

JUL 30 2019

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY MELK 7/30/19

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

In the Matter of:

MARCUM, GARY D
(National Producer Number 58157)

Respondent.

No. 19A-112-INS

CONSENT ORDER

The State of Arizona Department of Insurance ("Department") has received evidence that **Gary D Marcum** ("Marcum" 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, admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Marcum was, at all material times, licensed as an Arizona non-resident life and accident and health or sickness insurance producer. Marcum is licensed in good standing in his resident state of Iowa (License # 58157). The Department issued Marcum a license, number 58157, on December 24, 2013. The license is scheduled to expire on July 31, 2021.

2. Marcum's addresses of record are: 14935 Sheridan Circle, Clive, Iowa 50325 (business and mailing), and gary@rsgagents.org (business email).

...
...
...

1 **Fidelity & Guaranty Life Insurance Company**

2 3. On or about October 30, 2018, the Department received a "Termination for
3 Cause" letter ("complaint") for Marcum from Fidelity & Guaranty Life Insurance Company
4 ("Company").

5 4. Per the complaint, on or about October 12, 2017, Marcum sold an annuity to an
6 Arizona consumer.

7 5. The Company alleged that Marcum failed to disclose to the Company that the
8 premium used to fund the Arizona consumer's annuity originated from the surrender of an
9 existing annuity. The application Marcum submitted to the Company expressly denied the
10 new contract would replace any existing annuity.

11 6. The Company advised that the Arizona consumer's annuity is currently in force.

12 **CONCLUSIONS OF LAW**

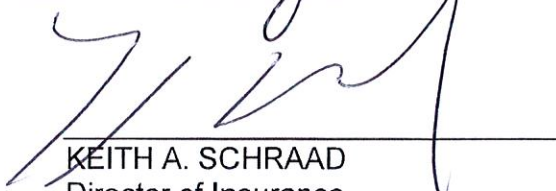
13 1. The Director has jurisdiction over this matter.

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

16 3. Respondent's conduct, as described above, constitutes failing to submit to the
17 insurer, with or as part of the application, a statement signed by both the applicant and the
18 insurance producer as to whether the applicant has an existing policy or contract, within the
19 meaning of A.R.S. § 20-1241.03(C).

20 4. Respondent's conduct, as described above, constitutes fraudulent practices in
21 the course of doing insurance business, demonstrating incompetence, untrustworthiness or
22 financial irresponsibility in the conduct of business in this state or elsewhere, in violation of
23 A.R.S. § 20-295(A)(8).

1 DATED AND EFFECTIVE this 30th day of July, 2019.

2
3
4 
KEITH A. SCHRAAD
Director of Insurance

5
6 **CONSENT TO ORDER**

7 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law
8 and Order.

9 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona,
10 and admits the foregoing Findings of Fact and consents to the entry of the foregoing
11 Conclusions of Law and Order.

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

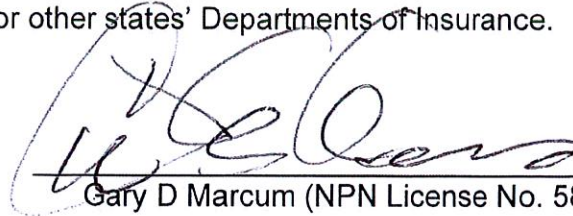
16 4. Respondent states that no promise of any kind or nature whatsoever, except as
17 expressly contained in this Consent Order, was made to him to induce him to enter into this
18 Consent Order and that he has entered into this Consent Order voluntarily.

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

23 6. Respondent acknowledges that this Consent Order is an administrative action
24 that the Department will report to the National Association of Insurance Commissioners

1 (NAIC) and that he may have to report this administrative action on any future licensing
2 applications either to the Department or other states' Departments of Insurance.

3
4 07/26/19
Date


Gary D Marcum (NPN License No. 58157)

5
6 **COPY** of the foregoing mailed this
7 1st day of August, 2019, to:

8 Gary D Marcum
9 14935 Sheridan Circle
10 Clive, IA 50325
11 Respondent

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

13 Mary Kosinski, Regulatory Legal Affairs Officer
14 Catherine M. O'Neil, Consumer Legal Affairs Officer
15 Steven Fromholtz, Assistant Director, Consumer Protection Division
16 Sharyn Kerr, Administrative Assistant, Consumer Protection Division
17 Aqueelah Currie, Licensing Supervisor
18 Jeff Eavenson, Investigator
19 Arizona Department of Insurance
20 100 North 15th Avenue, Ste.102
21 Phoenix, Arizona 85007-2624

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

23 Gary D Marcum
24 gary@rsagents.org

Francine Martinez
Francine Martinez