

In re:
John Vandivier
National Producer # 8694047

STATE OF MAINE
BUREAU OF INSURANCE

Docket No. INS-08-204

CONSENT AGREEMENT

This document is a Consent Agreement authorized by Title 10 M.R.S.A. § 8003(5), entered into among John Vandivier, a resident of Florida; the Maine Superintendent and 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. John Vandivier has been licensed in Maine as a nonresident insurance producer with Life and Health authority since March 31, 2006, and with Personal Lines authority since January 10, 2008 pursuant to an additional application to add such authority.
3. On both applications, background question #1 asked, "Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld." On both applications, Mr. Vandivier's answer was "No."
4. The applications included Mr. Vandivier's "Certification and Attestation" that all of the information submitted in the applications and attachments was true and complete.
5. Upon review of the applications, and in reliance upon the representations made in it, staff of the Maine Bureau of Insurance routinely approved Mr. Vandivier's applications and issued the producer license with Life and Health authority on March 31, 2006 and, on January 10, 2008, approved the addition of Personal Lines authority.
6. On January 14, 2008, the Bureau received information from an insurer for which Mr. Vandivier is an agent, which disclosed and included court documents relating to 1991 convictions of Aggravated Battery, Simple Battery and Battery.
7. By letter dated January 29, 2008, the Supervisor of Licensing for the Maine Bureau of Insurance requested an explanation for Mr. Vandivier's failure to disclose his criminal convictions.
8. Mr. Vandivier's reply, received February 6, 2008, acknowledged that the questions were answered incorrectly, and indicated that the failures to disclose the matters in his applications were errors.

CONCLUSIONS OF LAW

9. The application form's disclosure questions specifically require disclosure of criminal matters. Mr. Vandivier obtained his license, and later added an additional authority to his license, based in part upon incorrect, misleading, incomplete or materially untrue information which he provided in his Maine application for nonresident producer

licensing, by failing to disclose the 1991 convictions when he applied, and certifying that the information was true and complete.

10. The provision of incorrect, misleading, incomplete or materially untrue information in a license application constitutes grounds for denial of the license application, revocation of the license, or other appropriate action, including the imposition of a civil penalty, under 24-A M.R.S.A. §1420-K(1)(A).

COVENANTS

11. John Vandivier, the Maine Bureau of Insurance, and the Maine Department of the Attorney General agree to the following.
12. 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.
13. At the time of executing this Consent Agreement, Mr. Vandivier 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.
14. Mr. Vandivier 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.
15. In consideration of the execution of this Consent Agreement, the State of Maine Bureau of Insurance will not pursue further action against Mr. Vandivier's Resident Producer License based upon the facts recited in this Consent Agreement.
16. Mr. Vandivier 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.
17. 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. Vandivier 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.
18. Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement.

John Vandivier

Dated: _____, _____

John Vandivier

State of Florida, _____, ss

Subscribed and Sworn to before me
this _____ day of _____, 2008.

Notary Public

(printed name)

THE MAINE SUPERINTENDENT OF INSURANCE

Dated: _____, _____

Superintendent

FOR THE DEPARTMENT OF THE ATTORNEY GENERAL

Dated: _____, _____

Assistant Attorney General

(printed name)