

RECEIVED
INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

2007 AUG 21 AM 10:19

IN RE:

SANDRA E. MENAKER
3771 Green Ridge Road
Furlong, PA 18925

ADMIN HEARINGS OFFICE

: Pursuant to the Violent Crime Control and
: Law Enforcement Act of 1994, 18 U.S.C.
: §1033.

: **ALLEGED VIOLATION:**

: Section 611-A(20) of Act 147 of 2002 (40
: P.S. §§310.11) and 40 P.S. §310.78(b).

Respondent : Docket No. CO07-07-019

CONSENT ORDER

AND NOW, this 7th day of August, 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 she has received proper notice of her 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is Sandra E. Menaker and maintains her address at 3771 Green Ridge Road, Furlong, PA 18925.
- (b) At all relevant times herein, Respondent has been a licensed Pennsylvania Individual Resident Producer, license number 392469 which expires on January 11, 2008.
- (c) Respondent was convicted of a felony involving subsidized daycare services, sentenced to five years probation, and is required to make restitution.
- (d) Respondent failed to report the arrest that resulted in the aforementioned conviction to the Department within 30 days of the arrest.
- (e) Respondent's conviction is a crime involving breach of trust or dishonesty pursuant to 18 U.S.C. §1033.

CONCLUSIONS OF LAW

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

- (a) 18 U.S.C. §1033(e)(2) provides that persons convicted of felonies involving dishonesty or a breach of trust may not engage in the business of insurance or participate in such business unless such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to 18 U.S.C. §1033(e)(2).
- (b) Respondent's conviction is a criminal felony involving dishonesty or a breach of trust within the meaning of 18 U.S.C. §1033(e)(1)(A).
- (c) Accordingly, Respondent may not engage in the business of insurance without a written consent issued by the Deputy Insurance Commissioner pursuant to 18 U.S.C. § 1033(e)(2).
- (d) Respondent's conviction also demonstrates a lack of general fitness, competence or reliability sufficient to satisfy the Department that the licensee is worthy of licensure pursuant to 40 P.S. §§310.11(20).

ORDER

5. Accordingly, the Deputy Insurance Commissioner orders and Applicant 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. Respondent shall further comply with Pennsylvania insurance laws and regulations.

(b) Pursuant to 18 U.S.C. § 1033(e)(2), Respondent may engage in the business of insurance as an insurance agent, and only in such capacity, subject to the terms and conditions of this Order, which terms and conditions contained herein are necessary and sufficient to ensure that Respondent may engage in the business of insurance in a manner that is not reasonably likely to cause harm to the public, policyholders or the industry.

6. The term of this Order shall remain in place for a period of five years and, thereafter, unless and until the Department or the Commissioner terminates the Order. Nothing in this Order shall preclude the Department, the Deputy Commissioner or the Commissioner, in their sole discretion, from decreasing or lessening the restrictions contained in this Order in whole or in part while it is in effect. Any such lessening of the restrictions contained in this Order shall be made in writing by the Department, the Deputy Commissioner or the Commissioner in accordance with the procedures set forth in paragraph 15 of this Order. Further, Respondent shall not apply nor otherwise seek to reduce or remove the restrictions contained in this Order for a period of at least five years.

7. Following the five-year period referenced in paragraph 6, above, this Order shall continue unless and until the Department affirmatively terminates it. Nothing in this Order shall be construed as conferring upon Respondent any property right or interest as a result of receiving this conditional consent to engage in the business of insurance in accordance with the terms of this Order. Respondent expressly waives any right to assert that she is entitled to a hearing on the termination of this Order following the expiration of the five-year period referenced in paragraph 6. Should the Insurance Department or the Commissioner, terminate this Order after the five year period referenced in paragraph 6, above, Respondent may file a new application for a written consent as set forth in paragraph 4(b), above, to engage in the business of insurance under 18 U.S.C. § 1033(e)(2).

8. The Department's conditional consent permitting Respondent to engage in the business of insurance, and Respondent's existing certificates and licenses, may be immediately suspended upon notice by the Department following its investigation and determination that Respondent has failed to adhere to any condition set forth in this Order, has violated an insurance statute or regulation, or has deviated from the payment plan that the Respondent is presently complying with to make restitution because of her conviction.

9. Respondent shall have no right to prior notice of such a suspension, but will be entitled to a hearing upon written request received by the Department no later than thirty (30) days from the date the Department mailed to Respondent by certified mail, return receipt requested, notification of such suspension, which hearing shall be held within sixty (60) days of the

Department's receipt of Respondent's written request for a hearing.

10. At the hearing referred to in paragraph 9 above, Respondent shall have the burden of demonstrating that she is worthy of an insurance certificate and license and a conditional consent to engage in the business of insurance. In the event Respondent's conditional consent, certificates, and licenses are suspended pursuant to paragraph 8 above, and Respondent either fails to request a hearing within 30 days or at the hearing fails to demonstrate that she is worthy of a certificate and license, Respondent's suspended conditional consent, certificates and licenses shall be revoked.

11. 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.

12. Alternatively, in the event the Deputy Insurance Commissioner finds that there has been a breach of any provisions of this Order, the Deputy Insurance 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.

13. 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 or Conclusions of Law contained herein.

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

15. 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.

16. 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 matters addressed herein, and this Consent Order is not effective until executed by the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner.

BY: 
Sandra E. Menaker, Respondent

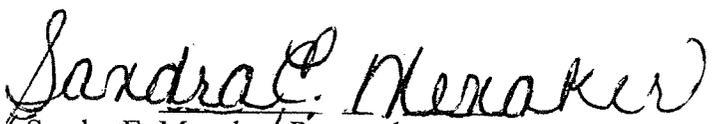

Randolph L. Rohrbaugh
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

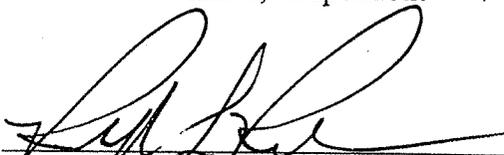
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Randolph L. Rohrbaugh
Deputy Insurance Commissioner
Commonwealth of Pennsylvania