BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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IN RE:	:	
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Application of Brian C. Smith Requesting Written Consent to Engage in the Business of Insurance	:	Pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. §1033
	:	
	:	Docket No. CW10-01-007

CONSENT ORDER

AND NOW, this 16th day of February 2010, 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. To the extent applicable, Applicant 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

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

(a) Applicant is Brian C. Smith, and maintains his address at 82 Longacre Drive, Collegeville, Pennsylvania 19426.

(b) Applicant does not possess a license to transact insurance as a resident producer in this Commonwealth.

(c) On July 25, 1988, Applicant was found guilty by the Court of Common Pleas of Montgomery County of one count of Burglary, a felony offense.

(d) On October 26, 2009, Applicant submitted an application to the Pennsylvania Insurance Department for written consent to engage in the business of insurance pursuant to 18 U.S.C. §1033(e)(2).

(e) The activities in which Applicant desires to engage constitute the business of insurance within the meaning of 18 U.S.C. § 1033(e)(1)(A) and (f).

CONCLUSIONS OF LAW

3. In accordance with the above Findings of Fact and applicable provisions of law, the Insurance Department concludes and finds the following Conclusions of Law:

(a) 18 U.S.C. §1033(e)(2) provides that persons convicted of felonies involving dishonesty or a breach of trust may not engage in the business of insurance or participate in such business unless such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to 18 U.S.C. §1033(e)(2).

(b) Applicant's conviction of conspiracy to commit Burglary is a criminal felony involving dishonesty or a breach of trust within the meaning of 18 U.S.C. §1033(e)(1)(A).

(c) Accordingly, Applicant may not engage in the business of insurance without a written consent issued by the Insurance Department pursuant to 18 U.S.C. § 1033(e)(2).

ORDER

4. Accordingly, the Deputy Insurance Commissioner orders and Applicant consents to the following:

(a) Applicant shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law. Applicant shall further comply with Pennsylvania insurance laws and regulations.

(b) Pursuant to 18 U.S.C. § 1033(e)(2), Applicant may engage in the business of insurance as resident producer, and only in such capacity, subject to the terms and conditions of this Order, which terms and conditions contained herein are necessary and sufficient to ensure that Applicant may engage in the business of insurance in a manner that is not reasonably likely to cause harm to the public, policyholders or the industry.

5. The term of this Order shall remain in place for a period of five years and, thereafter, unless and until the Department or the Commissioner terminates the Order. Nothing in this Order shall preclude the Department, the Deputy Commissioner or the Commissioner, in their sole discretion, from decreasing or lessening the restrictions contained in this Order in whole or in part while it is in effect. Any such lessening of the restrictions contained in this Order shall be made in writing by the Department, the Deputy Commissioner or the Commissioner in accordance with the procedures set forth in paragraph 14 of this Order. Further, Applicant shall not apply nor otherwise seek to reduce or remove the restrictions contained in this Order for a period of at least five years.

6. Following the five-year period referenced in paragraph 5, above, this Order shall continue unless and until the Department affirmatively terminates it. Nothing in this Order shall be construed as conferring upon Applicant any property right or interest as a result of receiving this conditional consent to engage in the business of insurance in

accordance with the terms of this Order. Applicant expressly waives any right to assert that he is entitled to a hearing on the termination of this Order following the expiration of the five-year period referenced in paragraph 5. Should the Insurance Department or the Commissioner, terminate this Order after the five year period referenced in paragraph 5, above, Applicant may file a new application for a written consent as set forth in paragraph 4(b), above, to engage in the business of insurance under 18 U.S.C. § 1033(e)(2).

7. The Department's conditional consent permitting Applicant to engage in the business of insurance, and Applicant's existing certificates and licenses, may be immediately suspended upon notice by the Department following its investigation and determination that Applicant has failed to adhere to any condition set forth in this Order or has violated an insurance statute or regulation.

8. Applicant shall have no right to prior notice of such a suspension, but will be entitled to a hearing upon written request received by the Department no later than thirty (30) days from the date the Department mailed to Applicant by certified mail, return receipt requested, notification of such suspension, which hearing shall be held within sixty (60) days of the Department's receipt of Applicant's written request for a hearing.

9. At the hearing referred to in paragraph 8 above, Applicant shall have the burden of demonstrating that he is worthy of an insurance certificate and license and a conditional consent to engage in the business of insurance. In the event Applicant's

conditional consent, certificates, and licenses are suspended pursuant to paragraph 8 above, and Applicant either fails to request a hearing within 30 days or at the hearing fails to demonstrate that he is worthy of a certificate and license, Applicant's suspended conditional consent, certificates and licenses shall be revoked.

10. 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.

11. Alternatively, in the event the Insurance Department finds that there has been a breach of any 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.

12. In any such enforcement proceeding, Applicant may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact or Conclusions of Law contained herein.

13. Applicant hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

14. 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.

15. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or the duly authorized delegee is authorized to bind the Insurance Department with respect to the matters addressed herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY: _____
Brian C. Smith, Applicant

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COMMONWEALTH OF PENNSYLVANIA
By: Ronald A. Gallagher, Jr.
Deputy Insurance Commissioner