

LAWRENCE G. WASDEN
Attorney General

JOHN C. KEENAN, ISB No. 3873
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, Idaho 83720-0043
Telephone: (208) 334-4283
Facsimile: (208) 334-4298
john.keenan@doi.idaho.gov

FILED
JAN 03 2020
Department of Insurance
State of Idaho

Attorneys for the Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

IDAHO DEPARTMENT OF INSURANCE,

Complainant,

vs.

ALAN RALPH GURNEY, an Idaho resident
holding Idaho Resident Producer License No.
13876, and A. RALPH GURNEY AGENCY,
INC., an unlicensed Idaho corporation,

Respondent.

Docket No. 18-3664-19

STIPULATION AND FINAL ORDER

The parties herein, namely the Idaho Department of Insurance (“Department”) and ALAN RALPH GURNEY and A. RALPH GURNEY AGENCY, INC. (collectively, “Respondents”), do hereby enter into this Stipulation to resolve as between them the matters at issue in Department Docket No. 18-3664-19 and do hereby stipulate and agree as follows:

JURISDICTION & PROCEDURE

1. The Director of the Idaho Department of Insurance (“Director”) has jurisdiction over Respondents and the subject matter herein, pursuant to the Idaho Insurance Code, Idaho Code §§ 41-101 *et. seq.*, and the rules promulgated thereunder.

2. Pursuant to Idaho Code § 41-213, the Department may institute such proceedings as deemed necessary for the enforcement of any provision of the Idaho Insurance Code, including but not limited to suspension or revocation of insurance licenses and the imposition of administrative penalties.

3. Respondent ALAN RALPH GURNEY (“Gurney”) holds Idaho Resident Producer License No. 13876, which license was originally issued on March 1, 1985.

4. Respondent A. RALPH GURNEY AGENCY, INC. (“the Agency”) holds Idaho Resident Producer Agency License No. 728676, which license was originally issued on June 27, 2019. Department records reflect that Gurney is the designated responsible licensed producer for the Agency, in accordance with Idaho Code § 41-1007(2)(b).

5. On June 18, 2019, the Department filed and served on Respondents a Verified Complaint and Notice of Right to Hearing (“Complaint”) in Docket No. 18-3664-19.

6. On June 25, 2019, Gurney submitted a response to the Complaint and indicated his intent to defend against the allegations made by the Department.

7. Respondents retained counsel, and a Notice of Appearance was filed by attorneys Timothy L. Fleming and Kent W. Day on August 5, 2019.

8. Thereafter, the Director of the Department appointed a hearing officer to preside over the matter, and a hearing was set for December 19, 2019.

AGREEMENT

9. In lieu of proceeding to a hearing on the Complaint, the Department and Respondents agree to resolve as between them the matters at issue in the above-entitled matter through this negotiated and stipulated settlement; wherefore, the Department and Respondents stipulate and agree to the following terms:

As to A. Ralph Gurney Agency, Inc.

- a. Respondent Agency admits to violating Idaho Code § 41-1007(2), by operating as an insurance producer in the state of Idaho without being duly licensed as such;
- b. The Department acknowledges that Respondent Agency corrected the ongoing violation by obtaining a producer license on June 27, 2019;
- c. Respondent Agency's Idaho Resident Producer Agency License No. 728676 shall be revoked effective as of the date of entry of the Final Order herein;

As to Alan Ralph Gurney

- d. Respondent Gurney admits to using fraudulent, coercive or dishonest practices, or demonstrating incompetence or untrustworthiness, in violation of Idaho Code § 41-1016(1)(h), by identifying himself as primary beneficiary of the life insurance policy of his client, Barbara Leatherbury, and falsely identifying himself as Ms. Leatherbury's spouse/domestic partner when no such relationship existed;
- e. Respondent Gurney admits to misrepresenting a fact material to an insurance transaction or proposed transaction in violation of Idaho Code § 41-1016(1)(e), by falsely reporting to National Western Life that a proposed annuity for his client, Barbara Leatherbury, would not replace an existing annuity;

- f. An administrative penalty shall be imposed against Respondent Gurney in the amount of One Thousand Dollars (\$1,000), to be paid in full within thirty (30) days of entry of the Final Order herein;
- g. Respondent Gurney's Idaho Resident Producer License No. 13876 shall be revoked, and Respondent Gurney shall not submit, nor shall the Department consider, any application by Respondent Gurney for any license authorized under title 41, Idaho Code, for a period of five (5) years commencing on the date of entry of the Final Order herein;
- h. In the event Respondent Gurney files an application for a license under title 41, Idaho Code, after the term of the five (5) year revocation, Respondent Gurney agrees that he shall be required to appear and show good cause why the prior revocation shall not be deemed a bar to the issuance of a new license.
- i. Before the Idaho Department of Insurance will consider any such application for a license under title 41, Idaho Code, as stated in the foregoing paragraph, any administrative penalty shall have been paid in full.

10. In agreeing to the provisions stated hereinabove, Respondents knowingly and voluntarily waive any rights they may have to dispute the issues of fact and law raised in the above-entitled matter, including but not limited to the rights afforded by Idaho Code § 41-232A, which provides for the right to a hearing; the right to be represented at a hearing by counsel chosen and retained by Respondents; the right to present a defense, oral and documentary evidence and to cross-examine witnesses at such hearing and the right to seek judicial review or appeal the Final Order entered herein.

11. The Department and Respondents each agree that this Stipulation is a full and final settlement of the issues raised between them in the above-entitled matter, namely Docket No. 18-3664-19.

12. Respondents understand and acknowledge that the Department may take such lawful actions as may be required or appropriate to investigate and determine whether Respondents are in compliance with this Stipulation and the Final Order approving this Stipulation.

13. In the event that the Department takes action relating to alleged violations of this Stipulation or the Final Order approving this Stipulation, the Stipulation and Final Order shall be admissible in full in that proceeding for any purpose.

14. The Department and Respondents enter into this Stipulation freely and voluntarily, after having had the opportunity to consult with counsel of their choice, and with full understanding of the legal consequences of this Stipulation and the Final Order approving this Stipulation.

15. Respondents agree that, upon execution of this Stipulation, no subsequent action or assertion shall be maintained or pursued in any manner asserting the invalidity of this Stipulation and Final Order and its provisions.

16. Respondents understand that this Stipulation and the Final Order approving this Stipulation shall be reported to the Regulatory Information Retrieval System ("RIRS") maintained by National Association of Insurance Commissioners ("NAIC").

17. This Stipulation embodies the entire agreement between the Department and Respondents, and there are no agreements, understandings, representations or warranties that are not expressly set forth herein.

18. This Stipulation is subject to approval by the Director and shall become effective and binding upon the Department and Respondents upon such approval. Should the Director

decline to approve this Stipulation, the Department and Respondents shall retain all their rights, claims and/or defenses, and any factual and/or legal admissions made by Respondents herein shall be withdrawn.

19. Upon the Director's entry of the Final Order approving this Stipulation, this Stipulation and the Final Order shall be a public record under the Idaho Public Records Act.

AGREED THIS 30 day of December, 20 19.

Alan Ralph Gurney

ALAN RALPH GURNEY, individually and
on behalf of A. RALPH GURNEY AGENCY, INC.

STATE OF IDAHO)
County of Bem) ss.

On this 30th day of December, 20 19, before me, the undersigned, a Notary Public in and for said state, personally appeared ALAN RALPH GURNEY, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.


WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.



Tenn & Ling
Notary Public in and for the State of Idaho
Residing at Emmett
My commission expires 3.31.20

Approved as to Form:

FLEMING LAW OFFICES

By: 
Kent W. Day
Attorney for Respondents


AGREED THIS 2nd day of January, 20 20

STATE OF IDAHO
DEPARTMENT OF INSURANCE

By: 
Randall Pipal
Bureau Chief, Consumer Services
Idaho Department of Insurance

Approved as to Form:

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By: 
John C. Keenan
Deputy Attorney General
Attorney for the Idaho Department of Insurance

FINAL ORDER

The Director having reviewed the Stipulation entered hereinabove, and having found that there is a basis in fact for the admission therein and in consideration of the premises;

IT IS HEREBY ORDERED that the preceding Stipulation is APPROVED and ADOPTED in full and incorporated in this Final Order as if set forth herein;

IT IS FURTHER ORDERED that Idaho Resident Producer Agency License No. 728676, held in the name of A. RALPH GURNEY AGENCY, INC., is hereby REVOKED;

IT IS FURTHER ORDERED that an administrative penalty in the sum of One Thousand Dollars (\$1,000) is hereby imposed against ALAN RALPH GURNEY, to be paid in full within thirty (30) days of entry of this Final Order;

IT IS FURTHER ORDERED that Idaho Resident Producer License No. 13876, held in the name of ALAN RALPH GURNEY, is hereby REVOKED;

IT IS FURTHER ORDERED that ALAN RALPH GURNEY shall not submit, nor shall the Department consider, any application for any license authorized under title 41, Idaho Code, from ALAN RALPH GURNEY for a period of five (5) years after entry of this Final Order;


IT IS FURTHER ORDERED that, in the event ALAN RALPH GURNEY files an application for a license under title 41, Idaho Code, after expiration of the five-year revocation period, he shall be required to show good cause why the prior revocation shall not be deemed a bar to the issuance of a new license; and,

IT IS FURTHER ORDERED that, in the event ALAN RALPH GURNEY files an application for a license under title 41, Idaho Code, after expiration of the five-year revocation period, the Department of Insurance shall not consider such application until such time as the administrative penalty as imposed herein has been paid in full.

IT IS SO ORDERED.

DATED this 2nd day of January, 2020 Dec.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



DEAN L. CAMERON
Director

NOTIFICATION OF RIGHTS

This is a final order of the Director of the Idaho Department of Insurance and is effective immediately. 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 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 of (a) the service date of this final order, (b) 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* 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.

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 you may be required to disclose this proceeding on any license application, and you may be required to report this action to any and all states in which you hold an insurance license.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of January, 2020, I caused a true and correct fully-executed copy of the foregoing STIPULATION AND FINAL ORDER to be served on the following by the designated means:

Kent W. Day
Timothy L. Fleming
Fleming Law Offices
P.O. Box 814
Emmett, ID 83617

☒ first class mail
☐ certified mail
☐ hand delivery

John C. Keenan
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

☐ first class mail
☐ certified mail
☒ hand delivery

and upon the following insurers by first class mail, postage prepaid:

Bristol West Insurance Company
Rockside Center III
5990 West Creek Road
Independence, OH 44131

Foremost Ins. Co. Grand Rapids,
Michigan
5600 Beech Tree Lane
Caledonia, MI 49316-0050

Farmers Insurance Co. of Idaho
122 Vista Dr
Pocatello, ID 83201-5824

Mid-Century Insurance Company
6301 Owensmouth Ave
Woodland Hills, CA 91367

Farmers Insurance Exchange
6301 Owensmouth Ave
Woodland Hills, CA 91367


Regence Blueshield of Idaho, Inc.
1602 21st Avenue
Lewiston, ID 83501-4061

Farmers New World Life Ins. Co.
3120 139th Ave SE
Bellevue, WA 98005

Truck Insurance Exchange
6301 Owensmouth Ave
Woodland Hills, CA 91367

Fire Insurance Exchange
6301 Owensmouth Ave
Woodland Hills, CA 91367

Western Surety Company
101 S. Reid St.
Sioux Falls, SD 57103


Pamela Murray