

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT
2007 JAN 23 PM 2: 04
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
MICHAEL D. KREIDER : Sections 611-A(7) and (20)
2148 Embassy Drive : of Act 147 of 2002
Lancaster, PA 17603 : (40 P.S. §§ 310.11)
Respondent. : Docket No.: *0007-01-013*

CONSENT ORDER

AND NOW, this *23* day of *January*, *2007* this Order is hereby issued by the Deputy Insurance Commissioner 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. Respondent neither admits nor denies the findings herein.

FINDINGS OF FACT

4. The Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is Michael D. Kreider, and maintains a business address at 2148 Embassy Drive, Lancaster, Pennsylvania 17603.
- (b) Respondent is, and at all relevant times herein has been, a licensed resident insurance producer, with license number 279315, which expires on June 28, 2007.
- (c) In 1998, while acting as the insurance producer for Mr. and Mrs. Moses Garman, Lititz, Pennsylvania, Respondent advised the transfer of \$70,000 in a Conseco annuity to an investment in "Transtar Communications."

- (d) In September, 2003, Respondent advised Mrs. Garman in taking \$117,000 in loans against two Shenandoah Life Insurance Company ("Shenandoah") policies, which amount was subsequently invested in "Empire State Financial Group LLC."
- (e) Both the Transtar Communications and Empire State Financial Group LLC transactions resulted in a substantial loss of money to Mrs. Garman.
- (f) Respondent repaid \$78,000 of the loans taken against the Shenandoah policies on Mrs. Garman's behalf.
- (g) The insured has been made whole by the companies involved, as a result of the Department's involvement.

CONCLUSIONS OF LAW

5. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner concludes and finds the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.

- (b) Section 611-A(20) of Act 147 of 2002 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 (40 P.S. § 310.11(20)).
- (c) Section 611-A(7) of Act 147 of 2002 prohibits a licensee from demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this Commonwealth or elsewhere.
- (d) Respondent's activities described above in paragraphs 4(a) through 4(g) violate Sections 611-A(20) and (7) of Act 147 of 2002.
- (e) Respondent's violations of Sections 611-A(20) and (7) of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
- (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for each 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 Deputy Insurance Commissioner 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 agrees not to offer any financial product in the Commonwealth of Pennsylvania unless such product is an insurance product solicited and/or sold in compliance with all applicable Pennsylvania insurance laws and regulations.

- (c) Respondent shall pay a civil sum of Thirty Thousand Dollars (\$30,000) to the Commonwealth of Pennsylvania. Payment of this amount shall be made by certified check or money order, payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon Fraser, 1311 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.

- (d) Respondent's certificates and licenses may be immediately suspended by the Department following its investigation and determination that (i) above payment has not been made, or (ii) any other terms of this Order have not been complied with, or (iii) 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 this Order.
- (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 6(e) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance certificate and license.
- (g) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 6(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 certificate and license, Respondent's suspended certificates and licenses shall be revoked.

7. In the event the Deputy Insurance Commissioner 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 Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner 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.

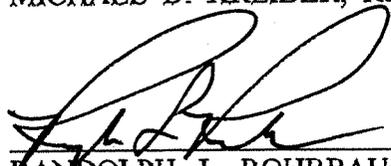
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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 Deputy Insurance Commissioner. Only the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner.

BY: 
MICHAEL D. KREIDER, Respondent


KANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania