BEFORE THE INSURANCE COMMISSIONER OF THE COMMONWEALTH OF PENNSYLVANIA

2010 JUL 20 AH 11: 28 Almining ... 3 UFFIC

IN RE:

VIOLATIONS:

Sections 611-A (20) of the

Insurance Department Act of 1921, MICHAEL BLANK Act of May 17, 1921, P.L. 789, No.

285, as amended (40 P.S. §310.11)

Respondent.

282 Winding Way

Merion, PA 19066

Docket No.: C010-07-007

CONSENT ORDER

AND NOW, this 20^{4} day of , 2010, this Order is hereby JU14 issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

FINDINGS OF FACT

- 4. The Insurance Department finds true and correct each of the following Findings of Fact:
 - (a) Respondent is Michael Blank, residing at 282 Winding Way, Merion,
 Pennsylvania 19066.
 - (b) Respondent is, and during all relevant times herein, was a resident licensed producer, with an individual producer license number 296128 since October 1, 1980, which expires on July 31, 2012.
 - (c) In May of 2005, Respondent was approached by Samuel J. Mangel and Blair Johnson regarding the placement of an insurance policy for Mark Luber.
 - (d) Respondent worked directly with Samuel J. Mangel ("Mangel"),
 Rumson Capital LP and/or M & M Financial Services, L.P., to procure
 or "shop" a life insurance policy for Mr. Luber. Mangel is not, and was

not at any time relevant to the transaction, a licensed insurance producer.

- (e) Luber eventually purchased a \$10 million insurance policy from ING, (the "ING policy").
- (f) The premium for the ING policy was financed pursuant to a Premium

 Finance Agreement issued by Bedrock Funding LLC
- (g) At the time of the application of the ING Policy, it was anticipated that the ING policy would be sold on the secondary life insurance market after the expiration of the policy's two year contestability period, hereinafter referred to as "Viatication Plan."
- (h) The Viatication Plan was structured in an attempt to circumvent the "insurable interest" requirements of Pennsylvania law, 40 P.S. § 512.
- (i) So that the commissions for the placement of the ING policy could be paid to Rumson Capital LP, M&M Financial Services LP and/or Mangel, Respondent assisted Mark Berlenbach, an employee of Rumson Capital LP, in obtaining an appointment with ING.

- (j) Respondent received substantial commissions, and additional compensation in the form of an "override" from ING as a result of the sale of the ING policy to Luber.
- (k) Respondent subsequently forwarded one-half of the total compensation that he received from ING to M&M Financial, LP.
- (1) Respondent has addressed the financial concerns regarding the transaction described above directly with Luber.
- (m) On other occasions, Respondent worked with Mangel, Rumson Capital LP and/or M & M Financial Services, L.P., to appoint Mark Berlenbach with other insurance companies so that policies could be placed, and certain of those policies were eventually viaticated in a manner similar to the Viatication Plan described in paragraph 4(h) above.
- (n) 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 ("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 paragraph 4 violate 40 P.S. § 310.11 (20).
 - (d) Respondent's violation of Section 611-A (20) of the Insurance Department Act (40 P.S. § 310.11 (20)) is punishable by the following, under Section 691-A of the Insurance Department Act (40 P.S. § 310.91):
 - i. suspension, revocation or refusal to issue the certificate of qualification or license;

- ii. imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for each violation of the Act;
- iii. an order to cease and desist; and
- iv. any other conditions as the Commissioner deems appropriate.

ORDER

- 6. In accordance 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 cooperate fully with the Department and any other 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, after reasonable notice having been given to Respondent, submitting to interviews, providing written statements or affidavits and appearing and providing testimony at any administrative or other legal proceedings as required by the Department and any other agency or law enforcement agency.

- (c) Respondent's certificates and 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, (ii) any complaint against Respondent is accurate and a statute or regulation has been violated, or (iii) any payment, or filing, due herein is not fully and timely made. 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 as provided in paragraph 6(d) 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.
- (e) At the hearing referred to in paragraph 6(e) of this Order, Respondent shall have the burden of demonstrating that he is worthy of licensure.
- (f) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 6(d) 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 certificate and license, Respondent's suspended certificates and 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, <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.
- 8. 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, <u>supra</u>, 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 delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY:

MICHAEL BLANK

Respondent

COMMONWEALTH OF PENNSYLVANIA

By: RONALD A. GALLAGHER, JR.

Deputy Insurance Commissioner