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AUG 14 2008

Department of Insurance
State of Idaho

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:)	
)	Docket # 18-2400-07
KURT H. JOHANSSON:)	
Resident Producer)	PRELIMINARY ORDER
License No. AB137060)	
_____)	

This matter came before the Department for hearing on June 3, 2008, rch 21, 2008, at 10:00 a.m., before Christian D. Brown, duly appointed as hearing officer by the Director of the Department of Insurance. The Department of Insurance (“the Department”) was represented by deputy Attorney General John Keenan, and Kurt H. Johansson (“Johansson”) failed to appear in person or by counsel. The start of the hearing was delayed by more than forty (40) minutes to afford Johansson every reasonable opportunity to appear and represent his interests.

This case involves several counts of alleged misconduct by Johansson during 2006 and 2007. Johansson’s license was revoked by the Department effective October 9, 2007. The purpose of the hearing was for Johansson to show cause, if any he should have, why the revocation of his license should be vacated.

COPY

FINDINGS OF FACT

1. That Johansson's insurance producer license no. 137060 is presently revoked effective October 9, 2007. Johansson was appointed as a producer for American Family Insurance Life Insurance Company (LC3297) and American Family Mutual Insurance Company (PC3301) ("American Family") from May 1, 2006 until October 20, 2006 at which time his appointment was withdrawn.

2. On November 11, 2006, American Family wrote to the Department advising the Department of Johansson's employment period noted above, that Johansson was collecting premiums from insured and not remitting the funds to American Family in a timely manner, leaving a significant balance due at the time of his termination of appointment on October 20, 2006.

3. A full disclosure was requested of American Family by the Department. From that disclosure, the Department learned that Johansson's insurance office reported to American Family that certain insurance policies were sold, and on a number of occasions, American Family attempted to sweep the trust account with insufficient funds to recover the premiums.

4. The attempted sweep(s) of Johansson's trust account occurred a number of times between July and October, 2006.

5. The total failed premium sweeps attempted from Johansson's account totals \$4,720.25 before October, and a total of \$4,218.39 for October, 2006.

6. That Johansson also received and negotiated ten checks that were remitted to Johansson for the purpose of purchasing homeowner's insurance for

Johansson's clients that were not in the Johansson trust account when American Family attempted to sweep the account. American Family covered these checks on behalf of the insureds. These checks totaled \$1,167.00.

7. Johansson earned monies totaling \$2,939.84 in October, 2006 that were credited to Johansson's balance due American Family.

8. In addition, Johansson had forwarded a total of \$2,350.51 in cashier's checks to American Family, leaving a balance of \$4,815.29 due American Family at the time of his departure on October 20, 2006.

9. That after parting American Family, Johansson went to work with Page Insurance (AB078627) in Idaho Falls, Idaho. Johansson was terminated on December 14, 2006 from Page Insurance. Page Insurance claims that Johansson owes the firm \$4,132.00 for future commission advances.

10. That after parting Page Insurance, Johansson was appointed by American National Insurance effective December 20, 2006 until terminated on June 26, 2007.

11. During that time, an Idaho resident, Doreen Azevedo, filed a complaint with the Department stating that Johansson had received a cash premium payment in the amount of \$305.00 for payment of a vehicle insurance premium, but failed to apply the premium to her insurance.

12. That American National Insurance had never received said payment from Johansson.

13. That Johansson sent a cashier's check to Doreen Azevedo in the amount of \$305.00 in reimbursement for funds misplaced.

14. That on July 11, 2007, the Consumer Affairs Division of the Department received a complaint from Caleb Wood, where it is alleged that Johansson failed to remit an insured's check on a timely basis to his appointed insurer, American National General Ins. Company, and in the ensuing time, the insured had submitted a comprehensive claim and was denied by American National.

15. That on June 6, 2007, Johansson instigated a false electronic funds transfer by submitting to American National Insurance Company an illegal document and using a fictitious electronic signature allegedly signed by Caleb Wood.

16. Said false electronic funds transfer resulted in overdraft fees charged to Caleb Wood.

CONCLUSIONS OF LAW

1. That Kurt H. Johansson did improperly withhold or misappropriate moneys and demonstrated incompetence, untrustworthiness, and financial irresponsibility, and is a source of injury and loss to the public and others in the conduct of the business of insurance in Idaho for having failed to remit to American Family Mutual Ins. Co. premium funds collected by Johansson from customers in violation of Idaho Code §§ 41-1016(1).

2. That Kurt H. Johansson did improperly withhold or misappropriate moneys received in the course of insurance business and demonstrated incompetence, untrustworthiness, and financial irresponsibility, and is a source of injury and loss to the public and others in the conduct of the business of insurance in Idaho by failing to deposit premium funds in Johansson's business trust account causing numerous overdrafts on his trust fund when the account was swept by his appointed insurer American Family in violation of Idaho Code §§ 41-1016(1)(d) and (h).

3. That Kurt H. Johansson did improperly withhold and misappropriate moneys received in the course of insurance business and did demonstrate incompetence, untrustworthiness, and financial irresponsibility, and is a source of injury and loss to the public and others in the conduct of the business of insurance in Idaho by failing to timely pay said premium funds to the insurer the amount of \$305.00 paid to Johansson by the insured, in violation of Idaho Code §§ 41-1016(1)(d) and (h).

4. That Kurt H. Johansson did improperly withhold and misappropriated moneys received in the course of insurance business and did demonstrate incompetence, untrustworthiness, and financial irresponsibility, and is the source of injury and loss to the public and others in the conduct of the business of insurance in Idaho when Johansson failed to remit premium to insurer American National Insurance Company [hereinafter ANIC] paid to him by the insured, and that upon presentation of claim to ANIC due to loss, said claim was denied on the basis of non-payment of premium, in violation of Idaho Code §§ 41-1016(d) and (h).

5. That Kurt H. Johansson used dishonest practices, and demonstrated incompetence, untrustworthiness or financial irresponsibility, and was a source of injury and loss to the public and others in the conduct of business in Idaho, and did forge another person's name on a document related to an insurance transaction, in violation of Idaho Code §§ 411016(1)(h) & (j).

6. That based upon the foregoing, the Hearing Officer concludes as a matter of law that there are substantial and overwhelming factual grounds in accordance with Idaho Code § 41-1016 that Kurt H. Johansson's license no. 137060 shall remain revoked.

PRELIMINARY ORDER

Kurt H. Johansson's license no. 137060 shall remain revoked.

NOTICE

This is a preliminary order of the Hearing Officer. It can and will become final without further action of the Department of Insurance unless any party petitions for reconsideration before the Hearing Officer or appeals to the Director of the Department of Insurance (or the designee of the Director). Any party may file a motion for reconsideration of this preliminary order with the Hearing Officer within fourteen (14) days of the service date of this order. The Hearing Officer 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 § 67-5243(3).

Within fourteen (14) days after (a) the service date of this preliminary order, (b) the service date of the denial of a petition for reconsideration of this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration of this preliminary order, any party may in writing appeal or take exception to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the Director of the Department of Insurance (or the designee of the Director). Otherwise, this preliminary order will become a final order of the Department of Insurance.

If any party appeals or takes exception to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal within the

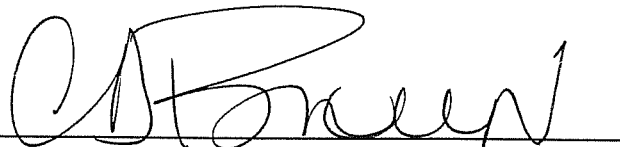
Department of Insurance. Written briefs in support of or taking exception to the preliminary order shall be filed with the Director of the Department of Insurance (or the designee of the Director). The Director (or her designee) may review the preliminary order on his own motion.

If the Director of the Department of Insurance (or his designee) grants a petition to review the preliminary order, the Director (or his designee) will allow all parties an opportunity to file briefs in support of or taking exception to the preliminary order and may schedule oral argument in the matter before issuing a final order. The Director (or his designee) will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties for good cause shown. The Director (or his designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

Pursuant to Idaho Code §§ 67-5270 and 67-5272, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (1) the hearing was held, (2) the final agency action was taken, (3) the party seeking review of the order resides, or operates its principal place of business in Idaho, or (4) the real property or personal property that was the subject of the Department's action is located.

This appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

DATED this 12th day of August, 2008.



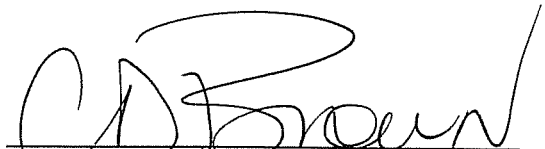
Christian D. Brown,
Hearing Officer

CERTIFICATE OF MAILING

I hereby certify that on the 13th day of August, 2008, I mailed a true and correct copy of the Hearing Officer's Preliminary Order to the following persons via the U.S. Postal Service:

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

Kurt H. Johansson
1019 North 1250 West
Pleasant Grove, UT 84062



Christian D. Brown
Hearing Officer