

**STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER**

In the Matter of)	
)	CONSENT ORDER
Leland Gregorich,)	
NPN 16421756,)	CASE NO. AG-17-728
)	
Respondent.)	

TO: Leland Gregorich, W7924 Crow Rd, Willard, WI 54493-9210:

Insurance Commissioner Jon Godfread ("Commissioner") has determined as follows:

1. As a result of information obtained by the North Dakota Insurance Department ("Department") regarding the conduct of Leland Gregorich, NPN 16421756 ("Respondent"), an individual who has held a North Dakota nonresident insurance producer license since May 2, 2012, the Commissioner has considered initiating administrative proceedings regarding Respondent's conduct as alleged below and regarding the imposition of a civil penalty or any other action the Commissioner deems necessary. Respondent's conduct is alleged to be in violation of N.D.C.C. §§ 26.1-04-03, 26.1-26-42 and N.D. Admin. Code § 45-02-02-14.

2. N.D.C.C. § 26.1-04-03 states, in relevant part:

26.1-04-03. Unfair methods of competition and unfair or deceptive acts or practices defined. The following are unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

1. Misrepresentations and false advertising of policy contract. Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policies, or making any misleading representation or any misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurance company operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation tending to induce the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy or for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance.
2. False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of that person's insurance

business, which is untrue, deceptive, or misleading.

3. N.D.C.C. § 26.1-26-42 states, in relevant part:

26.1-26-42. License suspension, revocation, or refusal – Grounds. The commissioner may suspend, revoke, place on probation, or refuse to continue to refuse to issue any license issued under this chapter if, after notice to the licensee and hearing, the commissioner finds as to the licensee any of the following conditions:

1. A materially untrue statement in the license application.

...

6. In the conduct of affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or has shown oneself to be incompetent, untrustworthy, or financially irresponsible.

...

7. A misrepresentation of the terms of any actual or proposed insurance contract.

8. The licensee has been found to have knowingly solicited, procured, or sold unnecessary or excessive insurance coverage to any person.

5. N.D. Admin. Code § 45-02-02-14(2) states:

45-02-02-14. Excessive or unnecessary coverage.

2. Suitability. In recommending the purchase of any accident and health, health service, life, annuity, or nursing home policy to any consumer over age sixty-five, or medicare supplement policy to any consumer, an insurance producer shall have reasonable grounds at the time of sale for believing that the recommendation is suitable for the consumer and shall make reasonable inquiries to

determine suitability. The suitability of a recommended purchase of insurance will be determined by examination of the totality of the particular consumer's circumstances, including, but not limited to, the following:

- a. The consumer's income and assets;
- b. The consumer's need for insurance at the time of sale; and
- c. The values, benefits, and costs of the consumer's existing insurance program, if any, when compared to the values, benefits, and costs of the recommended policy or policies.

6. The Commissioner has come into information, through documentation and recorded telephone calls between Respondent and R.B., that Respondent effected the transfer of consumer, R.B.'s, four Thrivent Financial life insurance policies to policies with Settler's Life Insurance Company ("Settler's") and National Guardian Life Insurance Company ("NGL"). Those policies were then placed into the Irrevocable National Guardian Life Insurance Estate Planning Trust ("NGL Trust").

7. On October 14, 2015, Respondent made initial contact with R.B. by telephone at her home in North Dakota. R.B. indicated that she had not received the packet of information which had been sent to her on Respondent's behalf. Respondent indicated he would send another packet and telephone her again.

8. On October 22, 2015, Respondent contacted R.B. by telephone again. She had received the packet by this time. Respondent indicated that he wanted to go over the changes to Medicare and Medicaid with her.

9. At one point in the call, Respondent had R.B. take out the document titled "Medicaid Planning." Respondent misrepresented to R.B. that there are two types of trusts which are protected from Medicaid: 1) "an irrevocable burial trust up to \$6,000"

and 2) "one of the new rules is you can have an estate planning trust" "up to \$50,000." Only the funeral trust up to \$6,000 is exempt from Medicaid in North Dakota. An estate planning trust is not exempt.

10. During the October 22, 2015, telephone call, Respondent asked R.B. about her funeral plans. R.B. informed him that her funeral was all taken care of and paid for and that her parents had been in the funeral home business.

11. During the same call, R.B. told Respondent that she had been in a car accident in July of 2015 and spent some time in the hospital.

12. During the October 22, 2015 call, R.B. became upset and informed Respondent that she does not want to buy insurance.

13. Respondent called R.B. again on October 27, 2015, and told R.B. that if she goes into a nursing home, they will first go after her life insurance and that she needed to protect that money. Respondent and R.B. called Thrivent Financial ("Thrivent") to determine what policies R.B. had with Thrivent. Respondent dishonestly told the Thrivent representative that he is "just a friend helping [R.B.] out." R.B. had four life insurance policies with Thrivent. Respondent told R.B. that she can protect her money through an estate trust, which is not correct under North Dakota law. R.B. told Respondent that she won't be transferring anything.

14. Despite R.B.'s indication that she does not want to make any transfers, Respondent persisted and proceeded to present R.B. with two "options." Option A would be a 1035 transfer with no premiums and Option B would require a monthly payment. At this point, R.B. stated "we'll just go with option A." Respondent had R.B. sign the application and told her that he would complete the remainder.

15. The following week, Respondent called R.B. again to effectuate the transfer of two of her Thrivent policies to Settler's. While on the telephone with the Settler's representative, R.B. appeared to have forgotten what was being done and stated that she did not think they were transferring anything and that she "probably has a small insurance policy with Thrivent." Respondent reminded her that she has four policies and they were replacing two.

16. Two Thrivent policies were exchanged for one Settler's policy. The premium amount was \$7,337.49 with a guaranteed policy death benefit of \$14,841.20. Ownership of the new Settler's policy was then assigned to the NGL Trust with R.B.'s nephew named as beneficiary of any excess funds.

17. On January 6, 2016, Respondent called R.B. and R.B. was confused and could not remember anything about the transaction from November. Respondent stated "I know you have some memory issues." R.B. acknowledged that she has had memory problems since the car accident. Respondent responded "Yeah, I know." Despite this, Respondent told R.B. that he wants to review her remaining two policies stating "with your memory issues I would just like to review that."

18. Respondent called R.B. again on January 12, 2016, and R.B. told Respondent on that call that she has had a hard time with her memory since the accident.

19. On January 18, 2016, R.B. granted general durable power of attorney to both her brother and her sister.

20. Respondent called R.B. again on January 25, 2016, and they again discussed her memory issues. Respondent then told R.B. that he wants to transfer her

other two Thrivent policies and had her sign paperwork. When they called the Thrivent representative, Respondent again dishonestly stated that he is a friend of R.B. R.B. made the statement "I can't remember anything right now. The brain hasn't worked since the accident." The Thrivent representative asked R.B. if she has a power of attorney and Respondent dishonestly answered for her stating "you don't really have anyone at the moment." R.B. stated that if she has one it would be her brother but that she did not know if it had been set up.

21. Respondent seemed concerned about the Thrivent representative still being on the line and ensured that he had hung up before continuing his conversation with R.B. Once Respondent made sure the Thrivent representative had hung up, he told R.B. that a power of attorney is a document giving someone the right to do "any things." Respondent then told R.B. "I'm not sure that's what you need at the moment." This was despite the fact that he knew R.B. had memory issues and despite not knowing if R.B. had a power of attorney or not. Respondent proceeded to discuss the paperwork for the new transfer and told her she would need to sign. R.B. became confused again and responded "I hate to be stupid, but what is this all about?" Respondent then explained the transaction again and moved forward with the transaction despite admitting that "it's not the best time for it."

22. Respondent called R.B. on February 4, 2016, to discuss the transfer of her two remaining Thrivent policies. R.B. disclosed that she was diagnosed with atrial fibrillation and Respondent told her that she will not be eligible to get as much in the transfer.

23. During the February 4, 2016 call, R.B. had again forgotten what was

discussed just the week before and Respondent explained again what they are doing. Respondent told her "It's up to you if you want to gamble your money or not. I know what I would do, but that's not really important." R.B. asked what Respondent would recommend and he asked whether \$36,000 would be enough for her nephew and she responded that it would.

24. Respondent then had R.B. write out on the big envelope exactly what they are doing because she would not recall later; again, demonstrating his knowledge of her memory deficiencies. Despite these memory issues with R.B., Respondent proceeded with the paperwork.

25. Following the February 4, 2016, discussion Respondent called R.B. four more between February 4, 2016 and March 2, 2016, to encourage her to get the paperwork sent back and to make sure she had done so.

26. Respondent called R.B. on March 23, 2016 to inform her that she was approved. On April 11, 2016, he called R.B. to tell her he received the policy and that it is just short of \$23,000. When they discussed whether he wished her a happy birthday, Respondent made the comment "I'm getting Alzheimer's too."

27. Two Thrivent policies were exchanged for one NGL policy in the amount of \$22,711.90. The NGL policy was then assigned to the NGL Trust with her nephew the beneficiary for the excess funds.

28. Respondent misrepresented the benefit of the NGL Trust and its interaction with Medicaid when presenting the NGL Trust to R.B. The NGL Trust is not exempt from Medicaid and is considered in the eligibility determination and subject to the five-year look back rule. N.D.C.C. §§ 50-24.1-02 and 50-24.1-02.3; N.D. Admin.

Code § 75-02-02.1-33.2. This is particularly true since Respondent was aware that R.B. had already pre-paid for her funeral expenses.

29. Respondent knew that R.B. had memory deficiencies at the latest in January of 2016, prior to the second transfer. Despite his knowledge of R.B.'s memory deficiencies, he proceeded with the transfer.

30. Respondent misrepresented his relationship with R.B. when interacting with Thrivent. He presented himself as R.B.'s friend when, in fact, he had never met R.B. He failed to disclose that he is actually an insurance producer.

31. Respondent sold R.B. policies for funeral expenses despite knowing that R.B. had already pre-paid for her funeral and burial plot. These policies were not necessary for R.B.

32. The above-described conduct constitutes violations of N.D.C.C. §§ 26.1-04-03, 26.1-26-42 and N.D. Admin. Code § 45-02-02-14.

33. Respondent acknowledges that at the time of signing this Consent to Entry of Order, he is aware of or has been advised of his rights to a hearing in this matter, to consult an attorney, to present argument to the Commissioner, to appeal from any adverse determination after a hearing, and Respondent expressly waives those rights.

34. Respondent has agreed to informal disposition of this matter, without a hearing, as specifically set forth in this Order.

35. There are no covenants, promises, undertakings or understandings other than as specifically set forth in this Order.

36. Respondent consents to the Commissioner's continuing jurisdiction over

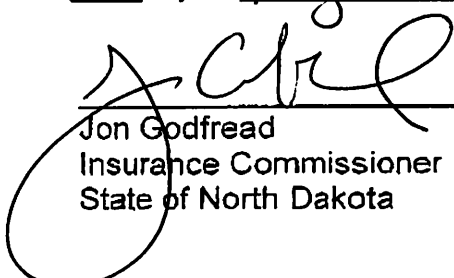
him regarding any issues which may subsequently arise related to Respondent's activities.

37. For purposes of resolving this matter without further administrative proceedings, Respondent and the Commissioner have agreed to enter into the following Order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent's nonresident insurance producer license is hereby **REVOKED** effective upon the Commissioner's execution of this Order.
2. No administrative fine or other civil penalty is imposed.
3. The use of this Consent Order for competitive purposes by an insurance producer or agency holding a license in the State of North Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority.

DATED at Bismarck, North Dakota, this 16th day of August, 2017.



Jon Godfread
Insurance Commissioner
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, **Leland Gregorich**, states that he has read the foregoing Consent Order, that he knows and fully understands its contents and effect; that he has been advised of his right to a hearing in this matter, his right to be represented by legal counsel, his right to present evidence and arguments to the Commissioner, and his right to appeal from an adverse determination after hearing; and that by the signing of this Consent to Entry of Order he voluntarily waives those rights in their entirety and consents to entry of this Order by the Commissioner. It is further expressly understood that this Order constitutes the entire settlement agreement between the parties, there being no other promises or agreements, either expressed or implied.

DATED this 14th day of August, 2017.

Leland Gregorich
Leland Gregorich

Subscribed and sworn to before me this 14th day of August, 2017.

Stephanie Clement
Notary Public

State of Wisconsin
County of LaCrosse

My commission expires: 4-16-2021

