

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

RECEIVED  
INSURANCE DEPARTMENT

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ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:  
: :  
JANET S. COOK : 40 Purdons Statutes, Sections  
1213 Black Powder Drive, Unit 16-B : 310.11(20) and 991.1717(a)  
Phoenixville, PA 19460 : :  
: Title 31, Pennsylvania Code,  
: Section 51.21(a) and (b)  
: :  
Respondent. : Docket No. CO08-08-008

CONSENT ORDER

AND NOW, this *6th* day of *January*, 2009, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that she has received proper notice of her rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order, and the Findings of Fact and Conclusions of Law contained herein, shall have the full force and effect of an Order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following

Findings of Fact:

- (a) Respondent is Janet S. Cook, and maintains her address at 1213 Black Powder Drive, Unit 16-B, Phoenixville, Pennsylvania 19460.
- (b) Respondent has an active resident individual producer license #306908 that expires on November 7, 2009.
- (c) In October, 2007, Respondent created and mailed an unapproved flyer/ advertisement to prospective clients, which referenced a guaranteed interest rate of 15.55% for one year on an Allianz Life Insurance Company of North America Endurance 15 Product, and stated that funds deposited were guaranteed up to \$100,000 by the Pennsylvania Life and Health Guaranty Association.
- (d) On January 14, 2008, Sara Ose, Senior Compliance Analyst with Allianz, advised the Department that the 15.55% rate was not accurate.

- (e) Respondent's October, 2007 flyer/advertisement was not approved by Allianz for distribution, as required.

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department concludes and finds the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) 40 Purdons Statutes, Section 310.11(20) prohibits a licensee from demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the department that the licensee is worthy of licensure.
- (c) Respondent's activities described above in paragraph 3(c) violates 40 Purdons Statutes, Section 310.11(20).
- (d) Respondent's violations of 40 Purdons Statutes, Section 310.11(20) are punishable by the following, under Section 310.91:
  - (i) suspension, revocation or refusal to issue the certificate of qualification or license;

- (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for each violation of the Act;
  - (iii) an order to cease and desist; and
  - (iv) any other conditions as the Commissioner deems appropriate.
  
- (e) 40 Purdon's Statutes, Section 991.1717(a) states no person, insurer or affiliate shall make, publish, disseminate or circulate any notice, circular, pamphlet or any other form of advertisement, written or oral, which uses the existence of the Insurance Guaranty Association for the purpose of sales or inducement to purchase any form of insurance.
  
- (f) Respondent's activities described above in paragraph 3(c) violates 40 Purdon's Statutes, Section 991.1717(a).
  
- (g) Title 31, Pennsylvania Code, Section 51.21(a) states the format and content of an advertisement of an insurance contract shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive, which shall be determined by the Commissioner from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence.

- (h) Title 31, Pennsylvania Code, Section 51.21(b) states advertisements shall be truthful and not misleading in fact or in implication.
- (i) Respondent's activities described above in paragraph 3(c) violates Title 31, Pennsylvania Code, Sections 51.21(a) and (b).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall pay a civil penalty of One Thousand Dollars (\$1,000.00) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made by certified check or money order, payable to the Commonwealth of Pennsylvania. Payment should be directed to April Phelps, Bureau of Licensing and Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment may be enclosed with the Consent Order, but must be paid in any event no later than sixty (60) days after the date of the Consent Order.

- (c) Respondent's certificates and licenses may be immediately suspended by the Department following its investigation and determination that (i) any terms of this Order have not been complied with, or (ii) any complaint against Respondent is accurate and a statute or regulation has been violated. The Department's right to act under this section is limited to a period of three (3) years from the date of this Order.
- (d) Respondent specifically waives her right to prior notice of said suspension, but will be entitled to a hearing upon written request received by the Department no later than thirty (30) days after the date the Department mailed to Respondent by certified mail, return receipt requested, notification of said suspension, which hearing shall be scheduled for a date within sixty (60) days of the Department's receipt of Respondent's written request.
- (e) At the hearing referred to in paragraph 5(d) of this Order, Respondent shall have the burden of demonstrating that she is worthy of a license.
- (f) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5(c) above, and Respondent either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that she is worthy of a license, Respondent's suspended certificates and licenses shall be revoked.

6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein, the Department may pursue any and all legal remedies available, including but not limited to the following: The Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law; or, if applicable, the Department may enforce the provisions of this Order in any other court of law or equity having jurisdiction.

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

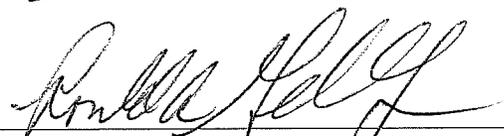
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY:

  
\_\_\_\_\_  
JANET S. COOK, Respondent

  
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COMMONWEALTH OF PENNSYLVANIA  
By: Ronald A. Gallagher, Jr.  
Deputy Insurance Commissioner