

**STATE OF MAINE
BUREAU OF INSURANCE**

**In re:
Robert Fontanez
National Producer # 1987971**

Docket No. INS-06-222

CONSENT AGREEMENT

This document is a Consent Agreement authorized by Title 10 M.R.S.A. § 8003(5), entered into among Robert Fontanez, a resident of California; the Maine Bureau and 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. Robert Fontanez applied for a Maine Nonresident Producer License in August, 2006.

Failure to disclose administrative matter

3. Item 39 (2) on the NAIC "Uniform Application for Individual Insurance Producer License" form, which Mr. Fontanez filed with the Bureau, 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? 'Involved' means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, placed on probation or surrendering a license to resolve an administrative action. 'Involved' also means being named as a party to an administrative or arbitration proceeding which is related to a professional or occupational license. 'Involved' also means having a license application denied or the act of withdrawing an application to avoid a denial. You may exclude terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee."

4. Mr. Fontanez answered "Yes" to Item 39 (2).
5. The materials included Mr. Fontanez's explanation of a concluded 2003 matter in Washington state relating to the timeliness of his response to a request for fingerprints.
6. The application included Mr. Fontanez's undated signature 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.”

7. Staff of the Maine Bureau of Insurance discovered, through its routine application review process, that Mr. Fontanez had also entered into a consent agreement with the State of Minnesota in 2004 resulting in a penalty of \$250.00, for failing to disclose the Washington action in a timely manner.
8. The Supervisor of Licensing for the Maine Bureau of Insurance requested, by letter dated September 7, 2006, an explanation for Mr. Fontanez’s failure to disclose the Minnesota matter, as well as documentation.
9. Mr. Fontanez’s firm provided a written reply on his behalf, received on September 19, 2006, in which the Licensing Specialist for the firm stated with regard to the nondisclosure on the Maine application:

“The MN action was not disclosed on the application due to my oversight. I am sorry for the inconvenience caused and hope that you will be able to issue this license as it truly was an oversight and was not intentional in any way.”

10. Mr. Fontanez did not otherwise provide an explanation for the nondisclosure to Maine of the Minnesota matter.

CONCLUSIONS OF LAW

11. The application form’s disclosure questions specifically require disclosure of insurance administrative matters. Mr. Fontanez provided incorrect, misleading, incomplete or materially untrue information in his Maine application for nonresident producer licensing by failing to disclose the Minnesota consent agreement and civil penalty when he applied and certified by his signature that the information was true and complete, and has not provided an adequate legal explanation for this failure to provide accurate information.
12. 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

13. Robert Fontanez, the Maine Superintendent and Bureau of Insurance, and the Maine Department of the Attorney General agree to the following.
14. 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.
15. At the time of executing this Consent Agreement, Mr. Fontanez 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.

16. Mr. Fontanez 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.
17. 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.
18. Mr. Fontanez 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.
19. 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. Fontanez 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.
20. Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement.

Robert Fontanez

Dated: _____, _____

Robert Fontanez

State of California, _____, ss
 Subscribed and Sworn to before me _____
 this _____ day of _____, _____. Notary Public

(printed name)

THE MAINE SUPERINTENDENT OF INSURANCE

Dated: 1/24/2007

Eric A. Cioppa, Acting Superintendent

FOR THE DEPARTMENT OF THE ATTORNEY GENERAL

Dated: _____, _____

Assistant Attorney General

(printed name)