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ADMINISTRATIVE LAW OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
STEVEN J. TOTO 2112 Ashley Road Newtown, PA 18940	:	40 P.S. §§ 310.11(6), (7) and (20), 310.47 and 310.71
	:	31 Pa. Code §§37.42 and 37.43
	:	
Respondent.	:	Docket No. ~~CO10-07-023~~ CO10-07-024

CONSENT ORDER

AND NOW, this 10th day of November, 2010, 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 Steven J. Toto and maintains his address at 2112 Ashley Road, Newtown, PA 18940.

(b) Respondent has an active resident producer license #341784 that expires on November 30, 2011.

(c) Respondent and Michael B. Reap jointly own Wealth Planning Strategies, registered on August 4, 2004, with the Department of State. Respondent and Michael B. Reap are two of three members of Wealth Planning Strategies LLC, registered on March 5, 2010, with the Department of State.

(d) Wealth Planning Strategies and Wealth Planning Strategies LLC are not now, nor ever have been, licensed by the Insurance Department.

(e) Between January and March, 2010, Respondent, trading as Wealth Planning Strategies and/or Wealth Planning Strategies LLC, met with six (6) clients to solicit and complete seven (7) Allianz Life Insurance Company of America ("Allianz") annuity applications.

(f) Allianz had terminated Respondent's appointment on June 14, 2006.

(g) Michael B. Reap, who had an appointment with Allianz at that time, signed the above seven (7) Allianz annuity applications as the producer, at the office of Wealth Planning Strategies and/or Wealth Planning Strategies LLC.

(h) Respondent failed to change his business address on his licensing record with the Department as required.

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(6) prohibits a licensee or an applicant from committing any unfair insurance practice or fraud.

(c) Respondent's activities described above in paragraphs 3(c) through 3(h) violate 40 P.S. § 310.11(6).

(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 3(c) through 3(h) violate 40 P.S. § 310.11(7).

(f) 40 P.S. § 310.11(20) 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.

(g) Respondent's activities described above in paragraphs 3(e) through 3(h) violate 40 P.S. § 310.11(20).

(h) 40 P.S. § 310.47 prohibits producers from misrepresenting the terms of policies and future dividends.

(i) Respondent's activities described above in paragraphs 3(e) through 3(h) violate 40 P.S. § 310.47.

(j) 40 P.S. § 310.71 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act.

(k) Respondent's activities described above in paragraphs 3(e) and 3(f) constitute transacting business within this Commonwealth without written appointment as required by the Act and violate 40 P.S. § 310.71.

(l) Respondent's violations of Sections 310.11(6), (7), (20), 310.47 and 310.71 are punishable by the following, under 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 every violation of the Act;

(iii) an order to cease and desist; and

(iv) any other conditions as the Commissioner deems appropriate.

(m) 31 Pa. Code §37.42 requires certificates and licenses to accurately reflect the name of the individual producer and indicate if fictitious names in which the producer transacts insurance are on file with the Department. Fictitious names used by a producer shall be registered with the Department of State and will be provided by the Department upon request.

(n) Respondent's activities described above in paragraphs 3(c) through 3(e) violate 31 Pa. Code §37.42.

(o) 31 Pa. Code §37.43 requires every producer holding a license issued by the Department to notify the Department of a change in residence or business address within 15 business days of the change. Notice shall be given in a form and manner established by the Department. Every producer shall also notify, within 15 business days of the change, entities for which the producer holds appointments of a change in residence or business address.

(p) Respondent's activities described above in paragraph 3(h) violate 31 Pa. Code §37.43.

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 shall pay a civil penalty of Five Thousand Dollars ($5,000.00) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made

by certified check or money order, payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Fraser, Manager, Bureau of Licensing and Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment may be enclosed with the Consent Order, but must be paid in any event no later than sixty (60) days after the date of the Consent Order.

(c) Respondent's certificates and 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 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.

(d) 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.

(e) At the hearing referred to in paragraph 5(d) of this Order, Respondent shall have the burden of demonstrating that he is worthy of a license.

(f) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5(c) 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 certificates and 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 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.

7. 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.

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 a duly authorized delegee.

BY: _____
STEVEN J. TOTO, Respondent

_____
COMMONWEALTH OF PENNSYLVANIA
By: RONALD A. GALLAGHER, Jr.
Deputy Insurance Commissioner