

JAN 28 2016

DEPT OF INSURANCE
BY ms

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

BURSELL, TIMOTHY LEE
(Arizona License Number 245856)
(National Producer Number 6732105)

Respondent.

No. 16A-010-INS

CONSENT ORDER

The State of Arizona Department of Insurance ("Department") has received evidence that **Timothy Lee Bursell** violated provisions of Title 20, Arizona Revised Statutes. Respondent wishes to resolve this matter without the commencement of formal proceedings, and admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Timothy Lee Bursell ("Bursell" or "Respondent") is licensed as an Arizona resident accident/health, life, variable life/variable annuities insurance producer, Arizona license number 245856, which expires December 31, 2017. The Department first licensed Bursell for accident/health and life on February 3, 1981 and for variable life/variable annuities in April 15, 2011.

2. Bursell's address of record is: 7004 E. Exmoor Drive, Mesa, AZ 85208 (business and mailing).

COMPLAINT

3. On or about October 6, 2014, the Department received a complaint letter from Janet Mitchell ("Mitchell") stating she believed that Bursell discriminated against her and

1 treated her unfairly in addition to violating Title III of the Americans with Disabilities Act
2 covering Public Accommodations and Commercial Facilities.

3 4. On or about July 2014, Mitchell responded to a postcard solicitation she
4 received offering to provide information to see if she qualified for **EXTRA HELP** (LIS) with
5 her Prescription Drugs, Part B premium and to receive a free Rx card. On July 29, 2014,
6 Mitchell received a letter from Bursell informing her that he had been assigned to help her
7 with her request and asking that she contact him for faster service. Bursell's letter
8 included his telephone number, Arizona license number, and a copy of the postcard
9 previously sent by Mitchell.
10

11 5. On or about August 4, 2014, Mitchell telephoned Bursell to set up an
12 appointment to discuss the information mentioned in the postcard solicitation. During the
13 telephone call, Mitchell requested that Bursell provide a sign language interpreter for
14 effective communication at their scheduled appointment time as Mitchell is hearing
15 impaired. Bursell informed Mitchell that he would speak with his direct manager regarding
16 her request and he would contact her prior to their appointment which was scheduled for
17 August 6, 2014.
18

19 6. Mitchell placed multiple calls to Bursell to confirm the scheduled appointment
20 and to confirm that a sign language interpreter would be present at her appointment.
21 Bursell failed to return her telephone calls and failed to keep the scheduled appointment
22 with Mitchell.

23 7. Mitchell stated that Bursell provided a false producer license number in his
24 July 29, 2014 communication to her in response to the postcard solicitation.
25
26

1 **EXAMINATION UNDER OATH**

2 8. On December 3, 2015 the Department conducted an Examination Under
3 Oath ("EUO") of Bursell. During the EUO, Bursell admitted that he failed to contact Mitchell
4 back regarding her request for a sign language interpreter because he was a new
5 employee and did not know the protocol for handling such a request.

6 9. Bursell acknowledged that he failed to contact his direct manager or any other
7 party regarding Mitchell's request as he had informed Mitchell he would.
8

9 10. Bursell admitted to the Department's Investigator that the license
10 number included in his communication to Mitchell, Arizona license number 873909, is not
11 his producer license number. The Department's licensing records reflect that Arizona
12 license number 873909 is issued to producer James Robert Schmidt ("Schmidt"). Bursell
13 acknowledged that Schmidt was his direct manager at the time of his scheduled
14 appointment with Mitchell.

15 **CONCLUSIONS OF LAW**

16 1. The Director has jurisdiction over this matter.

17 2. Respondent's conduct, as described above, constitutes violating any
18 provision of this title or any rule, subpoena or order of the director, within the meaning of
19 A.R.S. § 20-295(A)(2).
20

21 3. Respondent's conduct, as described above, constitutes using fraudulent,
22 coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or
23 financial irresponsibility in the conduct of business in this state or elsewhere, within the
24 meaning of A.R.S. § 20-295(A)(8).
25
26

1 2. Respondent admits the jurisdiction of the Director of Insurance, State of
2 Arizona, and admits the foregoing Findings of Fact and consent to the entry of the
3 foregoing Conclusions of Law and Order.

4 3. Respondent is aware of his right to notice and hearing at which he may be
5 represented by counsel, present evidence and examine witnesses. Respondent
6 irrevocably waives his right to such notice and hearing and to any court appeals relating to
7 this Consent Order.
8

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

12 5. Respondent acknowledges that the acceptance of this Consent Order by the
13 Director is solely to settle this matter against him and does not preclude any other agency,
14 including the Department, officer, or subdivision of this state or this agency from instituting
15 civil or criminal proceedings as may be appropriate now or in the future.

16 6. Respondent acknowledges that this Consent Order is an administrative action
17 that the Department will report to the National Association of Insurance Commissioners
18 (NAIC). Respondent further acknowledges that he must report this administrative action to
19 any and all states in which he holds an insurance license and must disclose this
20 administrative action on any license application.
21

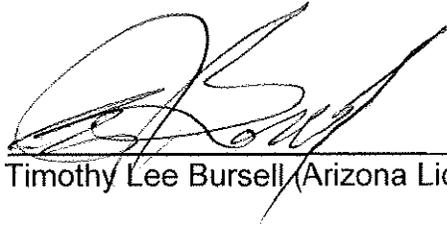
22 ...

23 ...

24
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1/27/16
Date



Timothy Lee Bursell (Arizona License #245856)

COPIES of the foregoing mailed/delivered
this 12 day of January, 2016, to:

Timothy Lee Bursell
7004 E. Exmoor Drive
Mesa, AZ 85208
Respondent

Mary Kosinski, Executive Assistant for Regulatory Affairs
Darren Ellingson, Deputy Director
Catherine M. O'Neil, Consumer Legal Affairs Officer
Steven Fromholtz, Licensing Supervisor
Charles Gregory, Assistant Director/Chief LEO Investigations Division
Gloria Barnes-Jackson, Investigator
Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018


Maidene Scheiner