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By Admin Hearings, Ins Dept at 1:43 pm, Apr 29, 2022

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
RICHARD M WESSELT	:	40 P.S. §§ 310.11(7), (8), (20),
3441 Germantown Pk	:	310.78(a) and 627-3(a)
Collegeville, PA 19426	:	
	:	
	:	
	:	
	:	
Respondent.	:	Docket No. CO22-01-018

CONSENT ORDER

AND NOW, this 29th day of April, 2022, 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.
3. Respondent neither admits nor denies the information contained in the Findings of Fact and the violations cited in the Conclusions of Law in this Consent Order.

FINDINGS OF FACT

4. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is Richard M. Wesselt and maintains a record of his address with the Pennsylvania Insurance Department as 3441 Germantown Pike, Collegeville, PA 19426.
- (b) Respondent is, and at all times relevant hereto has been, a licensed resident producer.
- (c) Respondent, between July 23, 1993 to December 19, 2019, was appointed by multiple insurers to sell both variable annuities and life insurance policies.
- (d) Respondent, between March 2014 through September 2017, promoted an industry financial strategy known as the "Infinite Banking System" or "Becoming Your Own Banker" which is built on the concept of funding whole life insurance products and then leveraging the cash value of those policies via personal loans to help pay debt, personal and business expenses, investments, and generate retirement income.
- (e) Respondent, in certain situations, in order to effectuate the strategy identified in finding (d), advised clients to liquidate retirement funds in order to purchase variable annuities. Clients were then advised to take substantial withdrawals from those annuities which resulted in the customer incurring surrender fees and tax liabilities in order to purchase and front load life insurance policies in order to form their

"Bank" in which to borrow from in accordance with the financial strategy identified in finding (d).

- (f) Respondent further advised certain clients to purchase new life insurance policies in order to further "grow their bank." This was often accomplished by taking loans from a preexisting life insurance policy in order to fund a new life insurance policy and/or pay life insurance policy premiums.
- (g) Respondent's advice that certain clients purchase multiple life insurance policies and the practice of taking loans against these policies resulted in clients incurring substantial losses in premiums paid and the loss of future benefits of their life insurance policies when these policies inevitably became too expensive to maintain and either lapsed or had to be canceled.
- (h) Respondent, without admitting or denying any findings, entered into an Acceptance, Waiver, and Consent (AWC) which was accepted by the Financial Industry Regulatory Authority (FINRA) on November 9, 2020, resulting in his bar from association with any FINRA members in all capacities for making unsuitable recommendations to seventy-eight (78) clients, most of which were Pennsylvania residents which caused clients to incur surrender charges, fees, penalties, forfeiture of expected benefits, and the loss of retirement savings of his clients.

- (i) Respondent failed to consider his clients' investment profiles, goals, time horizons, liquidity needs, and risk tolerances when advising them in the financial strategy identified in findings (d) and (g).
- (j) Respondent's clients identified in finding (h) suffered financial harm as a result of liquidating their existing retirement accounts or their variable annuity accounts resulting in the clients having to pay surrender fees totaling \$378,452.00.
- (k) Respondent received \$686,025.00, in commissions for the sale of the products identified in finding (h).
- (l) Respondent's failure to consider the suitability and/or appropriateness of the financial strategy identified in findings (d) and (g) for his clients and his use of deceptive practices caused severe harm to Pennsylvania consumers:
- A client of 43 years of age met with the Respondent in September 2014, to discuss her financial needs, which included substantial daycare expenses. Respondent advised her to liquidate her 401(k) (which was worth approximately \$220,000.00) to purchase an annuity. Respondent then advised the client to take money from the annuity and purchase numerous life insurance policies to take loans from to pay for daycare and other expenses. After four (4) years the client had withdrawn \$225,662 from her variable annuity in

order to pay life insurance premiums and other expenses, which included fees of \$11,998, tax withholdings of \$71,564, as well as a tax penalty. This client was no longer able to afford to pay the costly life insurance premiums and her variable annuity that held most of her retirement savings had been depleted to less than \$10,000.

- In 2016, another client met with the Respondent to discuss finances and impending divorce settlement that required her to pay \$40,000. The client also expressed interest in helping pay her child's student loans. Respondent advised her to liquidate her 401(k) and invest in annuities. Within three days of the issuance of the annuity contracts, the Respondent had the client withdraw \$63,697, which included the \$40,000 divorce settlement. A week later, the Respondent recommended that she withdraw \$55,323 to pay \$33,000 in premiums towards a whole life policy that the Respondent had sold to her. In one week, the client's annuity had declined by 85% to \$19,764, while incurring \$8,180 in surrender charges as well as tax withholdings and penalties.
- In 2014, another client, who sought advice regarding the purchase of an apartment and assisting a child with student loan repayments, was advised by the Respondent to liquidate her 401(k) and buy an annuity. She was only able to sustain her policies for three years as her variable annuity had declined from \$57,955 to \$8,489 due to the Respondent's advice to take annual withdrawals to pay life insurance

premiums, incurring surrender charges, and tax withholdings. Twenty percent of this client's income was going towards the payment of whole life policies due to the Respondent's advice.

- On or about December 2012, another client whose husband had passed reached out to the Respondent for financial planning advice for herself and her son. Respondent recommended she invest the proceeds of her husband's life insurance policy (\$270,000 of the \$300,000 insurance proceeds) into a variable annuity. Respondent then advised that client and her son to open three whole life insurance policies (two policies for the client with a total face amount totaling \$606,364 and one policy for her son with a face amount of \$1,032,881). Respondent advised the client's son to utilize his social security death benefits to fund this high commission product. Based on the Respondent's advice, the then 12-year-old was obligated to a monthly premium payment of \$1,500 for nearly the rest of his life while his social security benefits would end once he graduated high school. This client and her son would still have been required pay approximately \$70,000 in annual premiums. The client lost her job in 2016 and borrowed against the life insurance policies to pay the family's household expenses and was no longer able to afford the insurance premiums. This caused her to lose the approximately \$219,042 in premiums she had already paid into the plan.

- Another set of clients, a husband and wife who owned two businesses, were recommended to purchase 24 life insurance policies for an aggregate death benefit of more than \$27 million over the course of approximately 19 years. The amount of annual premium required to sustain these policies was approximately \$200,000. After paying about 2 million dollars in premiums, the clients could not keep making the required payments.

- (m) Respondent, on April 13, 2021, was issued an administrative action from the State of California Department of Insurance and his license was revoked based on FINRA's findings and administrative actions identified in finding (h).
- (n) Respondent, on May 13, 2021, received an administrative action from the North Carolina Department of Insurance and voluntarily surrendered his license for 10 years.
- (o) Respondent failed to report the administrative actions cited in findings (n-o) to the Pennsylvania Insurance Department within thirty (30) days.

CONCLUSIONS OF LAW

5. 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(7) prohibits a licensee or an applicant from using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business.
- (c) Respondent's activities described in paragraphs 4(g), 4(h) and 4(j) violate 40 P.S. § 310.11(7).
- (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 4(m) 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 4(c) through 4(l) 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 4(m) through 4(o) violate 40 P.S. § 310.78(a).
- (j) 40 P.S. § 627-3(a) states: In making a recommendation to a consumer for the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no insurance producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer's investments and other insurance products and as to the consumer's financial situation and needs.
- (k) Respondent's activities described in paragraphs 4(c), 4(d), 4(e), 4(f), 4(h) and 4(i) violate 40 P.S. § 627-3(a).
- (l) Respondent's violations of 40 P.S. § 627-3(a) are punishable by the following under 40 P.S. § 627-6(a): Upon determination by hearing that this article has been violated, the commissioner may pursue one or more of the following courses of action:
 - (1) Issue an order requiring the person in violation to cease and desist from engaging the violation.
 - (2) Suspend or revoke or refuse to issue or renew the certificate or license of the person in violation.
 - (3) Impose a civil penalty of not more than \$5,000 for each violation.

- (4) Impose any other penalty or remedy deemed appropriate by the commissioner, including restitution.
- (m) Respondent's violations of 40 P.S. §§ 310.11(7), (8), (20), 310.78(a) and 627-3(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

6. 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) All licenses of Respondent to do the business of insurance are hereby revoked.
- (c) For the eight (8) year period following signing of this Consent Order by the Deputy Insurance Commissioner, Respondent will not reapply for, seek

reinstatement of, or seek to void this Consent Order as it applies to his individual insurance license(s).

- (d) Respondent further agrees that within the eight-year period following the signing of this Consent Order by the Deputy Insurance Commissioner, Respondent will not be affiliated with, have any financial interest in, and/or act in any capacity with any corporate partnership or other legal entity licensed by or seeking a license issued by the Pennsylvania Insurance Department.
- (e) 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 eight (8) years from the date of issuance of such licenses.
- (f) 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.
- (g) At the hearing referred to in paragraph 6(f) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance license.

- (h) In the event Respondent's licenses are suspended pursuant to paragraph 6(e) 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.

7. 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.

8. 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.

9. 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.

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

11. 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.

12. 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:



RICHARD M WESSELT, Respondent



COMMONWEALTH OF PENNSYLVANIA

By: DAVID J. BUONO JR.

Acting 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

