

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

2012 JUN 11 PM 12:07

ADMINISTRATIVE OFFICE

IN RE: : VIOLATIONS:
: :
CHRISTOPHER KASPAR : 40 P.S. §§ 310.11(6), (7), (17), (19)
204 Susan Circle : (20) and 1171.5(a)(12)
North Wales, PA 19454-1402 : :
Respondent. : Docket No. CO12-04-011

CONSENT ORDER

AND NOW, this 11th day of June, 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 it 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 Christopher Kaspar and maintains his address at 204 Susan Circle, North Wales, PA 19454-1402.
- (b) At all relevant times herein, Respondent has held a resident producer license number 560236 to conduct the business of insurance in Pennsylvania.
- (c) At all relevant times herein, Respondent was employed at Ashmead Insurance Associates, Inc. located at 2422 North Broad Street, Colmar, PA 18915.
- (d) Between November 2, 2009 and August 27, 2010, Respondent held appointments with Erie Insurance Exchange, Erie Insurance Company, Erie Insurance Company of New York, Erie Property and Casualty Company, Flagship City Insurance Company and Erie Family Life Insurance Company (collectively and hereinafter referred to as "Erie").

- (e) On or about August 11, 2010, Respondent placed at least two (2) separate calls to Erie's Policyholder Services Contact Center and misrepresented himself as an Erie policyholder to collect personal and confidential policyholder account information without the consent or authorization of the affected policyholders.
- (f) On or about August 11, 2010, Respondent used the unauthorized collected policyholder data to compare Erie's premium rates to that of other carriers.
- (g) During the course of his conduct, Respondent also used derogatory and disparaging remarks toward another carrier.
- (h) On August 26, 2010, as a result of his actions, Respondent was terminated for cause by his employer, Ashmead Insurance Associates, Inc.
- (i) In November, 2011, Respondent was no longer employed by his subsequent employer, The Stoll Agency, located at 1600 Horizon Drive, Chalfont, PA 18914.
- (j) Respondent failed to notify the Department of his change of address from The Stoll Agency within thirty (30) days as required.

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(6) prohibits a licensee or an applicant from committing any unfair insurance practice or fraud.
- (c) Respondent's activities described above in paragraphs 3(e), (f), (g) and (j) 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(e), (f), (g) and (j) violate 40 P.S. § 310.11(7).

- (d) 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.
- (e) Respondent's activities described above in paragraphs 3(f) violate 40 P.S. § 310.11(17).
- (f) 40 P.S. § 310.11(19) prohibits a licensee or an applicant from failing to notify the Department of a change of address within 30 days.
- (g) Respondent's activities described above in paragraph 3(j) violate 40 P.S. § 310.11(19).
- (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(e), (f), (g) and (j) violate 40 P.S. § 310.11(20).
- (j) Respondent's violations of Sections 310.11(6), (7), (17), (19) 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.
- (k) 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.
- (l) Respondent's activities described above in paragraphs 3(e) and 3(f) violate 40 P.S. § 1171.5(a)(12).
- (m) 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

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 shall immediately surrender all licenses to conduct the business of insurance within the Commonwealth of Pennsylvania as of the date of this Consent Order.
- (c) If upon licensure in the future, Respondent is appointed by any insurer, Respondent will notify the Insurance Department's Bureau of Licensing and Enforcement of each said appointment within thirty (30) days of the effective date of the appointment.
- (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 five (5) 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 6(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 6(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.

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: Christopher Z. Kaspar
CHRISTOPHER KASPAR, Respondent

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