

04 SEP 29 AM 10:35

ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
TIMOTHY A. HAZLETT	:	Sections 611-A(4), (5), (7), (17)
97 Red Fox Road	:	and (20) of Act 147 of 2002
Hickory, PA 15340	:	(40 P.S. §§ 310.11)
	:	
Respondent.	:	Docket No. CO04-06-005

CONSENT ORDER

AND NOW, this *29th* day of *September*, 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. 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is Timothy A. Hazlett, and maintains his address at 97 Red Fox Road, Hickory, Pennsylvania 15340.
- (b) At all times relevant herein, Respondent was a licensed resident producer.
- (c) On or about October 30, 2003, Respondent met with Dorothy Knepshield at her home in Apollo, Pennsylvania, and offered her long-term care insurance coverage through Teachers Protective Mutual and AF&L Insurance Company.
- (d) Respondent completed applications for both companies, but Knepshield preferred coverage through Teachers Protective Mutual.

- (e) Respondent indicated on the Teachers Protective Mutual application that Knepshield's age was 84 and her date of birth was February 9, 1918.
- (f) Respondent indicated on the AF&L application that Knepshield was age 89 and her date of birth was February 9, 1913.
- (g) Knepshield's true age on October 30, 2003 was age 90 and her date of birth is February 9, 1913.
- (h) On October 30, 2003, Respondent obtained a check from Knepshield in the amount of \$3,460.00, made payable to Teachers Protective Mutual.
- (i) Respondent, who had check cashing authority from Teachers Protective Mutual, cashed Knepshield's check on or about October 31, 2003.
- (j) Teachers Protective Mutual denies ever receiving Knepshield's premium.
- (k) Teachers Protective Mutual, on or about March 30, 2004, did receive a purported copy of Respondent's check dated November 6, 2003, showing a net remittance amount of \$1,714.00 and a copy of the application.

- (l) Respondent asserts he does not know why the original application and check did not reach Teachers Protective Mutual.
- (m) Respondent placed Knepshield with AF&L Insurance Company and delivered the policy to her on April 1, 2004, thereby making Knepshield whole.
- (n) Respondent provided his copy of the Teachers Protective Mutual application of October 30, 2003 to the Department for review.
- (o) The Department determined the copy of the Teachers Protective Mutual application had been altered to show Knepshield's age as 89 and her date of birth as February 9, 1913.
- (p) Respondent asserts he has no knowledge of how this application was altered.

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) Respondent is 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) Respondent's activities described above in paragraphs 3(c) through 3(p) violates Section 611-A(4) of Act 147 of 2002.
- (d) Section 611-A(5) of Act 147 of 2002 prohibits a licensee from intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance (40 P.S. § 310.11).
- (e) Respondent's activities described above in paragraphs 3(c) through 3(p) violates Section 611-A(5) of Act 147 of 2002.
- (f) Section 611-A(7) of Act 147 of 2002 prohibits a licensee from using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this Commonwealth or elsewhere (40 P.S. § 310.11).

- (g) Respondent's activities described above in paragraphs 3(c) through 3(p) violates Section 611-A(7) of Act 147 of 2002.
- (h) Section 611-A(17) of Act 147 of 2002 prohibits a licensee from committing fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty (40 P.S. § 310.11).
- (i) Respondent's activities described above in paragraphs 3(c) through 3(p) violates Section 611-A(17) of Act 147 of 2002.
- (j) Respondent's violations of Sections 611-A(4), (5), (7), (17) and (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 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 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. Harbert, Administrative Assistant, Bureau of Enforcement, 1311 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) Respondent's 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 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 five (5) years from the date of this Order.

(d) 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.

(e) At the hearing referred to in paragraph 5(d) of this Order, Respondent shall have the burden of demonstrating that he is worthy of a license.

(f) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5(c) 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 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, 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 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:


TIMOTHY A. HAZLETT, Respondent



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania