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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:
	:	
FRANK M. MALHIOT 11806 Aldendale Street Orlando, FL 32836-8854	:	40 P.S. § 310.11(2), (8) and (20)
Applicant.	:	Docket No. CO20-01-012

CONSENT ORDER

AND NOW, this 24th day of April, 2020, 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. Applicant 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. Applicant 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) Applicant is Frank M. Malhiot and maintains a record of his address with the Pennsylvania Insurance Department as 11806 Aldendale Street, Orlando, FL 32836-8854.

(b) Applicant does not possess a non-resident producer license.

(c) Applicant, on September 20, 2013, entered into a Consent Order with the Florida Department of Financial Services, surrendering his resident producer license with the same force and effect as a revocation, for allegedly making false written and oral misrepresentations on and for applications for an insurance policy and submitting insurance applications and insurance related documents without the true signature of the insured.

(d) Applicant, on January 11, 2016, was issued a Resident Producer license in his home state of Florida.

(e) Applicant electronically initiated an application for an initial Pennsylvania non-resident producer individual license on July 30, 2019, wherein he fully disclosed the administrative action identified in 3(c).

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) Applicant is subject to the jurisdiction of the Pennsylvania Insurance Department.

(b) 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.

(c) Applicant's activities described above in paragraph 3(c) violate 40 P.S. § 310.11(2).

(d) 40 P.S. § 310.11(8) prohibits a licensee or an applicant from having a producer license or other financial services license denied, suspended or revoked by a governmental entity.

(e) Respondent's activities described in paragraph 3(c) violate 40 P.S. § 310.11(8).

(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) Applicant's activities described in paragraph 3(c) violate 40 P.S. § 310.11(20).

(h) Applicant's violations of Sections 310.11(2), (8) 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, and as a condition of licensure, the Insurance Department orders and Applicant consents to the following:

(a) Applicant shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

(b) Applicant'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 Applicant 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.

(c) Applicant 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 Applicant 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 Applicant's written request.

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

(e) In the event Applicant's licenses are suspended pursuant to paragraph 5(b) above, and Applicant either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that he is worthy of a license, Applicant'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 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, Applicant 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. Applicant 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: _____
FRANK M. MALHIOT, Applicant

_____

COMMONWEALTH OF PENNSYLVANIA
By: CHRISTOPHER R. MONAHAN
Deputy Insurance Commissioner