

**STATE OF MAINE
BUREAU OF INSURANCE**

Docket No. INS-08-218

CONSENT AGREEMENT

This document is a Consent Agreement authorized by Title 10 M.R.S.A. § 8003(5), entered into among Justin Howard, a resident of Arizona; 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. Justin Howard applied for a Maine Nonresident Producer License in March, 2008.
3. Item 1 of the background questions on the application form electronically filed in connection with Mr. Howard's application required a response to the following question:

“Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?”

4. Mr. Howard answered “No” to Item (1).
5. 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.”

6. Mr. Howard answered “Yes” to Item (2), and disclosed administrative matters involving his licenses in California, Massachusetts, and South Dakota.
7. The application included Mr. Howard's “Certification and Attestation” under 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.”

8. Staff of the Maine Bureau of Insurance discovered, through its application review process, that Mr. Howard had also been the subject of an administrative settlement with the Commonwealth of Virginia in 2007, involving a penalty of \$500.00. In addition, the

documentation for the California action, occurring in 2006, referred to prior criminal matters.

9. The Supervisor of Licensing for the Maine Bureau of Insurance requested, by letter dated March 24, 2008, an explanation for Mr. Howard's failure to disclose any criminal history, and failure to disclose the Virginia action, and requested relevant documentation.
10. The reply to the Bureau's letter, received April 4, 2008, was from the licensing coordinator for Mr. Howard's employer rather than from Mr. Howard himself, and stated: "I wanted to explain to you that I'm the one that I (*sic*) applied for the license for your state and I forgot to answer yes question #1. It was a minor incident and I didn't think you needed this information. This was completely my fault and I wasn't trying to mislead you in anyway. The reason why the state of California gave him an action was because we forgot to disclose his other action within 30 days. That's why the state of CA denied his license."
11. By letter dated April 11, 2008, the Bureau's licensing supervisor reminded Mr. Howard that the questions in her March 24 letter remained outstanding, as did the request for documentation.
12. On April 22, 2008, the Bureau received Mr. Howard's response and documentation. Mr. Howard stated that the Virginia action related to a failure to timely notify them of other state actions. He otherwise did not provide any explanation to the Maine Supervisor of Licensing for his failure to disclose this matter in his original application, nor for his inaccurate response to the criminal history disclosure question and failure to disclose those matters.

CONCLUSIONS OF LAW

13. The application form's disclosure questions specifically require disclosure of insurance administrative matters.
14. Mr. Howard provided incorrect, misleading, incomplete or materially untrue information in his Maine application for nonresident producer licensing by his inaccurate response to disclosure Item (1), and by his failures to disclose relevant administrative and criminal information as described above, and he was not responsive to two requests from the Maine Bureau of Insurance Licensing Supervisor, and has not provided an adequate legal explanation for his failure to provide complete and accurate information in the application.
15. 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

16. Justin Howard, the Maine Bureau of Insurance, and the Maine Department of the Attorney General agree to the following.
17. 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.

18. At the time of executing this Consent Agreement, Mr. Howard will remit to the Maine Bureau of Insurance a civil penalty in the amount of \$500.00, payable to the Treasurer of the State of Maine.
19. Mr. Howard 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.
20. 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.
21. Mr. Howard 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.
22. 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. Howard 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.
23. Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement.

(Execution page follows)

Justin Howard

Dated: _____, _____

Justin Howard

State of Arizona, _____, 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

(printed name)