bar to the issuance of a new license.

**IT IS HEREBY FURTHER ORDERED** that an administrative penalty in the amount of \$1,000 per violation as alleged in the Verified Complaint, for a total administrative penalty of Thirty-eight Thousand Dollars (\$38,000), is imposed against RESPONDENT.

**IT IS HEREBY FURTHER ORDERED**, pursuant to Idaho Code § 41-1027(2), that RESPONDENT shall immediately return Idaho Resident Producer License No. 484584 to the Idaho Department of Insurance, P.O. Box 83720, Boise, Idaho 83720-0043.

IT IS SO ORDERED.

DATED this 25 day of October, 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 on this 25 day of October, 2016, I caused a true and correct copy of the foregoing ORDER OF DEFAULT REVOKING IDAHO RESIDENT PRODUCER LICENSE to be served upon the following by the designated means:

Erik Astheimer  
4525 S. Glenmere Way  
Meridian, ID 83642-9216

☒ first class mail  
☐ certified mail  
☐ hand delivery

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

LAWRENCE G. WASDEN  
Attorney General

JOHN C. KEENAN  
Deputy Attorney General  
State of Idaho  
Department of Insurance  
700 W. State Street, 3<sup>rd</sup> Floor  
P.O. Box 83720  
Boise, Idaho 83720-0043  
Telephone: (208) 334-4283  
Facsimile: (208) 334-4298  
[john.keenan@doi.idaho.gov](mailto:john.keenan@doi.idaho.gov)  
I.S.B. No. 3873

FILED  
SEP 26 2016 *WMA*  
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.

ERIK ASTHEIMER, an individual holding  
inactive Idaho Resident Producer License  
No. 484584,

Respondent.

Docket No. 18-3193-16

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

The Idaho Department of Insurance (hereinafter "Department"), by and through its attorney of record, John C. Keenan, Deputy Attorney General, does hereby complain and allege as follows:

1. The Director of the Department has jurisdiction in the state of Idaho over matters involving insurance regulation and licensing, in accordance with title 41, Idaho Code.

EXHIBIT

A

2. This administrative proceeding is brought under the provisions of the Idaho Insurance Code, Idaho Code § 41-101 *et seq.*, including, among other sections, Idaho Code § 41-1016, which authorizes the Department to initiate a contested case against individuals licensed under the provisions of title 41, chapter 10, Idaho Code, including insurance producers, seeking revocation of the license, as well as the imposition of administrative penalties, if the Director of the Department finds that any one or more of the causes or violations set forth in subsections (1)(a) through -(n) of that section exist.

3. Pursuant to section 41-1026(3), Idaho Code, the Director shall not issue a license under title 41, Idaho Code, to any person whose license has been revoked until after the expiration of not less than one (1) year to a maximum of five (5) years and, upon a former licensee's application for re-licensure, the Director may require the former licensee "to show good cause why the prior revocation ... shall not be deemed a bar to the issuance of a new license."

4. The Director retains the authority, pursuant to section 41-1016(5), Idaho Code, to enforce the provisions of and impose a penalty or remedy authorized in title 41, Idaho Code, even if a person's license has been surrendered or has lapsed by operation of law.

5. All acts as alleged herein were committed within the state of Idaho.

### **RESPONDENT**

6. ERIK ASTHEIMER (hereinafter "Respondent") is a resident of Meridian, Idaho, and held Idaho Resident Producer License No. 484584, which was originally issued on May 1, 2014, and expired on July 31, 2016.

### **FACTS AND ALLEGATIONS**

7. Paragraphs 1 through 6 are incorporated herein as if set forth in full.

8. During all times as alleged herein, Respondent was appointed as an agent of American Family Life Assurance Company of Columbus (hereinafter "AFLAC").

9. On December 5, 2014, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on December 4, 2014, a blood test was completed by Raymond Hooft, M.D., on R. Astheimer.

10. AFLAC paid Respondent the sum of \$100.00 for said claim.

11. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

12. On December 15, 2014, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on December 4, 2014, a blood test was completed by Raymond Hooft, M.D., on M. Moore.

13. AFLAC paid Respondent the sum of \$100.00 for said claim.

14. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

15. On December 17, 2014, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on December 4, 2014, a blood test was completed by Raymond Hooft, M.D., on S. Astheimer.

16. AFLAC paid Respondent the sum of \$100.00 for said claim.

17. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

18. On December 17, 2014, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on December 4, 2014, a blood test was completed by Raymond Hooft, M.D., on K. Astheimer.

19. AFLAC paid Respondent the sum of \$100.00 for said claim.

20. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

21. On March 18, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on March 17, 2015, a blood test was completed by Raymond Hooft, M.D., on K. Astheimer.

22. AFLAC paid Respondent the sum of \$100.00 for said claim.

23. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

24. On March 18, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on March 17, 2015, a blood test was completed by Raymond Hooft, M.D., on S. Astheimer.

25. AFLAC paid Respondent the sum of \$100.00 for said claim.

26. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

27. On March 18, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on March 17, 2015, a blood test was completed by Raymond Hooft, M.D., on V. Willis.

28. AFLAC paid Respondent the sum of \$100.00 for said claim.

29. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.



30. On March 18, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on March 17, 2015, a blood test was completed by Raymond Hooft, M.D., on O. Willis.

31. AFLAC paid Respondent the sum of \$100.00 for said claim.

32. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

33. On March 18, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on March 17, 2015, a blood test was completed by Raymond Hooft, M.D., on E. Astheimer.

34. AFLAC paid Respondent the sum of \$100.00 for said claim.

35. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

36. On March 18, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on March 17, 2015, a blood test was completed by Raymond Hooft, M.D., on R. Astheimer.

37. AFLAC paid Respondent the sum of \$100.00 for said claim.

38. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

39. On March 23, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on March 17, 2015, a blood test was completed by Raymond Hooft, M.D., on M. Moore.

40. AFLAC paid Respondent the sum of \$100.00 for said claim.

41. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

42. On June 30, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on June 30, 2015, a blood test was completed by Raymond Hooft, M.D., on S. Astheimer.

43. AFLAC paid Respondent the sum of \$100.00 for said claim.

44. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

45. On June 30, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on June 30, 2015, a blood test was completed by Raymond Hooft, M.D., on V. Willis.

46. AFLAC paid Respondent the sum of \$100.00 for said claim.

47. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

48. On June 30, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on June 30, 2015, a blood test was completed by Raymond Hooft, M.D., on O. Willis.

49. AFLAC paid Respondent the sum of \$100.00 for said claim.

50. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

51. On June 30, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on June 30, 2015, a blood test was completed by Raymond Hooft, M.D., on M. Moore.

52. AFLAC paid Respondent the sum of \$100.00 for said claim.

53. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

54. On June 30, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on June 30, 2015, a blood test was completed by Raymond Hooft, M.D., on K. Astheimer.

55. AFLAC paid Respondent the sum of \$100.00 for said claim.

56. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

57. On June 30, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on June 30, 2015, a blood test was completed by Raymond Hooft, M.D., on R. Astheimer.

58. AFLAC paid Respondent the sum of \$100.00 for said claim.

59. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

60. On June 30, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on June 30, 2015, a blood test was completed by Raymond Hooft, M.D., on V. Willis.

61. AFLAC paid Respondent the sum of \$100.00 for said claim.

62. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

63. On June 30, 2015, Respondent submitted to AFLAC an insurance claim in the amount of \$100.00. The claim stated that on June 30, 2015, a blood test was completed by Raymond Hooft, M.D., on E. Astheimer.

64. AFLAC paid Respondent the sum of \$100.00 for said claim.

65. Respondent was dishonest in submitting the claim by misrepresenting a material fact to AFLAC, as Raymond Hooft, M.D., did not provide the service as claimed.

### **VIOLATIONS**

66. Respondent violated section 41-1016(1)(e), Idaho Code, when he submitted a claim to AFLAC that included the misrepresentation of a material fact on nineteen (19) separate occasions.

67. Respondent violated section 41-1016(1)(h), Idaho Code, when he used fraudulent or dishonest practices, demonstrated incompetence or untrustworthiness, or was a source of injury and loss to the public or others in the conduct of business in the state of Idaho by submitting a false claim to AFLAC on nineteen (19) separate occasions and accepting payment on the false claims.

### **PRAYER FOR RELIEF**

The Idaho Department of Insurance prays for relief as follows:

1. For a finding that Respondent violated section 41-1016(1)(e), Idaho Code, on nineteen (19) separate occasions as alleged herein;
2. For a finding that Respondent violated section 41-1016(1)(h), Idaho Code, on nineteen (19) separate occasions as alleged herein;
3. For an order revoking Idaho Resident Producer License No. 484584 issued to Respondent and providing that Respondent shall not be issued any license under title 41, Idaho


Code, for a period of five (5) years, after which Respondent must petition and show good cause why this revocation should not be deemed a bar to the issuance of a new license; and,

4. For an order imposing an administrative penalty in the amount of \$1,000.00 per violation in such total number as shall be proved at hearing or, in the event of default, in the amount of \$38,000.00.

5. For such other relief that is deemed just under the circumstances.

RESPECTFULLY SUBMITTED this 23<sup>rd</sup> day of September, 2016.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

  
\_\_\_\_\_  
JOHN C. KEENAN  
Deputy Attorney General

VERIFICATION

STATE OF IDAHO                    )  
  : ss.  
County of Ada                    )

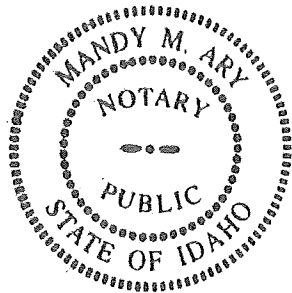
ELAINE MELLON, Consumer Services Bureau Chief, Department of Insurance, State of Idaho, being first duly sworn, deposes and says:

I have read the foregoing Complaint and know the contents thereof and the same are true to the best of my knowledge and belief.

Dated this 23 day of Sept., 2016.

Elaine Mellon  
ELAINE MELLON

SUBSCRIBED AND SWORN to before me, the undersigned Notary Public for the state of Idaho, this 23<sup>rd</sup> day of September, 2016.



Mandy M. Ary  
Notary Public for Idaho  
My Commission Expires 7/24/2018

**NOTICE OF RIGHT TO A HEARING**

TO: **ERIK ASTHEIMER**

THE RESPONDENT IS HEREBY NOTIFIED, pursuant to Idaho Code § 41-232A(2), 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 written request for a hearing upon the Department within the twenty-one (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, John C. Keenan, Deputy Attorney General, at the following address:

John C. Keenan  
Deputy Attorney General  
Idaho Department of Insurance  
P.O. Box 83720  
Boise, ID 83720-0043

In lieu of holding 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 this matter, please contact the undersigned deputy attorney general.

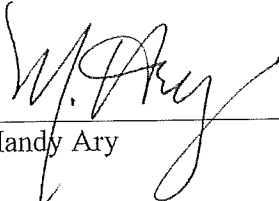
  
\_\_\_\_\_  
John C. Keenan

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 26<sup>th</sup> day of September, 2016, 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:

Erik Astheimer  
4525 S. Glenmere Way  
Meridian, ID 83642-9216

☒ first class mail  
☐ certified mail  
☐ hand delivery

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