

FILED
JUL 21 2015
Department of Insurance
State of Idaho

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE
STATE OF IDAHO**

STATE OF IDAHO, DEPARTMENT OF
INSURANCE,

Complainant,

vs.

DANIEL G. GUTIERREZ, a resident
insurance producer holding Idaho license no.
98979,

Respondent.

Docket No. 18-2970-14

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND FINAL ORDER ON
PETITION FOR REVIEW OF
PRELIMINARY ORDER**

This matter having come before the Director of the Idaho Department of Insurance (“Director”) upon the Petition for Review of Preliminary Order filed pursuant to Idaho Code § 67-5245 by the Complainant Idaho Department of Insurance (“DOI”) on May 22, 2015, the Director hereby finds and orders as follows:

I. Procedural History.

On October 24, 2014, the DOI filed a complaint against Mr. Gutierrez seeking revocation of Mr. Gutierrez’s insurance producer license and imposition of a monetary administrative penalty. A request for hearing was received from Mr. Gutierrez on November 19, 2014. The following day, the Director appointed David V. Nielsen to serve as hearing officer and preside over the administrative hearing. The DOI subsequently filed a motion to amend its complaint on December 10, 2104, which motion was granted by the hearing officer on February 3, 2015. The

DOI's amended complaint did not seek any additional penalties against Mr. Gutierrez but added the additional allegations in support of the monetary penalties and license revocation sought in the original complaint.

The administrative hearing was held at the DOI offices on March 2, 2015. Brandon Karpen, Deputy Attorney General, represented the DOI. Mr. Gutierrez represented himself. The hearing officer issued a preliminary order on April 16, 2015. The preliminary order imposed monetary fines on Mr. Gutierrez for violations of the Idaho Insurance Code but did not address the suspension or revocation of Mr. Gutierrez's producer license. On April 17, 2015, the DOI filed a Motion for Clarification and on April 28, 2015, the DOI filed a Motion for Reconsideration of the hearing officer's preliminary order, requesting that the hearing officer revoke Mr. Gutierrez's license. On May 8, 2015, the hearing officer issued an order on the DOI's request for reconsideration. The hearing officer modified his preliminary order to provide that Mr. Gutierrez pay a \$3,000 administrative penalty and that Mr. Gutierrez's producer license be suspended for 12 months.

On May 22, 2015, the DOI filed a Petition for Review of Preliminary Order by the Director. The DOI claims that the hearing officer committed legal error in his application of Idaho Code § 41-1016(1)(h) by requiring that for a finding under subsection (1)(h) relevant actions must occur in the conduct of insurance business. The DOI also claims that the hearing officer's imposition of a suspension rather than revocation of Mr. Gutierrez's license is improper under the circumstances.

On June 26, 2015, the Director filed an Order Setting Schedule to Close Record whereby the written record was deemed closed as of July 6, 2015. No party requested oral argument and the Director does not deem oral argument necessary in this matter.

II. Standard of Review.

The Director's review of Preliminary Orders is pursuant to Idaho Code § 67-5245. Idaho Code § 67-2545(7) provides that the Director, in reviewing a preliminary order, "shall exercise all of the decision-making power that he would have had if the agency head had presided over the hearing." Hence, the Director has de novo review.

III. Findings of Fact.

a. On July 23, 2002, Mr. Gutierrez was charged in the Idaho Fourth District Court with four counts of fraud.

b. On February 4, 2003, Mr. Gutierrez submitted a Uniform Application for Individual Resident License to the DOI for the purpose of securing a residential producer license.

c. Background Question No. 1 of the Uniform Application inquired whether the applicant has ever been convicted of, or was currently charged with, committing a crime. Mr. Gutierrez responded in the negative.

d. Mr. Gutierrez was granted resident producer license no. 98979 on February 5, 2003.

e. On September 5, 2003, Mr. Gutierrez was arrested on a warrant arising out of the four counts of fraud. Mr. Gutierrez testified that the time of his arrest (which he testified was in March or April of 2003) was the first time he was made aware of any outstanding criminal charges against him.

f. On October 30, 2003, a preliminary hearing was held on the above-referenced charges against Mr. Gutierrez. Mr. Gutierrez ultimately pled guilty to a lesser misdemeanor charge of fraud – insufficient funds, on one count and the other three counts were dismissed.

g. No report was made by Mr. Gutierrez to the DOI concerning the above-referenced criminal proceeding.

h. Over the time period from 2004 to 2013, Mr. Gutierrez had numerous default judgments against him in civil collection matters, which default judgments totaled more than thirty three thousand dollars (>\$33,000), including a 2013 default judgment in the amount of \$14,391 in favor of Bankers Life and Casualty Company, an insurance company. None of the other default actions directly concerned an insurance company or Mr. Gutierrez's insurance business. Less than half were satisfied.

i. In 2010 or 2011, Mr. Gutierrez commenced a professional relationship with his client Ms. Barbara Blutt. Over the subsequent years, Ms. Blutt came to trust Mr. Gutierrez completely.

j. In August of 2013, Mr. Gutierrez asked Ms. Blutt if she could provide him with a loan. The initial amount of the loan requested by Mr. Gutierrez according to Ms. Blutt was \$10,000. According to Mr. Gutierrez, the original amount requested was \$7,000. Regardless of the original amount requested, the two ultimately agreed to a loan in the amount of \$8,500.

k. The loan was memorialized in a promissory note drafted by Ms. Blutt and signed by Mr. Gutierrez on August 8, 2013. The promissory note was not signed by Ms. Blutt. The promissory note did not state the purpose of the loan. The promissory note did provide that the loan was in the amount of \$8,500, that Mr. Gutierrez agreed to repay that amount plus 10% interest within one year of August 8, 2013, that the total amount due would be \$9,350, that the loan would be repaid in eleven equal payments of \$779.17 on the 8th day of each month, with a twelfth payment in the amount of \$779.13 due on August 8, 2014.

l. The record is not entirely clear as to how the DOI secured a copy of the promissory note between Mr. Gutierrez and Ms. Blutt. Exhibit 2 to the hearing indicates that it was faxed from Barb Blutt, but it is not clear to whom this copy was faxed. Moreover, the date on the header indicates that it was faxed on 02/08/2010, a date that preceded any of the events leading up to the loan. Mr. Gutierrez indicated in his response to a DOI inquiry (Exhibit 3) that he did not recall receiving a copy of the actual promissory note, and that if he did, he could not find it, and that he did not keep receipts of the payments made to Ms. Blutt. Mr. Gutierrez later stated in his closing argument that he provided a copy to the DOI but this statement was made after the factual record was closed and the DOI did not have an opportunity to cross-examine Mr. Gutierrez on this point. From the implication of the transcript and exhibits, it appears as if the promissory note was provided to DOI by Ms. Blutt and not Mr. Gutierrez. The record is sufficiently clear that Mr. Gutierrez failed to keep a record of the loan transaction.

m. Mr. Gutierrez accepted the terms of the loan and the check for \$8,500 knowing that it would be difficult to comply with the promissory note's terms.

n. Mr. Gutierrez made the first two payments pursuant to the terms of the promissory note, provided however that both payments were late.

o. Mr. Gutierrez made no additional payments to Ms. Blutt.

p. Following the first missed monthly payment by Mr. Gutierrez, Ms. Blutt made numerous efforts to secure payment from Mr. Gutierrez but, according to Ms. Blutt, "it was just one excuse after another as to why he couldn't do it."

q. Mr. Gutierrez testified that he and Ms. Blutt renegotiated the promissory note at least twice. There is no written evidence of any such renegotiated terms. Nor is there evidence of a meeting of the minds between Mr. Gutierrez and Ms. Blutt concerning any renegotiated terms.

r. Mr. Gutierrez failed to repay the loan and interest thereon on the one year anniversary of the promissory note, August 8, 2014, despite repeated testimony by Mr. Gutierrez that it was always his intent to do so.

s. Ms. Blutt filed a complaint with the DOI on August 28, 2014.

t. Mr. Gutierrez testified that “I had multiple conversations with Ms. Blutt. One specifically after she had gone to the Department of Insurance. I would have made multiple payments from then until now had this not occurred. But no, I had not made any extra payments.”

IV. Conclusions of Law.

The DOI asserts two errors concerning the hearing officer’s decision. First, that the hearing officer erred as a matter of law in concluding that Idaho Code § 41-1016(1)(h) requires a nexus to insurance business in order to be the basis of a violation. The second assigned error concerns the hearing officer’s conclusion that suspension of Mr. Gutierrez’s license was an appropriate deterrent, punishment, and level of protection to the public for the violations of the Idaho Insurance Code rather than revocation of Mr. Gutierrez’s license, which the hearing officer considered an “overly harsh sanction.” As noted by the hearing officer, “Any penalty imposed though must strike a balance between deterrence and the need to avoid an overly harsh sanction which would permanently deprive Mr. Gutierrez of his livelihood and the means to repay his obligation to his client.”

With regard to the first assignment of error, the hearing officer’s conclusion that Idaho Code § 41-1016(1)(h) only applies to “insurance business” is an incorrect conclusion as a matter of law. Idaho Code § 41-1016(1)(h) provides as follows:

41-1016. Administrative penalty -- Suspension, revocation, refusal of license. (1) The director may impose an administrative penalty not to exceed one

thousand dollars (\$1,000), for deposit in the general fund of the state of Idaho, and may suspend for not more than twelve (12) months or may revoke or refuse to issue or continue any license issued under this chapter, chapter 27, title 41, Idaho Code (title insurance), chapter 11, title 41, Idaho Code (adjusters), or chapter 12, title 41, Idaho Code (surplus lines brokers), if the director finds that as to the licensee or applicant any one (1) or more of the following causes or violations exist:

...

(h) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility, or being a source of injury and loss to the public or others, in the conduct of business in this state or elsewhere;

As noted by the Idaho Supreme Court:

The objective of statutory interpretation is to derive the intent of the legislative body that adopted the act. *Payette River Prop. Owners Ass'n v. Bd. of Comm'rs of Valley County*, 132 Idaho 551, 557, 976 P.2d 477, 483 (1999). Statutory interpretation begins with the literal language of the statute. *Paolini v. Albertson's, Inc.*, 143 Idaho 547, 549, 149 P.3d 822, 824 (2006). Provisions should not be read in isolation, but must be interpreted in the context of the entire document. *Westerberg v. Andrus*, 114 Idaho 401, 403, 757 P.2d 664, 666 (1988). The statute should be considered as a whole, and words should be given their plain, usual, and ordinary meanings. *Id.*

Farber v. Idaho State Ins. Fund, 147 Idaho 307, 310-11, 208 P.3d 289, 292-93 (2009);

abrogated by Verska v. Saint Alphonsus Reg'l Med. Ctr., 151 Idaho 889, 265 P.3d 502 (2011).

The hearing officer concluded that “business” as used in subsection (h) meant insurance business. However, when the legislature intended to restrict review of a producer’s action under § 41-1016 to the realm of insurance business, it did so by expressly saying so. Hence, in Idaho Code § 41-1016(1)(d) the legislature provided that “[i]mproperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business” is a basis for imposing penalties on a producer. Similarly, in Idaho Code § 41-1016(1)(l) the legislature provided that “[k]nowingly accepting insurance business from an individual who is not licensed” is a basis for imposing penalties on a producer. Had the legislature similarly intended subsection (1)(h) to apply only to insurance business, it would have used those words.

Furthermore, the Director has consistently interpreted § 41-1016(1)(h) to be broader in scope than merely focusing on the harm caused by a producer's insurance business. In *In The Matter of Edward E. Cain*, Docket No. 18-2404-07, the Director addressed this exact issue and concluded that the reference to business in § 41-1016(1)(h) is broader than insurance business. Instead the term includes any activity carried on for profit or gain. *See Findings of Fact, Conclusions of law and Final Order on Petition for Review of Preliminary Order, In the Matter of Edward E. Cain*, Docket No. 18-2404-07 (August 29, 2008). Section 41-1016(1)(h) is a tool for the DOI to evaluate the character, or ethical quality of a person, and as such is not limited merely to review of insurance business activity. *Id.*, at page 8. The Director's interpretation was affirmed in *Cain v. Idaho Department of Insurance*, Case No. CV OC 08 20810 (4th Dist. - McKee 2009)(wrongfully obtaining unemployment benefits by submitting false status reports was activity carried on for gain and was, therefore, in the conduct of business). Additional relevant points were made in both decisions concerning the broader scope of subsection (1)(h). Rather than repeating these arguments here, they are incorporated herein by this reference. Suffice it to say that the end result is that the conclusion of the hearing officer is contrary to this long running interpretation and application of § 41-1016(1)(h) by the Director.

The hearing officer's improper application of subsection (1)(h) caused him to disregard the extensive list of default judgments entered against Mr. Gutierrez as irrelevant. The Director finds that this list of default judgments is relevant to a finding that Mr. Gutierrez demonstrated incompetence, untrustworthiness or financial irresponsibility, and was a source of injury and loss to the public or others, in the conduct of business in this state. Furthermore, the default judgments demonstrate a pattern of incompetence, untrustworthiness or financial irresponsibility that culminated in the taking of Ms. Blutt's money and are indicative of the possibility that Mr.

Gutierrez may never have intended to pay Ms. Blutt her money back, either in monthly payments or in a final balloon payment. Regardless of Mr. Gutierrez's original intent in taking the loan from Ms. Blutt, he in fact failed to repay the loaned funds to Ms. Blutt. This behavior is entirely consistent with the pattern demonstrated by Mr. Gutierrez dating back to 2002 and is wholly relevant to consideration of an appropriate penalty to be assessed against Mr. Gutierrez, including, but not limited to, revocation of his producer license.

In addressing the appropriateness of the suspension of Mr. Gutierrez's license, the Director intends to review the entire penalty, including the monetary penalty, imposed by the hearing officer to determine if the penalty imposed is proper in this circumstance.

The starting point of this analysis is to review the hearing officer's conclusions regarding Mr. Gutierrez's violations of the Idaho Insurance Code. This review will be based on the four counts asserted by the DOI in the Amended Verified Complaint.

Count One alleged violation of Idaho Code § 41-1016(1)(a)¹ arising out of Mr. Gutierrez's failure to reveal the existence of the outstanding felony charges in his 2003 license application. The hearing officer concluded that subsection (1)(a) did not impose a strict liability standard on the applicant. Rather, the hearing officer concluded that the applicant must have had knowledge, or reasonably should have known, of the facts at the time the application was submitted. Here, while the DOI showed that the felony charges were outstanding at the time of the application, it failed to rebut Mr. Gutierrez's testimony that he was not aware of the charges

¹ 41-1016. Administrative penalty -- Suspension, revocation, refusal of license. (1) The director may impose an administrative penalty not to exceed one thousand dollars (\$1,000), for deposit in the general fund of the state of Idaho, and may suspend for not more than twelve (12) months or may revoke or refuse to issue or continue any license issued under this chapter, chapter 27, title 41, Idaho Code (title insurance), chapter 11, title 41, Idaho Code (adjusters), or chapter 12, title 41, Idaho Code (surplus lines brokers), if the director finds that as to the licensee or applicant any one (1) or more of the following causes or violations exist:
(a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

until after he had received his producer license. The hearing officer therefore concluded that the DOI had failed to establish a violation of Idaho Code § 41-1016(1)(a). The Director does not disturb this conclusion.

Associated with Count One is violation of Idaho Code § 41-1021(2)², whereby Mr. Gutierrez was obligated to report the criminal action to the DOI. The DOI did not allege violation of § 41-1021(2) in its complaint but requested that the hearing officer consider this violation in its reply to Mr. Gutierrez's closing arguments. The hearing officer found that Mr. Gutierrez violated § 41-1021(2) by failing to report the criminal action to the DOI and imposed a monetary penalty of \$500.00. Mr. Gutierrez did not object to this finding or penalty. The Director concurs with the finding of a violation of § 41-1021(2). Mr. Gutierrez was required to report the criminal action to the DOI and failed to do so. The Director concludes that the imposition of a \$500.00 penalty is insufficient however. Instead, the maximum fine of \$1,000.00 shall be imposed.

Count Two of the Amended Verified Complaint asserts two separate violations of Idaho Code § 41-1325(1)³. The first allegation was that Mr. Gutierrez failed to enter into a proper promissory note with his client, Ms. Blutt. The second allegation was that Mr. Gutierrez failed to

² 41-1021. Reporting of actions.

...

(2) Within thirty (30) days of the initial pretrial hearing date, a producer shall report to the director any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

³ 41-1325. Borrowing money from clients. (1) An insurance producer who borrows money, securities or anything of value from a client or customer, unless the client or customer is a person engaged in the business of loaning funds or is an immediate family member of the insurance producer, shall complete a written promissory note that sets forth the parties to the loan, the purpose of the loan, the amount of the loan and the terms of the loan. All parties to the loan must sign the promissory note acknowledging the transaction and must receive a copy of the promissory note. The insurance producer shall keep a record of the loan transaction until the loan is paid back in full. Any release of the debt shall be in writing and signed by all parties to the release.

(2) As used in this section, the term "immediate family member" means a parent, mother-in-law, father-in-law, husband, wife, sister, brother, brother-in-law, sister-in-law, son-in-law, daughter-in-law, or a son or daughter.

maintain proper records of the loan transaction. The hearing officer found that the DOI prevailed on both of its claims arising under Idaho Code § 41-1325(1). However, in imposing a penalty of \$1,000, the hearing officer did not distinguish between the two separate violations.

It is the Director's conclusion that the failure to enter into a proper promissory note and the failure to maintain records of the promissory note are two distinct obligations arising under § 41-1325(1) that can be performed, or not performed, independently. It is undisputed that the promissory note between Mr. Gutierrez and Ms. Blutt fails to comply with the specific requirements of § 41-1325(1). These requirements are not mere surplusage but are intended to protect the client from unscrupulous producers and to protect and preserve the integrity of the insurance industry. *See* Idaho Code § 41-113(2). Maintaining records of the loan transaction is also an integral part of the process that protects both the client and the producer. However, when asked for documents related to the loan transaction, Mr. Gutierrez represented to the DOI that he did not have any. It is the Director's conclusion that the appropriate monetary penalty for these failures is \$1,000 per violation of § 41-1325(1), for a total of \$2,000.

Count Three of the Amended Verified Complaint alleges violation of Idaho Code § 41-1016(1)(h) arising out of Mr. Gutierrez's failure to repay the loan made to him by Ms. Blutt. The DOI asserted that each time Mr. Gutierrez failed to make a payment constituted a separate violation. The hearing officer concluded that the actions of Mr. Gutierrez in failing to repay the loan was a violation of § 41-1016(1)(h) in that it demonstrated Mr. Gutierrez's untrustworthiness and/or financial irresponsibility and represented an injury to his client. However, the hearing officer also concluded that Mr. Gutierrez's actions should be considered one connected incident rather than multiple violations. The hearing officer therefore imposed a single fine of \$1,000 for violation of § 41-1016(1)(h).

Count Three is, in the opinion of the Director, the most egregious of the bad acts of Mr. Gutierrez. Mr. Gutierrez established himself as a trusted advisor with Ms. Blutt. Taking advantage of that position, he borrowed money from Ms. Blutt under terms that he was uncertain he could comply with. He then failed to pay Ms. Blutt in accordance with the terms of the promissory note that he signed. Moreover, instead of making interim payments as he could or a balloon payment at the end of the loan term, he made excuses. There is no indication that he attempted to make any payments to Ms. Blutt after the first two payments. It even appears from his testimony that he became vindictive, intending to punish Ms. Blutt for reporting his actions to the DOI by withholding payment on the loan. In effect, Mr. Gutierrez stole his client's money.

Mr. Gutierrez's testimony tries to justify his actions by asserting that his work as a licensed producer placed Ms. Blutt in a better financial position than she otherwise would have been in. But Mr. Gutierrez does not get credit for doing his job for which he was compensated. Performance of his job, even if performed well, does not provide shelter for Mr. Gutierrez's subsequent bad acts and violation of the Idaho Code.

Nevertheless, the Director does not disagree with the hearing officer's conclusion that failure to repay the loan constitutes only a single violation of § 41-1016(1)(h). The promissory note was a single transaction that included multiple payments. Each missed payment does not constitute a new violation. The \$1,000 penalty is appropriate.

However, given that Mr. Gutierrez used his position as a trusted advisor to take advantage of his client warrants more than simply a monetary fine or suspension of his license. Rather, the Director considers Mr. Gutierrez's actions egregious and an affront to the DOI and other licensed producers in the state. A producer's license is a privilege, not a right. And while the appropriate penalty is a deterrent to prevent other producers from acting as Mr. Gutierrez, it

is also intended to penalize Mr. Gutierrez and protect the public from unscrupulous producers such as Mr. Gutierrez. He developed a relationship of trust with Ms. Blutt, and, based on that relationship, he took her money and did not give it back. It is the Director's duty and obligation to insure that Mr. Gutierrez is not permitted the opportunity to engage in similar conduct with other unsuspecting clients. It is not the Director's duty or obligation to insure that Mr. Gutierrez has the opportunity to make a living as an insurance producer. He may make his livelihood in other pursuits. Further, his stunning failure to repay Ms. Blutt any of the borrowed money since his last payment in October of 2013 underscores the likelihood that he would not use his earnings as a producer to repay her. Revocation in this situation is not an overly harsh sanction, but entirely appropriate.

The last Count asserted by the DOI concerns violation of Idaho Code § 41-1016(1)(h) arising out of the long string of default judgments against Mr. Gutierrez. As indicated above, the hearing officer erred in concluding that a prerequisite to finding a violation under this section is a link between the actions and the insurance business as a licensed producer. No such link is required. Hence, each of the default judgments is relevant to the finding that Mr. Gutierrez is untrustworthy and financially irresponsible and caused injury to others in this state. It would not surprise the Director that, if Ms. Blutt filed suit against Mr. Gutierrez, she would be added to this long line of default judgments. A monetary penalty of \$1,000 is appropriate.

V. Order

IT IS HEREBY ORDERED that the Preliminary Order is revised as follows:

Mr. Gutierrez shall pay the following administrative penalties:

- (1) As a result of the failure to provide information pertaining to criminal prosecutions in violation of Idaho Code § 41-1021(2), the sum of One Thousand Dollars (\$1,000.00);

- (2) As a result of the failure to satisfy the requirements of Idaho Code § 41-1325 in entering into a promissory note with a client, the sum of One Thousand Dollars (\$1,000.00);
- (3) As a result of the failure to maintain proper documentation of a loan transaction with a client as required by Idaho Code § 41-1325, the sum of One Thousand Dollars (\$1,000.00);
- (4) With reference to Ms. Blutt, as a result of demonstrating untrustworthiness, financial irresponsibility and causing injury to a person in this state in violation of Idaho Code § 41-1016(1)(h), the sum of One Thousand Dollars (\$1,000.00); and
- (5) With reference to the default judgments, as a result of demonstrating untrustworthiness, financial irresponsibility and causing injury to persons in this state in violation of Idaho Code § 41-1016(1)(h), the sum of One Thousand Dollars (\$1,000.00);

for a total administrative monetary penalty in the amount of Five Thousand Dollars (\$5,000.00).

Full payment of the monetary penalty shall be due on or before August 31, 2015, *provided however*, that if Mr. Gutierrez provides credible evidence to the DOI on or before August 31, 2015, that he repaid Ms. Blutt the full amount of the loaned funds plus interest to the date of repayment, then Four Thousand Dollars (\$4,000.00) of this monetary penalty shall be waived.

IT IS FURTHER ORDERED that Mr. Gutierrez's producer license no. 98979 is hereby revoked, effective immediately.

IT IS SO ORDERED.

VI. Notice 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 § 67-5246(4), Idaho Code.

Pursuant to §§ 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this 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: 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.

An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying 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 an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

DATED this 21 day of July, 2015.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



DEAN L. CAMERON
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 21 day of July, 2015, I caused a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER ON PETITION FOR REVIEW OF PRELIMINARY ORDER to be served upon the following by the designated means:

Daniel G. Gutierrez
153 E. Hearthstone Drive
Boise, ID 83702

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

Brandon Karpen
Deputy Attorney General
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Department of Insurance
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- first class mail
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- first class mail
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Kelly Grady