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ISB No. 4032

**FILED** *aj*  
**FEB 04 2014**  
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:

MICHAEL CLARK VAN GILDER

Non-Resident Producer License No. 267410

Docket No. 18-2912-14

**ORDER OF DEFAULT**

The Director of the Idaho Department of Insurance (“Director”) having reviewed the record herein; and MICHAEL CLARK VAN GILDER, Non-Resident Producer License No. 267410, 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, as evident from the Affidavit of Richard B. Burleigh, 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 MICHAEL CLARK VAN GILDER has waived his rights regarding the opportunity for hearing; and in consideration of the premises;

IT IS HEREBY ORDERED that the Non-Resident Producer License No. 267410 issued

to MICHAEL CLARK VAN GILDER is hereby REVOKED;

IT IS FURTHER ORDERED that MICHAEL CLARK VAN GILDER shall immediately return Non-Resident Producer License No. 267410 to the Idaho Department of Insurance, P.O. Box 83720, Boise, Idaho 83720-0043;

IT IS FURTHER ORDERED that an administrative penalty of Two Thousand Dollars (\$2,000.00) is hereby imposed on MICHAEL CLARK VAN GILDER, due and payable immediately upon entry of this Order.

IT IS SO ORDERED.

DATED this 4<sup>th</sup> day of February, 2014.

STATE OF IDAHO  
DEPARTMENT OF INSURANCE

  
\_\_\_\_\_  
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 I have, on this 4th day of February, 2014, caused a true and correct copy of the foregoing ORDER OF DEFAULT to be served upon the following by the designated means:

Michael Clark Van Gilder  
Van Gilder Insurance  
1515 Wynkoop Street, Suite 200  
Denver, CO 80202-1730

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

Humana Health Plan, Inc.  
321 West Main Street - 12th Floor  
Louisville, KY 40202

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

Humana Insurance Company  
1100 Employers Boulevard  
Deperre, WI 54115

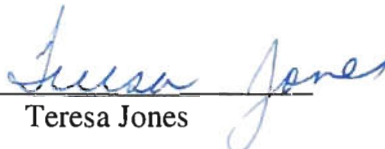
- first class mail
- certified mail
- hand delivery
- via facsimile

Humanadental Insurance Company  
1100 Employers Boulevard  
Deperre, WI 54115

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

Kanawha Insurance Company  
210 South White Street  
Lancaster, SC 29720

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

  
\_\_\_\_\_  
Teresa Jones

LAWRENCE G. WASDEN  
Attorney General

RICHARD B. BURLEIGH, ISB No. 4032  
Deputy Attorney General  
Idaho Department of Insurance  
700 W. State Street  
P.O. Box 83720  
Boise, Idaho 83720-0043  
Telephone No. (208) 334-4219  
Facsimile No. (208) 334-4298  
[richard.burleigh@doi.idaho.gov](mailto:richard.burleigh@doi.idaho.gov)

*Attorneys for the Department of Insurance*

FILED

JAN 08 2014

Department of Insurance  
State of Idaho

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE**

**STATE OF IDAHO**

In the Matter of:

MICHAEL CLARK VAN GILDER

Non-Resident Producer License No. 267410

Docket No. 18-2912-14

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

COMES NOW the staff of the Idaho Department of Insurance (“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 the right to hearing to:

**MICHAEL CLARK VAN GILDER  
Non-Resident Producer License No. 267410**

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 this verified Complaint, and, MICHAEL CLARK

EXHIBIT

A

VAN GILDER, 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. MICHAEL CLARK VAN GILDER (“RESPONDENT”) is duly authorized as a non-resident producer under title 41 of the Idaho Code, holding License No. 267410, which license was issued October 17, 2007, and expires March 31, 2014.
2. As a duly authorized non-resident producer, RESPONDENT is under the jurisdiction of the Director of the Idaho Department of Insurance (“Director”) and title 41 of the Idaho Code.
3. On or about October 24, 2012, RESPONDENT reported on the National Insurance Producer Registry (NIPR) an Indictment filed in the U.S. District Court for the District of Colorado, Criminal Case No. 12-cr-0047-WYD.
4. On August 14, 2013, RESPONDENT pled guilty to Count Five of the Indictment and was adjudicated guilty of Securities Fraud Through Insider Trading in violation of 15 U.S.C. §§ 78j(b) and 78ff and 17 C.F.R. § 240.10b-5, a felony. RESPONDENT was sentenced to probation for a term of five years, placed on home detention for a period of six months, and fined \$5,000.00.
5. On November 6, 2013, the State of Florida issued a Notice of Revocation, in Case No. 141846-13-AG, wherein any and all licenses and appointments issued to RESPONDENT under the Florida Insurance Code were revoked due to the adjudication of guilt in the Colorado action referenced above in Paragraph 4.

6. RESPONDENT had 21 days, until November 27, 2013, to contest the revocation of his Florida licenses and appointments.

7. The Department is not aware of any appeal filed by RESPONDENT concerning the revocation of his Florida licenses and appointments.

8. On March 1, 2013, the Insurance Commissioner for the State of California issued an Order Suspending and Removing from Office and Employment with Production Agency, in File No. LCB 0907-A, whereby RESPONDENT's California producer license was suspended indefinitely.

9. RESPONDENT had 30 days, until April 1, 2013, to contest the suspension of his California license.

10. The Department is not aware of any appeal filed by RESPONDENT concerning the suspension of his California license.

11. Idaho Code § 41-1021(1) requires a producer to report to the Department any administrative action taken against the producer by another governmental agency within thirty (30) days of the final disposition of the action.

12. The Florida and California administrative actions were reportable events pursuant to Idaho Code § 41-1021(1).

13. RESPONDENT was obligated to report the Florida administrative action no later than December 27, 2013, and to include a copy of the final order and other relevant legal documents with the report.

14. RESPONDENT was obligated to report the California administrative action no later than May 1, 2013, and to include a copy of the final order and other relevant legal documents with the report.

15. No report or documentation concerning the Florida or California administrative actions was received by the Department from RESPONDENT in compliance with Idaho Code § 41-1021(1).

16. Pursuant to Idaho Code § 41-1016(1)(b), the Director may impose an administrative penalty not to exceed \$1,000 if the Director finds that RESPONDENT violated any provision of title 41 of the Idaho Code.

17. Pursuant to Idaho Code § 41-1016(1), the Director may suspend or revoke a producer's license for the reasons more particularly set forth in Idaho Code § 41-1016(1).

### **COUNT ONE**

#### **Idaho Code § 41-1016(1)(b) and § 41-1021(1)**

18. Paragraphs 1-17 are re-alleged as if set forth in full.

19. RESPONDENT failed to report the Florida administrative action to the Director within thirty (30) days of its conclusion, which report should have been submitted on or about December 27, 2013.

20. The failure to report the Florida administrative action is a violation of Idaho Code § 41-1021(1).

21. Idaho Code § 41-1016(1)(b) permits the Department to seek an order that suspends or revokes the license of any producer who violates any provision of title 41, Idaho Code.

22. As a result of the violation of Idaho Code § 41-1021(1), the Department has cause and is entitled to an order to revoke RESPONDENT's non-resident license pursuant to Idaho Code § 41-1016(1)(b).



23. As a result of the violation of Idaho Code § 41-1021(1), the Department is entitled to an administrative penalty of not more than \$1,000.00 against RESPONDENT, pursuant to Idaho Code § 41-117 and/or Idaho Code § 41-1016(1), for RESPONDENT's failure to report the Florida administrative action.

**COUNT TWO**

**Idaho Code § 41-1016(1)(b) and § 41-1021(1)**

24. Paragraphs 1-23 are re-alleged as if set forth in full.

25. RESPONDENT failed to report the California administrative action to the Director within thirty (30) days of its conclusion, which report should have been submitted on or about May 1, 2013.

26. The failure to report the California administrative action is a violation of Idaho Code § 41-1021(1).

27. Idaho Code § 41-1016(1)(b) permits the Department to seek an order that suspends or revokes the license of any producer who violates any provision of title 41, Idaho Code.

28. As a result of the violation of Idaho Code § 41-1021(1), the Department has cause and is entitled to an order to revoke RESPONDENT's non-resident license pursuant to Idaho Code § 41-1016(1)(b).

29. As a result of the violation of Idaho Code § 41-1021(1), the Department is entitled to an administrative penalty of not more than \$1,000.00 against RESPONDENT, pursuant to Idaho Code § 41-117 and/or Idaho Code § 41-1016(1), for RESPONDENT's failure to report the California administrative action.

### **COUNT THREE**

#### **Idaho Code § 41-1016(1)(f)**

30. Paragraphs 1-29 are re-alleged as if set forth in full.

31. The Director is authorized to revoke the license of any producer pursuant to Idaho Code § 41-1016(1)(f) for “being convicted of or pleading guilty to any felony, or to a misdemeanor which evidences bad moral character, dishonesty, a lack of integrity and financial responsibility, or an unfitness and inability to provide acceptable service to the consuming public.”

32. RESPONDENT was found guilty of a felony in the Colorado action, as described in paragraph 4 above.

33. As a result the Department has cause and is entitled to an order to revoke RESPONDENT’s non-resident license pursuant to Idaho Code § 41-1016(1)(f).

#### **REQUEST FOR RELIEF**

34. Based upon the foregoing facts and allegations, unless the Department receives a written objection from RESPONDENT, including 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 whereby the Director shall:

- Impose an administrative penalty of two thousand dollars (\$2,000.00); and
- Revoke RESPONDENT’s Non-Resident Producer License No. 267410.

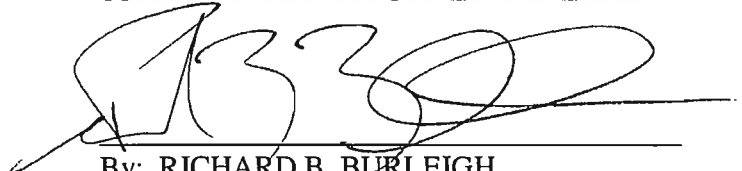
**NOTICE OF RIGHT TO HEARING**

THEREFORE, based on violations as alleged above, you have the right to have a hearing in accord with Idaho Code § 41-232A. In order to effectively object to this notice and prevent an order for the requested relief from being entered, you must, within twenty-one (21) days of the date of issuance of this Verified Complaint and Notice of Right to Hearing, submit a written request for a hearing to the Director of the Idaho Department of Insurance responding to the alleged violations pending against you. You must deliver any written request for hearing by mailing it to the Director, Idaho Department of Insurance, P.O. Box 83720, Boise, Idaho 83720-0043, or personally delivering said written request to the offices of the Department of Insurance at 700 W. State Street, Third Floor, Boise, Idaho, and also providing a copy to the undersigned at the same address.

If you fail to submit a timely written response to the allegations and request for hearing, a final order will be entered imposing the relief described above after twenty-one (21) days from the issuance of this Complaint.

DATED this 8<sup>th</sup> day of January, 2014.

OFFICE OF THE ATTORNEY GENERAL



By: RICHARD B. BURLEIGH  
Deputy Attorney General  
Attorney for the Department of Insurance

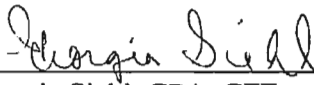
VERIFICATION

STATE OF IDAHO    )  
                              : ss.  
County of Ada        )

Georgia Siehl, Bureau Chief, Department of Insurance, State of Idaho, being first duly sworn, deposes and says:

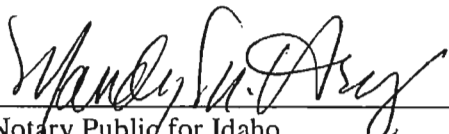
I have read the foregoing Verified Complaint and Notice of Right to Hearing and know the contents thereof, and the same are true to the best of my knowledge and belief and based on the records of the Department.

DATED this 8<sup>th</sup> day of January, 2014.

  
\_\_\_\_\_  
Georgia Siehl, CPA, CFE  
Bureau Chief, Chief Examiner  
Idaho Department of Insurance

SUBSCRIBED AND SWORN to before me this 8<sup>th</sup> day of January, 2014.



  
\_\_\_\_\_  
Notary Public for Idaho  
My commission expires on 7/24/2018

**IC §41-232A CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have, on this 8<sup>th</sup> day of January, 2014, and in compliance with Idaho Code § 41-232A, caused a true and correct copy of the foregoing VERIFIED COMPLAINT AND NOTICE OF RIGHT TO HEARING to be served upon the following by the designated means:

Michael Clark Van Gilder  
Van Gilder Insurance  
1515 Wynkoop Street, Suite 200  
Denver, CO 80202-1730

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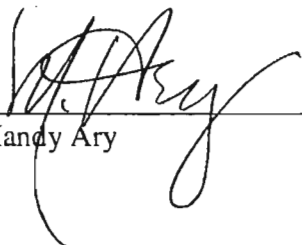
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\_\_\_\_\_  
Mandy Ary