

**STATE OF MAINE
BUREAU OF INSURANCE**

Docket No. INS 05-210

CONSENT AGREEMENT

This document is a Consent Agreement authorized by Title 10 M.R.S.A. § 8003(5), entered into among Richard Theriault, a Maine resident; the Maine Bureau 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. Richard Theriault has been licensed in Maine as a resident insurance producer with Life and Health authority since December 4, 2004. His license number in Bureau of Insurance records is PRR 109300.
3. Mr. Theriault applied to add Variable Contracts authority to his Maine Resident Producer License in January, 2005.

Failure to disclose bankruptcy

4. Item 39 (3) on the "Uniform Application for Individual Insurance Producer License" form requires a response to the following question:

"Has any demand been made or judgment rendered against you for overdue monies by an insurer, insured or producer, or have you ever been subject to a bankruptcy proceeding? If you answer yes, submit a statement summarizing the details of the indebtedness and arrangements for repayment, and/or type and location of bankruptcy."

5. Mr. Theriault answered "No" to Item 39 (3) on the application for Variable Contracts authority.

6. The application included Mr. Theriault's signature dated "1 25 05" 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."

7. Staff of the Maine Bureau of Insurance checked the “Central Registration Depository,” or “CRD,” securities licensing database, as is the practice for applications involving Variable Contracts authority. The CRD disclosed that the applicant had been the subject of a Chapter 7 bankruptcy in 1999.

8. The Supervisor of Licensing for the Maine Bureau of Insurance determined that Mr. Theriault had also failed to disclose the bankruptcy in his original application for licensing in December 2004 and requested, by letter dated February 18, 2005, an explanation for Mr. Theriault’s failure to disclose the bankruptcy in either the license application in December 2004 or the application to add Variable Contracts authority in January, 2005.

9. Mr. Theriault’s written reply, dated February 25, 2005, stated:

“Unfortunately I do not have a copy of the application to refer to. As I remember it, I do remember questions dealing with bankruptcy that were in a section dealing with securities. I assumed that these questions dealt with publicly traded securities and were not intended to include privately held companies. If you check with Prudential Insurance in Portland you will find that I have made no attempt to cover up my bankruptcy.

“The reason for my declaring bankruptcy in the first place was due to a business failure of my company. I had made several personal guarantees for loans that the company had made and was not able to cover them when the company failed. My bankruptcy only included company related indebtedness. I did not include any personal debts or obligations.

I assure you that my failure to properly complete the application was not intentional or intended to deceive or cover up anything. Please advise me of what you would like me to do to correct the situation.”

10. On March 11, 2005, the Supervisor of Licensing received, by facsimile, a copy of the Discharge of Debtor in Chapter 7 Case Number 99-21671, United States Bankruptcy Court, District of Maine (Portland), Richard Theriault, debtor.

CONCLUSIONS OF LAW

11. The application form’s disclosure questions specifically require disclosure of bankruptcies. Richard Theriault provided incorrect, misleading, incomplete or materially untrue information in his Maine application for nonresident producer licensing by failing to disclose the above matter when he first applied and when he applied to add Variable Contracts authority. In both cases he certified by his signature that the information was true and complete, and has not provided an adequate legal explanation for this failure to provide accurate information.

12. 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

13. Richard Theriault, the Maine Bureau of Insurance, and the Maine Department of the Attorney General agree to the following.

14. 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.

15. At the time of executing this Consent Agreement, Mr. Theriault will remit to the Maine Bureau of Insurance a civil penalty in the amount of \$100.00, payable to the Treasurer of the State of Maine.

16. Mr. Theriault 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.

17. In consideration of the applicant's execution of this Consent Agreement, the State of Maine Bureau of Insurance shall issue the Variable Contracts authority for which he has applied, and will refrain from taking further action on these specific facts against the producer license with Life and Health authority which he has already received.

18. Mr. Theriault 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.

19. 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. Theriault 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 to the applicant under the Maine Insurance Code.

20. Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement.

Richard Theriault

Dated: _____, _____

Richard Theriault

State of Maine, _____, ss
Subscribed and Sworn to before me
this _____ day of _____, _____.

Notary Public

(printed name)

THE MAINE BUREAU OF INSURANCE

Dated: _____, _____

By Alessandro A. Iuppa, Superintendent

FOR THE DEPARTMENT OF THE ATTORNEY GENERAL

Dated: _____, _____

Assistant Attorney General

(printed name)