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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:
: :
KENNY MARCUS : 40 P.S. §§310.11(5), (7), (17), (20)
300 Hope Drive : and 1171.5(a)(2)
Blandon, PA 19510 : :
: :
Respondent. : Docket No. CO16-08-004

CONSENT ORDER

AND NOW, this 15th day of November, 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.

3. Respondent neither admits nor denies the information contained in the Findings of Fact and the violations cited in the Conclusions of Law in this Consent Order

FINDINGS OF FACT

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

- (a) Respondent is Kenny Marcus, and maintains a record of his address with the Pennsylvania Insurance Department as 300 Hope Drive, Blandon, PA 19510.
- (b) Respondent was at all times relevant hereto, a licensed Pennsylvania resident producer.
- (c) Respondent made false and/or misleading statements and misrepresentations to prospective policyholders about policy terms and conditions to include stating short term medical plans were ACA regulated; failing to advise customers short term medical plans did not meet minimum essential coverage under the Affordable Care Act and did not cover pre-existing conditions; purchasing a short term medical plan would remove customers from the tax penalty list; telling customers Obamacare was going away; telling customers rates were increasing; and quoting a range of premium amounts without explaining the

removal or addition of ancillary and supplemental benefits, in order to generate sales for National Brokers of America.

- (d) Respondent made false and/or misleading statements and misrepresentations to prospective policyholders about his own qualifications and qualifications of other employees of National Brokers of America and services he and National Brokers of America would provide to include embellishing years of experience; stating he represented the National Enrollment Center who is contracted with every carrier in the policyholder's state; he will utilize Ratewatch or Expedia like software to shop all carriers and ensure the lowest rates; telling customers who were reluctant to provide social security numbers they were on a recorded line with the Department of Insurance, FCC and SEC; in order to generate sales and give himself and National Brokers of America credibility.
- (e) Respondent trained National Brokers of America employees to make misleading statements and misrepresentations about their qualifications, name of their employer, nature of services they will provide and policy terms and conditions in order to instill credibility and generate sales of products offered by National Brokers of America.
- (f) Respondent directed, trained, permitted and condoned the sale of insurance policies by unlicensed employees of National Brokers of America.

- (g) Respondent permitted and condoned the submission of insurance policy applications under his signature and producer license which were sold to insurers by unlicensed employees of National Brokers of America or employees who were not licensed in the state where the policyholder resided.
- (h) Respondent engaged in dishonest acts to include selling insurance in states where he was not licensed; and in those states condoned the submission of policies he sold to carriers under the name and producer license of another employee of National Brokers of America.

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) 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 4(c) through 4(e) violate 40 P.S. §310.11(5).
- (d) 40 P.S. §310.11(7) prohibits a licensee or an applicant from using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business.
- (e) Respondent's activities described above in paragraphs 4(c) through 4(h) violate 40 P.S. §310.11(7).
- (f) 40 P.S. §310.11(17) prohibits a licensee or an applicant from committing fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty.
- (g) Respondent's activities described above in paragraphs 4(c) through 4(h) violate 40 P.S. §310.11(17).
- (h) 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.
- (i) Respondent's activities described above in paragraphs 4(c) through 4(h) violate 40 P.S. §310.11(20).

- (j) 40 P.S. §1171.5(a)(2) prohibits persons from making, issuing, publishing or circulating in any manner an advertisement, announcement or statement containing any representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business which is untrue, deceptive or misleading.

- (k) Respondent's activities described above in paragraphs 4(c) through 4(e) constitute making, issuing, publishing or circulating in any manner an advertisement, announcement or statement containing any representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business which is untrue, deceptive or misleading and violate 40 P.S. §1171.5(a)(2).

- (l) Respondent's violations of Sections 310.11(5), (7), (17) and (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.

(m) Respondent's violations of 40 P. S. §1171.5(a)(2), are punishable by the following, under 40 Purdons Statutes, Sections 1171.8, 1171.9, and 1171.11:

(i) an order requiring Respondent to cease and desist from engaging in such violation and/or, if such violation is a method of competition, act or practice defined in Section 5 of this Act, suspension or revocation of Respondent's license(s);

(ii) commencement of an action against Respondent for the following civil penalties:

(1) for each method of competition, act or practice defined in Section 5 and in violation of the Act which Respondent knew or reasonably should have known was such a violation, a penalty of not more than five thousand dollars (\$5,000.00) for each violation, not to exceed an aggregate penalty of fifty thousand dollars (\$50,000.00) in any six month period;

(2) for each method of competition, act or practice defined in Section 5 and in violation of this Act which Respondent did not know nor reasonably should have known was such a violation, a penalty of not more than one thousand dollars (\$1,000.00) for

each violation, not to exceed an aggregate penalty of ten thousand dollars (\$10,000.00) in any six month period;

- (3) for each violation of an Order issued by the Commissioner pursuant to Section 9 of the Act, while such Order is in effect, a penalty of not more than ten thousand dollars (\$10,000.00).

ORDER

6. 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 three (3) 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 6(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 6(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.

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, 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.

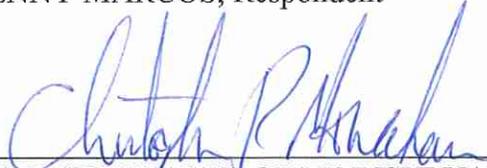
10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 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.

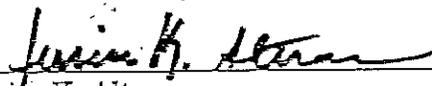
BY: 
KENNY MARCUS, Respondent


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 28th 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.


Jessica K. Altman
Insurance Commissioner

