FILED

Department of Insurance State of Idaho

# BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

## OF THE STATE OF IDAHO

In the Matter of, **RICHARD M. BUDWEE and BUDWEE** FINANCIAL PLANNING SERVICES, INC.,

Docket No. 18-2270-04

ORDER

#### ORDER

NOW THEREFORE, it is hereby ordered:

Producer License No. AL33389

That because a voluntary admission of all pertinent charges has been made by

Richard M. Budwee, Resident Producer, holding License No. A133389;

That the administrative penalty in the amount of Five Hundred (\$500) Dollars has been paid; and

That the Agreement and Undertaking, attached hereto and incorporated herein, is approved and accepted as resolution of this matter and the administrative action is hereby dismissed.

Dated this \_\_\_\_\_ day of Decube, 2004

Jary L. Smith, Director

A 500.00

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### BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

OF THE STATE OF IDAHO

In the Matter of: RICHARD M. BUDWEE AND BUDWEE FINANCIAL PLANNING SERVICES, INC.,

Producer License No. AL33389

Docket No. 18-2270-04 AGREEMENT AND UNDERTAKING

The Department of Insurance ("Department"), by and through its counsel, Margaret P. White, Deputy Attorney General, and Richard M. Budwee ("Budwee") and Budwee Financial Planning Services, Inc., by and through their counsel, Richard A. Riley of Hawley Troxell Ennis & Hawley LLP, hereby stipulate and agree as follows:

1. The Department has issued a Notice of Show Cause Hearing; Appointment of Hearing Officer Re: Proposed Order ("Notice"). The Notice alleges that Budwee (i) violated Idaho Code § 41-1021(1) by failing to notify the Department of an Agreement and Order entered into with the Idaho Department of Finance on or about May 28, 2004, and (ii) conducted insurance business through Budwee Financial Planning Services, Inc., which is not licensed as an insurance producer, in violation of the requirement of Idaho Code § 41-1007(2) that a business entity acting as an insurance producer must obtain an insurance producer license. The Department and Budwee have agreed to resolve this matter, without a public hearing, as set forth in this Agreement and Undertaking.

### AGREEMENT AND UNDERTAKING - 1

2. Budwee is an insurance producer licensed as such by the Department and has been appointed as an agent of certain insurance companies.

3. Budwee Financial Planning Services, Inc. is a registered investment advisor, licensed as such by the Idaho Department of Finance. This entity was formed and is operated for the sole purpose of providing investment advisory services in accordance with the Idaho Securities Act. Its sole revenues consist of fees charged for investment advice. Budwee Financial Planning Services, Inc. has not been appointed as an insurance agent for any insurer. All commissions for insurance policy sales are earned by and paid to Budwee, not Budwee Financial Planning Services, Inc. Accordingly, Budwee Financial Planning Services, Inc. does not act as an insurance producer and is not required to be licensed as an insurance producer under Idaho Code § 41-1007(2).

4. On or about May 28, 2004, Budwee and Budwee Financial Planning Services, Inc. entered into an Agreement and Order with the Idaho Department of Finance. This administrative action by another governmental agency was not reported by Budwee to the Department of Insurance within thirty (30) days of final disposition of the matter as required by Idaho Code § 41-1021(1).

5. Budwee shall reimburse the Department's costs of investigation in the amount of \$500 within thirty (30) days of the date of this Agreement and Undertaking. In addition, Budwee covenants and agrees that he will at all times keep his insurance business separate from the investment advisory business of Budwee Financial Planning Services, Inc. and that Budwee Financial Planning Services, Inc. will not transact insurance within the meaning of Idaho Code § 41-112 without first obtaining an insurance producer license in accordance with Idaho Code § 41-1007(2).

# AGREEMENT AND UNDERTAKING - 2

6. The Department shall and does hereby dismiss this administrative proceeding with prejudice, with each party to bear its own costs and fees, except as provided in paragraph 5 above.

DATED this 2 day of December 2004.

HAWLEY TROXELL ENNIS & HAWLEY LLP By: chard A. Riley

Attorneys for Richard M. Budwee and Budwee Financial Planning Services, Inc.

DATED this  $\underline{3}$  day of December 2004.

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Margaret I. White, Deputy Attorney General Attorney for the Department of Insurance, State of Idaho