

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

2013 MAY 31 AM 10:46
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
KATHLEEN BARCHMAN : 40 P.S. §§ 310.11(1), (4), (6), (7)
2106 Faunce Street : (17) and (20) and 310.78(b)
Philadelphia, PA 19152 : :
Respondent. : Docket No. CO12-12-014

CONSENT ORDER

AND NOW, this 30th day of May, 2013, 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 she has received proper
notice of his 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. Without admitting the allegations of fact and conclusions of law contained herein, Respondent specifically denies that she violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

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

- (a) Respondent is Kathleen Barchman and maintains her address at 2106 Faunce Street, Philadelphia, PA 19152.
- (b) At all times relevant, Respondent had an active resident individual producer license.
- (c) At all times relevant, Respondent was employed at Premier Group Insurance, Cheltenham, PA.
- (d) Between 2010 and 2012, Respondent collected premium for different consumers for insurance coverage including surplus lines policies.

- (e) Respondent collected premium in the amount of \$27,499.68 and failed in her fiduciary duties to forward said premiums to carriers and surplus lines agencies.
- (f) Respondent's employer, Premier Group Insurance has made all consumers whole and there are no outstanding claims against the policies.
- (g) Respondent, on December 20, 2012, was served with an arrest warrant for Theft, Receiving Stolen Property and Misappropriation of Entrusted Property. Bail was set at \$30,000 that same date.
- (h) Respondent failed to report the criminal arrest to the Department.
- (i) Respondent, on February 4, 2013, renewed her producer license.
- (j) Respondent, on February 4, 2013, failed to disclose her pending criminal activity on the renewal application.
- (k) Respondent, on February 4, 2013, failed to report her pending administrative action on the renewal application.

CONCLUSIONS OF LAW

5. 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) 40 P.S. § 310.11(1) prohibits a licensee or an applicant for a license from providing incorrect, misleading, incomplete or false information to the Department in a license application.
- (c) Respondent's activities described above in paragraphs 4(j) and (k) violate 40 P.S. § 310.11(1).
- (d) 40 P.S. § 310.11(4) prohibits producers from improperly withholding, misappropriating, or converting money or property received in the course of doing business.
- (e) Respondent's activities described above in paragraph 4(e) constitute improperly withholding, misappropriating, or converting money or property received in the course of doing business, in violation of 40 P.S. § 310.11(4).

- (f) 40 P.S. § 310.11(6) prohibits a licensee or an applicant from committing any unfair insurance practice or fraud.
- (g) Respondent's activities described above in paragraph 4(e) violate 40 P.S. § 310.11(6).
- (h) 40 P.S. § 310.11(7) prohibits a licensee or an applicant from using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business.
- (i) Respondent's activities described above in paragraph 4(e) through 4(k) violate 40 P.S. § 310.11(7).
- (j) 40 P.S. § 310.11(17) prohibits a licensee or an applicant from committing fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty.
- (k) Respondent's activities described above in paragraph 4(e) violate 40 P.S. § 310.11(17).

- (l) 40 P.S. § 310.11(20) prohibits a licensee or an applicant from demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the Department that the licensee is worthy of licensure.
- (m) Respondent's activities described above in paragraphs 4(e) through 4(k) violate 40 P.S. § 310.11(20).
- (n) 40 P.S. § 310.78(b) requires that within 30 days of being charged with criminal conduct, a licensee shall report the charges to the Department. The licensee shall provide the Department with a copy of the criminal complaint, information or indictment, a copy of the order resulting from any pretrial hearing, and a report of the final disposition of the charges.
- (o) Respondent's activities described above in paragraphs 4(g) and 4(h) violate 40 P.S. § 310.78(b).
- (p) Respondent's violations of Sections 310.11(1), (4), (6), (7), (17), (20) and 310.11(b) are punishable by the following, under 40 P.S. § 310.91:
 - (i) suspension, revocation or refusal to issue 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; and
- (iv) any other conditions as the Commissioner deems appropriate.

ORDER

6. 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.
- (b) All licenses of Respondent to do the business of insurance are hereby revoked.
- (c) Respondent shall make restitution to all persons listed in the above Findings of Fact. Proof of any and all restitution payment shall be provided to the Insurance Department by Respondent. Future license applications will not be considered until restitution has been made.
- (d) If Respondent should ever become licensed in the future, her 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 issuance of such licenses.

(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 an insurance license.

(g) In the event Respondent's 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 licenses shall be revoked.

7. 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.

8. 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.

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 Insurance Department. Only the Insurance Commissioner or a duly authorized delegate is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegate.

BY: Kathleen Barchman
KATHLEEN BARCHMAN, Respondent

Ronald A. Gallagher, Jr.
COMMONWEALTH OF PENNSYLVANIA
By: RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner