

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

INSURANCE DEPARTMENT
2009 OCT -6 AM 9:37
ADMINISTRATIVE HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
JEFFERSON NATIONAL LIFE : Sections 602 and 623 of the
INSURANCE COMPANY : Insurance Department Act, Act of
Post Office Box 1916 : May 17, 1921, P.L. 789, No. 285
Carmel, Indiana 46032 : (40 P.S. §§231 and 253)
: :
Respondent. : Docket No. CO09-10-001

CONSENT ORDER

AND NOW, this *6th* day of *October*, 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 it has received proper notice of its 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 Jefferson National Life Insurance Company, and maintains its address at Post Office Box 1916, Carmel, Indiana 26032.
- (b) Respondent is, and at all times relevant hereto has been, a licensed insurance company.
- (c) Effective June 14, 1990, agent Arthur E. Holler and Nicholas Vukich sold a life insurance policy to Douglas McAdams, Pittsburgh, Pennsylvania, although neither Arthur E. Holler nor Nicholas Vukich was licensed with Respondent.
- (d) Subsequent to Arthur E. Holler's association with Respondent, Respondent authorized the management of the aforementioned policy by Nicholas Vukich, B.M.C.I., Fairlawn, Ohio 44333, although Nicholas Vukich was neither licensed nor appointed.

- (e) Without the knowledge and consent of Douglas McAdams, Nicholas Vukich successfully submitted a change of address from the policy to Respondent that changed the policyholder's address to his business address in Fairlawn, Ohio.
- (f) During the period that Nicholas Vukich managed the policyholders' insurance; he falsified insurance documents to Respondent and misappropriated approximately \$72,400.00 from the cash value of the policy.
- (g) On December 6, 2006, Nicholas Vukich provided a written deposition to the attorneys to the policyholder and acknowledged submitting false documents to Respondent and misappropriating money from the cash value of the three policies.
- (h) On December 24, 2007, Respondent confirmed the actions of Nicholas Vukich and agreed to make restitution of \$117,535.84 to the two policyholders.

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) Section 602 of the Insurance Department Act (40 P.S. §231) defines “agent” as a person authorized in writing by an entity to solicit risks and collect premiums, and to issue or countersign policies on its behalf.
- (c) Respondent’s violations of Section 602 of the Insurance Department Act are punishable by the following, under Section 639 of the Insurance Department Act:
- (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed one thousand dollars (\$1,000.00) for every violation of the Act.
- (d) Section 623 of the Insurance Department Act (40 P.S. §253) prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without a certificate of qualification or an appropriate appointment.

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 Five Thousand Dollars (\$5,000.00) to the Commonwealth of Pennsylvania. This penalty shall be made payable to the Commonwealth of Pennsylvania, and sent to Sharon L. Fraser, Office Manager, 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 must provide proof of restitution to the Commonwealth of Pennsylvania in the amount of \$117,535.84 within 30 days . The proof needs to be sent to Sharon L. Fraser, Office Manager, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120.

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: JEFFERSON NATIONAL LIFE
INSURANCE COMPANY, Respondent



STEVEN M. STECHER
President



KARL W. KINDIG
Secretary



RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner
Commonwealth of Pennsylvania