

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of)	
)	CONSENT ORDER
Jacob Murack,)	
NPN 14979462,)	CASE NO. AG-17-740
)	
Respondent.)	

TO: Jacob Murack, 7022 9th Street N., Moorhead, MN 56560-6413:

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

- As a result of information obtained by the North Dakota Insurance Department ("Department") regarding the conduct of Jacob Murack, NPN 14979462 ("Respondent"), an individual who has held a North Dakota nonresident insurance producer license since September 25, 2009, 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(2), 26.1-26-42 and N.D. Admin. Code §§ 45-04-10-02 and 45-04-10-04.

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:

...

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 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:

...

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.

...

12. A violation of or noncompliance with any insurance laws of this state or a violation of or

noncompliance with any lawful rules or orders of the commissioner or of a commissioner of another state.

4. N.D. Admin. Code § 45-04-10-02 states:

45-04-10-02. Applicability.

1. This chapter applies to any advertisement of life insurance or any annuity product intended for dissemination in this state and which advertisement is disseminated in any manner by or on behalf of an insurance company, agent, or broker.
2. Every insurer shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of its policies. All such advertisements, regardless of by whom written, created, designed, or presented, are the responsibility of the insurer. However, this does not in any way prohibit enforcement of this chapter against individual agents, brokers, and agencies.

5. N.D. Admin. Code § 45-04-10-04 states:

45-04-10-04. Identity of insurer.

1. The name of the insurer, insurance agency, agent, or broker must be clearly identified on all advertisements, and if any specific individual policy is advertised it must be identified either by form number or other appropriate description. An advertisement may not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, agent, broker, or agency, service mark, slogan, symbol, or other device or reference without disclosing the name of the insurer, agent, broker, or agency if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer, agent, broker, or agency or create the

impression that an entity other than the insurer would have any responsibility for the financial obligation under a policy.

6. The Commissioner has come into information that a mailer, also known as a lead card, was received by North Dakota consumers. The mailer came to the Department's attention after a consumer contacted the Department regarding the mailer.

7. The mailer fails to disclose the name of the insurer, agent, agency or broker.

8. The mailer states "Policies underwritten by A and A+ Life Insurance Companies" but fails to disclose the names of the insurance companies.

9. The mailer states that this is a "NEW Program." However, it is only the mailer that is new as it had not been previously used in North Dakota. Additionally, this is not a specific "Program" as there are a number of different policies and products which could potentially be sold to the consumer.

10. According to the lead card company, 1,000 mailers were sent to North Dakota addresses on Respondent's behalf in 2017. The 1,000 mailers constitute 1,000 separate violations of North Dakota advertising rules and unfair acts and practices law.

11. The lead card company designed the mailer. Respondent admitted that he had not reviewed or approved the mailer prior to it being sent to North Dakota residents on his behalf. When Respondent requested a copy of the mailer after the fact, the company refused to provide a copy. Respondent has not pursued this business since the refusal.

12. Respondent has had numerous issues with the Department since being

licensed in North Dakota as a nonresident producer in 2009.

13. Respondent received a two-year conditional license in September 2009 due to an outstanding civil judgment.

14. Between August of 2010 and July of 2013, the Department received five complaints regarding Respondent. As a result, Respondent was issued a formal admonishment letter on July 26, 2013.

15. In May of 2014, Respondent entered into a Consent Order with the Department and agreed to a \$200 fine and a two-year conditional license.

16. The Department received another complaint regarding the Respondent in September of 2014. No action was taken at that time.

17. Many of the complaints, detailed above, involved his failure to communicate with clients appropriately.

18. The above-described conduct constitutes violations of N.D.C.C. §§ 26.1-04-03(2), 26.1-26-42 and N.D. Admin. Code §§ 45-04-10-02 and 45-04-10-04.

19. N.D.C.C. § 26.1-26-50 states:

In addition to or in lieu of any applicable denial, suspension, or revocation of a license, any person violating this chapter may, after hearing, be subject to a civil fine not to exceed ten thousand dollars for each violation. The fine may be collected and recovered in an action brought in the name of the state.

20. 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.

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

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

23. Respondent consents to the Commissioner's continuing jurisdiction over him regarding any issues which may subsequently arise related to Respondent's activities.

24. 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 Jacob Murack agrees to issuance by the Commissioner of a conditional license for a period of four years and after expiration of four years, the license will remain conditional for 61 days, to allow the Department to determine whether Respondent completed probation successfully or to enforce any violation of this agreement that occurred during the four-year conditional period. After the aforementioned time period has expired, the license will become unrestricted if no enforcement action has been initiated.

2. Respondent agrees to pay a fine in the amount of \$1,000 payable by money order, cashier's check, or credit card to the North Dakota Insurance Department within 30 days of the effective date of this Order.

3. Respondent agrees that he will not pursue any business related to the mailer which is at issue in this matter, or any similar mailer within the State of North

Dakota.

4. Respondent agrees that the Department may, during the four-year conditional license period and the 61-day review period allowed under paragraph 1, revoke, suspend, or take such further action as may be deemed necessary against Respondent's insurance license without Notice of Hearing or the issuance of a Complaint if the Department receives a complaint from any source against Respondent and, after investigation of the merits of said complaint, notifies the Respondent that Respondent has, in the Commissioner's opinion, violated the laws of the State of North Dakota. Respondent further agrees that any action taken against Respondent's license or in furtherance of this action is not appealable.

5. The use of this Consent Order for competitive purposes by an insurance agent 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 19th day of October, 2017.

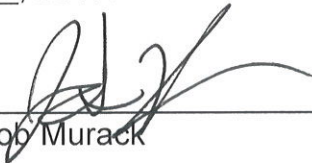


Jon Godfread
Insurance Commissioner
State of North Dakota

CONSENT TO ENTRY OF ORDER

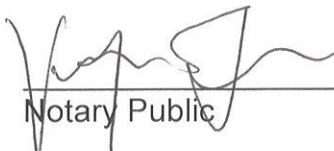
The undersigned, **Jacob Murack**, states that he has read the foregoing Consent Order, that he knows and fully understands its contents and effect; that he has been advised of his right to a hearing in this matter, his right to be represented by legal counsel, his right to present evidence and arguments 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 knowingly and 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 10th day of OCTOBER, 2017.

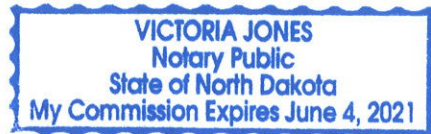


Jacob Murack

Subscribed and sworn to before me this 10th day of October, 2017.



Notary Public
State of NORTH DAKOTA
County of CASS



My commission expires: June 4, 2021