

STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION

IN RE: Kimberley Zem

DOCKET No. 19-043 -I

NPN # 8425248

STIPULATION AND CONSENT ORDER

The Insurance Division of the Department of Financial Regulation (the "Department") and Kimberley Zem (the "Respondent") hereby agree and stipulate as follows, and the Commissioner enters the following Order:

FINDINGS OF FACT

1. Pursuant to the authority contained in 8 V.S.A. §§15, 814(c), and 4804(a), the Commissioner of the Department is charged with enforcing the insurance laws of the State of Vermont.
2. Respondent is an insurance producer with a residential and business address of 1012 Main Street, Suite 103, Ramona, California. She holds Vermont non-resident producer license #883311.
3. Respondent was issued Vermont non-resident producer license #883311 on May 31, 2013. She also holds a non-resident producer license in Oregon, issued March 14, 2018 and suspended on September 30, 2018. The Oregon license is currently in good standing.
4. Respondent holds a resident producer license in California, issued March 23, 2005 and revoked on February 4, 2019. She was subsequently issued a 3-year restricted resident producer license in California, subject to ongoing financial oversight. Respondent's restricted license in California otherwise remains in good standing.
5. On September 30, 2018, the Oregon Department of Insurance took action against Zem for unlicensed activity during 2017 and for providing tardy or incomplete responses to the Department's inquiries.
6. The Oregon Order suspended the non-resident producer licenses of Zem for three months and imposed civil penalties.

7. Zem did not contest the Oregon Department's findings and consented to the entry of the Oregon order.
8. On February 4, 2019, the California Department of Insurance revoked the resident producer license of Zem and replaced it with a restricted license which required periodic audits by a CPA and enhanced scrutiny of trust funds. The California Order also imposed financial penalties. Respondent admitted to a fiduciary shortage in the insurance trust account.
9. On March 26, 2019, Respondent applied to renew her non-resident producer license in Vermont. The actions by Oregon and California were not disclosed in her renewal application.
10. Respondent has fully cooperated with the Vermont Department in its review of this matter, and the Department has accepted her surrender of her license for the reasons stated herein.

VIOLATIONS OF LAW

11. It is a violation of 8 V.S.A. § 4804(a)(9) for a licensee to, in the course of his or her affairs, use fraudulent, coercive, or dishonest practices or to show himself or herself to be incompetent, untrustworthy or financially irresponsible.
12. By allowing a fiduciary shortage to occur in her California insurance trust accounts, Respondent violated Section 4804(a)(9). As a result, the Commissioner may revoke her Vermont license, or decline to renew it.
13. It is a violation of 8 V.S.A. § 4804(a)(10) for a licensee to have his or her license revoked or suspended in any other state, province, district or territory.
14. Because Respondent's licenses were suspended in Oregon and restricted in California, she violated Section 4804(a)(10), and the Commissioner may decline to renew her Vermont license.

CONSENT ORDER

15. To resolve the violations that would have otherwise provided the Commissioner grounds to deny her renewal application, and without the necessity of litigation or further administrative action, Respondent has agreed to retroactively withdraw her renewal application and to surrender non-resident license # 883311 within ten (10) days of the date of this Order. She may not reapply for a Vermont license until January 1, 2021.
16. Nothing in this Stipulation and Consent Order shall be construed as limiting the Commissioner's authority to investigate Respondent for matters not resolved by this Stipulation and Consent Order or for unrelated matters.

17. Nothing herein shall be construed as limiting any private right of action a person may have.
18. Respondent acknowledges that this Stipulation and Consent Order constitutes a valid order duly rendered by the Commissioner and agrees to be fully bound by it.
19. Respondent acknowledges that this Order constitutes a finding by the Commissioner that Respondent has violated Vermont law as set forth above and agrees not to contest such findings.
20. Respondent consents to the entry of this Order and acknowledges that her consent is given freely and voluntarily and that no promise has been made to induce her to consent except as otherwise stated herein.
21. Respondent acknowledges that she has been represented by counsel in this matter and voluntarily waives her right to a hearing and to judicial review of this matter, including her right to a hearing before the Commissioner or his designee and all other procedures otherwise available under Vermont law, the rules of the Department, and the provisions of Title 3, Chapter 25.
22. Respondent further acknowledges the Commissioner retains jurisdiction over this matter for purposes of enforcing the Order.
23. This Order shall be governed by and construed under the laws of the State of Vermont.
24. Respondent acknowledges her understanding of all terms, conditions, and obligations contained in the Consent Order and further acknowledges that should she fail to comply with any provision of the Consent Order, the Commissioner may impose additional sanctions and seek appropriate relief, subject to Respondent's right to a hearing pursuant to Vermont insurance law.

2/29/20
Date

By: Kimberly M. Zera
Kimberly Zera

Dated at Montpelier, Vermont this 6th day of MARCH ~~February~~ 2020.

M. S. Pieciak

Michael S. Pieciak, Commissioner

Vermont Department of Financial Regulation