RECEIVED
INSURANCE DEPARTMENT
2009 FEB 18 PM 12: 38
ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
BALBOA INSURANCE COMPANY 3349 Michelson Drive Irvine, California 92612	: : :	Section 4 of the Unfair Insurance Practices Act, Act of July 22, 1974, P.L. 589, No. 205 (40 P.S. § 1171.4)
	:	
	:	
Respondent.	:	Docket No. CO08-12-027

CONSENT ORDER

AND NOW, this 18th day of February, 2009, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its 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.

FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following Findings of Fact:

(a) Respondent is Balboa Insurance Company, and maintains its address at 3349 Michelson Drive, Irvine, California 92612.

(b) Respondent, at all relevant times herein, has been a licensed insurance company.

(c) From January, 2007 through May, 2008, SCA Enterprises Burbank, California, doing business as SCA Appraisal, performed motor vehicle physical damage appraisals on behalf of Respondent.

(d) An investigation of SCA determined that SCA's appraisals, performed on Respondent's behalf, were done by unlicensed appraisers and/or fictitious persons, the appraisals were not always in compliance with Pennsylvania insurance laws and regulations, and certain appraisals lacked the required disclosures to claimants/insureds.

(e) The investigation further determined that the Respondent did not perform due diligence in overseeing SCA and its compliance with the Motor Vehicle Physical Damage Appraisers Act (63 P.S. §861(a)).

(f) Respondent and SCA Enterprises maintained a written agreement that addressed the processing and compensation for appraisals, and which agreement required SCA Enterprises to act and be in compliance with applicable state insurance laws.

(g) SCA Enterprises maintained written agreements with appraisers, relating to the processing and compensation of appraisals.

CONCLUSIONS OF LAW

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

(a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.

(b) The Unfair Insurance Practices Act, Section 4, sets forth that no person shall engage in any trade practice which is defined or determined to be an unfair

method of competition or unfair or deceptive act or practice in the business of insurance. (40 P.S. §1171.4).

(c) Respondent's activities described above in paragraphs 3(c) through 3(g) violate the Unfair Insurance Practices Act, Section 4.

(d) Respondent's violations of the Unfair Insurance Practices Act, Section 4 is punishable by the following, under Sections 7 through 11 of the Unfair Insurance Practices Act. (40 P.S. §§1171.7 through 1171.11):

1) The Commissioner may issue an order to cease and desist from engaging in such violation, suspend or revoke the person's license.

2) The Commissioner, in addition to any penalties imposed pursuant to the Unfair Insurance Practices Act, may also impose the following penalties:

   i) Not more than five ($5,000) for each method of competition, act or practice defined in Section 5 of this Act and in violation of this Act which the person knew or reasonably should have known was such violation, not to exceed and aggregate penalty of fifty thousand dollars ($50,000) in any six month period; and

   ii) Not more than one ($1,000) for each method of competition, Act or practice defined in Section 5 of this Act an in violation of this Act

which the person knew or reasonably should have known was such violation, not to exceed and aggregate penalty of ten thousand dollars ($10,000) in any six month period; and

iii) Not more than ten thousand dollars ($1,000) for each violation of an order issued by the Commissioner pursuant to Section 9 of this Act, while such order is in effect.

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department 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.

6. In the event the Insurance Department 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.

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department 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.

8. 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.

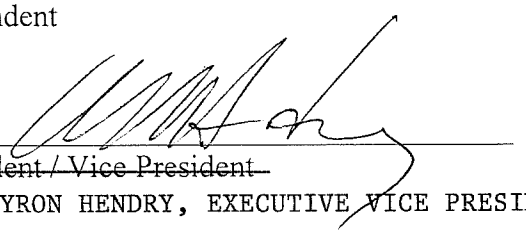
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

10. 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.

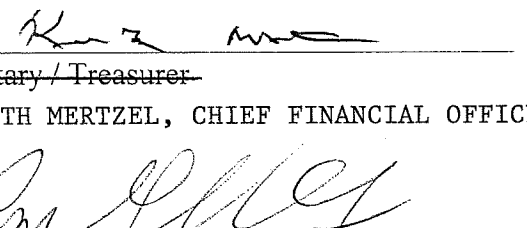
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or the duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law

contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or the duly authorized delegee.

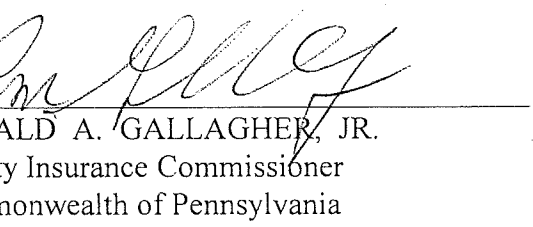
BY: BALBOA INSURANCE COMPANY,
Respondent



~~President / Vice President~~
W. MYRON HENDRY, EXECUTIVE VICE PRESIDENT



~~Secretary / Treasurer~~
KENNETH MERTZEL, CHIEF FINANCIAL OFFICER



RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner
Commonwealth of Pennsylvania