

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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INSURANCE DEPARTMENT
2008 DEC -8 AM 11:22
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
JOSEPH ALBERT MAURER III : Sections 611-A(8), (20) and 696-A of
81 Flint Ridge Drive : Act 147 of 2002 (40 P.S. §§ 310.11(8),
Reading, Pennsylvania 19607 : (20) and 310.96)
: :
AND : :
: :
COMMONWEALTH PROFESSIONAL :
GROUP, INC. :
133 North 23rd Street :
Mount Penn, Pennsylvania 19606 :
: :
Respondents. : Docket No. CO08-07-010

CONSENT ORDER

AND NOW, this *8th* day of *December*, 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 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. 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 Joseph Albert Maurer III, and maintains his address at 81 Flint Ridge Drive, Reading, PA 19607 and Commonwealth Professional Group, Inc., and maintains its address at 133 North 23rd Street, Mount Penn, PA 19606.
- (b) Respondents are and at all relevant times hereto, have been licensed insurance producers.
- (c) Respondents collected approximately \$407,065.85 in premiums from 10 policyholders for terrorism insurance coverage with Lloyd's London but failed to remit it to the insurer upon receipt.

- (d) Respondents collected the premiums from the policyholders at various times between December 14, 2005, and September 22, 2006, but did not remit it to Lloyd's London from between 40 and 322 days, with an average of 186 days.
- (e) The insurance, issued for coverage from acts of terrorism, was issued to the policyholders by Lloyd's London.
- (f) The complainant and retail broker for the policyholders, agency McAuley, Woods & Associates, West Palm Beach, Florida, provided evidence showing the Lloyd's London intended to cancel the insurance of the policyholders unless the premiums were received from Respondents.
- (g) Respondents stated that premiums were withheld pending approval of policy language with Lloyd's London that removed the burden of proof for acts of terrorism from the policyholder and made it incumbent upon the underwriter to disprove acts of terrorism when claims were submitted.
- (h) McAuley, Woods & Associates and Respondents affirmed that premiums ultimately were ultimately remitted and coverage was in force.
- (i) Pursuant to an agreement entered into between the Respondent, Commonwealth Professional Group and the Commonwealth of Virginia, Respondent voluntarily

surrendered its insurance license and ceased conduct of any insurance related business in Virginia.

- (j) During 2003, Respondents collected but failed to remit premiums received from the Virginia School Board Association for liability insurance with SCOR Reinsurance Company, which was subsequently investigated by the Virginia Department of Insurance.
- (k) The investigation undertaken by the Virginia Department of Insurance against Respondent was conducted under Case Number INS-2007-00203.
- (l) On September 26, 2007, the Virginia State Corporation Commission acknowledged that Respondent Maurer had voluntarily surrendered his insurance licenses and it issued an order that enjoined Respondent Commonwealth Professional Group from transacting the business of insurance for five years from the date of the order.
- (m) The Virginia Department of Insurance stated that a judgment against Respondent for the premiums was entered at \$67,165.90, not including interest.

- (n) Respondent affirmed that they were making restitution under Case Number INS-2007-00203 to Hanchels-Citizens, with due diligence and in good faith, pursuant to an agreed upon schedule.

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(8) of Act 147 of 2002 (40 P.S. § 310.11) prohibits a licensee from having a producer license or other financial services license denied, suspended or revoked by a governmental entity.
- (c) Respondents' activities described above in paragraphs 3(c) through 3(h) violate Section 611-A(8) of Act 147 of 2002.
- (d) Section 611-A(20) of Act 147 of 2002 (40 P.S. § 310.11) 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.

- (e) Respondent's activities described above in paragraphs 3(c) through 3(h) violate Section 611-A(20) of Act 147 of 2002.

- (f) Section 696-A of Act 147 of 2002 requires every insurance producer to be responsible in a fiduciary capacity for all funds received or collected as an insurance agent or broker (40 P.S. § 310.96).

- (g) Respondents' activities described above in paragraphs 3(c) through 3(h) constitute a violation of acting in a responsible fiduciary capacity when handling funds received or collected as a producer and violates Section 696-A of Act 147 of 2002.

- (h) Respondents' violations of Sections 611-A(8), (20) and 696-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 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) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

- (b) Respondents shall make restitution to Virginia School Board Association in accordance with the schedule agreed upon in the settlement. Respondents shall make restitution to persons other than Virginia School Board Association if the Deputy Commissioner identifies such persons and determines that restitution is owed to them by Respondents. Proof of restitution payment shall be provided to the Insurance Department by Respondents.

- (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, or (ii) any other 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) Respondents specifically waives their 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 Respondent's 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 fails 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.

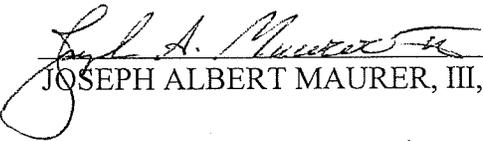
8. In any such enforcement proceeding, Respondents may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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: 
JOSEPH ALBERT MAURER, III, Respondent


COMMONWEALTH OF PENNSYLVANIA
By: RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner