

**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>John Lodato,</b>	)	<b>AND DEFAULT ORDER</b>
<b>NPN 7155536,</b>	)	
	)	<b>CASE NO. AG-16-591</b>
<b>Respondent.</b>	)	

**TO: John Lodato, 839 Revere Village Court, Centerville, OH 45458-3408**

On January 26, 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 John Lodato, NPN 7155536 (“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 January 27, 2016. The certified mail was returned to the Department on February 19, 2016, marked “Moved Left No Address – Unable to Forward - Return to Sender.” 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 March 3, 2016, 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 January 26, 2016. The certified mail was returned to the Department on February 19, 2016, marked "Moved Left No Address – Unable to Forward – Return to Sender." 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**

According to information obtained by the Department, on or about September 4, 2015, Respondent's appointments with Metropolitan Property and Casualty Company and Metropolitan Group Property and Casualty Company were terminated for cause. The reason for the termination was stated as, "After conducting monthly quality checks from an underwriting report, errors were discovered that lead to an additional audit. Sixteen policies were checked with eleven of those having errors. Some of the errors

consisted of incorrect coding of accidents and violations, incorrect vehicle usage, not adding additional drivers and coding of prior insurance. These errors resulted in lower premiums and increased sales for John. This employee was terminated for integrity on this audit.” Respondent’s actions that led to the termination for cause are in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(6).

V

On or about October 30, 2015, a letter was sent by certified mail, return receipt requested, to Respondent requesting information relating to the termination for cause. On or about November 18, 2015, the certified mail was returned to the Department marked “Return to Sender – Not Deliverable as Addressed – Unable to Forward.” Respondent failed to respond to the Department within 20 days. Respondent’s failure to respond to a written request for information by the Department within 20 days is a violation of N.D.C.C. § 26.1-26-42(14).

VI

According to information obtained by the Department, on or about September 4, 2015, Respondent’s appointments with Metropolitan Property and Casualty Company and Metropolitan Group Property and Casualty Company were terminated for cause. The reason for the termination was stated as, “After conducting monthly quality checks from an underwriting report, errors were discovered that lead to an additional audit. Sixteen policies were checked with eleven of those having errors. Some of the errors consisted of incorrect coding of accidents and violations, incorrect vehicle usage, not adding additional drivers and coding of prior insurance. These errors resulted in lower premiums and increased sales for John. This employee was terminated for integrity on

this audit.” Respondent’s actions that led to the termination for cause are in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(6).

## VII

On or about October 30, 2015, a letter was sent by certified mail, return receipt requested, to Respondent requesting information relating to the termination for cause. On or about November 18, 2015, the certified mail was returned to the Department marked “Return to Sender – Not Deliverable as Addressed – Unable to Forward.” Respondent failed to respond to the Department within 20 days. Respondent’s failure to respond to a written request for information by the Department within 20 days is a violation of N.D.C.C. § 26.1-26-42(14).

## VIII

Respondent’s actions constitute violations of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(6) and (14) 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 his 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. §§ 26.1-26-15 and 26.1-26-42(5) are grounds for revocation of his 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 John Lodato, NPN 7155536, 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 3<sup>rd</sup> day of March, 2016.



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

**TO:** John Lodato  
839 Revere Village Court  
Centerville, OH 45458-3408

**SENDER:** Jeff Ubben

**REFERENCE:** John Lodato

9314 8699 0430 0019 9410 39

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	1.42
	Certified Fee	3.45
	Return Receipt Fee	1.40
	Restricted Delivery	0.00
	Total Postage & Fees	6.27

**USPS®**  
**Receipt for**  
**Certified Mail™**

No Insurance Coverage Provided  
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1/27/16



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Tracking Number: 9314869904300019941039

Updated Delivery Day: Friday, February 19, 2016

## Product & Tracking Information

Postal Product:  
First-Class Mail®

Features:  
Certified Mail™

DATE & TIME	STATUS OF ITEM	LOCATION
February 19, 2016 , 10:13 am	Delivered	BISMARCK, ND 58504

## Available Actions

Return Receipt Electronic

Text Updates

Email Updates

Your item was delivered at 10:13 am on February 19, 2016 in BISMARCK, ND 58504

February 19, 2016 , 8:39 am	Out for Delivery	BISMARCK, ND 58504
February 19, 2016 , 8:29 am	Sorting Complete	BISMARCK, ND 58504
February 19, 2016 , 6:41 am	Arrived at Unit	BISMARCK, ND 58504
February 3, 2016 , 8:52 am	Undeliverable as Addressed	DAYTON, OH 45458
February 3, 2016 , 4:43 am	Departed USPS Destination Facility	DAYTON, OH 45401
February 2, 2016 , 6:27 pm	Arrived at USPS Destination Facility	DAYTON, OH 45401
February 2, 2016 , 5:26 am	Departed USPS Facility	CINCINNATI, OH 45234
February 1, 2016 , 11:38 pm	Arrived at USPS Destination Facility	CINCINNATI, OH 45234
January 30, 2016 , 1:08 am	Arrived at USPS Facility	CINCINNATI, OH 45235
January 29, 2016 , 11:12 pm	Arrived at USPS Destination Facility	CINCINNATI, OH 45234
January 28, 2016 , 1:00 am	Departed USPS Facility	BISMARCK, ND 58504
January 27, 2016 , 10:44 pm	Arrived at USPS Facility	BISMARCK, ND 58504
January 25, 2016	Pre-Shipment Info Sent to USPS	

## Track Another Package

Tracking (or receipt) number

9314869904300019941039

Track It

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