

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

<b>In the Matter of</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
<b>Gina Nista,</b>	)	<b>AND DEFAULT ORDER</b>
<b>NPN 8333800,</b>	)	
	)	<b>CASE NO. AG-16-671</b>
<b>Respondent.</b>	)	

**TO: Gina Nista, 5723 Shawnee Road, Lyndhurst, OH 44124**

On November 23, 2016, a Complaint for Revocation of License was filed with the Insurance Commissioner by Kelvin W. Zimmer, Director of Producer Licensing for the North Dakota Insurance Department, alleging Gina Nista, NPN 8333800 (“Respondent”), committed various violations of North Dakota insurance statutes.

The Complaint was mailed to Respondent at the address on file with the Department by the United States Postal Service via certified mail, return receipt requested, on November 23, 2016. On January 3, 2017, the certified mail was returned to the Department marked “Return to Sender – Unclaimed – Unable to Forward.” Proof of service of the Complaint is annexed to these Findings. Respondent failed to answer the Complaint within 20 days as required under N.D.C.C. § 28-32-21(1)(e). As such, on January 23, 2017, an Application for Default Order was made deeming the allegations made in the Complaint to be admitted pursuant to N.D.C.C. § 28-32-30.

Based on the allegations made in the Complaint and on the evidence presented in the Affidavits filed in support of the Complainant's Application for Default Order, the following Findings of Fact, Conclusions of Law, and Default Order are entered:

**FINDINGS OF FACT**

I

Respondent is presently, and has at all times pertinent to this action, been an insurance producer licensed in North Dakota.

II

The Complaint was mailed to Respondent at the address on file with the Department by the United States Postal Service via certified mail, return receipt requested, on November 23, 2016. On January 3, 2017, the certified mail was returned to the Department marked "Return to Sender – Unclaimed – Unable to Forward." Respondent failed to provide a written response to the Complaint.

III

Respondent has not answered the Complaint within 20 days as required under N.D.C.C. § 28-32-21(1)(e).

IV

Respondent has been licensed as a nonresident insurance producer in North Dakota since March 21, 2005.

V

On or about June 16, 2016, Respondent submitted an application to renew her nonresident insurance producer license in North Dakota. Respondent answered "no" to background question two relating to being named or involved as a party in an

administrative proceeding regarding any professional or occupational license. A background investigation revealed that on or about January 19, 2016, Ohio suspended Respondent's producer license due to her failure to pay a tax lien judgment with the State of Ohio. Respondent entered into an approved payment program in order to resolve the obligation and her license was reinstated on February 24, 2016. The Ohio administrative action should have been reported to North Dakota by February 19, 2016, and it was never reported. Also, the Ohio administrative action should have been disclosed on Respondent's 2016 renewal application and it was not. Respondent's failure to report an administrative action within 30 days and failing to disclose the administrative action on an application is in violation of N.D.C.C. §§ 26.1-26-42(1) and 26.1-26-45.1(1).

#### VI

On or about October 18, 2016, a Consent Order was offered to Respondent for being in violation of N.D.C.C. §§ 26.1-26-42(1) and 26.1-26-45.1(1). The Consent Order was mailed to Respondent by certified mail, return receipt requested. Delivery of the certified mail was accepted on October 24, 2016. Respondent failed to sign and return the Consent Order within 20 days.

#### VII

Respondent's actions constitute violations of N.D.C.C. §§ 26.1-26-42(1) and 26.1-26-45.1(1) and are grounds for revocation of Respondent's insurance producer license.

## CONCLUSIONS OF LAW

1. Respondent was properly served with the Complaint in accordance with the North Dakota Rules of Civil Procedure.
2. Because of her failure to answer the Complaint within 20 days of its proper service, Respondent is in default under N.D.C.C. § 28-32-30.
3. Because Respondent is in default, the allegations in the Complaint are deemed admitted pursuant to N.D.C.C. § 28-32-30.
4. Respondent's violations of N.D.C.C. §§ 26.1-26-42(1) and 26.1-26-45.1(1) are grounds for revocation of her insurance producer license.
5. Under N.D.C.C. § 26.1-26-42, the Commissioner of Insurance has authority to revoke Respondent's producer license for the violations cited above.

## DEFAULT ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, IT IS ORDERED that the North Dakota insurance producer license of Gina Nista, NPN 8333800, be **REVOKED** effective after the time for filing a motion to vacate a Default Order pursuant to N.D.C.C. § 28-32-30 expires.

DATED at Bismarck, North Dakota, this 24<sup>th</sup> day of January, 2017.



Jon Godfread  
Commissioner  
N.D. Insurance Department  
600 East Boulevard Avenue  
Bismarck, ND 58505  
(701) 328-2440

**TO:** Gina Nista  
5723 Shawnee Road  
Lyndhurst, OH 44124

**SENDER:** Jeff Ubben

**REFERENCE:** Gina Nista

9314 8699 0430 0028 7789 54

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	0.675
	Certified Fee	3.30
	Return Receipt Fee	1.35
	Restricted Delivery	0.00
	Total Postage & Fees	5.325

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January 3, 2017 , 7:54 am	Out for Delivery	BISMARCK, ND 58504
January 3, 2017 , 7:44 am	Sorting Complete	BISMARCK, ND 58504
January 3, 2017 , 4:33 am	Arrived at Unit	BISMARCK, ND 58504
January 1, 2017 , 5:55 pm	In Transit to Destination	
December 31, 2016 , 5:55 am	Arrived at USPS Facility	BISMARCK, ND 58504
December 29, 2016 , 3:59 am	In Transit to Destination	
December 27, 2016 , 3:59 pm	Departed USPS Destination Facility	CLEVELAND, OH 44101
December 23, 2016 , 1:49 pm	Unclaimed/Max Hold Time Expired	CLEVELAND, OH 44124
November 28, 2016 , 1:44 pm	Notice Left (No Authorized Recipient Available)	CLEVELAND, OH 44124
November 28, 2016 , 7:28 am	Arrived at Unit	CLEVELAND, OH 44124
November 27, 2016 , 11:55 pm	In Transit to Destination	
November 26, 2016 , 10:10 am	Arrived at USPS Destination Facility	CLEVELAND, OH 44101
November 24, 2016 , 8:22 pm	In Transit to Destination	
November 23, 2016 , 8:22 pm	Arrived at USPS Facility	BISMARCK, ND 58504
November 23, 2016		