BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT
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ADMIN HEARINGS OFFICE

IN RE:	:	VIOLATIONS:
	:	
MURRAY BEITMAN 5900 Longview Road Harrisburg, PA 17112	:	Act 147 of 2002, Sections 611-A(15), (17) and (20), 678-A(b); 31 Pa. Code Sections 37.46, 37.47.
	:	
Respondent	:	Docket No. CO04-03-028

CONSENT ORDER

AND NOW, this 30th day of March, 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. Respondent hereby admits and acknowledges that he has received proper notice of his rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.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 neither admits nor denies the Findings of Fact or Conclusions of Law contained herein.

FINDINGS OF FACT

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

(a) Respondent is Murray Beitman, and maintains his address at 5900 Longview Road, Harrisburg, Pennsylvania 17112.

(b) Respondent is a licensed resident insurance agent with a Certificate of Qualification #77665 that expires on March 17, 2004.

(c) On January 27, 1982, Respondent entered a Consent Order (the "1982 Consent Order") issued by the Insurance Commissioner of the Commonwealth of Pennsylvania, in which he agreed to cease and desist the improper activity referenced therein, to voluntarily surrender his license for thirty (30) days, and to guarantee the payment of the $6,500 civil payment levied against Myron Beitman. As of August of 2002, $1,350 remained unpaid.

(d) Thereafter, on August 9, 2002, Respondent entered into a Consent Order captioned IN RE: MURRAY BEITMAN, Docket No. CO-02-08-015, relating to his failure to report the 1982 Consent Order on his 1997 Certificate of Qualification Renewal or his 2002 Individual License Renewal Addendum, and his failure to make full payment under the prior Consent Order.

(e) In January of 2002, the Insurance Department received information that Respondent had obtained loans, by which he had agreed to repay $15,000, from two Pennsylvania consumers, including an insurance client, and that he failed to repay said loans. Further, in one instance, the client sought and obtained a judgment against Respondent for payment of the loan, which judgment Respondent did not satisfy.

(f) At that time, the Insurance Department also received information that Respondent had been arrested for passing a worthless check.. However, Respondent never notified the Insurance Department of the criminal charge, nor did he provide the Department with a copy of the complaint, information or indictment.

(g) Accordingly, on February 5, 2004, the Insurance Department notified Respondent that his licenses were suspended pursuant to the supervision clause of his August 9, 2002 Consent Order.

(h) Respondent has agreed to pay amounts due by April 22, 2004.

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) 40 P.S. §310.6(a)(15) provides that a producer shall not commit a misdemeanor that involves the misuse or theft of money or property belonging to another person.

(c) Respondent's actions, above, constitute the misuse of money belonging to another person.

(d) Respondent's misuse of money belonging to another person demonstrates that he is not worthy of licensure under 40 P.S. §§310.6(a)(15), 310.11(20).

(e) Accordingly, under 40 P.S. §§310.91, the Insurance Department may suspend or revoke Respondent's license and impose a $5,000 penalty per violation of §310.6(a)(15).

(f) Within 30 days of being charged with criminal conduct, licensees are required to report criminal charges to the Insurance Department. 40 P.S. §310.78.

(g) Respondent never reported to the Department the filing of his criminal charge.

(h) Respondent's failure to report his criminal charge to the Insurance Department demonstrates that he is not worthy of licensure under 40 P.S. §§310.78(b), 310.11(20).

(i) Accordingly, under 40 P.S. §§310.91, the Insurance Department may suspend or revoke Respondent's license and impose a $5,000 penalty per violation of 40 P.S. §310.78(b).

(j) 40 P.S. §611-A(20) prohibits the grant of a license/certificate to persons who are unworthy of such licensure/certification.

(k) Respondent's activities described above in paragraphs 4(e) through 4(g) violate 40 P.S. §611-A(20) and reflect on his worthiness to transact the business of insurance in the Commonwealth.

(l) Accordingly, Respondent's violations of 40 P.S. §611-A(20) are punishable by the following, under 40 P.S. §310.91(d):

(i) suspension, revocation or refusal to issue the certificate of qualification or license;

(ii) imposition of a civil penalty not to exceed five thousand dollars ($5,000.00) for each violation of the Act.

(iii) a cease and desist order; and

(iv) such other conditions as the Department may deem 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) By April 22, 2004, Respondent shall make full restitution of $15,014.50 to his clients, referenced above and provide proof of satisfaction and which proof must be in a form and manner acceptable to the Department.

(c) All of Respondent's licenses are suspended for a period of 18 months from the date of this Consent Order.

(d) Respondent's certificates and licenses may be immediately suspended by the Department following its investigation and determination that (i) restitution has not been fully and timely made, or (ii) any other terms of this Order have not been complied with, or (iii) 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 his 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 he 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 he 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: Murray Beitman
MURRAY BEITMAN, Respondent

Randolph L. Rohrbaugh
RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania