

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

2007 OCT -4 AM 8:23
ADMIN HEARINGS OFFICE

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| IN RE: | : | VIOLATIONS: |
| | : | |
| JOHN D. KHAWAM | : | Sections 611-A(20) and 641.1-A(a) |
| 38 Betts Drive | : | of Act 147 of 2002 (40 P.S. |
| Washington Crossing, PA 18977 | : | §§ 310.11 and 310.41) |
| | : | |
| | : | |
| Respondent. | : | Docket No. CO07-08-008 |

CONSENT ORDER

AND NOW, this 4th day of October, 2007, 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.

FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following

Findings of Fact:

- (a) Respondent is John D. Khawam, and maintains his residence at 38 Betts Drive, Washington Crossing, Pennsylvania 18977, and business addresses at Liberty Business Center, 7106 Torresdale Avenue, Philadelphia, Pennsylvania 19135 and Aruba Check Cashing, 2201 No. 5th Street, 2nd Floor, Philadelphia, Pennsylvania 19122.

- (b) At all relevant times herein, Respondent has been a licensed insurance producer in Pennsylvania.

- (c) On February 22, 2007, members of the Pennsylvania State Police and Immigration and Customs Enforcement agents executed a Federal Search and Seizure Warrant on German Quiles, trading as Aruba Check Cashing, at the location where Respondent has a business office.

- (d) During the above-referenced search, Pennsylvania State Troopers located numerous insurance applications, insurance identification cards and a payment book, on the second floor of Aruba Check Cashing.

- (e) On February 22, 2007, the Pennsylvania State Police conducted an interview with an employee of Aruba Check Cashing, Yanice Rodriguez-Diaz, who stated that she conducted insurance by quoting premium, preparing applications, issuing PA Financial Responsibility Cards and collecting premium on behalf of Respondent.
- (f) During the above interview, Mrs. Rodriguez-Diaz also asserted that every Monday, Respondent arrived at Aruba Check Cashing and signed all the insurance applications or policies and collected the monies.
- (g) On June 13, 2007, Respondent admitted that on at least five occasions, he permitted Yanice Rodriguez-Diaz to conduct the business of insurance on his behalf and was aware she was not licensed to do so.

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) 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) Respondent's violations of Section 611-A(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.
- (e) Section 641.1-A of Act 147 of 2002 prohibits any entity or licensee from accepting applications or orders for insurance from any person or securing any insurance business that was sold, solicited or negotiated by any person acting without an insurance producer license, and shall be subject to civil penalty of no more than \$5,000 per violation.(40 P.S. § 310.41a).

- (f) Respondent's activities described above in paragraphs 3(e) through 3(g) constitute 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).

ORDER

5. 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 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. Fraser, Office Manager, 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) 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 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 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, 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 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:



JOHN D. KHAWAM, Respondent



COMMONWEALTH OF PENNSYLVANIA
By: Randolph L. Rohrbaugh
Deputy Insurance Commissioner