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INSURANCE DEPARTMENT
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ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
LARRY O. POWELL 1621 West Erie Avenue Philadelphia, PA 19140	: : :	Sections 611-A(20), 641.1-A and 674-A(b) of Act 147 of 2002 (40 P.S. §§ 310.11, 310.41 and 310.74)
	:	
	:	
Respondent.	:	Docket No. CO07-08-027

CONSENT ORDER

AND NOW, this 11th day of October, 2007, 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 he 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.

FINDINGS OF FACT

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

(a) Respondent is Larry O. Powell, and maintains his address at 1621 West Erie Avenue, Philadelphia, Pennsylvania 19140.

(b) Respondent trades as Powell Insurance Agency, which maintains a business address at 7215 Rising Sun Avenue, Philadelphia, Pennsylvania 19140.

(c) At all relevant times herein, Respondent has been a licensed insurance producer in Pennsylvania, license number 277133, which expires on June 10, 2009.

(d) On or about March 21, 2006, Respondent was contacted by Daniel B. Neil, President and Manager of North Central Auto Repair, Inc / D&W Auto Repairs, Philadelphia, Pennsylvania, who indicated that he had a referral for automobile insurance coverage for customer Diane Harris-McCullough.

(e) On that date, Respondent spoke with Mr. Neal and Ms. McCullough on the phone and made arrangements to meet at North Central Auto Repair to complete the paperwork for insurance coverage for Ms. McCullough.

(f) On that date, Respondent arrived at North Central Auto Repair and after waiting for a period of time for Ms. McCullough to arrive, decided to leave the insurance paperwork with Mr. Neal, an unlicensed individual, and indicated that he would return shortly.

(g) Respondent was going to place Ms. McCullough's liability coverage through the Pennsylvania Assigned Risk Plan, and the comprehensive and collision through Mid-Continent Insurance Company, with the premium financed through Arizona Premium Finance Company.

(h) After Respondent's departure, Ms. McCullough arrived and Mr. Neal quoted the premium and had Ms. McCullough sign the insurance application and premium finance agreement.

(i) Mr. Neal then collected $596.00 from Ms. McCullough, however only $429.00 was attributed to the downpayments for insurance coverage: Travelers received $144.00, Mid-Continent received $285.00, Mr. Neal retained $118.00 for PennDOT paperwork, and Respondent collected an undisclosed Agency Commission of $50.00.

(j) Respondent admitted to collecting the undisclosed fee of $50.00 and has returned the fee to the insured.

(k) The insured has been made whole by all parties involved in the transaction.

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 611-A(20) of Act 147 of 2002 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 (40 P.S. § 310.11).

(c) Section 641.1-A of Act 147 of 2002 states any licensee accepting applications or orders for insurance from any person or securing any insurance business that was sold, solicited or negotiated by any person acting without an insurance producer license shall be subject to civil penalty of no more than $5,000 per violation in accordance with this act (40 P.S. § 310.41(a)).

(d) Section 674-A(b) prohibits charging a fee for the completion of an application for a contract of insurance (40 P.S. § 310.74(b)).

(e) Respondent's activities described above in paragraphs 3(f) through 3(j) violate Sections 611-A(20), 641.1-A and 674-A(b) of Act 147 of 2002.

(f) Respondent's violations of Sections 611-A(20), 641.1-A and 674-A(b) 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 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 One Thousand Dollars ($1,000.00) 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 Sharon L. Fraser, Office Manager, Bureau of 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) 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 two (2) years from the date of this Order.

(d) Respondent specifically waives his 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 5(d) of this Order, Respondent shall have the burden of demonstrating that he is worthy of a license.

(f) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5(c) 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.

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: _____
LARRY O. POWELL, Respondent

_____
COMMONWEALTH OF PENNSYLVANIA
By: Randolph L. Rohrbaugh
Deputy Insurance Commissioner