

RECEIVED
INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

2014 JUN 10 AM 11:43

ADMIN HEARINGS OFFICE

IN RE: : Pursuant to the Act of June 17, 1998,
Appeal of: : P.L. 464, No. 68 § 1 (40 P.S. §§
William F. Askin : 991.2001-991.2013)
1047 McKinney Lane :
Pittsburgh, PA 15220 :
:
File No. 14-115-159992 :
:
ALLSTATE FIRE & CASUALTY :
INSURANCE COMPANY :
Policy No. 918849869 : Docket No. **P14-04-018**

ADJUDICATION AND ORDER

Before the Commissioner is an appeal by William F. Askin from a determination issued by the Insurance Department of the Commonwealth of Pennsylvania on March 27, 2014 which held that Allstate Fire & Casualty Insurance Company's cancellation of automobile insurance policy No. 918849869 did not violate the Act of June 17, 1998, P.L. 464, No. 68, § 1 (40 P.S. §§ 991.2001-991.2013) ("Act 68"). The insured appealed this decision.

Upon receipt of the request for hearing, a Presiding Officer was appointed and a hearing was scheduled for June 3, 2014 at 2:00 p.m. in Pittsburgh, Pennsylvania. Notice of the hearing was served by certified mail on both parties, as evidenced by the return receipts contained in the docket file. Although the start of the hearing was delayed more 15 minutes, Allstate Fire & Casualty Insurance Company failed to have a representative appear for the scheduled hearing and failed to communicate with the hearings office

DATE MAILED: June 10, 2014

concerning its nonappearance. The insured appeared and was prepared to present his case at the time scheduled for hearing. Although no sworn testimony was received, the insured asserted his position that Allstate's billing practices were improper and treated its policyholders unfairly.

In an Act 68 proceeding, the insurance company has the initial burden of establishing that the termination of the policy did not violate the Act. *McDonnell v. Ins. Dep't.*, 503 A.2d 1042 (Pa. Cmwlth. 1986). This burden includes establishing both procedural and substantive compliance with the statute. *McKenzie/Valley Forge Ins. Co.*, PH92-08-01 (1994); *Good/Allstate*, P02-11-006 (2003); *Heinbach/USAA*, PH02-07-021 (2003). When a company fails to appear for the hearing, it cannot meet its burden and the insured does not need to present any evidence. *Moshons/Hartford*, PH03-02-007 (2003). *Moshons/Hartford*, PH03-02-007 (2003). Additionally, the company will be found in violation of Act 68. [*Id.*].

An insurer which does not appear at the hearing and is found in violation of Act 68 may be subject to a fine. 40 P.S. § 991.2013; 40 P.S. § 991.2013; *Amarnick/Federal Insurance Company*, PH92-01-18 (1992) (insurer fined \$2,000); *Solomon/Hartford*, PH94-08-014 (1994) (insurer fined \$2,000); *Moser/USF&G*, PH94-01-24 (1995) (insurer fined \$2,000); *Jones/Newark*, P00-03-016 (2000) (insurer fined \$500); *Hughes/AAA*, PH00-09-025 (2000) (insurer fined \$2000, reduced to \$750 upon reconsideration); *Hatterson/Hartford*, PH01-09-009 (2001) (insurer fined \$500); *Rivers/Hartford*, PH02-02-003 (2002) (insurer fined \$1,000).

Consequently, the Commissioner finds that Allstate Fire & Casualty Insurance Company has failed to meet its burden in proving that its termination of the subject policy was lawful, and finds that the imposition of a civil penalty is warranted.

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : Pursuant to the Act of June 17, 1998,
Appeal of: : P.L. 464, No. 68 § 1 (40 P.S. §§
William F. Askin : 991.2001-991.2013)
1047 McKinney Lane :
Pittsburgh, PA 15220 :
:
File No. 14-115-159992 :
:
ALLSTATE FIRE & CASUALTY :
INSURANCE COMPANY :
Policy No. 918849869 : Docket No. **P14-04-018**

ORDER

AND NOW, this 10th day of June 2014, considering the foregoing, **IT IS
HEREBY ORDERED THAT:**

1. The March 27, 2014 determination issued by the Insurance Department of the Commonwealth of Pennsylvania which held that Allstate Fire & Casualty Insurance Company's cancellation of William F. Askin's automobile insurance policy No. 918849869 did not violate the Act of June 17, 1998, P.L. 464, No. 68, § 1 *et seq.* (40 P.S. §§ 991.2001-991.2013) ("Act 68") is **REVERSED**.
2. Allstate Fire & Casualty Insurance Company's cancellation of automobile insurance policy No. 918849869 **VIOLATED** the Act of June 17, 1998, P.L. 464, No. 68 § 1 (40 P.S. §§ 991.2001-991.2013).

3. Allstate Fire & Casualty Insurance Company shall cease and desist from terminating William F. Askin's automobile insurance policy No. 918849869 on the basis of the February 17, 2014 Notice of Cancellation and the reasons contained therein.

4. Within **30 days** of the date of this order, Allstate Fire & Casualty Insurance Company shall offer to William F. Askin an automobile insurance policy with types and limits of coverage at least equal to those of the canceled policy No. 918849869. The offer shall include coverage without lapse from the effective date of policy termination or prospectively at Mr. Askin's option. Allstate shall make no claim for amounts it asserted were delinquent at the time of cancellation.

5. Within 30 days of receipt of an offer of reinstatement, William F. Askin must notify Allstate Fire & Casualty Insurance Company in writing of his election to accept or reject said offer from Allstate Fire & Casualty Insurance Company. In the absence of a response the offer shall be deemed rejected.

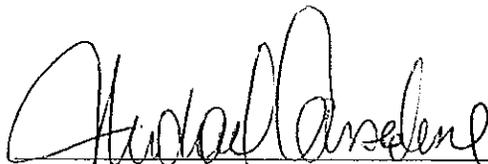
6. Within 30 days of receipt of this order, Allstate Fire & Casualty Insurance Company must give notice of the rescission of its cancellation to all public and private agencies which it is aware that have record of its notice of cancellation. This shall be a continuing obligation for agencies which subsequently are discovered to have record of the cancellation.

7. Allstate Fire & Casualty Insurance Company shall notify the Administrative Hearings Office at the time it complies with all the terms of this order.

8. **Within thirty (30) days from the date of this order**, and pursuant to 40 P.S. § 991.2013, Allstate Fire & Casualty Insurance Company is directed to **pay a civil**

penalty of \$1,000.00 payable to the Commonwealth of Pennsylvania and directed to April Phelps, Bureau of Licensing and Enforcement, Pennsylvania Insurance Department, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120.

9. This Order is effective immediately.



MICHAEL F. CONSEDINE
Insurance Commissioner