

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

RECEIVED  
INSURANCE DEPARTMENT

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ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:  
: :  
PA AUTO INSURANCE OUTLET : Sections 611-A(20) and 674-A(b) of  
4901 Frankford Avenue : Act 147 of 2002 (40 P.S. §§ 310.11  
Philadelphia, PA 19124 : and 310.74)  
: :  
WARREN M. KUKISH : :  
205 Birch Drive : :  
Lafayette Hill, PA 19444 : :  
: :  
Respondents. : Docket No. CO08-04-017

CONSENT ORDER

AND NOW, this *28th* day of *August*, 2008, 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. Respondents hereby admit and acknowledge that they have received proper notice of their 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) Respondents are the PA Auto Insurance Outlet, which maintains a business address at 4901 Frankford Avenue, Philadelphia, Pennsylvania 19124, and Warren M. Kukish, who resides at 205 Birch Drive, Lafayette Hill, Pennsylvania 19444.
- (b) At all relevant times herein, Respondents have been properly licensed to conduct the business of insurance as a producer and an agency in Pennsylvania.
- (c) On February 24, 2007, Respondents charged two Pennsylvania insurance applicants an undisclosed fee for the placement of automobile insurance, as prohibited by law.

- (d) On March 10, 2008, Respondents admitted to the Department that they charged at least two insureds the above undisclosed fees, and both insureds have had their fees refunded.

#### 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) Respondents are subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Section 611-A(20) of Act 147 of 2002 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 (40 P.S. § 310.11).
- (c) Respondents' activities described above in paragraphs 3(c) and 3(d) violate Section 611-A(20) of Act 147 of 2002.
- (d) Section 674-A(b) of Act 147 of 2002 prohibits an insurance producer from charging a fee for the completion of an application for a contract of insurance (40 P.S. § 310.74).

(e) Respondents' activities described above in paragraphs 3(c) and 3(d) violate Section 674-A(b) of Act 147 of 2002.

(f) Respondents' violations of Sections 611-A(20) and 674-A(b) 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 Insurance Department orders and Respondents consent to the following:

- (a) Respondents shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

- (b) Respondents 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 Ginny Baker, Administrative Assistant, Insurance Department, Bureau of Licensing and Investigations, 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) Respondents' certificates and 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.
- (d) Respondents specifically waive the 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 Respondents' written request.

- (e) At the hearing referred to in paragraph 5(d) of this Order, Respondents shall have the burden of demonstrating that they are worthy of a license.
- (f) In the event Respondents' certificates and licenses are suspended pursuant to paragraph 5(c) above, and Respondents either fail to request a hearing within thirty (30) days or at the hearing fail to demonstrate that they are worthy of a license, Respondents' 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, Respondents 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. Respondents hereby expressly waive 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: Warren M. Kukish  
WARREN M. KUKISH, individually  
and on behalf of  
PA AUTO INSURANCE OUTLET,  
Respondents

Ronald A. Gallagher  
COMMONWEALTH OF PENNSYLVANIA  
By: RONALD A. GALLAGHER

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 22<sup>nd</sup> day of July, 2008, 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.

  
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Joel S. Ario  
Insurance Commissioner

