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INSURANCE DEPARTMENT
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ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER

OF THE

COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	
	:	VIOLATIONS:
PETER A. DIULUS	:	
1332 Falla Drive	:	40 P.S. §§ 310.11(5),
Bethel Park, PA 15102- 8424	:	(7), (20), 310.46, 512,
	:	1171.4 and 1171.5(a)(12)
	:	
	:	
Respondent.	:	Docket No. CO14-04-019

CONSENT ORDER

AND NOW, this 16th day of July, 2014, 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 he has received proper notice of his 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.

3. Without admitting the allegations of fact and conclusions of law contained herein, Respondent specifically denies that he violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

4. The Insurance Department finds true and correct each of the following Findings of Fact:

(a) Respondent is Peter A. Diulus and maintains his address at 1332 Falla Drive, Bethel Park, Pennsylvania 15102-3604.

(b) Respondent is, and at all times relevant hereto has been, a licensed insurance producer.

(c) Respondent misidentified the situs of the execution of a Security Life of Denver universal life insurance policy to a Pennsylvania resident in March, 2006.

(d) Respondent participated in the activities for the same Pennsylvania resident to enter into a life contract by allowing the relevant finance company to offer a one-time payment of $75,000, which the client elected to have paid to his estate upon his death.

(e) Respondent was the producer of record and participated in having a policy created for the same insured that was owned by a third party investor in the state of Minnesota who had no insurable interest in the client.

(f) Respondent has cooperated with the Department in this investigation.

CONCLUSIONS OF LAW

5. 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 P.S. §310.11(5) prohibits a licensee or an applicant from intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

(c) The activities described above in paragraphs 4(c) through 4(e) violate 40 P.S. §310.11(5).

(d) 40 P.S. §310.11(7) prohibits a licensee or an applicant from demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business.

(e) The activities described above in paragraphs 4(c) through 4(e) violate 40 P.S. §310.11(7).

(f) 40 P.S. §310.11(20) prohibits a licensee or an applicant from demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the department that the licensee is worthy of licensure.

(g) The activities described above in paragraphs 4(c) through 4(e) violate 40 P.S. §310.11(20).

(h) 40 P.S. §310.46 prohibits producers from offering inducements for insurance on any risk in this Commonwealth.

(i) The activities described above in paragraph 4(d) constitute offering inducements for insurance on a risk in this Commonwealth and violate 40 P.S. § 310.46.

(j) Violations of Sections 310.11(5) and, (7), (20) and 310.46 are punishable by the following, under 40 P.S. §310.91:

(i) suspension, revocation or refusal to issue the license;

(ii) imposition of a civil penalty not to exceed five thousand dollars ($5,000.00) for every violation of the Act;

(iii) an order to cease and desist; and

(iv) any other conditions as the Commissioner deems appropriate,

(k) 40 P.S. §1171.4, prohibits agents from engaging in this Commonwealth in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to the Unfair Insurance Practices Act.

(l) The activities described above in paragraphs 4(c) through 4(e) constitute engaging in this Commonwealth in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to the Act and violate 40 P.S. §1171.4.

(m) 40 P.S. §1171.5(a) (12) prohibits agents from making false statements or representations on or relative to an application for an insurance policy.

(n) The activities described above in paragraph 4(c) constitutes making a false statement or representation on or relative to an application for an insurance policy and violate 40 P.S. §1171,5(a)(12).

(o) Violations of 40 P. S. §§1171.4 and 1171.5(a) (12), are punishable by the following, under 40 Purdon's Statutes, Sections 1171.8, 1171.9 and 1171.11:

(i) an order requiring Respondent to cease and desist from engaging in such violation and/or, if such violation is a method of competition, act or practice defined in Section 5 of this Act, suspension or revocation of Respondent's license(s);

(ii) commencement of an action against Respondent for the following civil penalties:

only by the death of the insured.

(q) The activities described above violate 40 P.S. §512.

ORDER

6. 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 $15,000 (Fifteen Thousand Dollars) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made by certified check or money order, payable to the PA Insurance Department, Commonwealth of Pennsylvania. Payment should be directed to 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 thirty (30) days after the date of the Consent Order.

(c) Respondent's 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 4 years from the date of this Order.

(d) Respondent specifically waives his right to prior notice of said suspension, but will be entitled to a hearing upon written request received by the Department no later than

(1) for each method of competition, act or practice defined in Section 5 and in violation of the Act which Respondent knew or reasonably should have known was such a violation, a penalty of not more than five thousand dollars ($5,000,00) for each violation, not to exceed an aggregate penalty of fifty thousand dollars ($50,000,00) in any six month period;

(2) for each method of competition, act or practice defined in Section 5 and in violation of this Act which Respondent did not know nor reasonably should have known was such a violation, a penalty of not more than one thousand dollars ($1,000.00) for each violation, not to exceed an aggregate penalty of ten thousand dollars ($10,000.00) in any six month period;

(3) for each violation of an Order issued by the Commissioner pursuant to Section 9 of the Act, while such Order is in effect, a penalty of not more than ten thousand dollars ($10,000.00).

(p) 40 P.S. §512 states that no policy of life insurance shall be delivered in this Commonwealth except upon the application of the person insured. The term "insurable interest" is defined as meaning, in the case of persons related by blood or law, an interest engendered by love and affection, and, in the case of other persons, a lawful economic interest in having the life of the insured continue, as distinguished from an interest which would arise

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 6(d) of this Order, Respondent shall have the burden of demonstrating that he is worthy of a license.

(f) In the event Respondent's licenses are suspended pursuant to paragraph 6(c) above, and Respondent either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that he is worthy of a license, Respondent's suspended licenses shall be revoked.

7. 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.

8. 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,

9. 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.

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

11. 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.

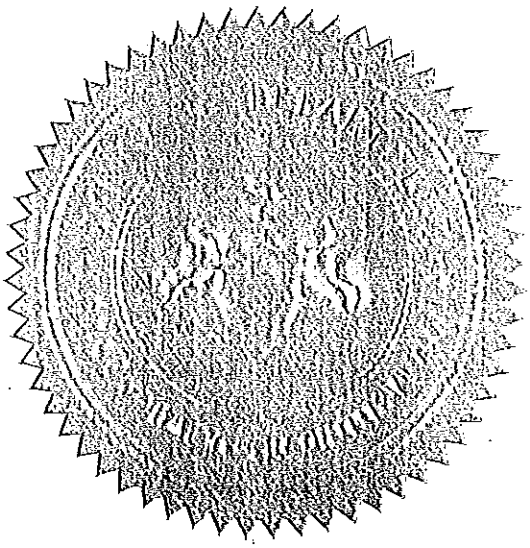
12. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective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

By: _____
PETER A. DIULUS, Respondent

_____
COMMONWEALTH OF PENNSYLVANIA
By: ARTHUR F. MCNULTY
Deputy Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The Administrative Code of 1929

AND NOW, this 10 day of March, 2014, Arthur F. McNulty, Deputy Insurance Commissioner, is hereby designated as the Commissioner's duly authorized representative for purposes of entering in and executing Consent Orders. This delegation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.

Michael F. Consedine
Insurance Commissioner