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INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

2009 MAR -5 AM 11:49

ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:  
: :  
NEW HAMPSHIRE INSURANCE : 40 Purdons Statutes, Section  
COMPANY : 1171.5(a)(9)  
175 Water Street, 18<sup>th</sup> Floor :  
New York, NY 10038 :  
: :  
Respondent. : Docket No. CO08-12-006

CONSENT ORDER

AND NOW, this *5<sup>th</sup>* day of *March*, 2009, 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 it has received proper notice of its 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

by the Department that directed Respondent to reinstate the homeowners insurance policies.

- (f) The Department learned in September, 2007 from policyholders that Respondent had failed to reinstate the insurance policies.
- (g) The Department affirmed that 10 Pennsylvania policyholders received notices stating their homeowners insurance was being cancelled because Respondent was terminating the program in Pennsylvania.
- (h) Respondent affirmed on December 17, 2007 that the cancellation of the homeowners insurance policies was not compliant with Pennsylvania insurance laws.

#### 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 5(a)(9) of Act 205 (40 P.S. §1171.5), which defines an unfair act or practice as: (9) cancelling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for 60 days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due whether such premium is payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit; or for any other reasons approved by the Commissioner pursuant to rules and regulations promulgated by the Commissioner. No cancellation or refusal to renew by any person shall be effective unless a written notice of the cancellation or refusal to renew is received by the insured whether at the address shown in the policy or at a forwarding address.

(c) Respondent's activities described above in paragraphs 3(c) through 3(h) constitute an unfair insurance act or practice, in violation of 40 Purdon's Statutes, Section 1171.5(a)(9).

(d) Respondent's violations of 40 Purdons Statutes, Section 1171.5(a)(9), are punishable by the following, under 40 Purdons Statutes, Section 1171.9:

- (i) cease and desist from engaging in the prohibited activity;
- (ii) suspension or revocation of the license(s) of Respondent.

(e) In addition to any penalties imposed by the Commissioner for Respondent's violations of 40 Purdons Statutes, Sections 1171.1 to 1171.5, the Commissioner may, under 40 Purdons Statutes, Sections 1171.10 and 1171.11, file an action in which the Commonwealth Court may impose the following civil penalties:

- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
- (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

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 Fifteen Thousand Dollars (\$15,000.00) to the Commonwealth of Pennsylvania. This penalty shall be made payable to the Commonwealth of Pennsylvania, and directed to Sharon L. Fraser, Office Manager, 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.

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: NEW HAMPSHIRE INSURANCE COMPANY,  
Respondent



\_\_\_\_\_  
President / Vice President

\_\_\_\_\_  
Secretary / Treasurer



\_\_\_\_\_  
COMMONWEALTH OF PENNSYLVANIA

By: RONALD A. GALLAGHER, JR.

Deputy Insurance Commissioner