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FILED 

MAR 28 2013

Department of Insurance
State of Idaho

Attorneys for Idaho Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

NATHAN M. KERBS,
Resident Producer License No. 367519.

RESPONDENT.

Docket No. 18-2822-12

**STIPULATION AND ADMISSION
TO CERTAIN VIOLATIONS
and FINAL ORDER**

The parties herein, namely the Idaho Department of Insurance and its counsel of record, John C. Keenan, Deputy Attorney General, and Nathan M. Kerbs, do hereby agree and stipulate as follows:

1. That the Director of the Idaho Department of Insurance has jurisdiction over this matter pursuant to title 41, Idaho Code.
2. That, on December 31, 2012, the Idaho Department of Insurance (hereinafter "Department") did file and serve a *Verified Notice of Violation and Right to Hearing* (hereinafter "Verified Notice of Violation") on the Respondent, Nathan M. Kerbs.

3. That, on February 4, 2013, Nathan M. Kerbs filed an answer denying the allegations set forth in the Verified Notice of Violation.

4. That the Verified Notice of Violation set forth twenty-five (25) counts alleging over seventy-five (75) violations of title 41, Idaho Code.

5. That each of the twenty-five (25) counts alleged violations of Idaho Code § 41-1016(1)(e) based on misrepresentation of the terms of an application for insurance or misrepresentation of any fact material to an insurance transaction.

6. That each of the twenty-five (25) counts alleged violations of Idaho Code § 41-1016(1)(h) based on demonstration of dishonesty, untrustworthiness, or being a source of injury in the conduct of business in this state.

7. That each of the twenty-five (25) counts alleged violations of Idaho Code § 41-1016(1)(j) based on the forgery of another person's name on an application for insurance or on any document related to an insurance transaction.

8. That the parties hereto believe that this matter may be brought to a close by a negotiated and stipulated settlement.

9. That, in consideration of the foregoing, of the admission by Nathan Kerbs of certain violations, and of dismissal of the remaining allegations, the parties stipulate and agree as follows:

- a. That Nathan M. Kerbs admits to having committed ten (10) violations of Idaho Code § 41-1016(1)(e);
- b. That Nathan M. Kerbs admits to having committed ten (10) violations of Idaho Code § 41-1016(1)(h);
- c. That Nathan M. Kerbs admits to having committed ten (10) violations of Idaho Code § 41-1016(1)(j);

- d. That the remaining alleged violations of title 41, Idaho Code, as set forth in the Verified Notice of Violation shall be dismissed with prejudice;
- e. That Nathan M. Kerbs' Idaho Resident Insurance Producer License No. 367519 shall be revoked;
- f. That Nathan M. Kerbs agrees and stipulates that an administrative penalty of \$30,000.00 shall be imposed, provided that \$25,000.00 of said penalty is suspended until such time in the future that Nathan M. Kerbs files an application for an insurance license with the Idaho Department of Insurance whereupon, before consideration of said application, the penalty shall be paid in full;
- g. That the remaining sum of said penalty in the amount of \$5,000.00 is due and payable immediately, however Nathan M. Kerbs may enter into a promissory note and/or agreement for payment thereof;
- h. That an appropriate Final Order may be entered herein by the Director of the Idaho Department of Insurance; and
- i. That Nathan M. Kerbs shall immediately return the original Idaho Resident Producer License No. 367519 to the Idaho Department of Insurance, at P.O. Box 83720, Boise, Idaho 83720-0043.

10. That, before executing this Stipulation, Nathan M. Kerbs has had the opportunity to review this Stipulation with an attorney of his choice and to seek appropriate advice and counsel relating thereto.

11. That the parties agree that the terms of this Stipulation are appropriate and proper under the circumstances referenced herein and that they have entered into this Stipulation knowingly, voluntarily, and with full knowledge of any rights they may be waiving thereby.

Additionally, the parties hereby waive the right to seek reconsideration and judicial review of the Final Order to be entered herein.

12. That the parties hereto waive their right to notice and hearing at which they may be represented by counsel, present evidence, and examine witnesses. The parties hereto also waive their right to submit this matter for review by a court of competent jurisdiction.

13. That the parties hereto have reviewed the proposed Final Order and agree as to its form and that said Final Order may be submitted to the Director of the Idaho Department of Insurance for his review and signature.

14. IT IS SO AGREED.

DATED this 22 day of March, 2013.

RESPONDENT

Nathan M. Kerbs
NATHAN M. KERBS
Resident Producer License No. 367519

ACKNOWLEDGEMENT

STATE OF IDAHO)
: ss.
County of Bonneville)

On this 22 day of March, 2013, before me, Victoria Estrada, notary public of the state of Idaho, personally appeared NATHAM M. KERBS, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same.



Victoria Estrada
Notary Public for Idaho
My Commission Expires 9-30-2014

FINAL ORDER

The parties hereto, namely the Idaho Department of Insurance and licensed resident producer NATHAN M. KERBS, having entered into a STIPULATION AND ADMISSION TO CERTAIN VIOLATIONS herein, the form of the order having been approved, and the Director having reviewed the same, and having found that there is a factual basis for the matter as alleged herein, does hereby enter his Findings of Fact and Conclusions of Law as follows:

1. That Nathan M. Kerbs did violate Idaho Code § 41-1016(1)(e) on ten (10) occasions when he misrepresented the terms of actual applications for insurance and when he misrepresented material facts relating to insurance transactions;

2. That Nathan M. Kerbs did violate Idaho Code § 41-1016(1)(h) on ten (10) occasions when he used dishonest practices and untrustworthiness in the conduct of business in this state;

3. That Nathan M. Kerbs did violate Idaho Code § 41-1016(1)(j) on ten (10) occasions when he forged another person's name on applications for insurance submitted to an insurer.

Based on the foregoing and in consideration of the premises,

IT IS HEREBY ORDERED that the foregoing STIPULATION AND ADMISSION TO CERTAIN VIOLATIONS is approved and adopted as an Order of the Director, and is incorporated herein as if set forth in full and made a part hereof;

IT IS FURTHER ORDERED that NATHAN M. KERBS' admission of the thirty violations set forth in the foregoing STIPULATION AND ADMISSION TO CERTAIN VIOLATIONS is accepted;

IT IS FURTHER ORDERED that NATHAN M. KERBS' Resident Producer License No. 367519 is hereby REVOKED;

IT IS FURTHER ORDERED that NATHAN M. KERBS shall return forthwith said Resident Producer License No. 367519 to the Idaho Department of Insurance, P.O. Box 83720, Boise, Idaho 83720-0043;

IT IS FURTHER ORDERED that an administrative penalty in the amount of THIRTY THOUSAND DOLLARS (\$30,000.00) is imposed against NATHAN M. KERBS;

IT IS FURTHER ORDERED that TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) of said penalty is suspended until such time that NATHAN M. KERBS makes application for an insurance license with the Idaho Department of Insurance, whereupon the balance of said suspended administrative penalty of \$25,000.00 shall be immediately due and shall be paid before the Department of Insurance shall consider such application;

IT IS FURTHER ORDERED that the remaining balance of the administrative penalty in the amount of FIVE THOUSAND DOLLARS (\$5,000.00) shall be due and payable immediately; however, NATHAN M. KERBS may enter into an agreement or promissory note for payment of said sum as shall be approved by the Department; and

IT IS FURTHER ORDERED that the remaining allegations set forth in the Verified Notice of Violation, not admitted to by NATHAN M. KERBS, are hereby **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

DATED this 28th day of MARCH, 2013.

IDAHO DEPARTMENT OF INSURANCE

by 
WILLIAM W. DEAL
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 this proceeding must be disclosed on any license application and must be reported 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).

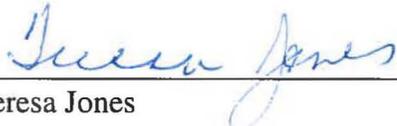
Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal it by filing a petition for judicial review in the district court of the county in which: (1) the hearing was held; or (2) the final agency action was taken; or (3) the aggrieved party resides or operates 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 28th day of March, 2013, I caused a true and correct fully-executed copy of the foregoing STIPULATION AND ADMISSION TO CERTAIN VIOLATIONS and FINAL ORDER to be served upon the following person(s) at the address and by the means designated below:

Nathan M. Kerbs
710 W. Main Street
Saint Anthony, ID 83445-1349

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



Teresa Jones