

**BEFORE JAMES A. DODRILL, INSURANCE COMMISSIONER
STATE OF WEST VIRGINIA**

In the Matter of:

LINDA SIMONS

Administrative Proceeding: 19-AP-PRLC-02009

CONSENT ORDER

WHEREAS, in lieu of proceeding with an Administrative Complaint in this matter, the parties hereto have reached a resolution of the matters at issue and desire that a Consent Order be entered accordingly; and

WHEREAS, Linda Simons, Producer License #37786, understands and agrees that by agreeing to the entry of this Consent Order she waives all rights to an administrative hearing and to judicial review of this matter; and

WHEREAS, Linda Simons, Producer License #37786, understands and agrees that by agreeing to the entry of this Consent Order she also agrees to the administrative action taken against her insurance producer license as is reflected in the Consent Order; and

WHEREAS, the Insurance Commissioner for the State of West Virginia (“Commissioner”) believes the entry of this Consent Order is appropriate and in the public interest.

JURISDICTION

The Commissioner/West Virginia Offices of the Insurance Commissioner (“WVOIC”) has jurisdiction over the subject matter of this action and over Linda Simons pursuant to W.Va. Code § 33-12-1, *et seq.*

W.Va. Code § 33-12-24(a) states, in pertinent part, “[t]he commissioner may examine and investigate the business affairs and conduct of every person ... holding an insurance producer license...to determine whether such person has been or is engaged in any violation of the insurance laws or rules of this state or has engaged in unfair or deceptive acts or practices in any state.”

W.Va. Code § 33-11-4(8)(a) provides, in pertinent part:

Except as otherwise expressly provided by law, no person shall knowingly permit or offer to make or make any contract of life insurance, life annuity, or accident and sickness insurance, or agreement as to any contract other than as plainly expressed in the insurance contract issued thereon, or pay or allow or give or offer to pay, allow or give, directly or indirectly, as inducement to any insurance or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or give or sell, or purchase or offer to give, sell or purchase as inducement to any insurance contract or annuity or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

APPLICABILITY

This Consent Order applies to Linda Simons, Producer License #37786, previously issued to her by the Commissioner pursuant to Chapter 33, Article 12 of the West Virginia Code.

EFFECT ON THIRD PARTIES

This Consent Order does not vest standing in any third party with respect to the terms hereof, nor create for any person, other than the Commissioner, a right to enforce its terms.

ALLEGED FACTS

The Commissioner received evidence that Linda Simons committed violations of W.Va. Code § 33-11-4(8)(a). West Virginia law prohibits the practice of rebating, which occurs when an insurer or agent offers an inducement to purchase an insurance policy that is not specified in the

policy or included in its rating plan. Linda Simons, while in the business of insurance in the State of West Virginia and while employed by the Joe Simons Insurance Agency, violated W.Va. Code § 33-11-4(8)(a) by advancing a portion of the premium due for a group insurance policy, using her agency's funds, on behalf of the Star City Volunteer Fire Department ("SCVFD") located in Star City, West Virginia.¹ Accordingly, the Commissioner is empowered to suspend or revoke her resident producer license and/or issue a civil penalty pursuant to W.Va. Code §§ 33-12-24(b) and 33-12-24(e).

AGREED ACTION

By agreeing to and executing this Consent Order, Ms. Simons agrees to and requests the entry of this Consent Order against her. In addition, she acknowledges that the Commissioner has amassed sufficient evidence such that he would likely prevail at a hearing against her resulting in the revocation of her producer license and a civil penalty not to exceed Five Thousand Dollars (\$5,000.00) **per violation** pursuant to W.Va. Code §§ 33-12-24(b) and 33-12-24(e). Linda Simons further consents and agrees to: imposition against her and payment to the Commissioner of an administrative fine in the amount of Five Hundred Dollars (\$500.00); complete twelve (12) hours of continuing education in agency management (in addition to the hours required biennially pursuant to W.Va. Code § 33-12-8); and the public recordation of the administrative actions reflected in this Consent Order for her violation of W.Va. Code § 33-11-4(8)(a). Ms. Simons will report the continuing education hours to the Commissioner as required by W.Va. Code § 33-12-8 and 114 CSR 42.

¹ SCVFD had not paid the billed premium due to a dispute with Linda Simons as to whether it had consented to the coverage. The amount of the premium advanced was Three Thousand Three Dollars and Eighty-Four Cents (\$3,003.84).

FINAL DISPOSITION

This Consent Order constitutes the final disposition, except for any enforcement actions with respect to this order as may be necessary, of Administrative Proceeding No. 19-AP-PRLC-02009.

MISCELLANEOUS PROVISIONS

Jurisdiction of this matter is retained for enforcement of this Consent Order. Any party hereto may apply to the Commissioner for such further orders and directions as may be necessary or appropriate with respect to the construction and enforcement of this Consent Order. The remedies in this Consent Order are cumulative and in addition to any other remedies the Commissioner may have at law or equity. Nothing herein shall be construed to prevent the Commissioner from commencing any action for conduct not addressed hereunder, even though such conduct may also violate this Consent Order.

Ms. Simons understands that this is an action taken against her producer license, and that it will be reported to the database maintained by the National Association of Insurance Commissioners (NAIC) and otherwise be made public in accordance with law.

ORDER

WHEREFORE, the Commissioner finds and concludes, based upon the foregoing, that Ms. Simons violated W.Va. Code § 33-11-4(8)(a). It is, therefore **ORDERED** a civil penalty in the amount of Five Hundred Dollars (\$500.00) is imposed against Ms. Simons, the payment of which to the Commissioner must occur in order for Ms. Simons' to retain her producer license. It is further **ORDERED** that Ms. Simons shall, in addition to the biennial continuing education

requirement set forth in W. Va. Code § 33-12-8, complete twelve (12) hours of continuing education in agency management.

ENTERED on this 23rd day of June 2020.



JAMES A. DODRILL
Insurance Commissioner
State of West Virginia

Agreed To:



Linda Simons

On Behalf of the
West Virginia Insurance Commissioner



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