

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE

In re:

Thomas J. Gerken

**Maine License No. PRR 65864
National Producer No. 239884**

CONSENT AGREEMENT
Docket No. INS-16-218

Thomas J. Gerken, a licensed Maine resident insurance producer, the Maine Superintendent of Insurance, and the Office of the Maine Attorney General hereby enter into this Consent Agreement pursuant to 10 M.R.S. § 8003(5)(B) to resolve, without an adjudicatory proceeding, violations of the Insurance Code for which the Superintendent may impose discipline pursuant to 24-A M.R.S. §§ 1417 and 1420-K.

STATUTORY AUTHORITY

1. The Superintendent 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. The Superintendent has jurisdiction over this matter pursuant to 24-A M.R.S. §§ 12-A and 211.
2. Under 24-A M.R.S. §§ 12-A and 1420-K and 10 M.R.S. § 8003(5)(A-1), the Superintendent may issue a warning, censure, or reprimand to a licensee, may suspend, revoke or refuse to renew the license of a licensee, may impose conditions of probation on a licensee, may levy a civil penalty against a licensee, or may take any combination of such actions, for violating any insurance laws, or violating any rule, regulation, subpoena, or order of the Superintendent. Pursuant to 10 M.R.S. § 8003(5)(B), the Superintendent may resolve a complaint by entering into a consent agreement with a licensee and the Attorney General.

FACTS

3. Thomas J. Gerken has been licensed in Maine as an insurance producer with Property and Casualty and Life and Health authority since November 1999. His Maine Producer Number is PRR 65864. His National Producer Number is 239884.
4. On August 18, 2015, Mr. Gerken was indicted on one count of Conspiracy to Defraud the United States in violation of 18 U.S.C. § 371. The indictment stated that Mr. Gerken and his wife (who was also indicted) diverted for their personal use Social Security Supplement Security Income Benefits intended for the care of their two disabled daughters.
5. On September 26, 2016, Mr. Gerken pled guilty to Conspiracy to Defraud the United States in violation of 18 U.S.C. § 371. Mr. Gerken was sentenced to five months' incarceration; supervised release for a term of three years, the first five months of which is to be on home confinement; and \$98,830 in restitution. Mr. Gerken is to report to serve his sentence in April 2017.

CONCLUSIONS OF LAW

6. Title 24-A M.R.S. § 1420-K(1)(F) provides that the Superintendent may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with section 12-A, or take any combination of such actions, for "[h]aving been convicted of an offense as provided in Title 5, section 5301." Mr. Gerken's conviction is one for which incarceration for one year or more may be imposed and, therefore, may be considered in connection with a disciplinary action pursuant to 5 M.R.S. § 5301(2)(D) & 5302(1).

COVENANTS

7. Mr. Gerken admits to the Facts as stated above and admits that those Facts constitute a basis for imposing discipline upon him due to his violation of 24-A M.R.S. § 1420-K(1)(F).
8. As discipline for his violation of law, Mr. Gerken agrees to the revocation of his insurance producer license. He agrees that the revocation will be effective as of the date of this agreement, as established by the date of the Superintendent's signature.
9. Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement.
10. In consideration of Mr. Gerken's cooperation with the Bureau and the execution of this Consent Agreement, the Superintendent and Attorney General agree to forgo pursuing against Mr. Gerken any further disciplinary measures or other civil or administrative

sanctions available under the Maine Insurance Code concerning the specific conduct described in this Consent Agreement, other than those agreed to herein. Should Mr. Gerken violate any provision of this Consent Agreement, however, he may be subject to any available remedy for the violation. Mr. Gerken further acknowledges and agrees that, upon execution of this Consent Agreement, each of the Covenants herein shall constitute an order of the Superintendent after notice of the opportunity for a hearing.

11. This Consent Agreement is enforceable by an action in Maine Superior Court.
12. This Consent Agreement is not subject to appeal. Mr. Gerken waives any further hearing or appeal regarding the matters that are the subject of this Consent Agreement.
13. This Consent Agreement may be modified only by a written agreement executed by all of the parties hereto.
14. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402(3) and will be available for public inspection and copying as provided for by 1 M.R.S. § 408-A. This Consent Agreement will be reported to the Regulatory Information Retrieval System database at the National Association of Insurance Commissioners.
15. Mr. Gerken agrees that he has read this Consent Agreement, that he understands this Consent Agreement, that he has reviewed the statutory provisions set forth herein, that he understands his right to consult with counsel before signing this Consent Agreement, and that he enters into this Consent Agreement voluntarily and without coercion of any kind from any person.

SIGNATURES

Dated: 11/25, 2016


THOMAS GERKEN


Dated: 11/30, 2016

THE OFFICE OF THE MAINE
ATTORNEY GENERAL


COLIN HAY (Bar. No. 5291)
Assistant Attorney General

Dated: 12/1, 2016

THE MAINE BUREAU OF INSURANCE


ERIC A. CIOPPA, Superintendent