

FINDINGS OF FACT

3. The Pennsylvania Insurance Department (“Department”) finds true and correct each of the following Findings of Fact:

- (a) Respondent is Kevin S. Tierney and maintains a record of his address with the Pennsylvania Insurance Department as 6100 Rockside Woods Boulevard, Suite 310, Independence, OH 44131-2366.
- (b) Respondent is, and at all times relevant hereto has been, a licensed Non-Resident Producer.
- (c) Respondent, on August 28, 2020, was issued an administrative action by the Ohio Insurance Department and his license was suspended for failure to pay taxes.
- (d) Respondent failed to notify the Department of the administrative action within 30 days.
- (e) Respondent, on March 30, 2021, submitted a renewal application and incorrectly answered “No” to the question that asks, “[h]ave you ever been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration, which has not been previously reported to this insurance department?”

- (f) Respondent, on January 4, 2023, was issued an administrative action by the New York Insurance Department and his license was revoked for failure to report other state action.
- (g) Respondent failed to notify the Department of the administrative action within 30 days.
- (h) Respondent, on February 13, 2023, submitted a renewal application and incorrectly answered “No” to the question that asks, “[h]ave you ever been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration, 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 paragraphs 3(e) and 3(h) violate 40 P.S. § 310.11(1).
- (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 paragraphs 3(c) and 3(f) 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) Respondent's activities described in paragraphs 3(c) through 3(h) violate 40 P.S. § 310.11(20).
- (h) 40 P.S. § 310.78(a) requires a licensee to report any administrative action taken in another jurisdiction or by another governmental agency within 30 days of the final disposition, to include a copy of the order, consent order or other relevant legal documents.
- (i) Respondent's activities described in paragraphs 3(d) and 3(g) violate 40 P.S. § 310.78(a).

- (j) Respondent's violations of 40 P.S. §§ 310.11(1), (8), (20) and 310.78(a) 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 two hundred fifty dollars (\$250.00) 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.

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: *Kevin S. Tierney*
Kevin S. Tierney (Aug 17, 2023 15:27:01)

KEVIN S. TIERNEY, Respondent

David J. Buono Jr.

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

