BEFORE THE INSURANCE COMMISSIONER OF THE COMMONWEALTH OF PENNSYLVANIA

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ADMIN MEASURES OFFICE

IN RE:

: VIOLATIONS:

JASON CHARLES SHEPPARD : 40 P.S. §§ 310.11(4), (5), (6), (7),

and : (17), (20), 310.42 and 310.71

TRUCLOSE FINANCIAL :

SERVICES, LLC 905 Shady Park Court Oakdale, PA 15071

Respondents : Docket No. CO10-04-026

CONSENT ORDER

AND NOW, this 3° day of 3° , 2° , 2° , 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. Respondents hereby admit and acknowledge that they have received proper notice of their rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.
- 2. Respondents hereby waive all rights to a formal administrative hearing in this matter, and agree 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, <u>supra</u>, or other applicable law.

FINDINGS OF FACT

- 3. The Insurance Department finds true and correct each of the following Findings of Fact:
 - (a) Respondents are Jason Charles Sheppard and TruClose Financial Services,LLC. Both maintain an address at 905 Shady Park Court, Oakdale, PA 15071.
 - (b) Respondents are, and at all times relevant hereto have been, a resident title agent and agency.
 - (c) Respondent Sheppard is the qualified acting officer of Respondent TruClose.
 - (d) From 2009 to present, the Respondents failed to remit escrow funds received by Respondent TruClose as required.
 - (e) Fidelity Title Insurance Company (hereinafter, Fidelity) is the insurer for Respondent TruClose.

- (f) Fidelity has 12 claims pending, totaling \$1,428,136.16 of escrow funds, which TruClose failed to remit.
- (g) Fidelity has outside representation with Fox Rothschild LLP, Edward J. Hayes, Esquire.
- (h) Mr. Hayes also represents Old Republic Title Insurance Company.
- (i) Respondents submitted and closed transactions using Old Republic as the insurer without an appointment.
- (j) Respondents agree to revocation of all insurance licenses.

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) Respondents are subject to the jurisdiction of the Pennsylvania Insurance Department.

- (b) 40 P.S. § 310.11(4) prohibits producers from improperly withholding, misappropriating, or converting money or property received in the course of doing business.
- Respondents' activities described above in paragraphs 3(d) through 3(f) and 3(i) constitute improperly withholding, misappropriating, or converting money or property received in the course of doing business, in violation of 40 P.S. § 310.11(4).
- (d) 40 P.S. § 310.11(5) prohibits a licensee or an applicant from intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
- (e) Respondents' activities described above in paragraphs 3(d) through 3(f) and 3(i) violate 40 P.S. § 310.11(5).
- (f) 40 P.S. § 310.11(6) prohibits a licensee or an applicant from committing any unfair insurance practice or fraud.
- (g) Respondents' activities described above in paragraphs 3(d) through 3(f) and 3(i) violate 40 P.S. § 310.11(6).

- (h) 40 P.S. § 310.11(7) prohibits a licensee or an applicant from using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business.
- (i) Respondents' activities described above in paragraphs 3(d) through 3(f) and 3(i) violate 40 P.S. § 310.11(7).
- (j) 40 P.S. § 310.11(17) prohibits a licensee or an applicant from committing fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty.
- (k) Respondents' activities described above in paragraphs 3(d) through 3(f) and 3(i) violate 40 P.S. § 310.11(17).
- (l) 40 P. S. § 310.11(20) 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.
- (m) Respondents' activities described above in paragraphs 3(d) through 3(f) and 3(i) violate 40 P.S. § 310.11(20).
- (n) 40 P.S. § 310.42 prohibits any producer from fraudulently appropriating, taking, disposing of, withholding, lending, investing or otherwise using any

money received in the capacity of an insurance producer without the consent of the insurer.

- (o) Respondents' activities described above in paragraphs 3(d) through 3(f) and 3(i) constitutes theft, in violation of 40 P.S. § 310.42.
- (p) 40 P.S. § 310.71 prohibits agents from transacting business within this Commonwealth without written appointment as required by the Act.
- (q) Respondents' activities described above in paragraph 3(i) constitute transacting business within this Commonwealth without written appointment as required by the Act and violate 40 P.S. § 310.71.
- (r) Respondents' violations of Sections 310.11(4), (5), (6), (7), (17), (20), 310.42 and 310.71 are punishable by the following, under 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 every 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 Respondents consent to the following:
 - (a) Respondents shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
 - (b) All licenses/certificates of Respondents to do the business of insurance are hereby revoked.
 - (c) Respondents shall make full restitution to all persons listed in the above

 Findings of Fact. Proof of restitution payment shall be provided to the

 Insurance Department by Respondents. Future license applications will not be
 considered until restitution has been made.
 - (d) Respondents will assist to the best of their ability the Pennsylvania Insurance

 Department in conducting investigations and prosecution of any licensed or

 unlicensed entity performing the business of insurance including, but not

 limited to, any public adjuster, insurance producer, company, etc., their

 employees and officers, including but not limited to testifying as a witness

 relative to any of the aforesaid entities, their employees and officers in any civil

 or administrative action involving same.

- (e) If Respondents should ever become licensed in the future, their 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 five (5) years from the date of issuance of such certificates and licenses.
- (f) Respondents specifically waives the 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 Respondents' written request.
- (g) At the hearing referred to in paragraph 5(f) of this Order, Respondents shall have the burden of demonstrating that they are worthy of an insurance certificate and license.
- (h) In the event Respondents' certificates and licenses are suspended pursuant to paragraph 5(e) above, and Respondents either fail to request a hearing within thirty (30) days or at the hearing fail to demonstrate that they are worthy of a

certificate and license, Respondents' 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, <u>supra</u>, or other relevant provision of law.
- 8. In any such enforcement proceeding, Respondents 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. Respondents hereby expressly waive 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:

JASON CHARLES SHEPPARD, individually and on behalf of TRUCLOSE FINANCIAL

SERVICES, LLC, Respondents

COMMONWEALTH OF PENNSYLVANIA

By: Ronald A. Gallagher, Jr.

Deputy Insurance Commissioner