

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of)	
)	
Michael A. Leibowitz,)	CONSENT ORDER
NPN 358088,)	
DOB 3/11/59,)	FILE NO. AG-10-265
)	
Respondent.)	

Insurance Commissioner Adam Hamm (hereinafter "Commissioner") has determined as follows:

1. As a result of information obtained by the North Dakota Insurance Department (hereinafter "Department") regarding the conduct of Michael A. Leibowitz, NPN 358088, DOB 3/11/59, an individual who holds a North Dakota nonresident insurance producer's license (hereinafter "Respondent"), and Invescor, Ltd., FEIN 38-3077097-01, a business entity that holds a North Dakota nonresident insurance producer's license, the Commissioner has considered the imposition of a civil penalty or any other action the Commissioner deems necessary. Respondent's conduct is alleged to be in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(1).

2. N.D.C.C. § 26.1-26-15 states:

26.1-26-15. License requirement - Character. An applicant for any license under this chapter must be deemed by the commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation.

3. N.D.C.C. § 26.1-26-42(1) states:

26.1-26-42. License suspension, revocation, or refusal - Grounds. The commissioner may suspend, revoke, place on probation, or refuse to continue or refuse to issue any license issued under this chapter if, after notice to the licensee and hearing, the commissioner finds as to the licensee any of the following conditions:

1. A materially untrue statement in the license application.

4. The Commissioner has come into information furnished by Respondent that he made a materially untrue statement in the following applications by Respondent for licenses from the North Dakota Insurance Department:

a. Nonresident producer license application submitted on or about May 9, 1997

b. Viatical settlement broker license application submitted on or about May 21, 2006

The materially untrue statements consisted of declarations of no criminal conviction, when in fact Respondent had been convicted of misdemeanor crimes when the statements were made.

5. Respondent knew or should have known of his action in making the materially untrue statements and did not report the action to the Commissioner until July 2007.

6. Respondent's action or omission in paragraphs 4 and 5 above constitutes a violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(1).

7. Respondent's action in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(1) is grounds for imposition of a civil penalty pursuant to N.D.C.C. § 26.1-26-50, which states in relevant part:

26.1-26-50. (Effective through December 31, 2009)
Civil penalty for violation of chapter. In addition to or in lieu of any applicable denial, suspension, or revocation of a license, any person violating this chapter may, after hearing, be subject to a civil fine of not less than one hundred dollars nor more than one thousand dollars.

8. Respondent acknowledges that at the time of signing the Consent Order, he was aware of or had been advised of his rights to a hearing in this matter, to consult an attorney, to present argument to the Commissioner, to appeal from any adverse determination after a hearing, and Respondent expressly waives those rights.

9. Respondent has agreed to informal disposition of this matter, without a hearing, as provided under N.D.C.C. § 28-32-22.

10. The parties acknowledge this Order is a compromise of disputed claims, and the monetary payment is not to be construed as an admission of the allegations on the part of Respondent. Respondent denies the allegations and merely intends to avoid litigation.

11. There are no covenants, promises, undertakings, or understanding other than as specifically set forth in this Order.

12. Respondent consents to the Commissioner's continuing jurisdiction over him regarding any issues which may subsequently arise related to Respondent's activities.

13. For purposes of resolving this matter, without further administrative proceedings, Respondent and the Commissioner have agreed to enter into the following order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent agrees to pay a fine in the amount of \$1,000 payable by money order, cashier's check, or credit card to the North Dakota Insurance Department within five business days of the effective date of this Order.

2. The use of this Consent Order for competitive purposes by an insurance agent or agency holding a license in the State of North Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority.

DATED at Bismarck, North Dakota, this 12th day of March, 2010.




Adam Hamm
Insurance Commissioner
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned states that he has read the foregoing Consent Order, that he knows and fully understands its contents and effect; that he has been advised of his right to a hearing in this matter, his right to be represented by legal counsel, his right to present evidence and arguments to the Commissioner, and his right to appeal from an adverse determination after hearing; and that by the signing of this Consent to Entry of Order he waives those rights in their entirety, and consents to entry of this Order by the

Insurance Commissioner. It is further expressly understood that this Order constitutes the entire settlement agreement between the parties hereto, there being no other promises or agreements, either expressed or implied.

DATED this 9 day of March, 2010.



Michael A. Leibowitz

Subscribed and sworn to before me

this 9th day of March, 2010.

Annette M. Brown
Notary Public

State of Michigan
County of OAKLAND

My commission expires:

ANNETTE M. BROWN
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Jun 3, 2011
ACTING IN COUNTY OF OAKLAND