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**Department of Insurance
State of Idaho**

Attorneys for Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:)
)
 BRIAN L. FLETCHER)
 Bail Agent License No. BA145400)
)
 And)
)
 AMERICAN CONTRACTORS)
 INDEMNITY COMPANY, INC.,)
 A California Corporation holding)
 Idaho Certificate of Authority)
 No. PC3091)
)
)
)

Docket No. 18-2393-07

ORDER

A Verified Notice of Violation, Claim on Bond, and Right to Hearing (Notice) was filed with the Director on August 16, 2007. Neither BRIAN L. FLETCHER (FLETCHER) nor AMERICAN INDEMNITY COMPANY, INC. objected to the requested relief in writing within twenty-one (21) days as set forth in the Notice.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. FLETCHER is and at all times relevant hereto has been a licensed Idaho bail agent, holding license No. BA145400 since November 27, 2006 and therefore FLETCHER falls within the jurisdiction of the Director of the Idaho Department of Insurance (Department) and Title 41 of the Idaho Code.

2. AMERICAN is and at all times relevant hereto has been an insurer holding Idaho certificate of authority No. PC3091 since February 23, 1999 and therefore AMERICAN falls within the jurisdiction of the Director of the Department and Title 41 of the Idaho Code.

3. On or about November 16, 2006, AMERICAN executed a professional surety performance bond No. 1000756640 (BOND), pursuant to Idaho Code § 41-1040, in favor of the Director in the amount of fifteen thousand dollars (\$15,000) to be held in trust for the benefit and protection of the public against a judicial or administrative determination of loss by acts of fraud or dishonesty by FLETCHER. At all times relevant hereto, the bond was still in full force and effect.

4. On or about November 24, 2006, FLETCHER posted bond for Terry Gene Norton Jr. (Norton). FLETCHER accepted cash from Jean Norton to secure a bail bond guaranteeing the appearance of Norton in front of the District Court of the Fourth Judicial District, Ada County (Court).

5. On or about April 3, 2007, Judge Thomas Watkins exonerated the bond, thereby releasing Jean Norton's obligation thereon.

6. As of July 6, 2007, FLETCHER has not returned the collateral to Jean Norton.

7. The Department provided FLETCHER and AMERICAN with sufficient notice and the opportunity to object to the contents of the Notice. Affidavit of Michael K. Naethe.

8. As of October 1, 2007, the Department has not received a written objection to the Notice from FLETCHER or AMERICAN, although it received a letter from AMERICAN, that letter did not constitute an objection.

9. Pursuant to Idaho Code § 41-232(5), AMERICAN's failure to object to the Notice in writing constitutes a waiver of the opportunity for a hearing.

10. Pursuant to Idaho Code § 41-232A(2), FLETCHER's failure to object to the Notice in writing within twenty-one (21) days constitutes a waiver of the opportunity for a hearing.

11. Pursuant to Idaho Code § 41-1016(1) the Director may impose an administrative penalty and revoke the license of a producer when such producer has committed any action(s) set forth in Idaho Code §§ 41-1016(1)(a) through (n).

12. FLETCHER is in violation of Idaho Code § 41-1016(1)(d) for improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business.

13. FLETCHER is in violation of Idaho Code § 41-1016(1)(h) for demonstrating incompetence, untrustworthiness or financial irresponsibility and being a source of injury and loss to the public or others.

14. FLETCHER is in violation of Idaho Code § 41-1043(2)(a) for failure to maintain cash collateral in a trust account separate and apart from any other funds or assets of the bail agent.

15. FLETCHER is in violation of Idaho Code § 41-1043(3) for failure to return collateral, received as deposit with the bail agent, within fourteen (14) days of the date notice is received that the obligation, the satisfaction of which was secured by collateral, is discharged.

16. FLETCHER is in violation of Idaho Code § 41-1043(5) for failure to maintain a full and detailed accounting of collateral received.

17. FLETCHER'S three violations of Idaho Code § 41-1043 are also violations of Idaho Code § 41-1016(1)(b) because they are violations of the provisions of Title 41, Idaho Code.

18. The aforementioned are acts of fraud or dishonesty, which, pursuant to Idaho Code § 41-1040 and the terms contained in the BOND issued thereunder, allow for the Director to submit a claim for the benefit of the public following an administrative determination of loss.

ORDER

NOW THEREFORE, based on the foregoing facts and the record in this case and good cause appearing therefor, the Director hereby orders that, pursuant to the above-cited code sections:

1. The Idaho resident producer license of BRIAN L. FLETCHER, license No. BA145400, is hereby **revoked**; and

2. BRIAN L. FLETCHER shall promptly return license No. BA145400 to the Idaho Department of Insurance; and

3. An administrative penalty in the amount of one thousand dollars (\$1,000) is imposed upon BRIAN L. FLETCHER, payable within thirty (30) days of the entry of this Order; and

4. AMERICAN is ordered to pay pursuant to BOND, No. 1000756640, and Idaho Code § 41-1040, the amount of five hundred dollars (\$500) to Jean Norton within thirty (30) days of the entry of this ORDER. AMERICAN shall provide the Department with evidence of payment within forty five (45) days of the entry of this ORDER.

NOTIFICATION OF RIGHTS

This is 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* section 67-5246(4), Idaho Code.


Pursuant to sections 41-242, 67-5270, and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may seek judicial review of this final order and all previously issued orders in this case to district court by filing a petition therefore in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or operates its principal place of business in Idaho, or

- iv. The real property or personal property that was the subject of the agency action is located.

A petition for judicial review must be filed within twenty-eight (28) days (a) of this final order, (b) of an order denying any petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See* section 67-5273, Idaho Code. The filing of a petition for judicial review to district court does not itself stay the effectiveness or enforcement of the order under appeal.

DATED and EFFECTIVE this 11TH day of October 2007.



WILLIAM W. DEAY, Director
Idaho Department of Insurance

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have on this 11th day of October 2007, caused a true and correct copy of the foregoing document to be served upon the following by the designated means:

Brian Fletcher
7425 Robinson Rd.
Kuna, ID 83634

- first class mail
- certified mail
- hand delivery
- via facsimile

Brian Fletcher
6796 Dickman Rd
Melba, ID 83641

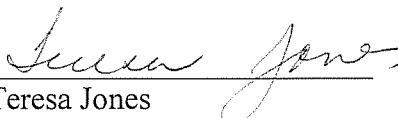
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- certified mail
- hand delivery
- via facsimile

Diana M. Rivera
Claims Attorney
On behalf of American Contractors
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Teresa Jones
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