BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS

IN THE MATTER OF
SIDNEY J. PHILLIPPY
LICENSE NO. 45979

A.I.D. NO. 2010- 036

CONSENT ORDER

Now on this day the matter of Sidney J. Phillippy ("Respondent"), is taken under consideration by Jay Bradford, Insurance Commissioner for the State of Arkansas ("Commissioner"), as presented by Amanda Capps Rose, Associate Counsel, Legal Division of the Arkansas Insurance Department ("Department"). Respondent neither admits nor denies the findings and conclusions contained herein. From the facts and law before the Commissioner, he finds as follows:

1. That the Commissioner has jurisdiction over the parties and the subject matter involved herein pursuant to Ark. Code Ann. § 23-61-103.

2. Respondent holds Arkansas Resident Producer License Number 45979 and is licensed to sell property, casualty, surety, and marine insurance in this State.

3. Respondent is a resident of Rogers, Arkansas and, based upon the Department's records, is employed with the Steve Standridge Insurance Agency, Inc. or an affiliate thereof.

4. Respondent is a defendant in a civil lawsuit filed by ANB Financial Services, LLC a/k/a Insurance Marketplace and GL Holdings, LLC in Benton County Circuit Court, Case No. CIV2008-1580-1 ("the lawsuit").

5. In May of 2008, Insurance Marketplace prepared confidential bid packages and provided them to potential purchasers, including GL Holdings, LLC and Steve Standridge, who was also named as a defendant in the lawsuit but has since been dismissed following a settlement agreement. Respondent was an independent contractor of Insurance Marketplace at that time.

6. Plaintiffs in the lawsuit allege that the an agreement was made with Steve Standridge that, if Mr. Standridge was not the successful bidder, the Respondent and her colleague, Sidney Phillippy, would go to work for Mr. Standridge and "pirate" as many accounts as they could from Insurance Marketplace. There is an e-mail from Mr. Phillippy, which has been provided to the Department, that supports that allegation.

7. GL Holdings, LLC was the successful bidder and purchased Insurance Marketplace on June 20, 2008. Respondent and Mr. Phillippy did leave Insurance Marketplace and go to work for Steve Standridge, and they did begin taking customers of Insurance Marketplace.

8. The lawsuit sought a temporary restraining order ("TRO") and alleged, *inter alia*, that the Respondent interfered with contractual relations and business expectancy.

9. The TRO was granted on July 2, 2008 and restrained the Respondent from communicating with any customer of Insurance Marketplace. The TRO was lifted as to Steve Standridge and Steve Standridge Insurance Agency in July 2009 pursuant to a settlement.

10. Respondent moved to dissolve the TRO and a hearing was held on December 3, 2008 on that motion. The judge issued an Order Denying Motion to Dissolve Temporary Restraining Order ("February 5, 2009 Order"), making the following findings:

a. "A customer list is the heart and soul of businesses like [Insurance Marketplace] and other types of businesses."[1]

b. Insurance Marketplace had taken sufficient steps to guard the secrecy of its customer list.

c. Plaintiffs showed a "substantial likelihood that [Insurance Marketplace] will prevail on the merits of its case at trial to prove [Insurance Marketplace's] customers' names and information are trade secrets."[2]

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[1] February 5, 2009 Order, ¶ 1.

11. Based upon the Department's investigation to date, despite the TRO and the denial of her motion to dissolve it, the Respondent continued to take customers from Insurance Marketplace. It appears that the Respondent and Mr. Phillippy would simply have another agent sign the Agent of Record form to take the client from Insurance Marketplace. The Department has been informed that these Agent of Record forms continue to be received at the offices of Insurance Marketplace.

12. Respondent's actions have caused great financial detriment to GL Holdings, LLC and constitute the use of fraudulent, dishonest practices and demonstrate untrustworthiness and a lack of good personal and business reputation.

13. The use of fraudulent, dishonest practices and demonstrating untrustworthiness or a lack of good personal and business reputation are grounds for probation of an insurance producer's license pursuant to Ark. Code Ann. § 23-64-512(a)(8).

14. Respondent converted, or assisted in the conversion of, property of Insurance Marketplace, namely customer lists and information, which is grounds for probation of an insurance producer's license pursuant to Ark. Code Ann. § 23-64-512(a)(4).

15. The Department reserves the right to suspend or revoke the Respondent's Arkansas Resident Producer License, Number 45979, based on any violation of this Order or any additional information that may be obtained by the Department that warrants suspension or revocation.

IT IS THEREFORE ORDERED AND ADJUDGED AS FOLLOWS:

1. Respondent's Arkansas Resident Producer License, Number 45979 is hereby placed on probation for a period of two (2) years.

2. Respondent is hereby ordered to strictly abide by the terms of the temporary restraining order issued in Benton County Circuit Court Case No. CIV2008-1580-1 on July 2, 2008

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[2] February 5, 2009 Order, ¶ 7.

and to refrain from communication with any customer of Insurance Marketplace, whether directly or indirectly. Respondent must refrain from contacting any customers of Insurance Marketplace, whether directly or indirectly through another agent not subject to the TRO. Any effort to place the business of an Insurance Marketplace customer with the Respondent or his current employer will be viewed as a violation of this Order.

3. Respondent is hereby ordered to refrain from any solicitation, whether directly or indirectly, of any customer of Insurance Marketplace.

4. It is hereby ordered that the Respondent shall not accept any remuneration of any kind in association with Steve Standridge Insurance Agency, Inc.'s, or any other agent or agency, placing insurance for any customer or former customer of Insurance Marketplace for the duration of the TRO.

5. The Cease and Desist Order, A.I.D. Order No. 2009-089, previously entered against the Respondent is hereby rescinded.

IT IS SO ORDERED THIS 10th DAY OF MARCH, 2010.

JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS

SIDNEY J. PHILLIPPY
RESPONDENT