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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ADMIN HEARINGS OFFICE

IN RE:	:	VIOLATIONS:
	:	
JOHN G. WEISBROT and	:	Sections 611-A(4), (7) and (20) of
AMERICAN BONDING COMPANY	:	Act 147 of 2002 (40 P.S. §§310.11)
4 Glen Eagles Drive	:	
New Hope, PA 18938	:	
	:	
	:	
	:	
Respondents.	:	Docket No. CO03-12-014

CONSENT ORDER

AND NOW, this 22nd day of January, 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. 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 John G. Weisbrot and American Bonding Company, and maintain their business address at 4 Glen Eagles Drive, New Hope, Pennsylvania 18938.
- (b) Respondent Weisbrot, at all times herein, has been a licensed resident agent and broker, and is the qualifying active officer of Respondent American Bonding Company.
- (c) Respondent American Bonding Company, at all times herein, has possessed a resident agent and broker license.

- (d) Respondents, on or about May 10, 2001, issued a Utica Mutual Insurance Company performance bond in the amount of \$1,400,000.00 to contractor Bell Roofing & Maintenance, Inc., with the owner listed as Changebridge at Montville Condominium Association, Inc.
- (e) On or about May 10, 2001, Respondents received from Bell Roofing, the Changebridge bond paperwork and two checks: a premium payment check #24069 for \$28,000.00; and a collateral check #24070 for \$50,000.00.
- (f) Respondents, on or about September 1, 2001, issued a Utica Mutual Insurance Company performance bond #3344652 in the amount of \$1,285,000.00 to contractor Bell Roofing & Maintenance, Inc., with the owner listed as Marlton Village Homeowners Association.
- (g) On or about September 1, 2001, Respondents received from Bell Roofing, the Marlton Village bond paperwork and a premium payment check #25277 for \$32,125.00.
- (h) Bell Roofing & Maintenance, Inc., had two claims filed against it:
Claim #712379, Marlton Village Homeowners Association, on or about September 12, 2002; and Claim #711550, Changeville at Montville Condominium Association, on or about January 24, 2003.

- (i) In March, 2003, Utica National Insurance Group informed the Insurance Department that it never received any bond paperwork or premium payments from Respondents for approval or coverage of the two aforementioned Bell Roofing performance bonds.
- (j) Utica National Insurance Group provided the Insurance Department with documentation indicating that the Bell Roofing performance bonds were not authorized by Utica and were inappropriately executed.
- (k) Utica National Insurance Group has settled the aforementioned claims.
- (l) On or about December 1, 2003, Respondents have surrendered their licenses and have agreed to the revocation of their licenses.

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(4) of Act 147 of 2002 prohibits a licensee from improperly withholding, misappropriating or converting money or property received in the course of doing business (40 P.S. § 310.11).
- (c) Respondents' activities described above in paragraphs 3(c) through 3(l) constitute improperly withholding, misappropriating or converting money, in violation Section 611-A(7) of Act 147 of 2002.
- (d) Section 611-A(7) of Act 147 of 2002 prohibits a licensee from using fraudulent, coercive or dishonest practices or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this Commonwealth or elsewhere (40 P.S. § 310.11).
- (e) Respondents' activities described above in paragraphs 3(c) through 3(l) demonstrate dishonest practices and financial irresponsibility, in violation Section 611-A(7) of Act 147 of 2002.
- (f) 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).

- (g) Respondents' activities described above in paragraphs 3(c) through 3(l) demonstrate lack of fitness, competence or reliability, in violation Section 611-A(20) of Act 147 of 2002.
- (h) Respondents' violations of Sections 611-A(4), 611-A(7) and 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.

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner orders and Respondents consent 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) All licenses/certificates of Respondents to do insurance business are hereby revoked.
- (c) If Respondents should ever become licensed in the future, their 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 Respondents is accurate and a statute or regulation has been violated. The Department's right to act under (ii) above is limited to a period of five (5) years from the date of issuance of such certificates and licenses.
- (d) Respondents specifically waives 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 (d) of this Order, Respondents shall have the burden of demonstrating that they are worthy of an insurance certificate and 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 fails to demonstrate that they are worthy of a certificate and license, Respondent's 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:



JOHN G. WEISBROT, Qualifying Active
Officer of AMERICAN BONDING
COMPANY, Respondents



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

RECEIVED
Insurance Product Regulation
and Market Enforcement

JAN 20 2004

Pennsylvania
Insurance Department

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The
Administrative Code of 1929

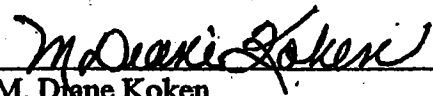
AND NOW, this 29 day of April, 2002, Randolph L.

Rohrbaugh, Deputy Insurance Commissioner, is hereby designated as the

Commissioner's duly authorized representative for purposes of entering in and executing

Consent Orders. This delegation of authority shall continue in effect until otherwise

terminated by a later Order of the Insurance Commissioner.



M. Diane Koken
Insurance Commissioner