BEFORE THE INSURANCE COMMISSIONER OF THE JAN -4 AN 10: 49 COMMONWEALTH OF PENNSYLVANIA

ADMIN REARINGS OFFICE

IN RE:

VIOLATIONS:

STEVEN S. MODELL

Section 611-A(20) of the

155 Eaton Drive

Insurance Department Act of 1921

Wayne, PA 19087-3859

Act of May 17, 1921, P.L. 789 No.

285, as amended, (40 P.S. §310.11).

Respondent

Docket No. CO11-06-006

CONSENT ORDER

day of January, 2012, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania (hereinafter "Department") pursuant to the statutes cited above and in disposition of the matter captioned above.

- Respondent hereby admits and acknowledges that he has received proper notice 1. 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.
- Respondent hereby waives all rights to a formal administrative hearing in this 2. 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.
- Respondent does not admit the Findings of Fact or Conclusions of Law contained 3. herein and Respondent expressly denies that he violated any Pennsylvania insurance laws.

FINDINGS OF FACT

- 4. The Insurance Department finds as true and correct each of the following Findings of Fact:
- a. Respondent is Steven S. Modell, and he maintains his residential address at 155 Eaton Drive, Wayne, PA 19087-3859.
- b. Respondent has an active resident individual producer license #418894 that expires on October 31, 2013.
- c. Between July, 2008 and January, 2009, on seven (7) occasions. Respondent accepted life applications from Gary D. Mishkin, a PA non-resident producer No. 495203. From July 2008 through January 2009 Mr. Mishkin was duly licensed, however, on July 2, 2009 his license expired.
- d. Respondent signed off on the above six (6) applications noting Respondent was the agent of record, and signed and/or stamped the policy delivery receipts, without ever meeting the applicants who were in Florida and Georgia.
- e. The six (6) transactions in Florida and Georgia were completed by United States mail and Respondent did not meet with the applicants and/or policyholders.
- f. Respondent did not undertake sufficient due diligence to ascertain the accuracy of the information in each application and did not perform sufficient oversight to ensure that the transactions complied with Pennsylvania insurance laws.
- g. Respondent maintains that he believed that this practice was consistent with the procedures followed by other major insurance underwriters
- h. No complaint has been received by the Department from any insured on the above seven (7) policies or any other insured or consumer regarding the actions of Respondent,

nor has any death claim been submitted or paid out on any of the above referenced seven (7) policies.

i. Respondent cooperated in the Department's investigation of this matter.

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. Section 611-A(20) of the Insurance Department Act (40 P.S. §310.11)(20)) prohibits a licensee 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 acts described in paragraphs 5(c) through 5(f) violate 40 P.S. §310.11)(20).
- d. Respondent's violations of Section 611-A(20) of the Insurance Department Act (40 P.S. §310.11)(20)) is punishable by the following:
 - 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 any other conditions as the Commissioner deems appropriate.

ORDER

- 6. In accord with the above Findings of Fact and Conclusions of Law, the 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 Thousand Dollars (\$5,000.00) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made by certified check or money order, payable to the Commonwealth of Pennsylvania, and directed to Sharon L. Fraser, Administrative Officer, 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 thirty (30) days after the date of the Consent Order.
- c. Respondent shall cooperate to the best of his ability with the Pennsylvania Insurance Department and any other government agency or law enforcement agency in any review, investigation or proceeding relating to matters addressed in this Order. This shall include, but is not limited to submitting to interviews, providing written statements or affidavits and appearing and providing testimony at any administrative or other legal proceeding (in the Commonwealth) as reasonably required by the Department and any other governmental agency or law enforcement agency.
- d. Respondent's licenses may be immediately suspended by the Department following any investigation and determination that (i) any material terms of this Order have not been complied with, or (ii) any complaint against Respondent is accurate and a statute or regulation has been materially violated. The Department's right

to act under this section is limited to a period of ten (10) years from the date of this Order.

- e. Respondent specifically waives his right to prior notice of said suspension as provided in paragraph 6(e) above, 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.
- f. At the hearing referred to in paragraph 6(e) of this Order, Respondent shall have the burden of demonstrating that he is worthy of a license.
- g. 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 Department finds that there has been a material 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.

- 8. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the material 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, <u>supra</u>, 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.
- 9. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the material 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, <u>supra</u>, or other relevant provision of law.
- 10. 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.
- 11. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.
- 12. 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.
- 13. This Order shall be final upon execution by the Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the 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: Model Barranders

Commonwealth of Pennsylvania

Ronald A. Gallagher, Jr.

Deputy Insurance Commissioner