

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

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INSURANCE DEPARTMENT

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ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:  
: :  
KATHLEEN MCCULLOUGH : 40 P.S. §§ 310.11 (20) and 310.78(b)  
3121 Annandale Drive : :  
Presto, PA 15142 : :  
Respondent. : Docket No. CO11-04-008

CONSENT ORDER

AND NOW, this *28th* day of *June*, *2011*, 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 she 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.

3. Without admitting the allegations of fact and conclusions of law contained herein, Respondent specifically denies that she violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

4. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is Kathleen McCullough and maintains her address at 3121 Annandale Drive, Presto, PA 15142.
- (b) Respondent was a Pennsylvania resident producer. Her license No. 519555 is inactive, it having expired October 31, 2010. Respondent first became licensed April 18, 2008.
- (c) Respondent, on or about May 2, 2008 was arrested by the Allegheny County District Attorney's Office (OTN:G4302550) under Criminal Docket No. CP-02-CR-0007911-2008. The charges were Theft By Deception, Title 18, 3922 A3 (F-3), Unlawful Use of Computer, Title 18, 7611 A1 (F-3), and Computer Trespass, Title 18, 7615 A1 (F-3).

- (d) Respondent, on or about February 19, 2009 was arrested by the Allegheny County District Attorney's Office (OTN:G4574161) under Criminal Docket No. CP-02-CR-0010526. The charge was Theft By Deception, Title 18, 3922 A1, (F-3).
- (e) Respondent, on or about June 1, 2010 was found guilty in the Allegheny County Court of Common Pleas of the charges Theft By Deception, Title 18, 3922 A3 (F-3), Unlawful Use of Computer, Title 18, 7611 A1 (F-3), Computer Trespass, Title 18, 7615 A1 (F-3), and Theft By Deception, Title 18, 3922 A1 (F-3)
- (f) Respondent on or about August 27, 2010 in the Allegheny County Court of Common Pleas before Judge Jill E. Rangos was sentenced to 2-4 years confinement and 10 years probation.
- (g) Respondent within 30 days of being charged with criminal conduct failed to report the charges to the department as required by law.
- (h) Respondent on or about June 7, 2011 indicated to the Pennsylvania Insurance Department that her legal counsel was to provide her criminal conduct information to the Pennsylvania Insurance Department, but failed to do so.
- (i) Respondent has indicated that she wants to amicably resolve this matter.

CONCLUSIONS OF LAW

5. 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) 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.
- (c) Respondent's activities described above in paragraphs 4(c) through 4(g) violate 40 P.S. § 310.11(20).
- (d) 40 P.S. § 310.78(b) requires that within 30 days of being charged with criminal conduct, a licensee shall report the charges to the Department. The licensee shall provide the Department with a copy of the criminal complaint, information or indictment, a copy of the order resulting from any pretrial hearing, and a report of the final disposition of the charges.
- (e) Respondent's activities described above in paragraph 4(g) violate 40 P.S. § 310.78(b).

(f) Respondent's violations of Sections 310.11(20) and 310.78(b) are punishable by the following, under 40 P.S. § 310.91:

- (i) suspension, revocation or refusal to issue the 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

6. 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) All licenses of Respondent to do the business of insurance are hereby revoked.

- (c) If Respondent should ever become licensed in the future, her 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 issuance of such licenses.
- (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 6(d) of this Order, Respondent shall have the burden of demonstrating that she is worthy of an insurance license.
- (f) In the event Respondent's licenses are suspended pursuant to paragraph 6(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 licenses shall be revoked.

7. 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.

8. 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.

9. 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.

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

11. 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.

12. 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:   
KATHLEEN MCCULLOUGH, Respondent

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

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 27<sup>th</sup> day of April, 2011, Ronald A.

Gallagher, 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.

  
Michael F. Consedine  
Insurance Commissioner

