

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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IN RE:	:	VIOLATIONS:
	:	
THERESA L. KARCHER	:	Sections 611-A(20), 641.1A and
2942 Tyson Avenue	:	695-A of Act 147 of 2002 (40 P.S.
Philadelphia, PA 19149	:	§§ 310.11, 310.41a and 310.95)
	:	
Respondent.	:	Docket No. CO04-10-012

CONSENT ORDER

AND NOW, this *7th* day of *December*, 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 she has received proper notice of her 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 Theresa L. Karcher, and maintains her address at 2942 Tyson Avenue, Philadelphia, Pennsylvania 19149.
- (b) At all relevant times herein, Respondent has been a resident producer with license # 317846.
- (c) Respondent's brother, Thomas Hurd, trading as the Hurd Insurance Agency, T.I.C. Brokerage, Inc. (unlicensed), and Livery Assurance Corporation of America (unlicensed), had his insurance licenses revoked on July 21, 2003.

- (d) On June 30, 2003, Respondent traded as T.I.C. Brokerage, Inc. and produced an Acord Certificate of Insurance for UDS Delivery Systems, Inc. of Philadelphia, PA, certificate holder Ryder Truck Rental, Inc. and Ryder Truck Rental LT & Affiliates of Alpharetta, Georgia.
- (e) At all relevant times herein, T.I.C. Brokerage, Inc. was not licensed as an agency to conduct the business of insurance in Pennsylvania.
- (f) On April 20, 2004, Respondent sent a Livery Assurance Corporation of America invoice #1547, for automobile coverage effective January 20, 2004.
- (g) At all relevant times herein, Livery Assurance Corporation of America was not licensed as an agency to conduct the business of insurance in Pennsylvania.

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(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) Respondent's activities described above in paragraphs 3(c) through 3(g) violates Section 611-A(20) of Act 147 of 2002.
- (d) Section 641.1-A of Act 147 of 2002 prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license (40 P.S. § 310.41a).
- (e) Respondent's activities described above in paragraphs 3(e) through 3(g) demonstrate transacting the business of insurance through an individual who does not possess an insurance producer license, and violates Section 641.1-A of Act 147 of 2002 (40 P.S. § 310.41a).
- (f) Respondent's violations of Sections 611-A(20) and 641.1-A 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 every violation of the Act;
 - (iii) an order to cease and desist; and
 - (iv) any other conditions as the Commissioner deems appropriate.
- (g) Section 695-A of Act 147 of 2002 holds an insurance agent personally liable on all contracts of insurance made through any company not authorized to do business in this Commonwealth (40 P.S. § 310.95).
- (h) Respondent's activities described above in paragraphs 3(c) through 3(g) constitute transacting insurance business within this Commonwealth through a company not authorized to do business and violate Section 695-A of Act 147 of 2002.
- (i) Respondent's violation of Section 695-A of Act 147 of 2002 makes the insurance agent personally liable for all contracts issued through the unauthorized company.

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 Two Thousand Dollars (\$2,000.00) 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, 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) 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 her 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 she 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 she 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.

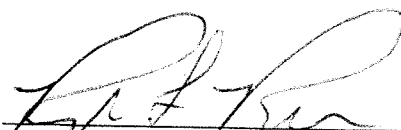
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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: 
THERESA L. KARCHER, Respondent

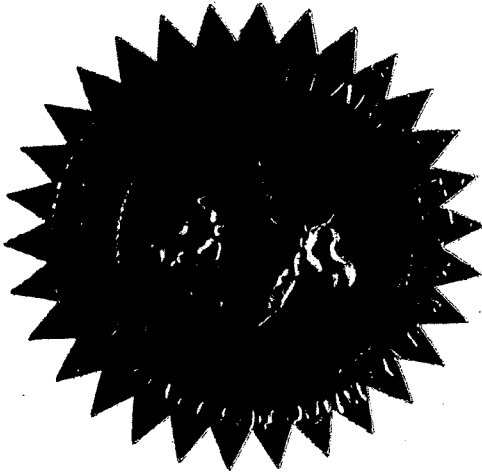

RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

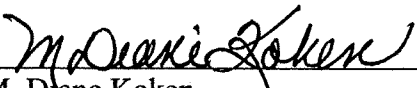
BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The
Administrative Code of 1929

AND NOW, this 29 day of April, 2002, Randolph L.

Rohrbaugh, 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.





M. Diane Koken
Insurance Commissioner