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STATE OF ARIZONA

STATE OF ARIZONA
FILED

DEPARTMENT OF INSURANCE

APR 1 2015

In the Matter of:

DEPT OF INSURANCE BY

PICKERING, TRICIA RENE (Arizona License Number 147487) (National Producer Number 7596145) No. 15A-<u>028</u>-INS

Respondent.

CONSENT ORDER

The State of Arizona Department of Insurance ("Department") has received evidence that **Tricia Rene Pickering** violated provisions of Title 20, Arizona Revised Statutes ("A.R.S."). Respondent wishes to resolve this matter without the commencement of formal proceedings, and admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

- 1. Tricia Rene Pickering ("Ms. Pickering" or "Respondent") is, and was at all material times, licensed as an Arizona resident accident/health, life and variable life/variable annuities producer, Arizona license number 147487, which expires May 31, 2016.
- Ms. Pickering's addresses of record are: c/o Edward Jones, 10451 W. Palmeras
 Drive, Suite 102-E, Sun City, AZ 85373 (business and mailing).
- 3. On or about June 3, 2014, Robert and Carolyn Fitzsimmons ("Fitzsimmons") submitted a Request for Assistance Form to the Department ("Fitzsimmons' Complaint"). The Fitzsimmons' Complaint alleged that Ms. Pickering misrepresented and sold them an unsuitable annuity.

- 4. On or about June 6, 2013, the Fitzsimmons entered into a transaction in which they surrendered a SunAmerica Annuity and Life Insurance Company annuity ("SunAmerica annuity") and used a portion of the proceeds to purchase a New York Life annuity (the "NYL annuity"). The SunAmerica annuity had no surrender penalties associated with it. Ms. Pickering was the insurance producer for the purchase of both annuities.
- 5. In connection with the surrender of the SunAmerica annuity and the purchase of the NYL annuity, Ms. Pickering obtained Mr. Fitzsimmons' signature on a form entitled "Transfer of Assets: Annuity to Immediate Fixed Annuity." This form provided Mr. Fitzsimmons with information concerning the risks of liquidating the SunAmerica variable annuity and using the proceeds to purchase the NYL single premium fixed annuity but did not provide information that fully complied with the requirements of Arizona's replacement laws. Thus, Ms. Pickering provided the Fitzsimmons with written disclosures which discussed the risks and benefits of the specific transaction they authorized. Although the form provided many of the disclosures relevant to the replacement of one annuity with another, Ms. Pickering did not fully comply with the Replacement Rule. Mr. Fitzsimmons signed the Transfer of Assets form.
- 6. The application Ms. Pickering submitted to purchase the NYL annuity mistakenly answered "NO" to the following two questions: "Is this a replacement of a life insurance or annuity policy?" and "Does the applicant have any existing life insurance or annuity policies?" Robert Fitzsimmons signed the application.

CONCLUSIONS OF LAW

The Director has jurisdiction over this matter.

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- 2. Respondent's conduct, as described above, constitutes failing to submit to an insurer a statement signed by both the applicant and the insurance producer as to whether the applicant has an existing policy or contract, within the meaning of A.R.S. § 20-1241.03(A).
- 3. Grounds exist for the director to impose penalties for a violation of Title 20, Chapter 6, Article 1.1, within the meaning of A.R.S. § 20-1241.08(D).

ORDER

IT IS HEREBY ORDERED THAT:

Respondent shall immediately pay a civil penalty of \$2,500.00 for deposit into 1. ate General Fund.

DATED AND EFFECTIVE this 31 day of Monch, 2015.

Lemond J. Manh. the State General Fund.

Director of Insurance

CONSENT TO ORDER

- 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and Order.
- 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and admits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusions of Law and Order.
- Respondent is aware of her right to notice and hearing at which she may be 3. represented by counsel, present evidence and examine witnesses. Respondent irrevocably waives her right to such notice and hearing and to any court appeals relating to this Consent Order.

- 4. Respondent states that no promise of any kind or nature whatsoever, except as expressly contained in this Consent Order, was made to her to induce her to enter into this Consent Order and that she has entered into this Consent Order voluntarily.
- 5. Respondent acknowledges that the acceptance of this Consent Order by the Director is solely to settle this matter against her and does not preclude any other agency, including the Department, officer, or subdivision of this state or this agency from instituting civil or criminal proceedings as may be appropriate now or in the future.
- 6. Respondent acknowledges that this Consent Order is an administrative action that the Department will report to the National Association of Insurance Commissioners (NAIC). Respondent further acknowledges that she must report this administrative action to any and all states in which she holds an insurance license and must disclose this administrative action on any license application.

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Tricia Rene Pickering, Arizona License # 147487

COPIES of the foregoing mailed/delivered this 1st day of April , 2015, to:

Lewis Roca Rothgerger LLP Gregory Y. Harris Jesse B. Simpson 201 E. Washington St., Suite 1200 Phoenix, AZ 85004 Attorneys for Respondent

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