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GENERAL COUNSEL
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STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE

Before the State of South Carolina
Department of Insurance

In the matter of:	File Number 2000-103738
Eleanor L. Kitzman,	Consent Order
1530-A Main Street Columbia, South Carolina 29201.	Imposing Administrative Penalty

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Eleanor L. Kitzman, a licensed South Carolina resident insurance agent.

Upon review of this matter, I hereby find as fact, that Kitzman failed to timely pay the year 1999-2000 continuing education fee (the CE fee) required by S.C. Code Ann. § 38-43-106(D) (Supp.1999) and Reg. 69-50 § VIII. Kitzman acknowledges that she did not pay the required fee on or before the May 1, 2000 deadline. However, Kitzman contends her failure to pay the fee resulted from inadvertence and oversight and not from any intent to avoid the requirements of the law. She further contends that she attempted to pay the fee before the Department initiated any administrative action against her. Nevertheless, Kitzman's failure to meet the administrative deadline is an act which can ultimately lead to the revocation of her license to transact the business of insurance as an agent in South Carolina following a public hearing at the Administrative Law Judge Division pursuant to S.C. Code Ann. § 38-43-130 (Supp.1999).

Prior to the initiation of any administrative proceedings by the Department against her, Kitzman and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that, in lieu of the Department seeking to revoke Kitzman's resident insurance agent license, she would waive her right to a public hearing and immediately pay an administrative fine in the total amount of $250.

Section 38-43-106(D) of the South Carolina Code makes insurance agents "responsible for payment to the continuing education administrator of a reasonable annual fee for operation of the continuing education program." Section § 38-43-130 states, in pertinent part, that the Director of Insurance may revoke an agent's license "when it appears that an agent...has violated this title or any regulation promulgated by the Department, or has willfully deceived or dealt unjustly with the citizens of this State."

After a thorough review of the record, and pursuant to my findings of fact, I hereby conclude as a matter of law, that Kitzman has violated S.C. Code Ann. § 38-43-106(D) and 25A S.C. Code Ann. Reg. 69-50 §VIII (Supp. 1999). As a result, I can now take administrative disciplinary action

EK Eleanor L. Kitzman

against her resident insurance agent license. However, under the discretionary authority provided to me within S.C. Code Ann. § 38-43-130 (Supp. 1999), and after carefully considering the recommendation of the parties, I hereby impose against Kitzman an administrative fine in the total amount of $250. Kitzman must pay that fine within ten days of the date of my signature upon this consent order. If she does not timely pay that total fine amount, or if she does not provide proof of her having timely paid the CE fee, her resident insurance agent license will be immediately revoked without any further disciplinary proceedings.

The parties have reached this agreement in consideration of the Department having never taken any administrative disciplinary action against Kitzman on this issue before, of Kitzman's good faith attempt to comply with the CE fee payment provisions after the due date and before regulatory notice of noncompliance, and of her assurance that in the future she will comply with the state's insurance laws, particularly that of timely paying the CE fee. The parties expressly agree and understand Kitzman's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter.

By her signature upon this consent order, Kitzman acknowledges that she understands that this administrative order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq*. (1991 and Supp. 1999). Nothing contained within this administrative order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (Supp. 1999), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that Eleanor L. Kitzman shall, within ten days of the date of my signature on this consent order, pay through the Department an administrative fine in the total amount of $250.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in Kitzman's licensing file.

This consent order becomes effective as of the date of my signature below.

Ernst N. Csiszar
Director

8/18/24, 2000, at
Columbia, South Carolina

Eleanor L. Kitzman

I CONSENT:

Eleanor L. Kitzman
1530-A Main Street
Columbia, South Carolina 29201

Dated this 18th day of August, 2000