

BEFORE THE IOWA INSURANCE COMMISSIONER

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IN THE MATTER OF	)	
	)	Division Case No. 112185
	)	
BRIAN W. NELSON,	)	<b>ORDER AND CONSENT</b>
NPN 15083957,	)	<b>TO ORDER</b>
DOB 11/19/XXXX,	)	
	)	
Respondent.	)	

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**NOW THEREFORE**, upon the motion of the Iowa Insurance Division (“Division”) and by the consent of Respondent Brian W. Nelson, pursuant to the provisions of Iowa Code chapter 522B—Licensing of Insurance Producers, the Commissioner enters the following Order and Consent to Order (“Consent Order”):

**I. PARTIES AND JURISDICTION**

1. The Commissioner of Insurance, Douglas M. Ommen, directly and through his designees, administers and enforces Iowa Code chapter 522B—Licensing of Insurance Producers, pursuant to Iowa Code § 505.8.
2. Brian W. Nelson (“Nelson”) is an individual with a last-known residence address of 1008 East Walnut Drive, Harrisburg, South Dakota 57032.
3. Nelson’s non-resident license expired on December 1, 2021. He was previously licensed in the state of Iowa as a non-resident insurance producer from November 13, 2009 to December 1, 2021. He was licensed under National Producer Number 15083957.
4. Pursuant to Iowa Code § 505.28, Nelson has consented to the jurisdiction of the Commissioner of Insurance by committing acts governed by Iowa Code chapter 522B.
5. From on or about January 1, 2019 to present, Nelson has engaged in acts and practices within the state of Iowa constituting cause for probation, suspension, or revocation of his

insurance producer license; cease and desist orders; restitution; and civil penalties or other relief under Iowa Code chapters 505, 507B, 522B, and rules adopted pursuant to these chapters.

## II. FINDINGS OF FACT

6. The Division issued Nelson a non-resident insurance producer license on November 13, 2009, and assigned him National Producer Number 15083957.

7. Nelson did not renew his insurance producer license and it expired on December 1, 2021.

8. Nelson previously renewed his non-resident insurance producer license with the Division by submitting through the National Insurance Producer Registry a Uniform Non-Resident License Renewal (“Uniform Renewal”) on November 30, 2018. In submitting the Uniform Renewal, Nelson designated the Commissioner as an agent for service of process.

9. Nelson is the sole owner of Brian Nelson Agency, Inc. The last-known business and mailing address for Brian Nelson Agency, Inc. is 2200 W 49<sup>th</sup> Street, Sioux Falls, South Dakota 57105.

10. Brian Nelson Agency, Inc.’s non-resident business entity producer license was terminated on March 25, 2022, for failing to have an active resident license. The business was previously licensed in the state of Iowa as a non-resident business entity producer from October 21, 2021, to March 25, 2022. It was licensed under National Producer Number 20073635 and Nelson was the Designated Responsible Licensed Producer (“DRLP”) for the business entity.

11. On July 3, 2019, Nelson entered a Consent Order with the South Dakota Division of Insurance related to rebating and he was ordered to pay a \$1,500 monetary penalty.

12. Nelson did not report this administrative action to the Division.

13. On October 21, 2021, Nelson’s appointment with American National Insurance Company (“ANIC”) was terminated for cause.

14. On November 8, 2021, the Division received notice from ANIC of Nelson's for cause producer appointment termination.

15. Nelson was terminated by ANIC for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business and forging another's name to an application for insurance.

16. Nelson voluntarily entered a Consent Order with the South Dakota Division of Insurance related to Nelson's termination for cause; the misrepresentation of the terms of an actual or proposed insurance contract or application for insurance; the use of fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business; and for violating an order of South Dakota's Director of Insurance. The Consent Order was entered on March 23, 2022, and revoked Nelson's South Dakota resident insurance producer's license and Brian Nelson Agency, Inc.'s resident business entity producer license.

#### ANIC Investigation

17. On September 22, 2021, ANIC launched an investigation into Nelson after an agent, who took over Nelson's book of business after his termination, found suspicious invoices Nelson submitted to ANIC when submitting initial applications for prospective customers.

18. Nelson, or someone on his behalf, submitted invoices for customers to falsely show that consumers had newer roofs and/or HVAC systems in order to get the consumers a lower insurance rate from ANIC.

19. ANIC identified numerous false contractor invoices that Nelson, or someone on his behalf, submitted to ANIC in order to obtain cheaper rates for, and business from, these customers.

20. Multiple roofing and HVAC contractors verified to ANIC that they did not create nor did they do any work at the addresses identified on the false billing invoices that were submitted for Nelson's customers.

21. ANIC also verified with multiple of Nelson's current and former insureds that they had not submitted said invoices to the Brian Nelson Agency and were not familiar with the documents.

22. Nelson contends that another individual, employed and supervised by him, is the one who obtained and submitted the false invoices.

### III. CONCLUSIONS OF LAW

#### COUNT ONE

##### **Using Dishonest Practices or Demonstrating Incompetence or Untrustworthiness**

23. Under Iowa Code § 522B.11(1)(h), a producer is prohibited from using fraudulent, coercive, or dishonest practices or demonstrating untrustworthiness or incompetence in the conduct of business.

24. Under § 522B.11(5), "the commissioner may conduct an investigation of any suspected violation of this chapter pursuant to section 507B.6 and may enforce the provisions and impose any penalty or remedy authorized by this chapter and chapter 507B against any person who is under investigation for, or charged with, a violation of either chapter even if the person's license has been surrendered or has lapsed by operation of law."

25. Nelson used dishonest practices or demonstrated untrustworthiness when he submitted multiple false documents to ANIC for the purpose of obtaining insurance discounts for which his clients were not entitled.

26. Nelson's acts and practices have been in violation of Iowa Code § 522B.11(1)(h), subjecting Nelson to probation, suspension, or revocation of Nelson's insurance producer

license, the imposition of a civil penalty, an order requiring Nelson to cease and desist from engaging in such acts or practices, the imposition of costs of the investigation and prosecution of the matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa §§ 522B.11, 522B.17, and 505.8.

**COUNT TWO**  
**License Revocation**

27. Under § 522B.11(1)(i), an insurance producer’s license may be suspended or revoked and a civil penalty levied if the producer’s license, or its equivalent, is “denied, suspended, or revoked in any other state, province, district, or territory.”

28. Nelson’s South Dakota resident producer license was revoked on March 23, 2022.

29. Nelson’s acts and practices have been in violation of Iowa Code § 522B.11(1)(i), subjecting Nelson to probation, suspension, or revocation of Nelson’s insurance producer license, the imposition of a civil penalty, an order requiring Nelson to cease and desist from engaging in such acts or practices, the imposition of costs of the investigation and prosecution of the matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa §§ 522B.11, 522B.17, and 505.8.

**COUNT THREE**  
**Failure to Report South Dakota Division of Insurance Action**

30. Under Iowa Code § 522B.16(1):

An insurance producer shall report to the commissioner any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent to the order; and other relevant legal documents.

31. Under § 522B.11(5), “the commissioner may conduct an investigation of any suspected violation of this chapter pursuant to section 507B.6 and may enforce the provisions and impose

any penalty or remedy authorized by this chapter and chapter 507B against any person who is under investigation for, or charged with, a violation of either chapter even if the person's license has been surrendered or has lapsed by operation of law."

32. Nelson failed to report the July 03, 2019 action by South Dakota Division of Insurance to the Division within thirty days of the final disposition of the matter.

33. Nelson's acts and practices have been in violation of Iowa Code § 522B.16 subjecting Nelson to probation, suspension, or revocation of Nelson's insurance producer license, the imposition of a civil penalty, an order requiring Nelson to cease and desist from engaging in such acts or practices, the imposition of costs of the investigation and prosecution of the matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 522B.11, 522.B17, 505.8, and Iowa Administrative Rule 191—10.20(5).

#### IV. ORDER

**WHEREFORE, IT IS ORDERED**, pursuant to the powers granted to the Commissioner of Insurance by Iowa Code chapters §507B and 522B:

- A. Nelson's Iowa non-resident insurance producer license is revoked and Nelson shall immediately cease and desist from engaging in the business of insurance in this state pursuant to Iowa Code §§ 507B, 522B.11, and 522B.17;
- B. Nelson shall cease and desist from engaging in the acts or practices stated herein pursuant to Iowa Code §§ 507B and 522B.17; and
- C. These orders may be enforced under Iowa Code chapters 507B and 522B, including but not limited to Iowa Code §§ 507B.7, and 522B.17.

SO ORDERED on the 8<sup>th</sup> day of June, 2022.



DOUGLAS M. OMMEN  
Iowa Insurance Commissioner

Respectfully submitted,



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**ATTORNEY FOR THE DIVISION**

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**ATTORNEY FOR RESPONDENT**

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause, or their attorney, at their respective addresses disclosed on the pleadings on June 8, 2022.

By:  First Class Mail                       Personal Service  
 Restricted certified mail, return receipt     Email, by consent  
 Certified mail, return receipt                       \_\_\_\_\_

Signature: /s/ Hilary Foster

## **NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER**

**YOU ARE NOTIFIED** that acting as an insurance producer, as defined in Iowa Code chapter 522B, in violation of this Order, is a felony under Iowa Code § 507A.10, subjecting you to punishment of imprisonment, jail, fines, or any combination of custody and fines.

**YOU ARE ALSO NOTIFIED** that if you violate this Order, you may be subject to administrative and civil penalties pursuant to Iowa Code §§ 507B.7 and 522B.17 (3). The Commissioner may petition the district court to hold a hearing to enforce the order as certified by the Commissioner. The district court may assess a civil penalty against you in an amount not less than three thousand dollars but not greater than ten thousand dollars for each violation, and may issue further orders as it deems appropriate.

## **NOTICE REGARDING REISSUANCE**

Upon entry of this Order, your insurance producer license will become inactive due to revocation. While your license is inactive, you are prohibited from conducting the business of insurance. Your license will not be active until the Division makes the determination to reissue your insurance producer license by order pursuant to Iowa Administrative Code rule 191—10.10.

Reissuance of your insurance producer license is subject to the discretion of the Commissioner. Additionally, it will not be granted unless and until you have complied with the terms of this Order, made the appropriate Application for Reissuance with the Division, and paid all applicable fees. If applicable, you may also be required to apply for licensure through the National Insurance Producer Registry (NIPR) and pay all applicable fees.

## **NOTICE OF FINAL ORDER IMPACT**

A final order of license probation, suspension, or revocation or a cease and desist order may adversely affect other existing business or professional licenses and may result in license revocation or disciplinary action.

A final order in an administrative action does not resolve any potential criminal or civil violations or causes of action that might arise from the same or similar conduct that is the subject of this contested case/this order. It may result in criminal law enforcement authorities, including the fraud bureau of the Iowa Insurance Division, pursuing a criminal investigation or prosecution of potential criminal law violations.




**CONSENT TO ORDER AND AGREEMENT**

I, Brian W. Nelson, Respondent in this matter, have read, understood, and do knowingly consent to this Order in its entirety. I understand and acknowledge I have the right to consult with an attorney on this matter if I choose to do so, and acknowledge that the Division cannot provide me an attorney nor can the Division provide me legal advice. By executing this Consent, I understand that I am waiving my rights to a hearing, to confront and cross-examine witnesses, to produce evidence, and to judicial review.

I further understand this Order is considered a final administrative action that will be reported by the Division to the National Association of Insurance Commissioners and to other regulatory agencies. I also understand this Order is a public record under Iowa Code chapter 22 and information may be shared with other regulatory authorities or governmental agencies, pursuant to Iowa Code § 505.8(8)(d). I also understand this Order will be posted to the Division's website and a notation will be made to the publicly available website record that administrative action has been taken against me.


5-25-2022  
Date

  
\_\_\_\_\_  
Brian W. Nelson, Respondent

24584 47th Ave Dell Rapids SD  
Address of Signatory 57022

Subscribed and sworn before me by Brian W. Nelson on this 25<sup>th</sup> day of May, 2022.



  
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Notary Public for the State of SD