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By Admin Hearings, Ins Dept at 8:35 am, Jun 01, 2021

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
MATTHEW LAWRENCE KELLY	:	40 P.S. § 310.11(1), (2) and (20)
168 Miller Drive	:	
Southampton, PA 18966	:	
	:	
	:	
	:	
Respondent.	:	Docket No. CO21-05-021

CONSENT ORDER

AND NOW, this 1st day of June, 2021, this Order is hereby issued by the Insurance Department of 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 Matthew Lawrence Kelly and maintains a record of his address with the Pennsylvania Insurance Department as 168 Miller Drive, Southampton, PA 18966.
- (b) Respondent is, and at all times relevant hereto has been, a licensed Resident Producer Individual.
- (c) Respondent, on July 2, 2020, was charged by the Abington Police Department (Montgomery, PA) with Involuntary Deviate Sexual Intercourse (IDSI) Forcible Compulsion, IDSI Threat of Forcible Compulsion, Sexual Assault, and Unlawful Contact With Minor-Sexual Offenses, all felonies. He was also charged with Indecent Assault without Consent Of Other, Indecent Assault Forcible Compulsion, Indecent Assault Threat Forcible Compulsion, Corruption of Minors, and Endangering the Welfare of Children-Parent /Guardian/Other Commits Offense, all misdemeanors, from an incident that allegedly occurred on January 1, 2016.
- (d) Respondent failed to notify the Department of his criminal charges within 30 days.

- (e) Respondent, on August 13, 2020, was issued a warning letter by the Department for the charges identified in finding 3(c) informing him of the need to report criminal charges and the final disposition of those charges within 30 days.
- (f) Respondent, on his April 28, 2021 renewal applications, improperly answered "No" to the questions asking "[h]ave you been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor, which has not been previously reported to this insurance department?" and "[h]ave you been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony, which has not been previously reported to this insurance department?"

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(2) prohibits a licensee or an applicant from violating the insurance laws or regulations of this Commonwealth or a subpoena or order of the commissioner or of another state's insurance commissioner.
- (e) Respondent's activities described above in paragraph 3(f) violate 40 P.S. § 310.11(2).
- (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 paragraph 3(f) violate 40 P.S. § 310.11(20).
- (h) Respondent's violations of 40 P.S. § 310.11(1), (2) 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 immediately surrender all licenses to conduct the business of insurance within the Commonwealth of Pennsylvania as of the date of this Consent Order.
- (c) If Respondent should ever become licensed in the future, his 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 issuance of such licenses.
- (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 an insurance license.
- (f) In the event Respondent's 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 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 delegate 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 delegate.

BY:



MATTHEW LAWRENCE KELLY, Respondent



COMMONWEALTH OF PENNSYLVANIA

By: CHRISTOPHER R. MONAHAN

Deputy Insurance Commissioner