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INSURANCE DEPARTMENT

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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ADMIN HEARINGS OFFICE

IN RE:	:	VIOLATIONS:
	:	
BRENDA LEE AUMAN	:	Sections 606-A and 611-A of the
332 South Nichols Street	:	Insurance Producers Act
St. Clair, PA 17970	:	(40 P.S. §§310.6 and 310.11)
	:	
	:	
	:	31 Pa. Code §§37.46 and 37.47
	:	
Respondent.	:	Docket No. CO04-06-006

CONSENT ORDER

AND NOW, this 21<sup>st</sup> day of July, 2004, this Order is hereby issued by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Brenda Lee Auman ("Respondent") hereby admits and acknowledges that she has received proper notice of her rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa. C.S. §101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order, and the Findings of Fact and Conclusions of Law contained herein, shall have the full force and effect of an Order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

3. Respondent does not admit the findings of fact or conclusions of law as stated herein.

#### FINDINGS OF FACT

4. The Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is Brenda Lee Auman, an individual who maintains her address at 332 South Nichols Street, St. Clair, Pennsylvania 17970.
- (b) Respondent is a licensed Insurance Producer, having been issued resident agent's license number 29845. Said license is currently scheduled to expire on January 26, 2006.
- (c) On December 27, 2001, Respondent was employed as a licensed insurance agent at Higgins Insurance Associates, Inc., 115 South Centre Street, Pottsville, Pennsylvania 17901.

- (d) In December, 2001, Respondent submitted an application for automobile insurance coverage to Leader Insurance Company on behalf of her client, Ms. Kimberly Clay.
- (e) Upon review of the application submitted by Respondent, Leader Insurance Company determined that the documentation submitted with the application revealed a gap in Ms. Clay's coverage history for a period in July, 2001, and requested confirmation of coverage for this period from Respondent.
- (f) Respondent admits that on December 27, 2001, she submitted a letter purportedly prepared by Farmers Insurance Company and appearing on Farmers Insurance Company letterhead to Leader Insurance Company regarding Ms. Clay.
- (g) The letter sent to Leader Insurance Company by Respondent on Farmers Insurance Company letterhead indicated that coverage for Ms. Clay did exist with Farmers Insurance Company during the period in question.
- (h) Upon investigation, it was revealed that the letter sent by Respondent was bogus and had been falsified.
- (i) Farmers Insurance Company did not insure Ms. Clay during the period in question and did not prepare the letter.
- (j) Respondent fabricated the falsified document and forwarded it to Leader Insurance Company in order to secure insurance coverage for her client.

CONCLUSIONS OF LAW

5. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner concludes and finds the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
  
- (b) Section 606-A of the Insurance Producers Act prohibits the granting of an Insurance Producer's license except to an applicant worthy of licensure (40 P.S. §310.6).
  
- (c) Section 611-A of the Insurance Producers Act (40 P.S. §310.11) prohibits Insurance Producers from: misrepresenting the terms of an insurance application (§310.11(5)); using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business ((§310.11(7)); and, committing fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty ((§310.11(7)).

(f) Respondent's activities described in paragraph 4 above constitute violations of the above-referenced sections of the Insurance Producers Act and associated Regulations (31 Pa Code §§37.46 and 37.47).

(g) Respondent's violations of the Insurance Producers Act are punishable by the following, under Section 691-A (40 P.S. §310.91)

- (i) suspension, refusal to renew or revocation the license;
- (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
- (iii) an order to cease and desist;
- (iv) any other conditions as the commissioner deems appropriate.

ORDER

6. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner orders and Respondent consents to the following:

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
  
- (b) Respondent's Insurance Producers License shall be placed on supervision for five (5) years beginning with the date of execution of this document on behalf of the Insurance Department.
  
- (c) Within ninety (90) days of the date of execution of this document on behalf of the Insurance Department, Respondent shall pay a \$1,000 civil penalty.
  
- (d) Respondent's certificates and licenses may be immediately suspended by the Department following its investigation and determination that (i) any terms of this Order have not been complied with, or (ii) any complaint against Respondent is accurate and a statute or regulation has been violated. The

Department's right to act under this section is limited to a period of five (5) years from the date of this Order.

- (e) Respondent specifically waives her right to prior notice of said suspension, but will be entitled to a hearing upon written request received by the Department no later than thirty (30) days after the date the Department mailed to Respondent by certified mail, return receipt requested, notification of said suspension, which hearing shall be scheduled for a date within sixty (60) days of the Department's receipt of Respondent's written request.
- (f) At the hearing referred to in paragraph 6(e) of this Order, Respondent shall have the burden of demonstrating that she is worthy of a license.
- (g) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 6(d) above, and Respondent either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that she is worthy of a license, Respondent's suspended certificates and licenses shall be revoked.

7. In the event the Deputy Insurance Commissioner finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein, the Department may pursue any and all legal remedies available, including but not limited to the following: The Department may

enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law; or, if applicable, the Department may enforce the provisions of this Order in any other court of law or equity having jurisdiction.

8. Alternatively, in the event the Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

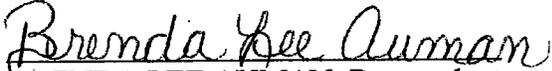
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

11. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

12. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law contained herein, and this Consent

Order is not effective until executed by the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner.

BY:   
BRENDA LEE AUMAN, Respondent

  
RANDOLPH L. ROHRBAUGH  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania