

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
David C. Gulbrandsen	:	40 P.S. §§310.11(1), (13), (20)
6560 St. George Drive	:	
Harrisburg, Pennsylvania 17112	:	
	:	
	:	
Respondent.	:	Docket No.: CO09-04-001
	:	

CONSENT ORDER

AND NOW, this 1st day of April, 2009, 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 David C. Gulbrandsen, residing at 6560 St. George Drive, Harrisburg, Pennsylvania 17112.
- (b) Respondent is, and during all relevant times herein, was a resident licensed producer, with an individual producer license number 297095, since October 06, 1982, which expires on October 06, 2009.
- (c) Respondent is, and during all relevant times herein, was a resident viatical settlement broker, with a viatical settlement broker's license number 521187, since May 12, 2008, which expires on May 12, 2009.
- (d) Respondent failed to pay \$63,837.55 in state tax to the Pennsylvania Department of Revenue for the period from 1991 to 2007.

- (e) Respondent failed to provide information that he owes State income tax to the Pennsylvania Department of Revenue on his 2005 and 2007 insurance producer license renewal applications and on his 2008 viatical settlement broker license application.

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 (“Department”).
- b) 40 P.S. § 310.11(1) prohibits a licensee from providing incorrect, misleading, incomplete or false information to the Department in a license application.
- c) Respondent’s failure to disclose his non-payment of State income tax for the period from 1991 to 2007 to the Pennsylvania Department of Revenue violates 40 P.S. § 310.11(1).

- d) 40 P.S. §310.11(13) prohibits a license from failing to pay State income tax or from failing to comply with any administrative or court order directing the payment of state income tax.
- e) Respondent's failure to pay his state income tax for the period from 1991 to 2007 to the Pennsylvania Department of Revenue, violates 40 P.S. §310.11(13).
- f) 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.
- g) Respondent's acts described in paragraphs 4(c) through 4(e) violate 40 P.S. §310.11(20).
- h) Respondent's violations of 40 P.S. §§310.11 (1), (13) & (20) are punishable under 40 P.S. § 310.91, by the following:
 - (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 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 shall pay a civil penalty of Three Thousand Dollars (\$3,000.00) 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 April Phelps, 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) By no later than April 13, 2009 Respondent shall pay \$30,000 in a lump sum to the Pennsylvania Department of Revenue towards his owed State income tax, and the remainder is to be timely paid under the terms established by the Pennsylvania Department of Revenue, as follows:

- i) Respondent shall pay \$1,800 a month starting May 15th, 2009, for the next 23 months until his debt in the amount of \$63,837.00 is paid in full.
- ii) Upon receipt of the final payment, the Pennsylvania Department of Revenue will issue notification to Respondent of any additional penalty and interest which has accrued. Within 30 days of receipt of said notice, Respondent shall pay this amount to the Department of Revenue in one lump sum.
- iii) By no later than April 15th, 2009, Respondent shall file and pay in full his PA40 ("State Personal Income Tax Return") for 2007, and his PA40 for 2008.
- iv) Respondent shall pay in full, on the due dates, all other taxes due to the Commonwealth.
- v) Respondent shall make all payments by certified money order.
- vi) Failure to meet any of these terms will result in the entire balance immediately being due and payable to the Pennsylvania Department of Revenue.
- vii) All due dates indicated herein represent dates by which the Department of Revenue receives said payments or filings, not the dates on which Respondent mails any such payments or filings. Further, timely payment and filing is a material term of the Consent Order; failure to ensure that the Department of Revenue receives all payments or filings on or before any

applicable due date subjects Respondent to license suspension under paragraph 5(d), supra.

- (d) Respondent's certificates and licenses may be immediately suspended by the Department following its investigation and determination that that (i) any terms of this Order have not been complied with, (ii) any complaint against Respondent is accurate and a statute or regulation has been violated, or (iii) any payment, or filing, due herein is not fully and timely made. 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 as provided in paragraph 5(d) above, 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 license.

(g) In the event Respondent's certificates and 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 certificate and license, Respondent's suspended certificates and 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.

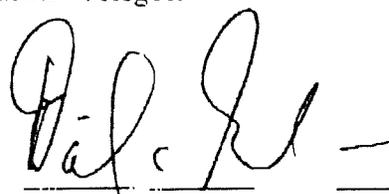
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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 violation of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY:



DAVID C. GULBRANDSEN
Respondent



COMMONWEALTH OF PENNSYLVANIA

By: RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner