

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:
: :
Michele Paquin : Motor Vehicle Physical Damage
500 E. Glenolden Avenue : Act (63 P.S. §851 et seq.)
Glenolden, Pennsylvania 19036 :
: Respondent. : Docket No. CO08-06-006

CONSENT ORDER

AND NOW, this 8TH day of September, 2008, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania ("Department") 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 her 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. Respondent neither admits nor denies the Findings of Fact or Conclusions of Law contained herein.

FINDINGS OF FACT

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

- (a) Respondent is Michele N. Paquin, who resides at 500 E. Glenolden Avenue, Glenolden, Pennsylvania 19036 .
- (b) At all times relevant to this matter Respondent was a licensed Motor Vehicle Physical Damage Appraiser in the Commonwealth of Pennsylvania.
- (c) On or about February 24, 2006, Respondent was employed by Progressive Insurance and in that capacity conducted a motor vehicle appraisal on a 2004 Mazda belonging to an individual named Lance Stubinski.

- (d) Upon completing her appraisal, Respondent failed to provide a copy of same to the repair shop, as required pursuant to the statutes cited below.
- (e) Respondent asserts that because in her judgment the vehicle was a total loss, Progressive's procedures required that her appraisal be reviewed by her superiors.
- (f) Respondent's appraisal was subsequently reviewed by her superiors at Progressive Insurance, who determined that the vehicle was repairable and thereafter revised the appraisal to reflect repairs estimated in the amount of \$9,610.61.

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) An appraiser is required to leave a legible copy of an appraisal with the repair shop selected by the vehicle owner, and furnish a copy to the

owner pursuant to the Motor Vehicle Physical Damage Appraiser Act, specifically 63 P.S. §861(b).

(c) Respondent's activities described above in paragraphs 4(c) through 4(f) violate 63 P.S. §861(b).

(d) Respondent's violations of the Motor Vehicle Physical Damage Appraiser Act are punishable by the denial, suspension, revocation or refusal to renew her appraiser's license (63 P.S. §856).

ORDER

6. 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 immediately cease and desist from violating the~~
Motor Vehicle Physical Damage Appraiser laws of the Commonwealth of Pennsylvania, including those described herein.

(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 three (3) years from the date of this Order.

- (c) 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.
- (d) At the hearing referred to in paragraph 6(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 6(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.

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: Michele N Paquin
MICHELE N. PAQUIN, Respondent

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