

**BEFORE THE INSURANCE COMMISSIONER  
FOR THE STATE OF ARKANSAS**

**IN THE MATTER OF  
DAWN T. POWELL,  
LICENSE NO. 241176**

**A.I.D. NO. 2009- 103**

**CONSENT ORDER**

On this day, Jay Bradford, Arkansas Insurance Commissioner (“Commissioner”), and Dawn T. Powell (“Respondent”) reached an agreement concerning the resident insurance producer’s license issued to Respondent by the Arkansas Insurance Department (“Department”). The Commissioner was represented by Nina Samuel Carter, Associate Counsel. Respondent neither admits nor denies the Findings of Fact and Conclusions of Law set forth below. Respondent was represented by Mike Pickens, of the Mike Pickens Law Firm, and Respondent voluntarily and intelligently waived her right to a hearing and consented to the entry of this Consent Order. From the facts and law before the Commissioner, he finds:

**FINDING OF FACTS**

1. The Commissioner has jurisdiction over the parties and subject matter pursuant to Ark. Code Ann. §§ 23-61-103, 23-64-216, and 23-64-512, among other laws; and the authority to issue summary license suspensions and/or order payment of penalties under Ark. Code Ann. §§ 23-60-108, 23-64-216(e), 23-64-512(e), and 23-66-408.

2. Respondent is licensed as a resident Accident, Health, Sickness, Life agent and holds Arkansas resident insurance producer license #241176. Respondent’s address is 44 Blue Mountain Drive, Maumelle, AR 72113. Respondent’s date of birth is February 23, 1976. Respondent holds appointments with Allianz Life Insurance Company, American Equity Investment Life Insurance Company, American Investors Life Insurance Company of Topeka, Kansas, Inc., Annuity Investors Life Insurance Company, Baltimore Life Insurance Company, Equitable Life & Casualty Insurance

Company, EquiTrust Life Insurance Company, Genworth Life and Annuity Insurance Company, Genworth Life Insurance Company, Great American Life Insurance Company, Hartford Life and Annuity Insurance Company, ING USA Annuity and Life Insurance Company, Investors Insurance Corporation, Lincoln Benefit Life Company, Loyal American Life Insurance Company, Mutual of Omaha Insurance Company, National Western Life Insurance Company, Order of United Commercial Travelers of America, Pruco Life Insurance Company, Reliastar Life Insurance Company, Security Life of Denver Insurance Company, United of Omaha Life Insurance Company, and West Coast Life Insurance Company.

3. On September 22, 2009, the Arkansas Securities Department entered a Cease and Desist Order against Respondent and her agency, Powell & Drees, Inc. The Order alleges that Respondent engaged in selling insurance products to the general public, relying heavily on free lunch and dinner seminars hosted by Respondent several times weekly.

4. The September 22, 2009 Order further alleges that neither Respondent, nor Powell & Drees, Inc. are registered as “investment advisors” or representatives of an investment advisor, yet Respondent allegedly provided “investment advice” to at least six (6) Arkansas resident consumers.

5. Each of the six (6) consumers received such alleged “investment advice” after attending a free dinner seminar hosted by Respondent and subsequently making an appointment to meet with Respondent concerning their finances. At these appointments, Respondent allegedly learned the extent of their assets and financial condition.

6. Each of the six (6) consumers held securities accounts which Respondent liquidated in order to purchase and fund equity indexed annuity products. On one occasion Respondent advised the consumer to liquidate certain accounts and keep certain accounts.

7. Respondent completed forms entitled “Authorization to Transfer Funds” for each of the consumers’ signatures, which ordered the securities in these accounts to be liquidated and the funds sent to the insurance company issuing the equity indexed annuities. The liquidation of these

securities accounts was accomplished and the purchase of the equity indexed annuities was completed. Respondent received a commission for each of the sales of the equity indexed annuities.

8. The Arkansas Securities Department alleges in its Order that, pursuant to Ark. Code Ann. § 23-42-102(8), an “investment advisor” is a person who engages in the business of advising others, directly or indirectly, as to the value of securities or the advisability of investing in, purchasing or selling securities, for compensation. The Order alleges that Respondent advised these consumers as to whether each investor should liquidate or retain securities. Respondent specifically denies that she ever provided “investment advice” to her clients. Indeed, Respondent contends she simply followed her clients’ specific instructions and acted in their very best interests, instructions and financial goals in liquidating any securities and purchasing the subject annuity products. As a result of allegedly providing such advice to these consumers, Respondent received commissions from the sale of the equity indexed annuities purchased with the proceeds of the liquidated securities. Rather than merely recommending the purchase of the equity indexed annuities to these consumers, Respondent allegedly provided advice on securities matters and received compensation for the annuity sales.

9. The Order held that Respondent violated the provisions of Ark. Code Ann. § 23-42-301(c), as it is unlawful to transact business as an “investment advisor” or representative of an investment advisor without first being registered with the Arkansas Securities Department.

10. Respondent was ordered to immediately cease and desist from providing advice as to either the value of securities or as to the advisability of investing in, purchasing, or selling securities, in violation of Ark. Code Ann. § 23-42-301, until Respondent is properly qualified and registered to provide such securities advice for compensation in accordance with the Arkansas Securities Act. Applicable Arkansas law provides the Respondent has the right to request a hearing within thirty (30) days of the date of the Securities Department’s Order. If no hearing is requested, the Order will remain in effect until it is modified or vacated by the Securities Commissioner.

## VIOLATIONS

For the above actions, the Department alleges that Respondent is in violation of:

11. Ark. Code Ann. § 23-64-216(a)(1), which provides that a license may be suspended, or revoked for violation of any of the causes listed in Ark. Code Ann. § 23-64-512;
12. Ark. Code Ann. § 23-64-512(a)(8) which provides that a license may be suspended or revoked for using dishonest practices in the conduct of business in this state or elsewhere;
13. Ark. Code Ann. § 23-64-506(e)(1) and (2), which provide that a resident applicant or producer must be deemed by the commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation, and that such qualifications must continue for an individual to remain licensed.

## CONCLUSIONS OF LAW

14. Based on the allegations contained herein, the Department concludes that Respondent is in violation of Ark. Code Ann. § 23-64-512 and § 23-64-506.

THEREFORE, in consideration of these Findings of Fact and Conclusions of Law, it is hereby ORDERED AND AGREED that:

A. Respondent's resident producer license shall be, and hereby is, placed on probation for a period of one (1) year from the date of this order, pursuant to Ark. Code Ann. § 23-64-512(a). Any failure to comply with the provisions of this order or the Arkansas Insurance Code, or the receipt of similar or related complaints against the Respondent, during the period of probation may result in the suspension or revocation of the Respondent's producer license.

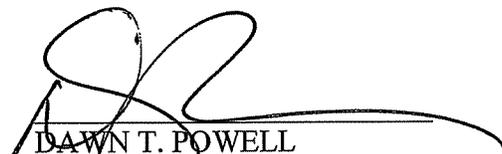
B. In addition to the one (1) hour of ethics training required annually pursuant to Ark. Code Ann. § 23-64-301(b)(3), the Respondent shall complete one (1) additional hour of ethics training each year during both 2009 and 2010. This additional one (1) hour of ethics training

imposed by this order shall not count toward the continuing education requirements imposed by the Arkansas Insurance Code.

C. The Respondent shall promptly provide proof of compliance with the additional one (1) hour ethics requirements for 2009 and 2010 imposed herein to the Department within ten (10) business days of the completion of each additional one (1) hour of ethics for 2009 and 2010.

D. Failure to meet these requirements or violation of another applicable law or regulation may result in the immediate suspension of Respondent's license and a hearing before the Commissioner.

IT IS SO ORDERED this 15<sup>th</sup> day of DECEMBER, 2009.



DAWN T. POWELL  
RESPONDENT



JAY BRADFORD  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS