STELLVED IKBURA KLE DEPARTMEN.

# BEFORE THE INSURANCE COMMISSIONER OF THE 2008 FEB 15 PH 1: 19 COMMONWEALTH OF PENNSYLVANIA

ADMIN HEARINGS OFFICE

IN RE:

VIOLATIONS:

Kyle P. Reilly 88 East 2<sup>nd</sup> Street Alburtis, PA 18011 Section 611-A of Act 147 of 2002 (40 P.S. § 310.11)

Respondent.

Docket No. CO07-11-016

### CONSENT ORDER

AND NOW, this / 4<sup>T4</sup> day of Februar, , 2008, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania ("Department") 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.

3. Respondent neither admits nor denies the Findings of Fact or Conclusions of Law contained herein.

# FINDINGS OF FACT

- 4. The Insurance Department finds true and correct each of the following Findings of Fact:
  - (a) Respondent is Kyle P. Reilly, residing at 88 East 2<sup>nd</sup> Street, Alburtis, Pennsylvania 18011.
  - (b) Respondent is, and at all times relevant to this matter was, a licensed insurance producer in the Commonwealth of Pennsylvania.
  - (c) As of September, 2006, Respondent was employed as an insurance producer in Pennsylvania by Monumental Life Insurance Company ("Monumental").
  - (d) On or about September, 2006, on behalf of Monumental, Respondent discussed life insurance options with an individual who had an existing Monumental term life policy.

- (e) In preparation for his conversation with the individual, and in anticipation of a possible purchase, Respondent had prepared an application for a replacement policy and signed it as the producer.
- (f) Although the individual declined to purchase any additional insurance, the application which had been pre-signed by Respondent was processed, a new policy was issued on October 1, 2006, and the existing policy was initially cancelled and replaced with the new policy.
- (g) After the individual received notice of the replacement policy, a complaint was initiated with Monumental as well as the Department and the insured was made whole through the reinstatement of the original policy and cancellation of the replacement policy by Monumental.

## 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 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 4(e) through 4(g) violate 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.

#### <u>ORDER</u>

6. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:

- (e) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 6(b) 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.
- 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 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 violations of

law contained herein, and this Consent Order is not effective until executed by the

Insurance Commissioner or a duly authorized delegee.

BY.

Kyle/P. Reilly, Respondent

COMMONWEALTH OF PENNSYLVANIA

Randolph L. Rohrbaugh

Deputy Insurance Commissioner