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By Admin Hearings, Ins Dept at 7:56 am, Dec 08, 2023

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:

MARLENE J. BURNS
24 N. Main Street
Lambertville, NJ 08530

VIOLATIONS:

40 P.S. § 310.11(1), (13) and (20)

Respondent.

Docket No. CO23-06-014

CONSENT ORDER

AND NOW, this 8th day of December, 2023, 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 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 Pennsylvania Insurance Department ("Department") finds true and correct each of the following Findings of Fact:

- (a) Respondent is Marlene J. Burns and maintains a record of her address with the Pennsylvania Insurance Department as 24 N. Main Street, Lambertville, NJ 08530.
- (b) Respondent is, and at all times relevant hereto has been, a licensed Resident Producer.
- (c) Respondent failed to pay Pennsylvania state taxes from 2007 through 2015.
- (d) Respondent was notified by the Pennsylvania Department of Revenue by mail on June 4, 2019 that she was non-compliant with her tax obligations, which could result in actions against her Pennsylvania Insurance Department issued license.
- (e) Respondent has liens against her totaling \$95,487.01 under Bucks County Court of Common Pleas docket numbers 2011-70960, 2011-74195, 2013-71654, 14-72134, 2015-71491, 2016-74448, 2017-70006, and 2018-72101 for non-compliance with her Pennsylvania state tax obligations.

- (f) Respondent on her renewal applications in 2009, 2012, 2014, 2016, 2018, 2020, and 2022, improperly answered "No" to the question that asks, "[s]ince the last renewal or initial application in this state, have you failed to pay state income tax or comply with any administrative or court order directing the payment of state income tax?"

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(f) violate 40 P.S. § 310.11(1).
 - (d) 40 P.S. § 310.11(13) prohibits a licensee or an applicant from failing to pay state income tax or comply with any administrative or court order directing the payment of state income tax.

- (e) Respondent's activities described in paragraphs 3(c) and 3(e) violate 40 P.S. § 310.11(13).
- (f) 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.
- (g) Respondent's activities described in paragraphs 3(c), 3(e) and 3(f) violate 40 P.S. § 310.11(20).
- (h) Respondent's violations of 40 P.S. § 310.11(1), (13) 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.

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 one thousand dollars (\$1,000.00) 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 the Pennsylvania Insurance Department, 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 fourteen (14) days after the date of the Consent Order.

- (c) Respondent shall be compliant with all tax obligations including but not limited to, fully and timely complying with any agreed upon Payment Plan entered into with the Department of Revenue and otherwise timely and accurately filling any and all requisite tax returns.

- (d) Upon demand by the Insurance Department, Respondent shall provide full, complete and immediate proof of compliance with any Payment Plan, or any other obligation with the Department of Revenue, in a manner and form acceptable to the Pennsylvania Insurance Department. Further Respondent acknowledges that this provision must be strictly adhered to; failure to comply with this provision shall, in and of itself, be a material breach of this Order and an independent basis for suspending and/or revoking Respondent's license.

- (e) Should Respondent fail to make any payment by its due date, Respondent's licenses may be immediately suspended or revoked by the Pennsylvania Insurance Department. Respondent acknowledges that this provision must be strictly adhered to; failure to comply with this provision shall, in and of itself, be a material breach of the Order and an independent basis for suspending and revoking Respondent's license.

- (f) 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 five (5) years from the date of this Order.

- (g) Respondent specifically waives her 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.

- (h) At the hearing referred to in paragraph 5(g) of this Order, Respondent shall have the burden of demonstrating that she is worthy of a license.

- (i) In the event Respondent's licenses are suspended pursuant to paragraph 5(f) above, and Respondent either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that she 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.

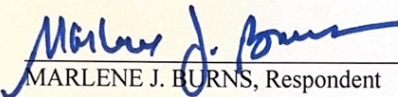
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

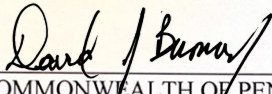
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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:


MARLENE J. BURNS, Respondent


COMMONWEALTH OF PENNSYLVANIA
By: DAVID J. BUONO JR.
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 __31st__ day of __March____, 2022, David J. Buono, Jr.,
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.



Michael Humphreys
Acting Insurance Commissioner

