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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
JOSEPH MUNIFO	:	Sections 611-A(5), (9) and (20) of
132 Main Street	:	Act 147 of 2002 (40 P.S. §§ 310.11)
Vandling, PA 18421	:	
	:	
Respondent.	:	Docket No. CO05-03-018

CONSENT ORDER

AND NOW, this *6th* day of *June*, 2005, this Order is hereby issued by the Deputy Insurance Commissioner of the 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is Joseph Munifo, and maintains his address at 132 Main Street, Vandling, Pennsylvania 18421.
- (b) At all relevant times herein, Respondent possessed licensing as an insurance producer in the Commonwealth of Pennsylvania.
- (c) On February 26, 2001, Respondent initiated two applications for whole life policies for John Jr. and Samantha Valentine, the children of John and Christine Valentine of Uniondale, Pennsylvania, during which time he misrepresented the terms of the policies by indicating they were savings plans and not whole life insurance policies.

- (d) On August 27, 2001, Respondent initiated an application for a whole life policy for Mr. John Valentine, during which time he misrepresented the terms of the policy stating it was an annuity with life value savings plan and not a whole life policy.
- (e) On February 19, 2002, Respondent initiated two additional applications for whole life policies for John Jr. and Samantha Valentine, children of John and Christine Valentine, again misrepresenting the terms of the policy by stating they were savings plans and not whole life insurance policies.
- (f) Respondent received a check from Christine Valentine for \$1,671.00 intended as premium payment to be equally divided into the two accounts.
- (g) Christine Valentine received and reviewed the policies, and discovered Respondent had only placed \$400.00 into one account, and \$471.00 into the other account, and \$800.00 was missing. Christine Valentine subsequently cancelled the policies.
- (h) On February 19, 2002, Respondent, without the knowledge or consent of John and Christine Valentine, initiated two additional applications for insurance for whole life policies for Mr. and Mrs. Valentine, used the

\$800.00 to initiate the applications, and placed non-genuine signatures on the applications.

- (i) Christine Valentine received statements in the mail regarding the above unauthorized policies, and asked Respondent what was going on. Respondent advised that it was a mistake and he would take care of it, at which time Mrs. Valentine cancelled the policies.
- (j) On October 28, 2002, Mr. John Valentine authorized an application for insurance for whole life and term insurance for himself, Respondent initiated the application, and Mr. Valentine gave Respondent a check for \$1,100.00 intended as premium payment on said insurance.
- (k) Respondent paid only \$80.00 in initial premium on the above policies, and used the balance of the funds to pay on the unauthorized policies for Mr. and Mrs. Valentine so they would not get any additional premium statements, however Christine Valentine cancelled the above policies.
- (l) On December 17, 2002, without the knowledge or consent of Mr. and Mrs. Valentine, Respondent initiated an application for insurance for whole life insurance for Christine Valentine, placing a non-genuine signature on the application, however Christine Valentine cancelled the policy.

- (m) Christine Valentine asserts that Respondent placed non-genuine signatures of Mr. and Mrs. Valentine on insurance applications dated February 19, 2002, October 28, 2002 and December 17, 2002.
- (n) All restitution has been paid to Mr. and Mrs. Valentine by Respondent.
- (o) Respondent is no longer in the business of insurance and has agreed to the revocation of his insurance licenses.

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner concludes and finds the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Section 611-A(5) of Act 147 of 2002 prohibits a licensee from intentionally misrepresenting the terms of an insurance contract or application for insurance (40 P.S. § 310.11).

- (c) Respondent's activities described above in paragraphs 3(c) through 3(o) violates Section 611-A(5) of Act 147 of 2002.

- (d) Section 611-A(9) of Act 147 of 2002 prohibits a licensee from forging another person's name on an application for insurance or any document related to an insurance or financial service transaction (40 P.S. § 310.11).

- (d) Respondent's activities described above in paragraphs 3(c) through 3(o) violates Section 611-A(9) of Act 147 of 2002.

- (e) Section 611-A(20) of Act 147 of 2002 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 (40 P.S. § 310.11).

- (f) Respondent's activities described above in paragraphs 3(c) through 3(o) violates Section 611-A(20) of Act 147 of 2002.

- (g) Respondent's violations of Sections 611-A(5), (9) and (20) of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (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

5. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner 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/certificates of Respondent to do insurance business are hereby revoked.
- (c) If Respondent should ever become licensed in the future, his 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, or (ii) any complaint against Respondent is accurate and a statute or regulation has been violated. The Department's right to act under (ii) above is limited to a period of five (5) years from the date of issuance of such certificates and licenses.

- (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 (d) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance certificate and license.
- (f) In the event Respondent's certificates and 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 certificate and license, Respondent's suspended certificates and licenses shall be revoked.

6. In the event the Deputy Insurance Commissioner 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 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.

7. Alternatively, in the event the Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner 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.

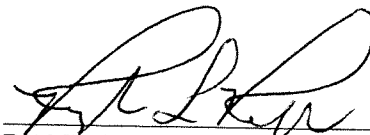
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or the duly authorized Deputy

Insurance Commissioner 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 the duly authorized Deputy Insurance Commissioner.

BY: 

JOSEPH MUNIFO, Respondent



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania