

STATE OF ARIZONA

JUN 24 1998

DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY Roth

1 In the Matter of)
 2)
 3)
 4 **GERARD HENRY LILLEY dba**)
 5 **JERRY LILLEY**)
 6 License No. 24719)
 7 Respondent.)

Docket No. 97A-166-INS

CONSENT ORDER

8 The Arizona Department of Insurance ("Department") has received evidence that Gerard Henry
 9 Lilley dba Jerry Lilley ("Respondent") violated provisions of Title 20, Arizona Revised Statutes.
 10 Respondent wishes to resolve this matter without the commencement of formal proceedings, and admits
 11 the following Findings of Fact are true and consents to the entry of the following Conclusions of Law and
 12 Order.

FINDINGS OF FACT

13
 14 1. Respondent currently holds an Arizona license to transact life and disability business as an
 15 agent, license number 24719. Respondent's license expires effective February 28, 1999. Respondent
 16 previously held an Arizona license to transact variable annuity business, which license expired effective
 17 February 28, 1997.

18 2. On or about May 15, 1997, Respondent submitted a late renewal application to the
 19 Department for an individual life and disability agent license.

20 3. Question D of the renewal application asks:
 21 "Have you had any judgment, order or other determination, including any criminal conviction issued or
 22 made against you in any criminal, civil, administrative or other judicial or quasi-judicial proceeding of any
 23

1 kind in any jurisdiction that has not previously been disclosed by you to this agency in a license
2 application based on any of the following:

3 1. Misappropriation, conversion or the withholding of moneys?

4 2. Incompetence or a source of injury and/or loss to anyone?

5 3. Dishonesty in business or financial matters? . . .

6 5. Any cause arising out of an insurance transaction?"

7 4. Respondent answered "No" to questions D1, D2, D3 and D5.

8 5. Questions E of the renewal application asks: "Are any civil, administrative, other judicial
9 or quasi-judicial proceedings of any kind or any criminal proceedings in which an indictment, criminal
10 complaint or information has been issued naming you as defendant, currently pending against you in any
11 jurisdiction based on any of the following:

12 1. Misappropriation, conversion or the withholding of moneys?

13 2. Incompetence or a source of injury and or loss to anyone?

14 3. Dishonesty in business or financial matters? . . .

15 5. Any cause arising out of an insurance transaction?"

16 6. Respondent answered "No" to questions E1, E2, E3 and E5.

17 7. On May 12, 1997, the Director of Insurance for the State of Arizona ("Director") issued
18 a Consent Order entered into with Respondent In the Matter of Gerard Henry Lilley dba Jerry Lilley,
19 Docket No. 97A-081.

20 8. The Director found and concluded that Respondent failed to forward the full premium for
21 a fixed annuity contract to Metropolitan Life Insurance Company on behalf of Lydia Gerz, an Arizona
22 Resident. Respondent lost the application he received from Ms. Gerz.

1 9. Pursuant to the terms of that consent order, Respondent was ordered to pay restitution to
 2 Metropolitan Life Insurance Company in the amount of \$5,031.35. Respondent was further ordered to
 3 pay a civil penalty of \$1000.00, payable in four \$250.00 monthly installments. Respondent's existing
 4 licenses had expired when the consent order was executed. As of the date of this Order, Respondent has
 5 not paid the restitution nor the civil penalty.

6 10. On May 14, 1997, Respondent executed a "Letter of Acceptance, Waiver and Consent",
 7 No. C3A970055-AWC, with the NASD Regulation, Inc. ("NASDR") to settle alleged violations
 8 committed by Respondent. The conduct giving rise to the NASDR action was the same conduct upon
 9 which Respondent entered the previous Consent Order with the Department.

10 11. Without admitting or denying the alleged violations, Respondent consented to findings and
 11 conclusions that Respondent's conduct was inconsistent with the high standards of commercial honor and
 12 just and equitable principles of trade and a violation of NASD Conduct Rules 2110 and 2330.

13 12. On or about August 11, 1997, the NASD, pursuant to the Letter of Acceptance, Waiver
 14 and Consent, barred Respondent from the NASD, imposed a fine of \$25,000 that was waived unless and
 15 until Respondent sought to renew his NASD license, and ordered Respondent to pay restitution in the
 16 amount of \$5,031.35 to Ms. Lydia Gerz. As of the date of this order, Respondent has not paid the fine
 17 nor the restitution.

18 CONCLUSIONS OF LAW

19 1. The Director has jurisdiction over this matter.

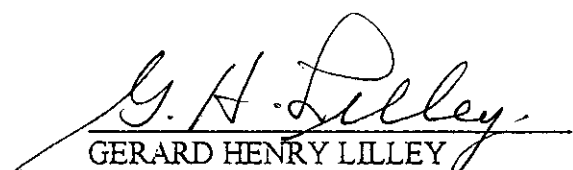
20 2. Respondent's conduct constitutes wilful misrepresentation of any fact required to be
 21 disclosed in any such application or accompanying statement within the meaning of A.R.S. §20-291(G).
 22
 23

1 3. Respondent is aware of his right to notice and a hearing at which he may be represented
2 by counsel, present evidence, and cross examine witnesses. Respondent irrevocably waives his right to
3 such notice and hearing and to any court appeals relating to this Consent Order.

4 4. Respondent states that no promise of any kind or nature whatsoever, except as expressly
5 contained in this Consent Order, was made to him to induce him to enter into this Consent Order and that
6 he has entered into this Consent Order voluntarily.

7 5. Respondent acknowledges that the acceptance of this Consent Order by the Director is
8 solely to settle this mater against him and does not preclude any other agency, officer or subdivision of
9 this state from instituting civil or criminal proceedings as may be appropriate now or in the future.

10
11 6/15/98
12 DATE


GERARD HENRY LILLEY
dba JERRY LILLEY

13
14 COPY of the foregoing mailed/delivered
15 this 24 day of June, 1998, to:

- 16 Gerard Henry Lilley
17 1118 W. Breckenridge Avenue
18 Gilbert, AZ 85233
- 19 Charles R. Cohen, Deputy Director
20 John Gagne, Assistant Director
21 Maureen Catalioto, Licensing Supervisor
22 Arizona Department of Insurance
23 2910 North 44th Street, Suite 210
Phoenix, AZ 85018
- Metropolitan Life Insurance Company
P.O. Box 500
Tulsa, OK 74102-0500

1 Gleaner Life Insurance Society
5200 W. U.S. 223
2 Adrian, MI 49221

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Kathy Linder for
Curvey Walters Burton