

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

In the Matter of	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Patrick Mallory,	)	AND DEFAULT ORDER
NPN 16170029,	)	
	)	CASE NO. AG-16-674
Respondent.	)	

**TO: Patrick Mallory, 10716 Ellison Plaza, Apt. 10, Omaha, NE 68134-1165**

On October 17, 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 Patrick Mallory, NPN 16170029 (“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 October 18, 2016. On November 17, 2016, 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 November 23, 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 October 18, 2016. On November 17, 2016, 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 November 8, 2012.

### V

According to information obtained by the Department, on or about June 13, 2016, Respondent's appointment with AAA Life Insurance Company was terminated for cause. The reason for the termination was stated as after investigation, it was concluded that Respondent allowed policy owners to web-sign the policy application on behalf of the insured, failed to ask all health questions on the application and then indicated "no" to the unasked questions on the application, and encouraged an applicant to misstate tobacco usage on an application. Respondent's actions that led to the termination for cause are in violation of N.D.C.C. § 26.1-26-42(6).

## VI

On or about June 14, 2016, a letter was sent by certified mail, return receipt requested, to the address on file for Respondent requesting information relating to the termination for cause. On or about June 20, 2016, the certified mail was returned to the Department marked "Forwarding Time Expired" and the envelope provided a different address for Respondent. On or about July 15, 2016, a letter was sent by certified mail, return receipt requested, to the new address provided for Respondent again requesting information relating to the termination for cause. On or about August 4, 2016, the certified mail was returned to the Department marked "Return to Sender – Unclaimed – Unable to Forward." Respondent failed to respond to the Department within 20 days and also has failed to notify the Commissioner of any address change within 30 days of the change. Respondent's failure to notify the Commissioner of any address change within 30 days of the change and 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. §§ 26.1-26-33 and 26.1-26-42(14).

## VII

Respondent's actions constitute violations of N.D.C.C. §§ 26.1-26-33 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. §§ 26.1-26-33 and 26.1-26-42(6) and (14) 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 Patrick Mallory, NPN 16170029, 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 23<sup>rd</sup> day of November, 2016.



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

**TO:** Patrick Mallory  
10716 Ellison Plaza, Apt. 10  
Omaha, NE 68134-1165

**SENDER:** Jeff Ubben

**REFERENCE:** Patrick Mallory

9314 8699 0430 0027 5102 10

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	1.36
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	Return Receipt Fee	1.35
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November 17, 2016 , 9:47 am	Delivered, To Original Sender	BISMARCK, ND 58505

Your item has been delivered to the original sender at 9:47 am on November 17, 2016 in BISMARCK, ND 58505.

November 17, 2016 , 8:05 am	Sorting Complete	BISMARCK, ND 58504
November 17, 2016 , 7:23 am	Arrived at Unit	BISMARCK, ND 58504
November 16, 2016 , 5:12 pm	Arrived at USPS Facility	BISMARCK, ND 58504
November 15, 2016 , 8:13 pm	In Transit to Destination	
November 14, 2016 , 8:13 pm	Departed USPS Facility	DENVER, CO 80266
November 14, 2016 , 7:58 pm	In Transit to Destination	
November 13, 2016 , 1:48 am	Arrived at USPS Facility	DENVER, CO 80266
November 9, 2016 , 9:07 am	Unclaimed/Max Hold Time Expired	OMAHA, NE 68134
October 21, 2016 , 4:00 pm	Undeliverable as Addressed	OMAHA, NE 68134
October 20, 2016 , 11:54 pm	Departed USPS Destination Facility	OMAHA, NE 68108
October 20, 2016 , 8:56 am	Arrived at USPS Destination Facility	OMAHA, NE 68108
October 20, 2016 , 4:02 am	In Transit to Destination	
October 18, 2016 , 10:02 pm	Arrived at USPS Facility	BISMARCK, ND 58504
October 17, 2016	Pre-Shipment Info Sent to USPS, USPS Awaiting Item	