

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
THOMAS M. GREENJACK	:	40 Purdons Statutes, Sections
1953 Steeplechase Drive	:	310.11(6), 310.11(9), 310.11(20),
Williamstown, New Jersey 08094-8783	:	310.71 and 1171.5(a)(12)
	:	
	:	
Respondent.	:	Docket No. CO09-05-016

CONSENT ORDER

AND NOW, this *15th* day of *June*, 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 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 it 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 Thomas M. Greenjack, and maintains his address at 1953 Steeplechase Drive, Williamstown, New Jersey 08094-8783.
- (b) Respondent has an active resident individual producer license, No. 303521, which expires on November 7, 2009.
- (c) At all times relevant, Respondent was employed by Lincoln Investment Planning, Inc. of Jenkintown, Pennsylvania.
- (d) Between October 20, 2008 and December 18, 2008, Respondent on different occasions asserted to insureds, and to a subordinate sales representative that he was appointed with Great American Life Insurance Company, knowing he was not appointed with the carrier. Applications were submitted to the

carrier bearing the Respondent's name, causing contracts to be resubmitted bearing the name of the subordinate sales representative, who was properly appointed with the carrier.

- (e) Between October 20, 2008 and December 18, 2008, Respondent on four occasions placed the purported signature of the subordinate sales representative on four applications of insurance being submitted to Great American Life Insurance Company knowing he (Respondent) was not properly appointed.
- (f) In January 2009, Respondent was terminated for cause by Lincoln Investment Planning, Inc.
- (g) As of February 6, 2009, Respondent has failed to return unearned commission to Lincoln Investment Planning, Inc. in the amount of \$19,100.26, due to his actions between October 20, 2008 and December 18, 2008.
- (h) On April 29, 2009, Respondent asserted that he would voluntarily surrender his individual producer's license because he no longer wants to remain in the business.

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 Purdons Statutes, Section 310.11(6) prohibits a licensee or applicant from committing any unfair insurance practice or fraud.
- (c) Respondent's activities described above in paragraphs 4(d) and 4(e) violate 40 Purdons Statutes, Section 310.11(6).
- (d) 40 Purdons Statutes, Section 310.11(9) prohibits a licensee or applicant from forging another person's name on an insurance application or any document related to an insurance or financial service transaction.
- (e) Respondent's activities described above in paragraph 4(e) violates 40 Purdons Statutes, Section 310.11(9).
- (f) 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.

(g) Respondent's activities described above in paragraphs 4(d) through 4(g)

violate 40 Purdons Statutes, Section 310.11(20).

(h) 40 Purdons Statutes, Section 310.71 prohibits agents from transacting

business within this Commonwealth without written appointment as required by the Act.

(i) Respondent's activities described above in paragraphs 4(d) and 4(e)

constitute transacting business within this Commonwealth without written appointment as required by the Act and violate 40 Purdons Statutes, Section 310.71.

(j) Respondent's violations of Sections 310.11(6), (9), (20) and 310.71 are

punishable by the following, under 40 Purdons Statutes, 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 every violation of the Act;

- (iii) an order to cease and desist; and
 - (iv) any other conditions as the Commissioner deems appropriate.
- (k) 40 Purdons Statutes, Section 5(a)(12) prohibits agents from making false or fraudulent statements or representations on or relative to an application for an insurance policy.
- (l) Respondent's activities described above in paragraphs 4(d) and 4(e) constitute making false or fraudulent statements or representations on or relative to an application for an insurance policy and violate 40 Purdons Statutes, Section 5(a)(12).
- (m) Respondent's violations of 40 Purdons Statutes, Section 1171.5(a)(12), are punishable by the following, under 40 Purdons Statutes, Sections 1171.8, 1171.9, and 1171.11:
- (n) 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:

- (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).

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 make restitution of unearned commission, in the amount of \$19,100.26 to Lincoln Investment Planning. Proof of restitution payment shall be provided to the Insurance Department by Respondent. Future license applications will not be considered until restitution has been made.
- (c) Respondent shall immediately surrender all licenses to conduct the business of insurance within the Commonwealth of Pennsylvania as of the date of this Consent Order.
- (d) If Respondent should ever become licensed in the future, his 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 (ii) above is limited to a period of five (5) years from the date of issuance of such certificates and licenses.
- (e) 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 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.

(f) At the hearing referred to in paragraph 6(e) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance certificate and license.

(g) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 6(d) 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 certificate and license, Respondent's suspended certificates and 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.

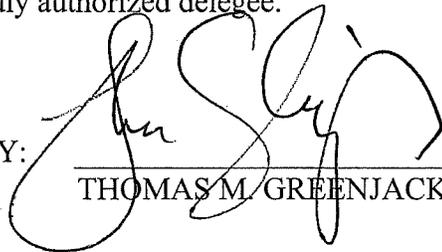
10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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.

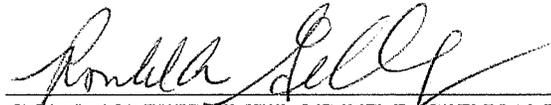
12. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY:



THOMAS M. GREENJACK, Respondent



COMMONWEALTH OF PENNSYLVANIA

By: Ronald A. Gallagher, Jr.
Deputy Insurance Commissioner