

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

INSURANCE DEPARTMENT
2010 FEB 25 AM 11:36
ADMINISTRATIVE OFFICE

IN RE: : VIOLATIONS:
: :
RONALD E. MADAJESKI : 40 P.S. §§ 310.(5), (7) and (20)
542 Boulevard Avenue :
Dickson City, PA 18519 :
: :
and : :
: :
RMI GROUP, INCORPORATED :
381 North 9th Street :
Scranton, PA 18504 :
: :
Respondents : Docket No. CO10-01-016

CONSENT ORDER

AND NOW, this *25th* day of *February*, 2010, 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. Respondents hereby waive all rights to a formal administrative hearing in this matter, and agree 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 Ronald E. Madajeski, who maintains his address at 542 Boulevard Avenue, Dickson City, PA 18519, and RMI Group, Inc., which maintains its address at 381 North 9th Street, Scranton, PA 18504.
- (b) Respondents are, and at all times relevant hereto have been, licensed insurance producers.
- (c) Respondent Madajeski owned Respondent RMI Group and was its designated licensee at all times relevant herein.
- (d) On August 20, 2008, a client paid \$4,761 in cash to Respondents for auto and general liability insurance with Knightbrook Insurance Company and Respondent provided a receipt for the payment.

- (e) On August 21, 2008, the client issued a check for \$1,950 to Respondent Madajeski for workers compensation insurance with the Pennsylvania State Workers Insurance Fund (SWIF).
- (f) During February, 2009, as he prepared the renewal of his vehicle registration, the client realized he had not received insurance policies from the Respondents and he contacted Knightbrook Insurance Company for a policy number. At that time the client learned that no policy existed.
- (g) Knightbrook Insurance Company and Respondents immediately worked with the client which resulted in the procurement of auto and general liability policies for the client, effective February 6, 2009.
- (h) Respondent Madajeski signed the name of the client onto the uninsured/under-insured forms for the auto policy, and submitted them to Knightbrook Insurance Company in order to generate the insurance policy.
- (i) Respondent Madajeski submitted an application to SWIF during February, 2009 for the client, which was denied due to the client using a different Federal employer identification number during the preceding year, and for the client not paying premiums for his preceding policy (which was procured through a different producer).

- (j) On January 13, 2009, Respondent Madajeski was interviewed and acknowledged that he received, during August, 2008, the aforementioned premiums from the client for auto, general liability and workers compensation insurance.

- (k) Respondent Madajeski acknowledged that he signed the client's name to the uninsured/under-insured forms, claiming it was to facilitate the quick generation of Knightbrook Insurance Company's insurance policy.

- (l) Respondent Madajeski provided a premium summary (with enclosures) that verified \$4,761 was received from the client for the insurance with Knightbrook Insurance Company during August, 2008, thereafter remitting the exact premium amount to the insurer in February, 2009 and refunding the difference to the client.

- (m) Respondent Madajeski's premium summary acknowledged that \$1,950 was received from the client for workers compensation insurance and that the Respondents still had the money, which, according to Respondent Madajeski, was being retained as a credit for renewals on the client's auto and general liability insurance.

- (n) On January 14, 2009, Respondent Madajeski was advised that the client had requested a refund and Respondent Madajeski then provided verification that the funds were forwarded to the client.

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) 40 P.S. § 310.11(5) prohibits a licensee or an applicant from intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
- (c) Respondents' activities described above in paragraphs 3(f) through 3(m) violate 40 P.S. § 310.11(5).
- (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) Respondents' activities described above in paragraphs 3(f) through 3(m) violates 40 P.S. § 310.11(7).
- (f) 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.
- (g) Respondents' activities described above in paragraphs 3(f) through 3(m) violate 40 P.S. § 310.11(20).
- (h) Respondents' violations of Sections 310.11(5), (7) and (20) are punishable by the following, under 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.

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) 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 April Phelps, Bureau Secretary, Bureau of Licensing and 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) 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 Respondents 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) Respondents specifically waives 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 Respondents 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.

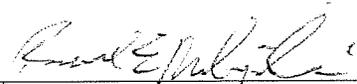
8. In any such enforcement proceeding, Respondents may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

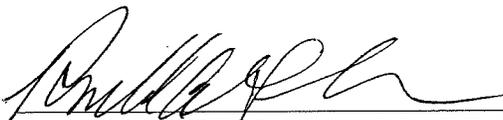
9. Respondents hereby expressly waive any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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: 
RONALD E. MADAJESKI, individually and
on behalf of RMI GROUP, INC., Respondents


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