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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:
SELECTIVE WAY INSURANCE COMPANY 40 Wantage Avenue Branchville, NJ 07890	:	Sections 4, 5, 9 and 11 of the Act of July 22, 1974, P.L. 589, No. 205 (Unfair Insurance Practices Act) (40 P.S. §§1171.5, 1171.9, 1171.11)
Respondent.	:	Docket No. MC05-11-010

CONSENT ORDER

AND NOW, this 1st day of December, 2005, this Order is hereby issued by the Deputy Insurance Commissioner 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 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

Parties and Background

(a) Respondent is Selective Way Insurance Company and maintains its address at 40 Wantage Avenue, Branchville, New Jersey 07890.

(b) Respondent holds a valid certificate of authority to act as a property/casualty insurer in the Commonwealth of Pennsylvania.

(c) Respondent is engaged in the business of selling homeowners insurance in the Commonwealth of Pennsylvania.

(d) On October 22, 2004, the Pennsylvania Insurance Department (the "Department") requested copies of Respondent's Personal Lines Homeowners underwriting guidelines, bulletins, directives, or other forms of underwriting procedures guidelines, bulletins, directives, or other forms of underwriting procedures ("Underwriting Guidelines") used in Pennsylvania, covering the period of January 1, 2004 through June 30, 2004.

(e) Respondent responded to the Department's request, enclosing the requested information.

(f) Respondent's Pennsylvania Underwriting Guidelines specifically impose different minimum coverage requirements by county.

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner makes the following Conclusions of Law:

(a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.

(b) Pennsylvania law prohibits making or permitting any unfair discrimination between individuals of the same class and essentially the same hazard with regard to underwriting standards and practices or eligibility requirements by reason of place of resident 40 P.S. §1171.5 (a)(7)(iii).

(c) Respondent's Underwriting Guidelines as set forth above unfairly discriminate between individuals of the same class and essentially the same hazard by reason of place of residence.

(d) Respondent's violations of Section 5 (a)(7)(iii) of the UIPA subject the Respondent to the following penalties:

1. A cease and desist order 40 P.S. §1171.9.
2. A five thousand dollar ($5,000.00) penalty for each method of competition, act or practice which Respondent knew or should have

known was in violation of the law (not to exceed $50,000.00 in any six (6) month period) 40 P.S. §1171.11.

3. A one thousand dollar penalty ($1,000.00) for each violation for each method of competition, act or practice which Respondent did not know nor reasonably should have known was in violation of the law (not to exceed $10,000.00 in any six (6) month period) 40 P.S. §1171.11.

ORDER

5. 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 cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

(b) Within thirty (30) days of the date of this Order, Respondent shall revise and reissue its underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance by reason of the prohibited conduct described above in the Findings of Fact and Conclusions of Law and are compliant with Pennsylvania law, including, but not limited to, the following: deleting the directive which specifies different minimum coverage requirements for different counties.

(c) Respondent shall pay a civil penalty of five thousand dollars ($5,000) to the Commonwealth of Pennsylvania. Payment shall be made by check payable to the Commonwealth of Pennsylvania, and

directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, PA 17120. Payment must be made no later than thirty (30) days from the date of this Order.

6. In the event the Deputy Insurance Commissioner 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 may pursue any and all legal remedies available, including but not limited to the following: The Deputy Insurance Commissioner may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Deputy Insurance Commissioner may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, *supra*, or other relevant provision of law.

7. Alternatively, in the event the Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner 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 by the Insurance Department.

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 Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner 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 Deputy Insurance Commissioner.

12. The signatory hereto on behalf of Respondent is duly authorized to execute this Consent Order and, by so doing, to bind Respondent to the terms hereof.

BY: SELECTIVE WAY INSURANCE COMPANY, Respondent

President / Vice President

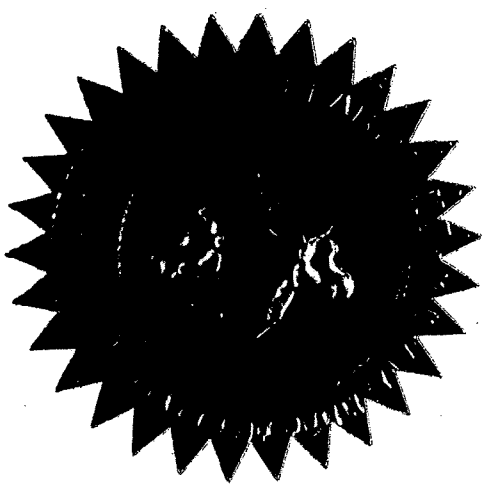
Secretary / Treasurer

RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

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 29 day of April, 2002, Randolph L. Rohrbaugh, 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.



M. Diane Koken
Insurance Commissioner