

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

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INSURANCE DEPARTMENT  
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HEARINGS OFFICE

IN RE: : VIOLATIONS:  
: :  
MARC A. BRUCKNER : Sections 611-A(20) and 641.1-A  
1405 Comply Court : of Act 147 of 2002 (40 P.S.  
Maple Glenn, PA 19002, and : § § 310.11 and 310.41)  
: :  
NESHAMINY INSURANCE, LLC :  
325 West Lincoln Highway :  
Penndel, PA 19047 :  
: :  
Respondents. : Docket No. CO06-08-022

CONSENT ORDER

AND NOW, this 28<sup>th</sup> day of November, 2006, 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. Respondents hereby admit and acknowledge that they have received proper notice of their rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondents hereby waive all rights to a formal administrative hearing in this matter, and agree 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondents are Marc A. Bruckner, 1405 Comply Court, Maple Glenn, Pennsylvania 19002, and Neshaminy Insurance, LLC, 325 West Lincoln Highway, Penndel, Pennsylvania 19047.
- (b) Respondent Bruckner has an active producer license # 352685 that expires on November 23, 2006, and Respondent Neshaminy has a producer agency license # 443724 that expires on November 3, 2007.
- (c) On November 26, 2005, Carlos Hunga-Reyes went to Respondent Neshaminy's place of business and spoke with unlicensed employee Bridget Mary Wenyon, a customer service representative.

- (d) Ms. Wenyon completed paperwork for temporary vehicle registration for PennDOT and the insurance paperwork, utilizing Respondent Bruckner's password and identification to access the databases, for Carlos Hunga-Reyes, who only possessed an expired international driver's license.
- (e) Respondent Bruckner admitted that he was not present when Ms. Wenyon produced insurance for Mr. Hunga-Reyes.

#### CONCLUSIONS OF LAW

4. 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) Respondents are subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Section 611-A(20) of Act 147 of 2002 prohibits a licensee from demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the department that the licensee is worthy of licensure (40 P.S. § 310.11).
- (c) Respondents' activities described above in paragraphs 3(c) through 3(e) violates Section 611-A(20) of Act 147 of 2002.

- (d) Respondents' violations of Section 611-A(20) of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
- (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) an order to cease and desist; and
  - (iv) any other conditions as the Commissioner deems appropriate.
- (e) Section 641.1-A of Act 147 of 2002 prohibits any insurance entity or licensee from accepting applications or orders for insurance from any person, or securing any insurance business that was sold, solicited, or negotiated by any person acting without an insurance producer license, and shall be subject to a \$5,000 penalty per violation (40 P.S. § 310.41(a)).
- (f) Respondents' activities described above in paragraphs 3(c) through 3(e) violates Section 641.1-A of Act 147 of 2002.

ORDER

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

- (a) Respondents shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
  
- (b) Respondents shall pay a civil penalty of Five Thousand Dollars (\$5,000.00) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made by certified check or money order, payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Fraser, Administrative Assistant, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment may be enclosed with the Consent Order, but must be paid in any event no later than thirty (30) days after the date of the Consent Order.
  
- (c) Respondents' certificates and licenses may be immediately suspended by the Department following its investigation and determination that (i) penalty payment has not been made, (ii) any terms of this Order have not been complied with, or (iii) any complaint against Respondents are 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.

- (d) Respondents specifically waive their 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 Respondents 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 Respondents' written request.
- (e) At the hearing referred to in paragraph 5(d) of this Order, Respondents shall have the burden of demonstrating that they are worthy of a license.
- (f) In the event Respondents' certificates and licenses are suspended pursuant to paragraph 5(c) above, and Respondents either fail to request a hearing within thirty (30) days or at the hearing fail to demonstrate that they are worthy of a license, Respondents' suspended certificates and licenses shall be revoked.

6. 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.

7. 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.

8. In any such enforcement proceeding, Respondents 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.

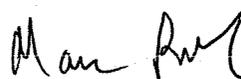
9. Respondents hereby expressly waive any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 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:



MARC A. BRUCKNER, trading as  
NESHAMINY INSURANCE, LLC,  
Respondent



RANDOLPH L. ROHRBAUGH  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania