

MAY 28 2019

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY mek

In the Matter of:

BORG, KIRK STEPHEN
(National Producer Number 6747936¹)

Respondent.

No. 19A-081-INS

CONSENT ORDER

The State of Arizona Department of Insurance ("Department") has received evidence that **Kirk Stephen Borg** ("Borg" or "Respondent") 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. Borg was, at all material times, licensed as an Arizona resident insurance producer. On April 2, 1992, the Department issued Borg a license with two (2) lines of authority: property and casualty. On September 7, 1994, the Department issued Borg two (2) additional lines of authority: life and accident and health or sickness. On October 10, 2012, the Department issued Borg one (1) more line of authority: variable life and variable annuity.

¹ Effective 04/21/2017, the license number issued to each Arizona-licensed insurance professional changed to match the producer's National Producer Number ("NPN"). Borg's former Arizona license number, now known as the Legacy License ID Number, is 7818.

1 2. Borg’s license last renewed effective May 1, 2018, and is currently scheduled to
2 expire on April 30, 2022.

3 3. Borg’s addresses of record are: 21469 North 78th Avenue, Suite 155, Peoria,
4 Arizona 85382-3360 (business and mailing), and kirkborg777@gmail.com (business email).

5 **Williamson Complaint**

6 4. On July 21, 2017, Patricia A. Williamson (“Williamson”), filed a complaint with the
7 Department due a substantial increase in her automobile premium. Williamson advised that
8 her premium had doubled from \$159.60 to \$320.24.

9 5. Per information provided by Allstate, Williamson’s actual semi-annual premium
10 increased from \$181.86 on January 18, 2017 to \$320.74 on July 18, 2017. Allstate explained
11 that Williamson’s premium increased due to a change in Williamson’s age from 70 to 71 and a
12 change in her garaging zip code from 86314 to 85308. Allstate advised that Borg submitted a
13 request on July 18, 2015 to change Williamson’s date for birth from 1944 to 1946. In addition,
14 Allstate provided documentation which reflected that six (6) changes to Williamson’s garaging
15 zip code had been submitted by Borg’s agency from July 2015 to July 2017. Two (2) such
16 changes established her garaging zip code as 86314 in Prescott Valley, Arizona, resulting in a
17 decrease to Williamson’s premium.

18 6. In her complaint, Williamson reported her residential address in Glendale, Arizona
19 (zip code 85308) and her age to be 73.

20 **Examinations Under Oath**

21 7. On October 10, 2017, pursuant to a subpoena to appear, Borg presented at the
22 Department for an “Examination Under Oath” (“EUO”). To explain the changes to Williamson’s
23 auto policy, Borg advised that his office possessed seven (7) computers utilized by seven (7)

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1 agents and any one of them could have made the changes to Williamson's policy pursuant to
2 her requests.

3 8. During the EUO, Borg admitted that he relocated from his former office to his
4 present location more than two (2) years prior but failed to report the address change to the
5 Department. Borg updated all contact information subsequent to the EUO.

6 9. On October 31, 2017, the Department requested additional information from
7 Allstate, specifically an audit of Borg's business transactions from July 1, 2014 through
8 September 30, 2017.

9 10. On November 22, 2017, the Department received Allstate's response. Upon
10 review, the Department determined that Borg had requested multiple changes in policyholders'
11 dates-of-birth or garaging zip codes.

12 11. On March 26, 2018, pursuant to a second subpoena to appear, Borg presented
13 at the Department to discuss 19 additional policies with changes to the policyholders' date-of-
14 birth and/or garaging zip code. Borg maintained that any one of his employees could have
15 made the changes using his agent code but acknowledged his responsibility as the owner of
16 the agency.

17 **CONCLUSIONS OF LAW**

18 1. The Director has jurisdiction over this matter.

19 2. Respondent's conduct, as described above, constitutes a violation of Title 20,
20 within the meaning of A.R.S. § 20-295(A)(2).

21 3. Respondent's conduct, as described above, constitutes intentionally
22 misrepresenting the terms of an actual or proposed insurance contract or application for
23 insurance, within the meaning of A.R.S. § 20-295(A)(5).

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1 4. Respondent's conduct, as described above, constitutes using fraudulent, coercive
2 or dishonest practices, or demonstrating incompetence, untrustworthiness or financial
3 irresponsibility in the conduct of business in this state or elsewhere, with the meaning of
4 A.R.S. § 20-295(A)(8).

5 5. Respondent's conduct, as described above, constitutes presenting or causing to
6 be presented or prepared with the knowledge or belief that it will be presented an oral or written
7 statement, including computer-generated documents, to or by an insurance producer that
8 contains untrue statements of material fact, within the meaning of A.R.S. § 20-463(A)(1).

9 6. Respondent's conduct, as described above, constitutes failing to inform the
10 Director in writing within 30 days of any changes to his business address and his email address,
11 with the meaning of A.R.S. § 20-286(C)(1).

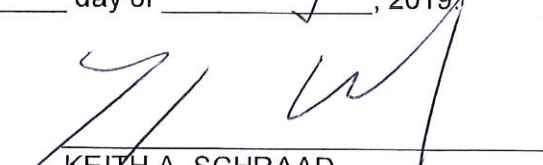
12 7. Grounds exist for the Director to deny, suspend for not more than twelve months,
13 revoke or refuse to renew an insurance producer's license, within the meaning of A.R.S. § 20-
14 295(A).

15 **ORDER**

16 IT IS HEREBY ORDERED THAT:

17 1. Kirk Stephen Borg's resident insurance producer license, number 6747936, is
18 revoked, effective immediately upon entry of this Order.

19
20 DATED AND EFFECTIVE this 28th day of May, 2019

21
22 
23 KEITH A. SCHRAAD
24 Director of Insurance

1 **CONSENT TO ORDER**

2 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and
3 Order.

4 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona,
5 and admits the foregoing Findings of Fact and consents to the entry of the foregoing
6 Conclusions of Law and Order.

7 3. Respondent is aware of his right to notice and to a hearing, at which he may be
8 represented by counsel, present evidence and examine witnesses. Respondent irrevocably
9 waives his right to such notice and hearing and to any court appeals relating to this Consent
10 Order.

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

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

18 6. Respondent acknowledges that this Consent Order is an administrative action
19 that the Department will report to the National Association of Insurance Commissioners (NAIC)
20 and that he may have to report this administrative action on any future licensing applications
21 either to the Department or other states' Departments of Insurance.

22
23 5-16-19
Date

Kirk Stephen Borg
Kirk Stephen Borg (NPN License No. 6747936)

1 **COPY** of the foregoing mailed this
2 31st day of May, 2019, to:

3 Kirk Stephen Borg
4 21469 N. 78th Ave., Ste-155
5 Peoria, AZ 85382-3360
6 Respondent

7 **COPY** of the foregoing delivered, same date, to:

8 Mary Kosinski, Regulatory Legal Affairs Officer
9 Catherine M. O'Neil, Consumer Legal Affairs Officer
10 Steven Fromholtz, Assistant Director, Consumer Protection Division
11 Sharyn Kerr, Administrative Assistant, Consumer Protection Division
12 Wendy Greenwood, Investigator / Investigations Supervisor
13 Arizona Department of Insurance
14 100 North 15th Avenue, Ste.102
15 Phoenix, Arizona 85007-2624

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

17 Kirk Stephen Borg
18 kirkborg777@gmail.com
19 Respondent

20 Francine Martinez
21 Francine Martinez

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