

**STATE OF MAINE  
BUREAU OF INSURANCE**

**Docket No. INS-08-228**

**CONSENT AGREEMENT**

This document is a Consent Agreement authorized by Title 10 M.R.S.A. § 8003(5), entered into among John Duncan Black, a resident of New Hampshire; the Maine Superintendent of Insurance; and the Maine Department of the Attorney General. Its purpose is to resolve, in lieu of an adjudicatory proceeding, issues implicating Title 24-A M.R.S.A. §1417(1) and §1420-K(1)(A).

**STATEMENT OF FACTS**

1. The Superintendent of Insurance is the official charged with administering and enforcing Maine's insurance laws and regulations, and the Bureau of Insurance is the administrative agency with such jurisdiction.
2. John Duncan Black applied for a Maine Nonresident Producer License in June, 2008.
3. Item 2 of the background questions on the application form electronically filed in connection with this application required a response to the following question:

“Have you or any business in which you are or were an owner, partner, officer or director, or manager of limited liability company, ever been involved in an administrative proceeding regarding any professional or occupational license, or registration.”

4. Mr. Black answered “No” to Item (2).
5. The application included Mr. Black's “Certification and Attestation” with the statement:

“I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.”

6. Staff of the Maine Bureau of Insurance discovered, through its application review process, that Mr. Black's North Carolina license had been denied in 2003.
7. A member of the Maine Bureau of Insurance licensing staff requested, by letter dated June 20, 2008, an explanation for Mr. Black's failure to disclose the North Carolina matter, and requested relevant documentation.
8. Mr. Black's reply to the Bureau's letter provided a description and documentation of the North Carolina matter, which was based upon failing to respond in a timely manner to a request for further information. With regard to failing to disclose this matters in the Maine application, he stated: “In regards to question #2 on the application, I had understood the question to read as an owner, partner, officer or director of any business and not personally.”

9. Mr. Black's reply also referred to the fact that he had been involved in an administrative proceeding with the State of Vermont which has been resolved, and which he stated "was not an insurance related matter."
10. According to securities industry disclosure information contained on the Central Registration Depository (CRD), the Vermont matter involved a consent order which required the payment of a monetary amount and a five year period restricting the ability to register as a securities sales representative or investment adviser representative. As such, it was subject to disclosure in the Maine insurance producer application under Item 2 of the uniform application as referenced in Paragraph 3 above, which requires the disclosure of any "administrative proceeding regarding any professional or occupational license, or registration."
11. On July 28, 2008, in further e-mail communications with Bureau staff following up on the question of nondisclosure, Mr. Black raised the possibility that an assistant had incorrectly marked the disclosure item in his application.

### **CONCLUSIONS OF LAW**

12. The application form's disclosure questions specifically require disclosure of insurance administrative matters.
13. Mr. Black provided incorrect, misleading, incomplete or materially untrue information in his Maine application for nonresident producer licensing by his inaccurate response to disclosure Item (2) as described above, and has not provided an adequate legal explanation for his failure to provide complete and accurate information in the application.
14. The provision of incorrect, misleading, incomplete or materially untrue information in the license application constitutes grounds for denial of the license application or other appropriate action, including the imposition of a civil penalty, under 24-A M.R.S.A. §1420-K(1)(A).

### **COVENANTS**

15. John Duncan Black, the Maine Bureau of Insurance, and the Maine Department of the Attorney General agree to the following.
16. This Consent Agreement is entered into in accordance with 10 M.R.S.A. § 8003(5)(B) and is not subject to review or appeal. This Consent Agreement is enforceable by an action in the Superior Court.
17. At the time of executing this Consent Agreement, Mr. Black will remit to the Maine Bureau of Insurance a civil penalty in the amount of \$250.00, payable to the Treasurer of the State of Maine.
18. Mr. Black will promptly report any matters to the Maine Bureau of Insurance during all times as he is licensed through the Bureau, to the extent such reporting is required under the Maine Insurance Code, and will comply in all other respects with the provisions of the Maine Insurance Code, as applicable.
19. In consideration of the applicant's execution of this Consent Agreement, the State of Maine Bureau of Insurance shall issue the Nonresident Producer License for which he has applied.

20. Mr. Black understands and acknowledges that this Agreement will constitute a public record within the meaning of 1 MRSA § 402, and will be available for public inspection and copying as provided for by 1 MRSA § 408, and will be reported to the NAIC "RIRS" database.
21. In consideration of the applicant's execution of and compliance with the terms of this Consent Agreement, the Superintendent of Insurance, Bureau of Insurance, and Department of the Attorney General agree to forgo pursuing further disciplinary measures or other civil or administrative sanction for the actions described in this Consent Agreement, other than those agreed to herein. However, should Mr. Black violate this Consent Agreement, he may be subject to any available legal remedy for the violation, including without limitation the suspension or revocation of all licenses issued under the Maine Insurance Code.
22. Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement.

**John Duncan Black**

Dated: \_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_  
John Duncan Black

State of New Hampshire, \_\_\_\_\_, ss

Subscribed and Sworn to before me  
 this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
(printed name)

**THE MAINE SUPERINTENDENT OF INSURANCE**

Dated: \_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_  
Mila Kofman, Superintendent

**FOR THE DEPARTMENT OF THE ATTORNEY GENERAL**

Dated: \_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_

**Assistant Attorney General**

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(printed name)