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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:
	:	
REGINALD L. SMALLS 4519 N. Mole Street Philadelphia, PA 19140	:	40 P.S. §§ 310.11(4), (20), 310.42 and 310.71
	:	
Respondent.	:	Docket No. CO11-07-014

CONSENT ORDER

AND NOW, this 6th day of December, 2011, 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 Reginald L. Smalls and maintains his address at 4519 N. Mole Street, Philadelphia, PA 19140.

(b) At all relevant times herein, Respondent has held an individual resident producer license number 404154 to conduct the business of insurance in Pennsylvania.

(c) On June 23, 2010, Respondent provided quotes for insurance to a Pennsylvania consumer from Allstate and Nationwide Insurance Companies.

(d) On June 23, 2010, Respondent was not appointed with either Allstate or Nationwide Insurance Companies, and was thereby prohibited from providing quotes of insurance to applicants for those companies.

(e) On June 23, 2010, Respondent collected a premium deposit in the amount of $150.00 from a consumer for the potential sale of a homeowner's insurance policy.

(f) Respondent failed to return the $150.00 premium deposit he collected from the applicant on June 23, 2010 following the applicant's declination to purchase the homeowner's insurance policy.

(g) Respondent has agreed to provide proof of refund to the applicant in the amount of $150.00 he originally collected from the applicant.

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) 40 P.S. § 310.11(4) prohibits producers from improperly withholding, misappropriating, or converting money or property received in the course of doing business.

(c) Respondent's activities described above in paragraphs 3(e) and 3(g) violate 40 P.S. § 310.11(4).

(d) 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.

(e) Respondent's activities described above in paragraphs 3(c) through 3(f) violate 40 P.S. § 310.11(20).

(f) 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.

(g) Respondent's activities described above in paragraphs 3(e) and 3(f) constitutes theft, in violation of 40 P.S. § 310.42.

(h) 40 P.S. § 310.71 prohibits agents from transacting business within this Commonwealth without written appointment as required by the Act.

(i) Respondent's activities described above in paragraphs 3(c) and 3(d) constitute transacting business within this Commonwealth without written appointment as required by the Act and violate 40 P.S. § 310.71.

(j) Respondent's violations of Sections 310.11(4), (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 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 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 from the date of this Order, Respondent shall make restitution to the consumer referenced herein, in the amount of $150.00, and provide proof to the Insurance Department.

(c) Respondent's 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 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 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 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: _____
REGINALD L. SMALLS, Respondent

_____
COMMONWEALTH OF PENNSYLVANIA
By: RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner