

FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is Richard Robert Berdy, and maintains his address at 124 North South Drive, Pittsburgh, PA 15237.
- (b) Respondent is, and at all times relevant hereto has been, a licensed resident producer.
- (c) On February 16, 2016, American Family Life Assurance Company of Columbus (Aflac), reported that Respondent had been terminated effective January 28, 2016, for placing ineligible insureds on disability insurance policies and knowingly submitting applications for insurance with false information.
- (d) Aflac identified six (6) businesses and approximately thirty one (31) insureds that were submitted by Respondent between January 1, 2013, and December 31, 2014, in which he represented his mailing address and telephone number on file with the Department as that of the insureds.
- (e) Aflac paid commissions to Respondent of approximately \$4,126.28.

- (f) Owners of certain businesses confirmed that they either did not employ the insureds or did not know the insureds.
- (g) On December 20, 2016, Respondent was interviewed and said that he misrepresented the names, addresses and employment status of insureds on applications for disability insurance with Aflac.
- (h) Respondent said that he used his mailing address in lieu of the insureds' own physical addresses and telephone numbers.
- (i) Respondent said that the names of the insureds were actual people who paid premiums to him and that they knew they were added to the policies for insurance.

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) 40 P.S. §310.11(5) prohibits a licensee or an applicant from intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
- (c) Respondent's activities described above in paragraphs 3(c) through 3(i) violate 40 P.S. §310.11(5).
- (d) 40 P.S. §310.11(20) prohibits a licensee or an applicant from demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the Department that the licensee is worthy of licensure.
- (e) Respondent's activities described above in paragraphs 3(c) through 3(i) violate 40 P.S. §310.11(20).
- (h) Respondent's violations of Sections 310.11(5) and (20) are punishable by the following, under 40 P.S. §310.91:
 - (i) suspension, revocation or refusal to issue the licensure;
 - (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) All licenses of Respondent to do the business of insurance are hereby revoked.
- (c) Respondent shall make restitution to all persons listed in the above Findings of Fact. 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.
- (d) 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 complain 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.

- (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 5(e) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance license.
- (g) In the event Respondent's licenses are suspended pursuant to paragraph 5(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 license, Respondent's suspended licenses shall be revoked.

6. In the event the Insurance Department find 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 provisions 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 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.

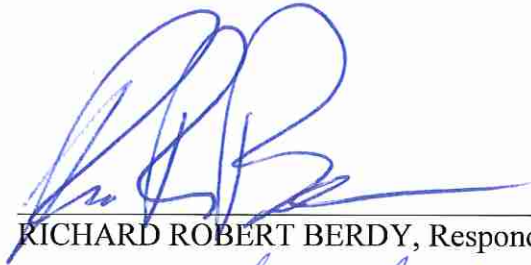
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 duly authorized delegee.

BY:



RICHARD ROBERT BERDY, Respondent

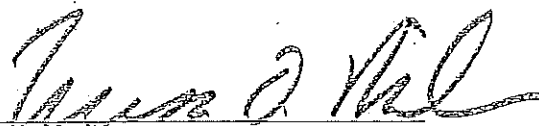


COMMONWEALTH OF PENNSYLVANIA
By: CHRISTOPHER R. MONAHAN
Deputy Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The
Administrative Code of 1929

AND NOW, this 13th day of November, 2015, Christopher R. Monahan,
Deputy Insurance Commissioner, is hereby designated as the Commissioner's duly
authorized representative for purposes of entering in and executing Consent Orders. This
delegation of authority shall continue in effect until otherwise terminated by a later Order
of the Insurance Commissioner.



Teresa D. Miller
Insurance Commissioner

