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INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

2012 MAY 15 AM 10:47

ADMIN HEARINGS OFFICE

IN RE:	:	VIOLATIONS:
	:	
JOSEPH J. JOYCE, JR.	:	40 P.S. §§ 310.11(5) and (20)
133 Laurie Lane	:	
Hughestown, PA 18641	:	
	:	
Respondent.	:	Docket No. CO12-04-007

CONSENT ORDER

AND NOW, this *15<sup>th</sup>* day of *May*, *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.

3. Without admitting the allegations of fact and conclusions of law contained herein, Respondent specifically denies that he violated any law or regulation of the Commonwealth.

#### FINDINGS OF FACT

4. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is Joseph J. Joyce, Jr. and maintains his address at 133 Laurie Lane, Hughestown, PA 18641.
- (b) Respondent is, and at all times relevant hereto has been, a licensed insurance producer.
- (c) During 2010 and 2011, Joseph J. Joyce Associates, Incorporated, entered into agreements with Luzerne County (Pennsylvania) and Can Do, Incorporated, Hazleton, Pennsylvania, whereby Joseph J. Joyce Associates, Incorporated, would procure their liability insurance.
- (d) Respondent was employed as a producer at Joseph J. Joyce Associates, a licensed business entity and one of three entities comprising the "Joyce Insurance Group" of agencies.

- (e) Per the requirements of Luzerne County that Joseph A. Joyce Associates own a \$5 million policy for errors and omissions coverage, Respondent provided certificates of insurance to Luzerne County for 2010 and 2011 that asserted the agency owned the required level of errors and omissions insurance with Darwin Select Insurance Company under policy #03052406.
- (f) Per its relationship as a contractor for Can Do, Respondent provided a certificate of insurance for 2011 to Can Do that asserted Respondent owned \$5 million in errors and omissions insurance with Darwin Select Insurance Company under policy #03052406.
- (g) The three aforementioned certificates of insurance were issued under the electronic signature of Jaimie R. Bracey, a producer employed by Joseph J. Joyce Associates.
- (h) During 2011, the Luzerne County controller requested that Respondent provide a copy of its declaration page for 2011 to verify that the amount of errors and omissions insurance under policy #03052406 was \$5 million.
- (i) Subsequent to the request, Respondent affirmed to the Luzerne County controller that the Joseph J. Joyce Associates was insured under policy

#03052406 for 2010 at \$1 million for each claim and \$2 million aggregate, and for 2011 at \$3 million for each claim and aggregate.

- (j) Upon being advised by Respondent that Joseph J. Joyce Associates was underinsured, Luzerne County filed a complaint with the Pennsylvania Insurance Department.
- (k) Pertinent to the Pennsylvania Insurance Department's investigation, Respondent conducted a search of its policy records and reported that Can Do had been provided an inaccurate certificate of insurance from the Respondent which asserted that Joseph J. Joyce Associates was insured for errors and omissions coverage at \$5 million.
- (l) Jaimie R. Bracey stated during an interview that she was aware of the issuing the certificates of insurance under policy #03052406 at \$5 million and advised Respondent that the certificates did not reflect the correct amount of errors and omissions coverage.
- (m) Jaimie R. Bracey stated, and Respondent confirmed, that Respondent bore the responsibility for the certificates.

## CONCLUSIONS OF LAW

5. 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(5) prohibits a licensee or an applicant from intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
- (c) Respondent's activities described above in paragraphs 4(e) through 4(n) violate 40 P.S. § 310.11(5).
- (d) 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.
- (e) Respondent's activities described above in paragraphs 4(e) and 4(n) violate 40 P.S. § 310.11(20).

- (f) Respondent's violations of Sections 310.11(5) and (20) 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.

ORDER

6. 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 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 6(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 6(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.

7. 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.

8. 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.

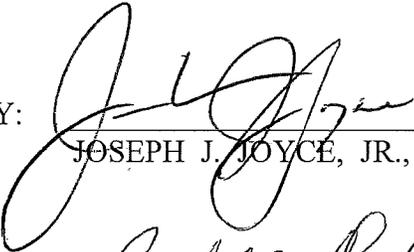
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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

11. 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.

12. 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:   
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JOSEPH J. JOYCE, JR., Respondent

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