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BEFORE THE INSURANCE COMMISSIONER OF THE COMMONWEALTH OF PENNSYLVANIA

IN RE:

VIOLATIONS:

DANIEL E. BRUNETTE

Section 611-A(20) of Act 147 of

7644 William Penn Place

2002 (40 P.S. § 310.11)

Indianapolis, IN 46256

Respondent.

Docket No. CO06-07-023

CONSENT ORDER

AND NOW, this 19th day of September, 2006, 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, <u>supra</u>, 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 Daniel E. Brunette, and maintains his address at 7644 William Penn Place, Indianapolis, Indiana 46256.
 - (b) Respondent, at all relevant times herein, has been a licensed non-resident insurance producer.
 - (c) The Department was notified in August, 2005 by Respondent's employer that he had a National Association of Securities Dealers (NASD) administrative action taken against Respondent for sending four letters to clients that did not accurately reflect a Variable CompLife product being offered, in violation of NASD rules and regulations.

- (d) NASD fined Respondent \$10,000.00 and suspended him from engaging in securities-related sales for five days.
- (e) Respondent agreed to NASD's sanctions on September 29, 2004.
- (f) The Indiana Insurance Department, Respondent's state of domicile, issued Respondent a Final Order & Approval in September, 2005, with a one year license probationary status placed on his producer license, for the conduct described in paragraph 3(c).
- (g) The Wisconsin Insurance Department issued a Cease and Desist Order and fined Respondent \$1,000.00 for the conduct described in paragraph 3(c).
- (h) Respondent admitted to the findings and agreed to settle this matter via a Consent Order on July 21, 2006.

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(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).
- (c) Respondent's activities described above in paragraphs 3(c) through 3(g) violates Section 611-A(20) of Act 147 of 2002.
- (d) Respondent's violations of Section 611-A(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) Respondent shall pay a civil penalty of One Thousand Dollars (\$1,000.00) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made by certified check or money order, payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Harbert, Administrative Assistant, Bureau of 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'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, 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 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 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 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, <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.

- 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, <u>supra</u>, 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:

DANIEL E. BRUNETTE, Respondent

RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania