

COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF CONSUMER AFFAIRS  
AND BUSINESS REGULATION  
DIVISION OF INSURANCE

SUFFOLK, SS

Docket No.: E2012-06

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DIVISION OF INSURANCE	)
	)
Petitioner,	)
	)
v.	)
	)
KILGORE INSURANCE AGENCY;	)
CYRUS A. KILGORE;	)
JEFFREY B. KILGORE;	)
KATHLEEN J. BURKE; and	)
ANDREW W. CROWTHER	)
	)
	)
Respondents.	)
_____	)

**CONSENT AGREEMENT AND ORDER**

1. This Consent Agreement and Order (“Consent Agreement”) is made by and between the Commonwealth of Massachusetts Division of Insurance (“Division”), with offices at 1000 Washington Street, Boston, Massachusetts 02110-2208 and the Respondent Andrew W. Crowther Jr. (“Crowther”) who is licensed as a resident insurance producer under the laws of the Commonwealth of Massachusetts (“Commonwealth”). The effective date of this Consent Agreement is April 2, 2018 (“effective date”).
2. Crowther has a residential mailing address of 6 Perkins Lane, Lynnfield, Massachusetts 01940 and a business address of 27 Water Street, Suite 107, Wakefield, Massachusetts 01880.
3. According to Division licensing records, Crowther was first licensed as a resident insurance producer on or about February 16, 1983, and has periodically renewed that license since then.

4. An insurance producer licensed in the Commonwealth must uphold the standards in M.G.L. c. 175, § 162H *et seq.* and must comply with the Commonwealth's insurance laws, including without limitation, those set forth in M.G.L. c. 175 and M.G.L. c. 176D; the Code of Massachusetts Regulations; and any other regulatory requirements. The Commissioner of Insurance ("Commissioner") has the authority to review, approve licenses and to discipline licensees who do not comply with the law.
5. The Commissioner has the authority to enforce the provisions of and impose any penalty or remedy authorized by M.G.L. c. 175, §§ 162H to 162X inclusive and M.G.L. c. 176D against an insurance producer who is under investigation for or charged with violation of M.G.L. c. 175, §§ 162H to 162X, inclusive, or M.G.L. c. 176D.
6. On August 16, 2012, after an investigation, the Division filed an Order to Show Cause against the Respondents: Kilgore Insurance Agency, Cyrus Kilgore, Jeffrey Kilgore, Kathleen J. Burke, and Andrew W. Crowther Jr. in the above-captioned matter. A substituted amended Order to Show Cause was filed on Sept. 20, 2012, and allowed by the Presiding Officer on September 28, 2012 ("OTSC"). On or about February 3, 2016, Crowther filed an answer to the OTSC. The OTSC is incorporated by reference herein.
7. The OTSC alleges, in part, that by altering and signing insurance documents on behalf of clients without authority and not disclosing the full amounts of fees and/or commissions that were being charged to clients, Crowther engaged in dishonest practices in the conduct of business in the Commonwealth. Specifically, the OTSC alleges that Crowther, and in some instances others acting at Crowther's direction, engaged in conduct in the business of insurance in violation of M.G.L. c. 175, §§ 162R(a)(5), 162R(a)(7), 162R(a)(8), 162R(a)(10) and M.G.L. c. 176D, §§ 2 and 3. In its claim for relief the Division requested, in part, that the Commissioner of Insurance find the pertinent allegations set forth in the OTSC as fact. If after a public hearing the Commissioner found sufficient evidence to determine that Crowther did commit the alleged violations, the OTSC asked the Commissioner to revoke Crowther's insurance producer license under M.G.L. c. 175, § 162R(a), as well as impose fines pursuant to M.G.L. c. 175 and c. 176D.
8. The Commonwealth initiated a civil action against the Respondents: Cyrus Kilgore, Jeffrey Kilgore, the Kilgore Insurance Agency, Kathleen Burke, and Andrew W. Crowther Jr. captioned as *Commonwealth of Massachusetts v. Andrew W. Crowther Jr., et al.* Suffolk Superior Court, Civil Action No. 2009-5416 (the "Civil Action") based on certain of the same acts and conduct alleged by the Division in the OTSC. Because of the ongoing Civil Action, a stay of the administrative hearing at the Division was issued on September 28, 2012, and periodically renewed. On April 29, 2015, an amended final judgment was entered in the Civil Action against Crowther in the amount of \$2,183,637.30 plus statutory prejudgment interest at 12% per annum from December 22, 2009. Crowther has appealed that judgment.
9. The execution of this Consent Agreement and Order by Crowther is not an admission of wrongdoing, of liability, or the truth of any of the disputed factual and legal allegations and

claims asserted by the Division in the Amended Order to Show Cause or by the Commonwealth in the Civil Action referenced in the foregoing paragraph.

10. Crowther has been afforded the opportunity for an adjudicatory hearing in this matter and hereby waives that right and all rights of appeal in return for the settlement of this administrative proceeding between the Division and Crowther through the execution of this Consent Agreement and Order. This Consent Agreement and Order is a voluntary settlement and compromise of disputed claims in order to avoid the risks, burdens, and expense of further litigation that could be incurred by Crowther.
11. The Division has provided Crowther with the opportunity to present this Consent Agreement and Order for review by an attorney of his choosing at his own expense. Crowther states that he is represented by an attorney who is admitted to practice law, in good standing, in the Commonwealth of Massachusetts and fully understands the legal consequences of this Consent Agreement and Order. Crowther agrees that he has had ample time to have his attorney review this Consent Agreement and Order, it has been reviewed by his attorney, all of the terms and conditions have been explained to him, and he fully understands them. Crowther has carefully read this Consent Agreement and Order, understands the contents herein, freely and voluntarily assents to all of the terms and conditions hereof, and assigns his name of his own free act, and agrees to the entry of this Consent Agreement and Order.
12. It is, therefore, ORDERED and DECREED as follows:
  - (a) From the effective date of this Consent Agreement and Order April 2, 2018, Crowther shall cease and desist from any conduct of the type alleged in the Amended Order to Show Cause.
  - (b) Thirty (30) days from the effective date of this Consent Agreement and Order, Crowther's Massachusetts insurance producer license is revoked and within thirty (30) days Crowther will return any Massachusetts licenses issued by the Division to the Commissioner's office at the Division's Boston office, 1000 Washington Street, Suite 810, Boston, Massachusetts. Nothing contained herein shall preclude Crowther from seeking a license in the future.
  - (c) Within thirty (30) days from the effective date of this Consent Agreement and Order, Crowther shall, in accordance with M.G.L. c. 175, § 166B, dispose of any interest he has as proprietor, partner, stockholder, officer or employee of any licensed insurance producer. Crowther further agrees to dispose of any interest he has (direct or indirect) as proprietor, partner, stockholder, officer, director, employee, consultant or independent contractor of any business in the Commonwealth requiring an insurance license.
  - (d) As of thirty (30) days from the effective date of this Consent Agreement, in compliance with M.G.L. 175 § 166B, and continuing until and unless he is again duly licensed, Crowther is prohibited from soliciting, aiding in the placement, continuation, or negotiation of insurance policies or taking any action which may

lead any person or entity to believe that Crowther is authorized in the Commonwealth to engage in the business of insurance in any capacity, including without limitation, acting as a licensed insurance producer, special insurance broker, public adjuster, insurance advisor, viatical loan provider, viatical broker, viatical settlement broker, viatical settlement provider, reinsurance intermediary broker, reinsurance intermediary manager, or any other licensed insurance professional.

- (e) As of thirty (30) days from the effective date of this Consent Agreement and Order, and continuing until and unless he is again duly licensed, Crowther is prohibited from owning, managing, directing or being an employee, consultant or independent contractor, partner, director or officer, paid or unpaid, of any business in the Commonwealth requiring an insurance license.
  - (f) The OTSC identifies four specific instances whereby Crowther allegedly charged a fee for services that were not disclosed to his client. In recognition of the fact the judgment entered in the Civil Action is for restitution to consumers, the Division is not pursuing the imposition of fines.
- 13. This Consent Agreement will become part of Crowther's permanent insurance producer record on file at the Division and may be considered in any future actions brought by the Division against Crowther. Crowther understands that the entry of this Consent Agreement and Order constitutes a reportable administrative action that must be disclosed in any other jurisdictions in which he is now or seeks to be licensed to engage in the business of insurance.
  - 14. Except as expressly set forth in this Consent Agreement and Order, the failure of the Division at any time to require strict performance by Crowther of any terms, provisions, or conditions hereof shall in no way affect the right thereafter to enforce same, nor shall the waiver by the Division of any breach of any of the terms, provisions, and conditions hereof be construed or deemed a waiver of any succeeding breach of any term, provision, or condition thereof.
  - 15. In the event that the Division finds that there has been a breach of any provision of this Consent Agreement and Order or Crowther fails to comply with provisions of this Consent Agreement, the Division may in its discretion, pursue any and all legal remedies permitted by the Massachusetts insurance laws as well as any other appropriate law of the Commonwealth.
  - 16. The provisions of this Consent Agreement and Order may be amended, modified, or expanded, solely in writing, by joint consent of the Division and Crowther with the approval of the Commissioner.

17. This Consent Agreement and Order shall be construed under and governed by the laws of the Commonwealth of Massachusetts without giving effect to its conflict of laws principles. This Consent Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one original.

SIGNED:

Andrew W. Crowther  
Andrew W. Crowther Jr.

Michael D. Powers  
Michael D. Powers, Counsel to the Commissioner  
Commonwealth of Massachusetts  
Division of Insurance

Dated: 4/2/18

Dated: April 11, 2018

APPROVED and ORDERED this 11<sup>th</sup> day of April, 2018, at the office of the  
Commissioner of Insurance.

Jean F. Farrington  
Jean F. Farrington, Esq.  
Presiding Officer