

MAR 23 2010

DEPT OF INSURANCE
BY CB

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

1 2 3 4 5 6	In the Matter of: CLARKE, DEVON RANDALL, Respondent.))))))	No. 10A-045-INS ORDER TO CEASE AND DESIST
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8 The Arizona Department of Insurance ("Department") has received evidence that
9 Respondent has unlawfully sold, solicited or negotiated insurance in the State of Arizona.
10 Accordingly, the Director of Insurance of the State of Arizona (the "Director") makes the
11 following Findings of Fact and Conclusions of Law and enters the following Order pursuant
12 to A.R.S. § 20-292.

FINDINGS OF FACT

13 1. Devon Randall Clarke ("Clarke" or "Respondent") is, and was at all times
14 material, a licensed resident life, accident, health, property, casualty and variable annuity
15 insurance producer of North Carolina, license number 5712372. Clarke is not licensed as
16 an insurance producer in the State of Arizona.

17 2. On or about March 30, 2009, Clarke sold an Allianz Life Insurance Company
18 of North America annuity to Arizona resident Arthur Zawodny ("Zawodny") for which he
19 received a commission in the amount of \$31,487.44. On the annuity application, Clarke
20 indicated that the application was signed by Zawodny in Durham, North Carolina, when in
21 fact the transaction took place through the mail and over the telephone.

CONCLUSIONS OF LAW

22 1. The Director has jurisdiction over this matter.
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24 2. "Sell" means to exchange a contract of insurance by any means, for money or
25 its equivalent, on behalf of an insurer, within the meaning of A.R.S. § 20-281(14).
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1 3. “Solicit” means attempting to sell insurance or asking or urging a person to
2 apply for a particular kind of insurance from a particular company, within the meaning of
3 A.R.S. § 20-281(15).

4 4. “Negotiate” means the act of conferring directly with or offering advice directly
5 to a purchaser or prospective purchaser of a particular contract of insurance concerning
6 any of the substantive benefits, terms or conditions of the contract if the person engaged in
7 that act either sells insurance or obtains insurance from insurers for purchasers, within the
8 meaning of A.R.S. § 20-281(10).

9 5. Clarke’s conduct, as alleged above, constitutes selling, soliciting or
10 negotiating insurance in this state for any class or classes of insurance without being
11 licensed for that line of authority, within the meaning of A.R.S. § 20-282.

12 6. Clarke is not exempt from the licensing requirement, within the meaning of
13 A.R.S. § 20-283.

14 7. It is a fraudulent practice and unlawful for a person to knowingly prepare with
15 the knowledge or belief that it will be presented a written statement to an insurer or
16 purported insurer that contains untrue statements of material fact with respect to an
17 application for the issuance of an insurance policy, within the meaning of A.R.S. § 20-
18 463(A)(1)(a).

19 8. It is a fraudulent practice an unlawful for a person to knowingly assist with
20 another person to violate A.R.S. § 20-463(A)(1), within the meaning of A.R.S. § 20-
21 463(A)(5).

22 9. Grounds exist for the Director to order Clarke to cease and desist his violation
23 pursuant to A.R.S. §§ 20-292 and 20-456.

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ORDER

IT IS THEREFORE ORDERED:

- 1. Respondent shall immediately cease and desist from selling, soliciting or negotiating any class or classes of insurance in this state.
- 2. This Order shall become effective immediately and shall remain in full force and effect until otherwise stayed, modified, vacated or set aside.

NOTICE OF OPPORTUNITY FOR HEARING

Pursuant to Title 20 of the Arizona Revised Statutes, Respondent is hereby notified that he may request a hearing pursuant to A.R.S. § 20-161 to contest the order to cease and desist. Such a request must be in writing and received at the following address within thirty (30) days from the date hereof:

Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85012
ATTN: Director's Office

Upon receipt of a timely written request for hearing, the Director will issue an order setting the time and place of the hearing.

DATED AND EFFECTIVE this 19th day of March, 2010.



CHRISTINA URIAS, Director
Arizona Department of Insurance

COPY of the foregoing mailed this 23rd day of March, 2010 to:

Lynette Evans
Assistant Attorney General
1275 West Washington
Phoenix, Arizona 85007
Attorney for the Department

1 Devon Randall Clarke
2 302 Ridge Road
3 Butner, NC 27509
4 Respondent

4 Devon Randall Clarke
5 5920 S. Miami Blvd., Suite 201
6 Morrisville, NC 27560
7 Respondent

7 Gerrie Marks, Deputy Director
8 Mary E. Kosinski, Exec. Assistant for Reg. Affairs
9 Catherine M. O'Neil, Consumer Legal Affairs Officer
10 Mary Butterfield, Assistant Director
11 Stephen Fromholtz, Licensing Supervisor
12 Chuck Gregory, Assistant Director
13 Arnold Sniegowski, Investigator
14 Department of Insurance
15 2910 North 44th Street, Suite 210
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13 
14 Curvey Walters Burton

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