

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT
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ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
TIMOTHY J. HOFFMAN, JR. : 40 P.S. §§ 310.11(6), (7), (17), (20),
439 Grape Street : 310.42 and 1171.5(a)(12)
Warminster, PA 18974-4709 :
: Respondent. : Docket No. CO12-04-008

CONSENT ORDER

AND NOW, this 18th day of July, 2012, 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. § 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 J. Hoffman, Jr., and maintains his address at 439 Grape Street, Warminster, PA 18974-4709.
- (b) At all times relevant, Respondent had an active resident producer license #465557 that expires on November 30, 2012.
- (c) On April 25, 2011, Respondent entered into Consent Order, Docket No. CO11-03-025 with the Department placing his license under five (5) years of supervision.
- (d) During the course of 2011, Respondent submitted seven (7) automobile insurance applications to the Hartford, all of which were cancelled for nonpayment of premium.
- (e) During the course of 2011, Respondent submitted two (2) applications after his quoting authority with The Hartford had been revoked and/or terminated.

- (f) As a result of Respondent's action, The Hartford never received the customers' premiums, which caused the carrier to send out Notices of Cancellation.

- (g) On August 18, 2010, a consumer went to the Hoffman Insurance Services in Hatboro, Pennsylvania, and Respondent completed an application for American States Insurance Company and received a check for \$2,000.00 for the coverage.

- (h) The period of coverage was August 18, 2010 to December 13, 2010, policy #K1991946, and the amount of earned premium was \$679.52, leaving a balance of \$1,320.48, for which no funds were forwarded to the carrier by Respondent.

- (i) On December 29, 2010, Respondent rewrote the consumer's coverage with a Bristol West Insurance Company affiliate; the period of coverage was December 29, 2010 to June 29, 2011, policy #G00 4285970 00 and the carrier received a payment of \$1,426.00.

- (j) On January 25, 2011, Bristol West Insurance Company amended the coverage, removing all the discounts and increased the premium to \$1,014.00. The policy was cancelled on April 12, 2011 for non-payment of premium.

- (k) On May 11, 2011, Respondent rewrote the consumer coverage with Omni Insurance Company, with a period of coverage of May 11, 2011 to June 10, 2011, with a total premium of \$339.11 and the carrier received a payment of \$270.00.
- (l) On June 15, 2011, Omni Insurance Company cancelled the coverage leaving a balance of \$69.11, which was paid by the consumer on July 26, 2011.
- (m) On or about June 24, 2011, this consumer received a traffic citation #B7451364-4 and failed to provide proof of insurance coverage.
- (n) On November 9, 2011, this consumer received a PennDOT reminder notice suspending her vehicle registration for three (3) months.
- (o) On November 19, 2011, the consumer received a collection notice for \$679.52 from Brown & Joseph regarding policy #K1991946 with American States Insurance Company for the amount of earned premium for her coverage.
- (p) On December 14, 2011, Respondent, as President of Hoffman Insurance Services, Inc., addressed a letter to The Honorable Jay S. Friendenberg, Montgomery County District Court 38-2-98, informing the Court that the consumer had not lapsed the insurance on her vehicle.

- (q) Respondent had knowledge that the consumer had no coverage between the following dates: December 13, 2010 to December 28, 2010; April 12, 2011 to May 10, 2011; and after June 15, 2011.
- (r) Respondent has not paid restitution to The Hartford.
- (s) Respondent has agreed to the revocation of his license.

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) 40 P.S. § 310.11(6) prohibits a licensee or an applicant from committing any unfair insurance practice or fraud.
- (c) Respondent's activities described above in paragraphs 3(d) through 3(r) violate 40 P.S. § 310.11(6).

- (d) 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.

- (e) Respondent's activities described above in paragraphs 3(d) through 3(r) violate 40 P.S. § 310.11(7).

- (f) 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.

- (g) Respondent's activities described above in paragraphs 3(d) through 3(r) violate 40 P.S. § 310.11(17).

- (h) 40 P.S. § 310.11(20) 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.

- (i) Respondent's activities described above in paragraphs 3(d) through 3(r) violate 40 P.S. § 310.11(20).

- (j) 40 P.S. § 310.42 prohibits any producer from fraudulently appropriating, taking, disposing of, withholding, lending, investing or otherwise using any money received in the capacity of an insurance producer without the consent of the insurer.

- (k) Respondent's activities described above in paragraphs 3(d) through 3(r) constitutes theft, in violation of 40 P.S. § 310.42.

- (l) Respondent's violations of Sections 310.11(6), (7), (17), (20) and 310.42 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.

- (m) 40 P.S. § 1171.5(a)(12) prohibits agents from making false or fraudulent statements or representations on or relative to an application for an insurance policy.

- (n) Respondent's activities described above in paragraphs 3(d) through 3(r) constitute making false or fraudulent statements or representations on or

relative to an application for an insurance policy and violate 40 P.S.

§ 1171.5(a)(12).

- (o) Respondent's violations of 40 P. S. §1171.5(a)(12) are punishable by the following, under 40 Purdons Statutes, Sections 1171.8, 1171.9, and 1171.11:
- (i) an order requiring Respondent to cease and desist from engaging in such violation and/or, if such violation is a method of competition, act or practice defined in Section 5 of this Act, suspension or revocation of Respondent's license(s);
 - (ii) commencement of an action against Respondent for the following civil penalties:
 - (1) for each method of competition, act or practice defined in Section 5 and in violation of the Act which Respondent knew or reasonably should have known was such a violation, a penalty of not more than five thousand dollars (\$5,000.00) for each violation, not to exceed an aggregate penalty of fifty thousand dollars (\$50,000.00) in any six month period;
 - (2) for each method of competition, act or practice defined in Section 5 and in violation of this Act which Respondent did

not know nor reasonably should have known was such a violation, a penalty of not more than one thousand dollars (\$1,000.00) for each violation, not to exceed an aggregate penalty of ten thousand dollars (\$10,000.00) in any six month period;

- (3) for each violation of an Order issued by the Commissioner pursuant to Section 9 of the Act, while such Order is in effect, a penalty of not more than ten thousand dollars (\$10,000.00).

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) All licenses of Respondent to do the business of insurance are hereby revoked.

- (c) Respondent shall make full restitution to The Hartford. Proof of 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, his 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 ten (10) years from the date of issuance of such licenses.
- (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 5(e) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance license.
- (g) In the event Respondent's licenses are suspended pursuant to paragraph 5(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 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, 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 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.

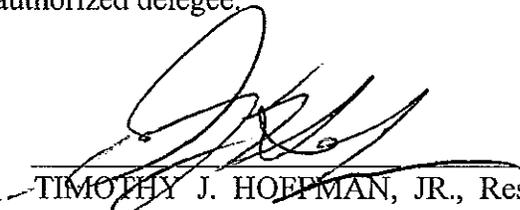
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

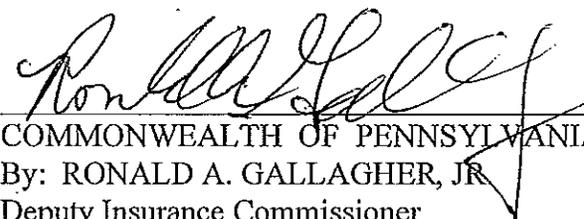
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 a duly authorized delegee 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 delegee.

BY:


TIMOTHY J. HOEPMAN, JR., Respondent


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

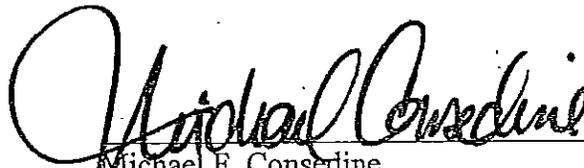
BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA.

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

AND NOW, this 27th day of April, 2011, Ronald A.

Gallagher, 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. Consedine
Insurance Commissioner

