

STATE OF MAINE
BUREAU OF INSURANCE

IN RE:

ERNEST STILLWELL

National Producer No. 641337

**CONSENT AGREEMENT
and Order**

Docket No. INS-16-219

Ernest Stillwell, a non-resident insurance adjuster applicant, the Maine Superintendent of Insurance ("the Superintendent"), and the Office of the Maine Attorney General ("Attorney General") hereby enter into this Consent Agreement pursuant to 10 M.R.S. § 8003(5)(B) to resolve, without an adjudicatory proceeding, a violation 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. Under 24-A M.R.S. §§ 12-A and 1420-K, 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 the licensee, may levy a civil penalty, 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 with the agreement of the Attorney General.

FACTS

2. 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. The Superintendent has jurisdiction over this matter pursuant to 24-A M.R.S. §§ 12-A and 211.

3. Ernest Stillwell is a resident of Georgia and his National Producer Number ("NPN") number is 641337.

4. On or around October 19, 2011, Mr. Stillwell pled guilty to obstruction of a law enforcement officer, a misdemeanor, in the state of Georgia (State Court of DeKalb County, Criminal Action No. 11C37689-7A).

5. On December 14, 2011, Mr. Stillwell's home state of Georgia issued a consent order granting Mr. Stillwell a probationary adjuster license for a twelve month period. The probationary status was due to Mr. Stillwell's criminal charge that was disclosed on his Georgia application for a resident adjuster license.

6. On July 1, 2016, the state of Oklahoma issued a conditional administrative order fining Mr. Stillwell \$200 for engaging in material misrepresentation or fraud in obtaining an adjuster's license

and for having an insurance adjuster license or its equivalent denied, suspended, placed on probation or revoked in another state. Mr. Stillwell did not disclose the 2011 criminal conviction or the 2011 consent order on his Oklahoma application.

7. On September 8, 2016, Mr. Stillwell's application for a Maine non-resident adjuster license was received by the Maine Bureau of Insurance staff. Mr. Stillwell answered "No" to the following background question on the electronic application form: "Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?"

8. Mr. Stillwell also answered "No" to the following background question on the electronic application form: "Have you ever been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?" The application explains that "[i]nvolved' means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation, sanctioned or surrendering a license to resolve an administrative action."

9. The application included Mr. Stillwell'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."

10. In reviewing Mr. Stillwell's application, Bureau Staff identified the Georgia and Oklahoma regulatory actions that were posted to the Regulatory Information Retrieval System database at the National Association of Insurance Commissioners. The substance of these orders alerted Bureau staff to the existence of a 2011 criminal conviction.

11. Bureau staff wrote to Mr. Stillwell by email on September 9, 2016, October 4, 2016, and October 14, 2016, requesting additional information related to his nondisclosure. Mr. Stillwell did not respond to Bureau correspondence; however, his application was resubmitted on October 20, 2016. The October application, like the September application, did not disclose his criminal conviction or the two state administrative actions.

CONCLUSIONS OF LAW

12. By failing to disclose the existence of his misdemeanor conviction when he applied, failing to disclose the Georgia and Oklahoma orders, and certifying that the information was true and complete, Mr. Stillwell attempted to obtain his license based in part upon incorrect, misleading, incomplete or materially untrue information in his Maine application for a non-resident adjuster license.

13. Title 24-A M.R.S. § 1424-A(1)(B) states that before approving an insurance adjuster application, the Superintendent must find that the individual "[h]as not committed any act that is a ground for denial, suspension or revocation set forth in sections 1417 and 1420-K."

14. Title 24-A M.R.S. § 1420-K(1)(A) 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 providing incorrect, misleading, incomplete or materially untrue information in the license application.

15. Title 24-A M.R.S. § 1420-K(1)(I) 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 having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory.

COVENANTS

16. Mr. Stillwell admits to the Facts as stated above and admits that these Facts constitute a basis for imposing discipline upon him.

17. Mr. Stillwell agrees to the imposition of a civil penalty in the amount of Two Hundred and Fifty Dollars (\$250.00). Mr. Stillwell will make five monthly payments of fifty dollars (\$50), the first of which Mr. Stillwell will remit to the Maine Bureau of Insurance at the time of returning this signed agreement. Subsequent payments pursuant to this agreement shall be due by the first of the month commencing in February, 2017. Payments shall be by check or money order made out to "Treasurer, State of Maine" and addressed to: Licensing Attorney, Maine Bureau of Insurance, 34 State House Station, Augusta, Maine 04333-0034.

18. Mr. Stillwell will promptly report any matters to the Bureau of Insurance during all times that he is licensed by 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. Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement.

20. In consideration of Mr. Stillwell's execution of and compliance with the terms of this Consent Agreement, the Superintendent and Attorney General agree to forgo pursuing against Mr. Stillwell 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. However, should Mr. Stillwell violate any provision of this Consent Agreement or fail to make any scheduled payment required by this Consent Agreement, he may be subject to any available remedy for the violation.

21. This Consent Agreement constitutes an Order of the Superintendent and is enforceable by the Superintendent and by an action in Maine Superior Court.

22. This Consent Agreement is not subject to appeal. Mr. Stillwell waives any further hearings or appeals regarding the matters that are the subject of this Consent Agreement.

23. This Consent Agreement may be modified only by a written agreement executed by all of the parties hereto.

24. This Consent Agreement is a public record subject to the provisions of the Maine Freedom of Access Law, 1 M.R.S. §§ 401 through 410, will be available for public inspection and copying as

provided for by 1 M.R.S. § 408-A, and will be reported to the Regulatory Information Retrieval System database at the National Association of Insurance Commissioners.

25. Mr. Stillwell 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.

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ERNEST STILLWELL

Dated: 12-8-16

By: 
Ernest Stillwell


THE MAINE OFFICE OF THE ATTORNEY GENERAL

Dated: 12/13/16

By: 
Colin Hay
Assistant Attorney General

THE MAINE SUPERINTENDENT OF INSURANCE

Dated: 12-16-16

By: 
Eric A. Cioppa
Superintendent of Insurance