

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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ADMINISTRATIVE HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
BRYAN NEAL MCLEAN, SR. : 40 P.S. §§ 310.11(2), (14), (16)
212 Sunset Avenue : and (20) and 310.78(b)
Hanover, PA 17331 :
: :
Respondent. : Docket No. CO11-06-016

CONSENT ORDER

AND NOW, this 7th day of November, 2011, 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 Bryan Neal McLean, Sr. and maintains his address at 212 Sunset Avenue, Hanover, PA 17331.
- (b) At all relevant times herein, Respondent has held a non-resident individual producer license, No. 489479, which expires on January 13, 2012.
- (c) Respondent on March 18, 2010 was arrested by the Office of Attorney General, Harrisburg, Pennsylvania and charged with violating five (5) counts of Title 18 Pennsylvania Crimes Code §§ 6318(A)(4) – Unlawful Contact with Minor – Obscene and Other Sexual Materials and Performances, a felony and one (1) count of violating 7512(A) – Criminal Use of Communication Facility, a felony.
- (d) Respondent failed to notify the Department of his arrest.

- (e) Respondent, on August 27, 2010, in the Pennsylvania Court of Common Pleas of York county, was convicted of violating five (5) counts of Title 18 Pennsylvania Crimes Code §§ 6318(A)(4) – Unlawful contact with Minor – Obscene and Other Sexual Materials and Performances, a felony and one count of violating 7512(A) – Criminal Use of Communication Facility, a felony.
- (f) Respondent failed to report his conviction to the Department.

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(2) prohibits a licensee or an applicant from violating the insurance laws or regulations of this Commonwealth or a subpoena or order of the Commissioner or of another state's Insurance Commissioner.

- (c) Respondent's activities described above in paragraphs 3(c) through 3(f) violate 40 P.S. § 310.11(2).
- (d) 40 P.S. § 310.11(14) prohibits a licensee or an applicant from committing a felony or its equivalent.
- (e) Respondent's activities described above in paragraphs 3(c) and 3(e) violate 40 P.S. § 310.11(14).
- (f) 40 P.S. § 310.11(16) prohibits a licensee or an applicant from committing a violation of subarticle B.
- (g) Respondent's activities described above in paragraphs 3(c) through 3(f) violate 40 P.S. § 310.11(16).
- (h) 40 P.S. § 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.
- (i) Respondent's activities described above in paragraphs 3(c) through 3(f) violate 40 P.S. § 310.11(20).

- (j) 40 P.S. § 310.78(b) requires that within 30 days of being charged with criminal conduct, a licensee shall report the charges to the Department. The licensee shall provide the Department with a copy of the criminal complaint, information or indictment, a copy of the order resulting from any pretrial hearing, and a report of the final disposition of the charges.
- (k) Respondent's activities described above in paragraph 3(d) and 3(f) violate 40 P.S. § 310.78(b).
- (l) Respondent's violations of Sections 310.11(2), (14), (16) and (20) and 310.78(b) 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.

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) All licenses of Respondent to do the business of insurance are hereby revoked.
- (c) If Respondent should ever become licensed in the future, his 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 five (5) years from the date of issuance of such licenses.
- (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 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 he is worthy of an insurance license.

- (f) In the event Respondent's 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 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.

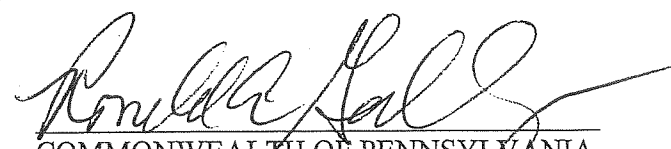
11. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

12. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegate 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 delegate.

13. The persons hereunder represent that they have full, complete and final authority as signatories to bind, respectively, Respondent and the Commonwealth of Pennsylvania, Insurance Department, their heirs and assigns to the terms of this Order.

BY:


Kurt A. Blake, Esq., on behalf of:
BRYAN NEAL MCLEAN, SR.,
Respondent


COMMONWEALTH OF PENNSYLVANIA
By: RONALD A. GALLAGHER, JR.

Deputy Insurance Commissioner