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BEFORE THE INSURANCE COMMISSIONER ~~ADMIN~~ HEARINGS OFFICE
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
WILLIAM A. LAVERY	:	Sections 611-A(5) and (20)
249 Crestview Road	:	of Act 147 of 2002 (40 P.S.
Hatboro, PA 19040	:	§§ 310.11)
	:	
	:	
Respondent.	:	Docket No. CO07-01-009

CONSENT ORDER

AND NOW, this 5th day of March, 2007, 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 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is William A. Lavery, and maintains his address at 249 Crestview Road, Hatboro, Pennsylvania 19040.
- (b) Respondent has been a licensed producer in Pennsylvania since July 26, 2000, and his license expires on July 26, 2008.
- (c) In June, 2003, Respondent received a telephone call from his client Joseph Muredda, who was requesting boatowners insurance. At that time, Respondent took the basic information from Mr. Muredda and advised him that he had insurance coverage on his boat.

- (d) After giving verbal confirmation to Mr. Muredda that he had boat insurance, Respondent never collected any premium and failed to file an application for the insurance.
- (e) In May, 2004, Respondent became aware that Mr. Muredda's boat had sunk and sustained engine damage.
- (f) On or about May 21, 2004, Respondent submitted a boatowner's insurance application to State Farm for Joseph Muredda, without indicating on the application the prior damage to the boat, and policy number 78-NU-0066-2 was issued.
- (g) In September, 2004, Respondent submitted a State Farm Service Record Claim # 38-P732-898 for Joseph Muredda. The claim indicated that Mr. Muredda's boat had sunk on September 28, 2004.
- (h) State Farm paid Mr. Muredda's claim in the amount of \$6,825.00, conducted an investigation of the claim and determined that Respondent made misrepresentations on the application and claim.
- (i) On or about October 20, 2006, Respondent acknowledged that he made misrepresentations on the boatowner's insurance application and claim for Joseph Muredda, and has made full restitution to State Farm.

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(5) of Act 147 of 2002 prohibits a licensee from intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance (40 P.S. § 310.11).
- (c) Respondent's activities described above in paragraphs 3(c) through 3(i) violates Section 611-A(5) of Act 147 of 2002.
- (d) 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).
- (e) Respondent's activities described above in paragraphs 3(c) through 3(i) violates Section 611-A(20) of Act 147 of 2002.

(f) Respondent's violations of Sections 611-A(5) and 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.

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'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.

- (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 5(c) of this Order, Respondent shall have the burden of demonstrating that he is worthy of a license.
- (e) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5(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 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.

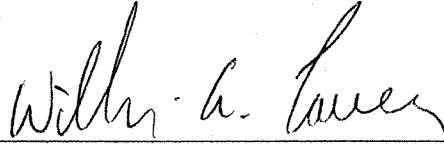
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

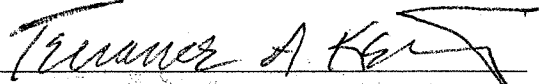
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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:


WILLIAM A. LAVERY, Respondent


COMMONWEALTH OF PENNSYLVANIA
By: Terrance A. Keating
Deputy Chief Counsel