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I.S.B. No. 3873

FILED 
AUG 01 2017
Department of Insurance
State of Idaho

Attorneys for the Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

NICHOLAS JOSEPH CHMIELEWSKI,

Nonresident Surplus Lines Broker License
No. 519051 and Nonresident Producer
License No. 463306

Docket No. 18-3341-17

**ORDER OF DEFAULT REVOKING
IDAHO NONRESIDENT SURPLUS
LINES BROKER LICENSE AND
IDAHO NONRESIDENT PRODUCER
LICENSE**

The Director of the Idaho Department of Insurance (“Director”) having reviewed the record herein; and NICHOLAS JOSEPH CHMIELEWSKI (“RESPONDENT”), who currently holds Idaho Nonresident Surplus Lines Broker License No. 519051 and Idaho Nonresident Producer License No. 463306, 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 Nonresident Surplus Lines Broker License No. 519051 and Idaho Nonresident Producer License No. 463306 issued to RESPONDENT are REVOKED effective immediately.

IT IS HEREBY FURTHER ORDERED, pursuant to Idaho Code § 41-1027(2), that RESPONDENT shall immediately return Idaho Nonresident Surplus Lines Broker License No. 519051 and Idaho Nonresident Producer License No. 463306 to the Idaho Department of Insurance, P.O. Box 83720, Boise, Idaho 83720-0043.

IT IS SO ORDERED.

DATED this 31 day of July, 2017.

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 1st day of August, 2017, caused a true and correct copy of the foregoing ORDER OF DEFAULT REVOKING IDAHO NONRESIDENT SURPLUS LINES BROKER LICENSE AND IDAHO NONRESIDENT PRODUCER LICENSE to be served upon the following by the designated means:

Nicholas J. Chmielewski
240 Bay Street, Apt. 4252
San Francisco, CA 94133-1925

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

Nicholas J. Chmielewski
AON
425 Market Street, Suite 2800
San Francisco, CA 94105-2490

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

AON Risk Insurance Services West, Inc.
425 Market Street, Suite 2800
San Francisco, CA 94105-2490

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

John C. Keenan
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

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


Pamela Murray

LAWRENCE G. WASDEN
Attorney General

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FILED
JUL 05 2017 *WMA*
Department of Insurance
State of Idaho

Attorneys for the Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

NICHOLAS JOSEPH CHMIELEWSKI,

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No. 519051 and Nonresident Producer
License No. 463306

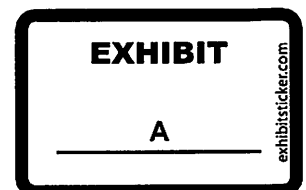
Docket No. 18-3341-17

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

COMES NOW the staff of the Idaho Department of Insurance (the "Department"), by and through its undersigned counsel, and does hereby give notice of verified allegations constituting violation(s) of Idaho law, notice that relief will be requested from the Director of the Department, and a notice of the right to contest the allegations and requested relief herein and right to hearing to:

NICHOLAS JOSEPH CHMIELEWSKI

Nonresident Surplus Lines Broker License No. 519051
Nonresident Producer License No. 463306



The Department alleges the following facts and violations of title 41, Idaho Code, as itemized below. The Department will present an order seeking the relief described below upon twenty-one (21) days following service of the verified Complaint, and, NICHOLAS JOSEPH CHMIELEWSKI, you are further notified of your right to object to the requested relief, including the basis for any objection, and to request a hearing in writing.

ALLEGATIONS

The allegations and violations supporting the requested relief are:

1. Idaho Code § 41-210 empowers the Director of the Idaho Department of Insurance (“Director”) to enforce the provisions of title 41, Idaho Code. As such, the Director has jurisdiction over this matter.

2. Nicholas Joseph Chmielewski (“RESPONDENT”) is duly authorized by the State of Idaho as a nonresident surplus lines broker pursuant to license no. 519051 (“Surplus Broker License”) and as a nonresident producer pursuant to license no. 463306 (“Producer License”). RESPONDENT is therefore subject to title 41, Idaho Code, and to the rules of the Department.

3. RESPONDENT was granted nonresident surplus lines broker license no. 519051 effective February 17, 2015, pursuant to title 41, chapter 12, Idaho Code, which Surplus Broker License is scheduled to expire on January 31, 2018.

4. RESPONDENT was granted nonresident producer license no. 463306 effective October 8, 2013, pursuant to title 41, chapter 10, Idaho Code, which Producer License is scheduled to expire on January 31, 2018.

5. “Surplus Line Coverage” is defined as certain insurance products that cannot otherwise be procured from insurers authorized to do business within Idaho which are then allowed

to be procured from unauthorized insurers subject to certain conditions delineated in Idaho Code § 41-1214.

6. Only surplus lines brokers licensed by Idaho and who are members of the Surplus Lines Association of Idaho (the “Association”) may procure Surplus Line Coverage for Idaho residents. Idaho Code § 41-1214(1); IDAPA Rule 18.01.17.011.01. Membership in the Association is a condition of maintaining a surplus lines broker license in Idaho.

7. Shortly after RESPONDENT was granted his Surplus Broker License, RESPONDENT was sent via email, a membership application by the Association on or about February 2015. Between March and May 2017, the Association made four attempts by email to contact RESPONDENT regarding his obligation to join. The Association also attempted to reach RESPONDENT by telephone on or about May 9, 2017, and left a voicemail. The Association received no response from RESPONDENT.

8. On or about May 10, 2017, the Department sent RESPONDENT a letter by US Mail and by email reminding him of his obligation to join the Association and warning him that failure to do so could result in revocation of his Idaho licenses.

9. To date, RESPONDENT has neither registered nor filed any submissions with the Association.

FIRST CAUSE OF ACTION

Failure to Register with the Approved Association Violation of Idaho Code § 41-1214(1); IDAPA 18.01.17.011

10. The foregoing allegations in Paragraphs 1-9 are incorporated herein as if set forth in full.

11. Pursuant to Idaho Code § 41-1214(1), surplus lines of insurance coverage “must be procured through a licensed surplus lines broker who is a member of a surplus line association

approved by the director.” *See also* IDAPA 18.01.17.011.

12. RESPONDENT’s failure to register with the Association as a nonresident surplus lines broker while obtaining and maintaining a surplus lines broker license constitutes attempting to transact and/or transacting surplus lines insurance business in violation of title 41, chapter 12, Idaho Code.

13. Pursuant to Idaho Code § 41-1016(1)(b), as incorporated by § 41-1224(1)(d), the Director may suspend or revoke a surplus lines broker’s license where the licensee has violated any provision of title 41, Idaho Code, or Department rule.

14. Pursuant to Idaho Code § 41-1224(4), a surplus lines broker whose license has been suspended or revoked shall not again be licensed until any fines or delinquent taxes owed are paid and, in the case of revocation, not until the expiration of one (1) year from the date of final revocation.

15. The Department seeks immediate revocation of RESPONDENT’s Surplus Broker License.

SECOND CAUSE OF ACTION
Simultaneous Revocation of Nonresident Producer License
Pursuant to Idaho Code § 41-1224(3) and (4)

16. The foregoing allegations in Paragraphs 1-15 are incorporated herein as if set forth in full.

17. RESPONDENT holds a nonresident producer license issued by the State of Idaho.

18. Pursuant to Idaho Code § 41-1224(3), suspension or revocation of RESPONDENT’s Surplus Broker License shall automatically suspend or revoke all other licenses held by RESPONDENT under title 41, Idaho Code, including RESPONDENT’s nonresident producer license.

19. Pursuant to Idaho Code § 41-1224(4), reinstatement of a suspended or revoked surplus lines broker license cannot occur until any fines or delinquent taxes owed are paid and, in the case of revocation, not until the expiration of one (1) year from the date of final revocation.


20. As such, the Department also seeks revocation of RESPONDENT's Nonresident Producer License No. 463306 for a minimum of one (1) year from the date of final revocation or until such time as RESPONDENT would again be eligible for a surplus lines broker license in accordance with Idaho Code § 41-1224(4).

REQUEST FOR RELIEF

Based upon the foregoing facts and allegations, unless the Department receives a written objection from NICHOLAS JOSEPH CHMIELEWSKI, that describes the basis for the objection and a demand for hearing, within twenty-one (21) days following service of this notice, the Department intends to submit a proposed order to the Director immediately revoking Nonresident Surplus Line Broker License No. 519051 and Nonresident Producer License No. 463306.

DATED this 5th day of July, 2017.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL


By: JOHN C. KEENAN
Deputy Attorney General
Attorney for the Department of Insurance

VERIFICATION

STATE OF IDAHO)
 : ss.
County of Ada)

LISA TORDJMAN, for the Department of Insurance, State of Idaho, being first duly sworn, deposes and says:

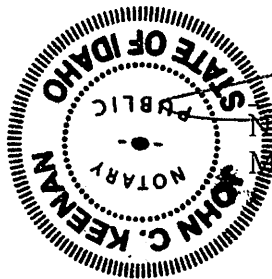
I have read the foregoing Verified Complaint and Notice of Right to Hearing and know the contents thereof, and the same are true to the best of my knowledge and belief and based on the records of the Department.

DATED this 5th day of July, 2017.



LISA TORDJMAN
Supervisor, Producer Licensing
IDAHO DEPARTMENT OF INSURANCE

SUBSCRIBED AND SWORN to before me this 5th day of July, 2017.



Notary Public for Idaho
My commission expires on 30 Oct 2019

NOTICE OF RIGHT TO A HEARING

TO: NICHOLAS JOSEPH CHMIELEWSKI

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

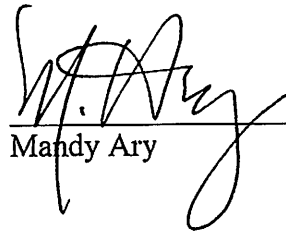
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240 Bay Street, Apt. 4252
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- ☐ via email


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