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INSURANCE DEPARTMENT

2008 SEP 26 PM 3:22

ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
SECURITY LIFE OF DENVER	:	Sections 641.1-A and
INSURANCE COMPANY	:	671-A of Act 147 of 2002
1290 Broadway	:	(40 P.S. §§310.41 and 310.71)
Denver, Colorado 80203	:	
	:	
Respondent.	:	Docket No. CO08-01-018

CONSENT ORDER

AND NOW, this *26th* day of *September*, 2008, 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 Security Life of Denver Insurance Company, and maintains its address at 1290 Broadway, Denver, Colorado 80203.
- (b) Respondent is, and at all times relevant hereto has been, a licensed insurance company.
- (c) Effective June 14, 1990, producer Arthur E. Holler sold a life insurance policy to Douglas McAdams, Pittsburgh, Pennsylvania, and possessed an appointment with Respondent at that time.
- (d) Effective November 1990, producer, Arthur E. Holler, sold life insurance policies to Douglas B. McAdams and Daniel B. Singer, Pittsburgh, Pennsylvania, and possessed an appointment with Respondent.
- (e) Subsequent to Arthur E. Holler's association with Respondent, Respondent received a request by the policy owners on April 20, 1993 to change the address for all notices to that of Nicholas Vukich, B.M.C.I., Fairlawn,

Ohio 44333, although Nicholas Vukich possesses no Pennsylvania insurance licenses.

- (f) After this request was processed, Nicholas Vukich received the annual statements and other policy information from Respondent and he provided information to the policy owners as and when requested. The policy owners knew that they were receiving information from Nicholas Vukich and not directly from the Respondent.
- (g) During the period that Nicholas Vukich was receiving communications regarding the three policies, he falsified insurance documents to Respondent and misappropriated approximately \$217,471.00 from the cash value of the three policies.
- (h) On December 6, 2006, Nicholas Vukich gave a deposition to the attorneys for the two policyholders and acknowledged submitting false documents to Respondent and misappropriating money from the cash value of the three policies in the amount of \$217,471.00.
- (i) In the several months after the deposition transcript was provided to Respondent, Respondent worked with counsel for the policy owners to obtain reimbursement of the money from Nicholas Vukich. On numerous occasions, Nicholas Vukich stated that he would make restitution and represented that he had the future means to do so. When it was determined that it was unlikely

that Nicholas Vukich would honor in a timely manner his commitment to repay the money he had misappropriated, Respondent made restitution directly into the three policies, thereby restoring the cash value of the lost interest income to the policies in the approximate amount of \$359,383.45.

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 641.1-A of Act 147 of 2002 prohibits an insurance entity from doing business with unlicensed persons. (40 P.S. § 310.41a)
- (c) Respondent's activities described above in paragraphs 3(e) through 3(i) constitute doing business with an unlicensed person. 641.1-A of Act 147 of 2002 (40 P.S. § 310.41a).
- (d) Section 671-A of Act 147 of 2002 prohibits agents from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).

- (e) Respondent's activities described above in paragraphs 3(c) through 3(i) constitute transacting business within this Commonwealth without written appointment as required by the Act and violate Section 671-A of Act 147 of 2002.
- (f) Respondent's violation of Section's 671-A of Act 147 of 2003 is punishable under Section 691-A (40 P.S. § 310.91), by the following:
- (i) suspension, revocation or refusal to renew his insurance license(s);
 - (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

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 Twenty Thousand Dollars (\$20,000.00) 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 Ginny Baker, Administrative Assistant, Bureau of 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.

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

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COMPLIANCE

12:05:17 p.m. 09-15-2008

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

BY: SECURITY LIFE OF DENVER
INSURANCE COMPANY, Respondent

Chad Zilinger, Vice President

President / Vice President

Jim Beum

Secretary / Treasurer

Ronald A. Gallagher, Jr.

Ronald A. Gallagher, Jr.
Deputy Insurance Commissioner
Commonwealth of Pennsylvania