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INSURANCE DEPARTMENT

2019 OCT 16 AM 11:37 BEFORE THE INSURANCE COMMISSIONER  
OF THE  
ADMIN HEARINGS OFFICE COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
NELSON R. BERMAN	:	40 P.S. §§ 310.11(1), (20)
516 Kings Drive	:	and 310.78(a)
Cherry Hill, NJ 08003	:	
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	:	
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	:	
Respondent.	:	Docket No. CO19-07-021

CONSENT ORDER

AND NOW, this 16th day of October, 2019, 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.

### FINDINGS OF FACT

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

Findings of Fact:

- (a) Respondent is Nelson R. Berman and maintains a record of his address with the Pennsylvania Insurance Department as 516 Kings Drive, Cherry Hill, NJ 08003.
- (b) Respondent is, and at all times relevant hereto has been, a licensed non-resident producer.
- (c) Respondent was investigated by the New Jersey Department of Banking and Insurance after he completed an unsuitable annuity application for an 86 year old consumer.
- (d) Respondent, on July 31, 2017, was placed under a Consent Order from the New Jersey Department of Banking and Insurance and fined \$10,000.00 for violating N.J.S.A. 17:22A-40a(2) (violate any insurance law, regulation, subpoena or order of the Commissioner or of another state's insurance regulator); N.J.S.A. 17-22A-40a(8) (using fraudulent, coercive

or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of insurance business in this State or elsewhere); and N.J.S.A. 1722A-40a(16) (committing any fraudulent act).

- (e) Respondent, between January 7, 2016 and April 14, 2017, contacted an insurance company's customer service line and misrepresented himself as being the individual policyholder on five (5) different occasions resulting in the action identified in finding 3(d).
- (f) Respondent was not appointed by the insurance company identified in finding 3(e).
- (g) Respondent admitted responsibility to the New Jersey Department of Banking and Insurance for the infractions identified in finding 3(e).
- (h) Respondent failed to report the administrative action identified in finding 3(d) to the Department within 30 days.
- (i) Respondent incorrectly answered "No" on his March 2019 license renewal to the question "Have you been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration, which has not been previously reported to this insurance department."

## 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(1) prohibits a licensee or an applicant for a license from providing incorrect, misleading, incomplete or false information to the Department in a license application.
- (c) Respondent's activities described in paragraph 3(i) violate 40 P.S. § 310.11(1).
- (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).

- (f) 40 P.S. § 310.78(a) requires a licensee to report any administrative action taken in another jurisdiction or by another governmental agency within 30 days of the final disposition, to include a copy of the order, consent order or other relevant legal documents.
  
- (g) Respondent's activities described in paragraph 3(h) violate 40 P.S. § 310.78(a).
  
- (h) Respondent's violations of §§ 310.11(1), (20) and 310.78(a) 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

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's 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 confirmed 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 ten (10) years from the date of this Order.
- (c) 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.
- (d) At the hearing referred to in paragraph 5(c) of this Order, Respondent shall have the burden of demonstrating that he is worthy of a license.
- (e) In the event Respondent's licenses are suspended pursuant to paragraph 5(b) 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 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 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.

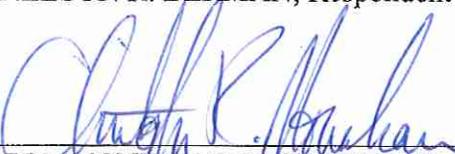
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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:

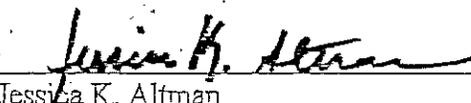
  
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NELSON R. BERMAN, Respondent

  
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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 28<sup>th</sup> day of March, 2018, 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.

  
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Jessica K. Altman  
Insurance Commissioner

