

STATE OF ARIZONA

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FILED

DEPARTMENT OF INSURANCE

JUN 18 2015

In the Matter of:

DEPT OF INSURANCE
BY MS

PICKENS, DWAIN D.,
(Arizona License Number 44435)
(National Producer Number 6742785)

No. 15A-048-INS

CONSENT ORDER

Hearing July 8, 2015; 1:00 p.m.
ALJ Mike Douglas

Petitioner.

The State of Arizona Department of Insurance ("Department") has received evidence that **Dwain D. Pickens** violated provisions of Title 20, Arizona Revised Statutes. Petitioner 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. Dwain D. Pickens ("Pickens" or "Petitioner") is, and was at all material times, licensed as an Arizona resident life, accident/health and variable life/variable annuities insurance producer license. Petitioner first became licensed with the Department on September 30, 1996 (accident/health and life lines of authority) and June 25, 2011 (variable life/variable annuities line of authority).
2. Petitioner's license became eligible for renewal on or before January 31, 2015. On or about December 9, 2014, Petitioner attempted to timely renew but failed to submit evidence of the fulfillment of continuing education requirements.
3. Petitioner's license expired on January 31, 2015.
4. On or about February 6, 2015, Petitioner submitted Certificates of Compliance to the Department for 48 hours of continuing education. Stephen Ernest Lomsdalen

1 ("Lomsdalen")¹ signed the forms certifying Petitioner's completion of the courses. When the
2 Department contacted Lomsdalen, he stated he was not the proctor for these classes² and did
3 not submit the attestation certifying that the examination had been administered according to
4 the testing company's monitoring instructions.

5 5. Petitioner provided false information to the testing company in order to obtain
6 Certificates of Completion for his continuing education requirements. Petitioner submitted the
7 Certificates of Completion to the Department to effectuate the renewal of his license.

8 6. On or about April 7, 2015, Petitioner wrote to Karen Fann at the Arizona House
9 of Representatives about his license renewal. He admitted in the letter that he filled in the
10 certification form with Lomsdalen's information though Lomsdalen had not acted as
11 Petitioner's proctor.

12 7. On April 13, 2015, the Department sent Petitioner written notification that it was
13 refusing to renew his insurance producer license.

14 8. On May 14, 2015, the Department received Petitioner's timely appeal of the
15 Department's refusal to renew.

16 9. The Department scheduled a hearing on the matter for July 8, 2015.

17 **CONCLUSIONS OF LAW**

18 1. The Director has jurisdiction over this matter.

19 2. Petitioner's conduct, as described above, constitutes obtaining or attempting to
20 obtain a license through misrepresentation or fraud, within the meaning of A.R.S. § 20-
21 295(A)(3).

22 3. Grounds exist for the Director to deny, suspend for not more than twelve months,
23 revoke, or refuse to renew an insurance producer's license, impose a civil penalty and/or order
restitution pursuant to A.R.S. §§ 20-295(A) and (F).

¹ Lomsdalen is a resident accident/health, life and variable life/variable annuities insurance producer, Arizona license number 40707.

² CERC (Continuing Education Review Committee) standards 10.4 and 10.5 require students taking self-directed courses to be monitored by a proctor. A proctor can be any licensed insurance producer.

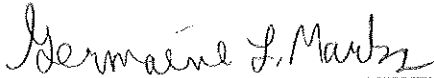
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ORDER

IT IS HEREBY ORDERED THAT:

1. Petitioner's resident license (Arizona license # 44435) is ~~revoked effective~~ ^{NOT removed.} immediately.
2. The hearing, Docket #15A-048-INS, scheduled for ^{July} June 8, 2015, at 1:00 p.m. is vacated.

DATED AND EFFECTIVE this 18th day of June, 2015.


GERMAINE L. MARKS
Director of Insurance

CONSENT TO ORDER

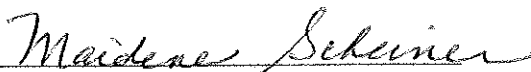
1. Petitioner has reviewed the foregoing Findings of Fact, Conclusions of Law and Order.
2. Petitioner admits the jurisdiction of the Director of Insurance, State of Arizona, and admits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusions of Law and Order.
3. Petitioner is aware of his right to notice and a hearing at which he may be represented by counsel, present evidence and examine witnesses. Petitioner irrevocably waives his right to such notice and hearing and to any court appeals relating to this Consent Order.
4. Petitioner states that no promise of any kind or nature whatsoever, except as expressly contained in this Consent Order, was made to him to induce him to enter into this Consent Order and that he has entered into this Consent Order voluntarily.

1 **E-FILE** of the foregoing delivered
electronically, same date, to:

2
3 Mike Douglas, Administrative Law Judge
Office of Administrative Hearings

4 **COPY** sent same date via electronic mail to:

5 Liane Kido
Assistant Attorney General
6 Liane.Kido@azag.gov and Teresa.Carranza@azag.gov
Attorney for the Department of Insurance

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Maidene Scheiner

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