RECEIVED
INSURANCE DEPARTMENT
2007 NOV 13 AM 11:41
ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
RAUL RUIZ 319 North Bryan Street Allentown, PA 18102	:	Sections 611-A(5) and (20) of Act 147 of 2002 (40 P.S. §§310.11)
	:	
Respondent.	:	Docket No. CO07-08-009

CONSENT ORDER

AND NOW, this 13th day of November, 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 Raul Ruiz, and maintains his residence address at 319 North Bryan Street, Allentown, Pennsylvania 18102, and business addresses at Raul's Notary Services and Ruiz Tag Services at 121 North 3rd Street, Allentown, Pennsylvania 18101.

(b) At all relevant times herein, Respondent has been a licensed insurance producer in Pennsylvania.

(c) On October 4, 2006, Respondent addressed a letter bearing his signature to the Pennsylvania Department of Transportation (hereinafter, PennDOT) reflecting that Richard M. Mas of Allentown, Pennsylvania, had continuous insurance coverage since December 15, 2004 with Nationwide Mutual Fire Insurance Company under policy 58D692144 on a 1997 Pontiac.

(d) Respondent's letter reflects that Richard M. Mas had coverage equal to or greater than those required under the current Financial Responsibility Law.

(e) On October 5, 2007, Respondent received a fax from PennDOT reflecting that Nationwide had no record of insuring Richard M. Mas's 1997 Pontiac.

(f) On October 5, 1997, in response to the PennDOT inquiry, Ruiz Tag Services sent PennDOT a fax with a copy of a Nationwide binder signed by Brenda Mas and information showing that Richard M. Mas's 1997 Pontiac had insurance effective March 2, 2006.

(g) Brenda Mas is Respondent's Office Manager, licensed producer 311340 which license expires on December 19, 2007. She is also the sister of Richard M. Mas.

(h) On November 21, 2006, Nationwide Insurance Company confirmed that Richard Mas' policy was no longer in effect. It was issued on March 2, 2006 and canceled on June 24, 2006 for nonpayment.

(i) Respondent and Brenda Mas assert that the letter sent to PennDOT regarding Mas' coverage was due to a clerical error.

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(5) of Act 147 of 2002 prohibits a licensee from intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance (40 P.S. § 310.11).

(c) Respondent's activities described above in paragraphs 3(c) through 3(i) violates Section 611-A(5) of Act 147 of 2002.

(d) 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).

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

(f) Respondent's violations of Sections 611-A(5) and (20) 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 Five Thousand Dollars ($5,000.00) 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 sixty (60) 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 three (3) 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.

(e) 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: _____
RAUL RUIZ, Respondent

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