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INSURANCE DEPARTMENT

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ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
TIMOTHY JOSEPH DONOHOE, JR.	:	63 P.S. § 1602.2(a)(5)
8002 Colfax Street	:	
Philadelphia, PA 19136	:	31, Pennsylvania Code §§
	:	115.19(3) and 115.19(4)
	:	
	:	
Respondent.	:	Docket No. CO14-08-024

CONSENT ORDER

AND NOW, this 23rd day of September, 2014, 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 he has received proper notice of his rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S.A. §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 Timothy Joseph Donohoe, Jr. and maintains his address at 8002 Colfax Street, Philadelphia, PA 19136.
- (b) Respondent does not possess a public adjuster license.
- (c) On March 26, 2013, in the Court of Common Pleas of Centre County, Respondent was convicted of one (1) count of Theft By Unlawful Taking Movable Property, a misdemeanor and was sentenced to two (2) years' intermediate punishment and assessed a \$1,543.55 monetary obligation. Respondent is scheduled to complete probation on March 26, 2015.
- (d) On April 2, 2014, Respondent electronically initiated an application for an initial resident public adjuster's license.
- (e) On August 26, 2014, Respondent agreed to licensure with three (3) years of licensure supervision.

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) 63 P.S. § 1602.2(a)(5) provides that the Department shall issue a license to an applicant who possesses the general fitness, competence and reliability sufficient to satisfy the Department that the applicant is worthy of licensure.
- (c) Respondent's activities in paragraph 3(c) violate 63 P.S. §1602.2(a)(5) and reflect on his general fitness, competence and reliability to transact business as a public adjuster.
- (d) Title 31, Pennsylvania Code, Section 115.19(3), states that the applicant may be denied a license if the applicant does not possess the professional competence and trustworthiness required to engage in the business of being a public adjuster or public adjuster solicitor.
- (e) Respondent's activities in paragraph 3(c) violate 31 Pa. Code § 115.19(3).

(f) Title 31, Pennsylvania Code, Section 115.19(4), states that the applicant may be denied a license if the applicant has pleaded guilty, entered a plea of nolo contendere or has been found guilty of a felony in a court of competent jurisdiction, or has pleaded guilty, entered a plea of nolo contendere, or been found guilty of criminal conduct, which relates to the applicant's suitability to engage in the business of being a public adjuster or public adjuster solicitor.

(g) Respondent's activities in paragraph 3(c) violate 31 Pa. Code § 115.19(4).

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.

- (b) Respondent's 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 confirmed 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 three (3) years from the date of this Order.

- (c) 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.
- (d) At the hearing referred to in paragraph 5(c) of this Order, Respondent shall have the burden of demonstrating that he is worthy of a license.
- (e) In the event Respondent's licenses are suspended pursuant to paragraph 5(b) 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 licenses shall be revoked.

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, it may, in its discretion, pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may

enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or 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.

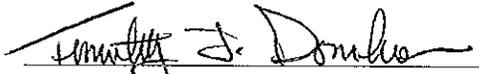
7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, 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 Department or a duly authorized delegee.

BY: 
TIMOTHY JOSEPH DONOHOE, JR.,
Respondent


By: ARTHUR F. MCNULTY
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

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 10 day of March, 2014, Arthur F. McNulty,
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.


Michael F. Considine
Insurance Commissioner

