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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
MARVIN H. SPODEK 104 Downing Drive Pittsburgh, PA 15238-2506	:	40 P.S. §§ 310.11(20) and 310.78(b)
Respondent.	:	Docket No. CO21-08-032

CONSENT ORDER

AND NOW, this 22nd day of September, 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 Marvin H. Spodek and maintains a record of his address with the Pennsylvania Insurance Department as 104 Downing Drive, Pittsburgh, PA 15238.

(b) Respondent is, and at all times relevant hereto has been, a licensed Resident Producer.

(c) Respondent, on May 20, 2021, was charged by the Pennsylvania State Police (Allegheny, PA) with one (1) count of Tamper With Public Record/Information, and one (1) count of Investigation by Police Officer -Records, both Misdemeanors; Improper Registration by Weight (19 counts), Operate Messenger Service Without Adhering to Regulation (333 counts), Violate Rules/Regulations of Motor Vehicle Code (46 counts), and Temporary Registration Card Violation (234 counts), all Summaries.

(d) Respondent failed to notify the Department of his criminal charges within 30 days.

(e) Respondent was issued two previous warning letters by the Department on July 31, 2013 and April 22, 2020 for failing to report criminal charges

and informing him of the need to report criminal charges and the final disposition of those charges within 30 days.

(f) Respondent's charges identified in finding 3(c) are pending a Preliminary Hearing in Magisterial District Court 05-2-36 (Allegheny, PA).

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(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.

(c) Respondent's activities described in paragraphs 3(c) and 3(d) violate 40 P.S. § 310.11(20).

(d) 40 P.S. § 310.78(b) requires that within 30 days of being charged with criminal conduct, a licensee shall report the charges to the Department.

Additionally, the licensee shall provide the Department with the following within 30 days of their availability to the licensee:

(1) a copy of the criminal complaint, information or indictment.

(2) a copy of the order resulting from any pretrial hearing.

(3) a report of the final disposition of the charges.

(e) Respondent's activities described in paragraphs 3(c) and 3(d) violate 40 P.S. § 310.78(b).

(f) Respondent's violations of 40 P.S. §§ 310.11(20) and 310.78(b) 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 five hundred dollars ($500.00) 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'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.

(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 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.

(g) At Respondent's own expense, Respondent must successfully complete a continuing education course on the topic of ethics and provide proof of the course completion to the Department within six (6) months.

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: _____
MARVIN H SPODEK, Respondent

_____
COMMONWEALTH OF PENNSYLVANIA
By: DAVID J. BUONO JR.
Acting Deputy Insurance Commissioner