

STATE OF ARIZONA

STATE OF ARIZONA  
FILED

DEPARTMENT OF INSURANCE

AUG 13 2015

In the Matter of:

DEPT OF INSURANCE  
BY ms

**TESTINO, CHARLES WESLEY (JR)**  
(Arizona License Number 465155)  
(National Producer Number 1203295)

No. 15A044INS

**CONSENT ORDER**

**Respondent.**

The State of Arizona Department of Insurance ("Department") has received evidence that **Charles Wesley Testino, Jr.** violated provisions of Title 20, Arizona Revised Statutes. 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. Charles Wesley Testino, Jr. ("Testino") is, and was at all material times, licensed as an Arizona resident life insurance producer, Arizona license number 465155, which expires February 28, 2019. Testino first became licensed with the Department on July 26, 1985. (Testino also held a variable life/variable annuities line of authority from January 3, 1994 to February 28, 2001.)

2. Testino's address of record is: 3049 W. Ina Road, #101, Tucson, Arizona 85741 (business and mailing).

3. On or about June 6, 2001, the Arizona Corporation Commission ("ACC") entered an Order to Cease and Desist, Order of Restitution, Order for Administrative Penalties and Consent to Same by: Respondents Charles W. Testino, Jr. and Arizona Investment Advisors,

1 Inc. In the Matter of Charles W. Testino, Jr., Arizona Investment Advisors, Inc. et al, Docket  
2 No. S-03353A-00-0000 ("ACC Order").

3 4. The ACC Order made the Respondents jointly and severally responsible for  
4 payment of a \$50,000.00 administrative penalty.

5 5. Testino failed to report the ACC administrative action to the Department within  
6 30 days.

7 6. On or about April 24, 2013, the Pima County Superior Court entered a Judgment  
8 in State of Arizona vs. Charles Testino, No. CR2006-3955 ("CR2006-3955") finding that  
9 Testino violated ARS § 44-1841.

10 7. On that same date, the Pima County Superior Court entered an Order in  
11 CR2006-3955 setting aside the Judgment and dismissing the accusation pursuant to ARS §  
12 13-907.

13 8. Testino failed to report to the Department within 30 days after the initial pretrial  
14 hearing date.

15 9. On or about December 27, 2002, Testino submitted an Insurance License  
16 Renewal Application to the Department ("2002 Application"). Part II of the 2002 Application  
17 asks: . . . B. Have you had any professional, vocational, business license or certification  
18 refused, denied, suspended, revoked or restricted, or a fine imposed by any public authority  
19 that has not previously been disclosed by you to this agency in a license application?  
20 Testino answered "No" to this question.

21 10. On or about February 9, 2015, Testino submitted Resident License Renewal  
22 Application to the Department ("2015 Application"). The Background Questions of the 2015  
23 Application asks: . . . 1B. Have you been convicted of a felony, had a judgment withheld or

1 deferred, or are you currently charged with committing a felony, which has not been previously  
2 reported to this insurance department? Testino answered "No" to this question.

3 **CONCLUSIONS OF LAW**

4 1. The Director has jurisdiction over this matter.

5 2. Respondent's conduct, as described above, constitutes failure to report, within  
6 thirty days after the final disposition of the matter, any administrative action taken against the  
7 producer in another jurisdiction or by another governmental agency in this state, within the  
8 meaning of A.R.S. § 20-301(A).

9 3. Respondent's conduct, as described above, constitutes failure to report, within  
10 thirty days after the initial pretrial hearing date, any criminal prosecution of the producer taken  
11 in any jurisdiction, within the meaning of A.R.S. § 20-301(B).

12 4. Respondent's conduct, as described above, constitutes a violation of any  
13 provision of Title 20 or any rule, subpoena or order of the Director, within the meaning of  
14 A.R.S. § 20-295(A)(2).

15 5. Respondent's conduct, as described above, constitutes having been convicted  
16 of a felony, within the meaning of A.R.S. § 20-295(A)(6).

17 6. Grounds exist for the Director to deny, suspend for not more than twelve months,  
18 revoke, or refuse to renew an insurance producer's license pursuant to A.R.S. §§ 20-295(A).

19 7. Grounds exist for the Director, in addition to or instead of any suspension,  
20 revocation or refusal to renew, impose a civil penalty of not more than two hundred fifty  
21 dollars for each unintentional failure or violation, up to an aggregate civil penalty of two  
22 thousand five hundred dollars, or impose a civil penalty of not more than two thousand five  
23


1 hundred dollars for each intentional failure or violation, up to an aggregate civil penalty of  
2 fifteen thousand dollars, within the meaning of A.R.S. § 20-295(F).

3 **ORDER**

4 IT IS HEREBY ORDERED THAT:

5 1. Respondent shall immediately pay a civil penalty of \$300.00 for deposit into the  
6 State General Fund.

7 DATED AND EFFECTIVE this 12<sup>th</sup> day of August, 2015.

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10 **GERMAINE L. MARKS**  
Director of Insurance

11 **CONSENT TO ORDER**


12 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law  
13 and Order.

14 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona,  
15 and admits the foregoing Findings of Fact and consents to the entry of the foregoing  
16 Conclusions of Law and Order.

17 3. Respondent is aware of his right to notice and a hearing at which he may be  
18 represented by counsel, present evidence and examine witnesses. Respondent irrevocably  
19 waives his right to such notice and hearing and to any court appeals relating to this Consent  
20 Order.  
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Mary E. Kosinski, Executive Assistant for Regulatory Affairs  
Darren T. Ellingson, Deputy Director  
Yvonne Hunter, Assistant Director  
Catherine M. O'Neil, Consumer Legal Affairs Officer  
Steven Fromholtz, Licensing Supervisor  
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Department of Insurance  
2910 North 44<sup>th</sup> Street, Suite 210  
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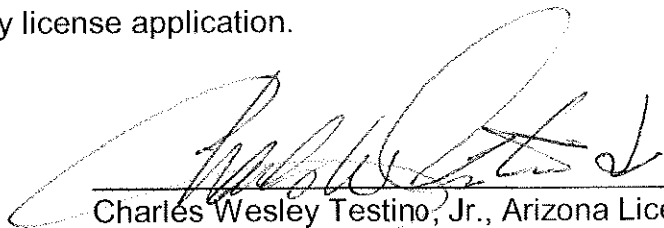
  
Maidene Scheiner

1           4.       Respondent states that no promise of any kind or nature whatsoever, except as  
2 expressly contained in this Consent Order, was made to him to induce him to enter into this  
3 Consent Order and that he has entered into this Consent Order voluntarily.

4           5.       Respondent acknowledges that the acceptance of this Consent Order by the  
5 Director is solely to settle this matter against him and does not preclude any other agency,  
6 including the Department, officer, or subdivision of this state or this agency from instituting  
7 civil or criminal proceedings as may be appropriate now or in the future.

8           6.       Respondent acknowledges that this Consent Order is an administrative action  
9 the Department will report to the National Association of Insurance Commissioners (NAIC).  
10 Respondent further acknowledges that he must report this administrative action to  
11 any and all states in which he holds an insurance license and must disclose this  
12 administrative action on any license application.

13  
14 8-6-15  
Date

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Charles Wesley Testino, Jr., Arizona License # 465155

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23 COPIES of the foregoing mailed/delivered  
this 13th day of August, 2015, to:

Bruce R. Heurlin  
Heurlin Sherlock  
1636 N. Swan Road, Suite 200  
Tucson, AZ 85712-4096  
Attorney for Respondent Testino