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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:  
: :  
MICHAEL W. CERVONY and : 40 P.S. § 310.11(20)  
ANNUITYLIFE PRODUCER :  
CONSULTANTS, LLC :  
16380 Ellerdale Lane :  
Eden Prairie, MN 55346 :  
: :  
Respondents. : Docket No. CO12-09-007

CONSENT ORDER

AND NOW, this 4<sup>th</sup> day of October, 2012, 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. Respondents hereby admits and acknowledges that they have received proper notice of their rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondents hereby waive all rights to a formal administrative hearing in this matter, and agree 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, Respondents specifically deny that they 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) Respondents are Michael W. Cervony and AnnuityLife Producer Consultants, LLC, and maintain their address at 16380 Ellerdale Lane, Eden Prairie, MN 55346.
- (b) Respondent Cervony, at all times relevant hereto, has held an active non-resident producer license that expires August 31, 2013.
- (c) Respondent AnnuityLife Producer Consultants, LLC, at all times relevant hereto, has held an active non-resident producer license that expires April 13, 2013.
- (d) Between January, 2009 and August, 2010, on eleven (11) occasions, Respondents submitted fixed annuity applications to Midland National Life

Insurance Company that included incorrect birth date information pertaining to the applications.

- (e) Respondents assert the applications were prepared by an independent contractor/administrator who assisted Respondents in completing the applications by filling in the basic information on the applications, such as names and addresses. Many of the applicants were existing customers of Respondents and the administrator took much of the information from existing client files.
- (f) Respondents failed to verify the information on the completed applications prior to submitting them to Midland National Life Insurance Company.
- (g) Respondents have taken corrective action regarding their application process, to include requiring a copy of proposed insureds' drivers licenses for accurate birth date information, supervision and verification of clerical input information onto applications, and terminating the employment of the above contractor/administrator.
- (g) No consumer harm occurred as a result of the above activity.

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) Respondents are subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) 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.
- (c) Respondents' activities described above in paragraph 4(d) violate 40 P.S. § 310.11(20).
- (d) Respondents' violations of Section 310.11(20) 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 Respondents consent to the following:

- (a) Respondents shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
  
- (b) Respondents shall pay a civil penalty of Ten Thousand Dollars (\$10,000.00) to the Commonwealth of Pennsylvania. This penalty shall be made payable to the Commonwealth of Pennsylvania, and directed to April Phelps, 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) Respondents' 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 Respondents 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 this Order.

(d) Respondents specifically waives the 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 Respondents 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 Respondents' written request.

(e) At the hearing referred to in paragraph 6(d) of this Order, Respondents shall have the burden of demonstrating that they are worthy of a license.

(f) In the event Respondents' licenses are suspended pursuant to paragraph 6(c) above, and Respondents either fail to request a hearing within thirty (30) days or at the hearing fail to demonstrate that they are worthy of a license, Respondents' 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, Respondents 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. Respondents 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: Michael Cervony  
MICHAEL W. CERVONY, individually and  
on behalf of ANNUITYLIFE PRODUCER  
CONSULTANTS, LLC, Respondents

Ronald A. Gallagher, Jr.  
COMMONWEALTH OF PENNSYLVANIA  
By: RONALD A. GALLAGHER, JR.  
Deputy Insurance Commissioner