

**STATE OF MAINE
BUREAU OF INSURANCE**

**David Rutstein
National Producer # 395194**

Docket No. INS-07-210

CONSENT AGREEMENT

This document is a Consent Agreement authorized by Title 10 M.R.S.A. § 8003(5), entered into among David Rutstein, a resident of Florida; the Maine Superintendent of Insurance; and the Maine Department of the Attorney General. Its purpose is to resolve, in lieu of an adjudicatory proceeding, issues implicating Title 24-A M.R.S.A. §1417(1) and §1420-K(1)(A).

STATEMENT OF FACTS

1. The Superintendent of Insurance is the official charged with administering and enforcing Maine's insurance laws and regulations, and the Bureau of Insurance is the administrative agency with such jurisdiction.
2. David Rutstein applied for a Maine Nonresident Producer License in March, 2007.

Failure to disclose administrative matter

3. Item 2 of the background questions on the application form electronically filed in connection with this application required a response to the following question:

“Have you or any business in which you are or were an owner, partner, officer or director ever been involved in an administrative proceeding regarding any professional or occupational license?”

4. Mr. Rutstein answered “No” to Item (2).
5. The application included Mr. Rutstein's “Certification and Attestation” under the statement:

“I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.”

6. Staff of the Maine Bureau of Insurance discovered, through its application review process, that Mr. Rutstein had been subject to an action in the State of Florida as an insurance producer in 2002, resulting in license probation and a penalty in the amount of \$500.00.
7. The Supervisor of Licensing for the Maine Bureau of Insurance requested, by letter dated April 13, 2007, an explanation for Mr. Rutstein's failure to disclose the Florida penalty, and requested relevant documentation.

8. Mr. Rutstein's faxed reply on May 2, 2007 provided documentation of the underlying incident, and stated the following regarding his nondisclosure of the matter on the electronic application:

"Concerning that application that I put in to be a licensed non-resident life & health insurance agent in your state I erroneously answered question #2. My answer should have been yes. The application was done online and I soon realized that I answered the question falsely. There was a delay in responding to your letter requesting an immediate response due to the trouble getting the corresponding documents from my home state department of insurance.

"The question answered falsely was 'Have you ever been involved in an administrative proceeding regarding any professional or occupational license? Again, I apologize for answering the question incorrectly.'"

CONCLUSIONS OF LAW

9. The application form's disclosure questions specifically require disclosure of insurance administrative matters.
10. Mr. Rutstein provided incorrect, misleading, incomplete or materially untrue information in his Maine application for nonresident producer licensing by failing to disclose the Florida action when he applied and certifying through the "Certification and Attestation" on the application that the information was true and complete, and has not provided an adequate legal explanation for this failure to provide accurate information.
11. The provision of incorrect, misleading, incomplete or materially untrue information in the license application constitutes grounds for denial of the license application or other appropriate action, including the imposition of a civil penalty, under 24-A M.R.S.A. §1420-K(1)(A).

COVENANTS

12. David Rutstein, the Maine Bureau of Insurance, and the Maine Department of the Attorney General agree to the following.
13. This Consent Agreement is entered into in accordance with 10 M.R.S.A. § 8003(5)(B) and is not subject to review or appeal. This Consent Agreement is enforceable by an action in the Superior Court.
14. At the time of executing this Consent Agreement, Mr. Rutstein will remit to the Maine Bureau of Insurance a civil penalty in the amount of \$100.00, payable to the Treasurer of the State of Maine.
15. Mr. Rutstein will promptly report any matters to the Maine Bureau of Insurance during all times as he is licensed through the Bureau, to the extent such reporting is required under the Maine Insurance Code, and will comply in all other respects with the provisions of the Maine Insurance Code, as applicable.
16. In consideration of the applicant's execution of this Consent Agreement, the State of Maine Bureau of Insurance shall issue the Nonresident Producer License for which he has applied.

17. Mr. Rutstein understands and acknowledges that this Agreement will constitute a public record within the meaning of 1 MRSA § 402, and will be available for public inspection and copying as provided for by 1 MRSA § 408, and will be reported to the NAIC "RIRS" database.
18. In consideration of the applicant's execution of and compliance with the terms of this Consent Agreement, the Superintendent of Insurance, Bureau of Insurance, and Department of the Attorney General agree to forgo pursuing further disciplinary measures or other civil or administrative sanction for the actions described in this Consent Agreement, other than those agreed to herein. However, should Mr. Rutstein violate this Consent Agreement, he may be subject to any available legal remedy for the violation, including without limitation the suspension or revocation of all licenses issued to the applicant under the Maine Insurance Code.
19. Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement.

David Rutstein

Dated: _____, _____

David Rutstein

State of Florida, _____, ss

Subscribed and Sworn to before me
this _____ day of _____, _____.

Notary Public

(printed name)

THE MAINE SUPERINTENDENT OF INSURANCE

Dated: _____, _____

Eric A. Cioppa, Acting Superintendent

FOR THE DEPARTMENT OF THE ATTORNEY GENERAL

Dated: _____, _____

Assistant Attorney General

(printed name)