

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

2010 JUL -6 11:33  
ADMINISTRATIVE SERVICES OFFICE

IN RE: : VIOLATIONS:  
: :  
QUYNH T. TRAN : 40 P.S. §§ 310.11(4), (7), (17), (20),  
1015 Waverly Road : 310.42, 310.96 and 1171.4  
Gladwyne, PA 19035 : :  
: Title 31, Pa. Code §37.81  
: :  
Respondent. : Docket No. CO10-04-018

CONSENT ORDER

AND NOW, this *6<sup>th</sup>* day of *July*, *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. Respondent hereby admits and acknowledges that she has received proper notice of her 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 Quynh T. Tran, and maintains her address at 1015 Waverly Road, Gladwyne, PA 19035.
  
- (b) At all relevant times herein, Respondent has held an active resident producer license # 366492 to conduct the business of insurance in Pennsylvania.
  
- (c) Between August 6, 1998 and November 23, 2009, Respondent was an employee of Ameriprise Financial Services, Inc. (hereinafter, Ameriprise) located at 300 Barr Harbor Drive, West Conshohocken, PA 19428.
  
- (d) Between June 4, 2003 and August 23, 2009, Respondent was appointed as an individual resident insurance producer with Riversource Life Insurance Company (NAIC #65005).
  
- (e) On at least six separate occasions, Respondent devised a scheme and made loan arrangements borrowing money from Ameriprise clients in excess of \$100,000.00.

- (f) On November 23, 2009, Respondent was terminated for cause by Ameriprise and Riversource Life Insurance Company for borrowing money from, or lending money to clients, commingling funds between Respondent's personal and business accounts, unauthorized financial transactions, and photocopying/recycling client signatures, in violation of Respondent's franchise agreement with Ameriprise.
  
- (g) As of this date, Respondent has failed to repay Ameriprise clients totaling more than \$100,000.00.

#### 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) through 3(g) 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(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.
- (e) Respondent's activities described above in paragraphs 3(e) through 3(g) violates 40 P.S. § 310.11(7).
- (f) 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.
- (g) Respondent's activities described above in paragraphs 3(e) through 3(g) violate 40 P.S. § 310.11(17).
- (h) 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.

- (i) Respondent's activities described above in paragraphs 3(e) through 3(g) violate 40 P.S. § 310.11(20).
- (j) 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.
- (k) Respondent's activities described above in paragraphs 3(e) through 3(g) constitutes theft, in violation of 40 P.S. § 310.42.
- (l) 40 P.S. § 310.96 and Title 31, Pa. Code, Section 37.81, the Regulations of the Insurance Department, prohibit producers from, without the express consent of the insurance entity on whose behalf the funds were received, mingle the funds with the producer's own funds or with funds held by the producer in any other capacity. The funds of each insurance entity must be reasonably ascertainable from the books of accounts and records of the insurance producer.
- (m) Respondent's activities described above in paragraphs 3(e) through 3(g) constitute a violation of 40 P.S. § 310.96, and Title 31, Pa. Code, Section 37.81.

- (n) Respondent's violations of Sections 310.11(4), (7), (17), (20), 310.42 and 310.96 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.
- (o) 40 P.S. § 1171.4, prohibits producers from engaging in this Commonwealth in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to the Unfair Insurance Practices Act.
- (p) Respondent's activities described above in paragraphs 3(e) through 3(g) constitute engaging in this Commonwealth in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to the Act and violate 40 P.S. § 1171.4.
- (q) Respondent's violations of 40 P. S. §1171.4 are punishable by the following, under 40 Purdons Statutes, Sections 1171.8, 1171.9, and 1171.11:

(i) an order requiring Respondent to cease and desist from engaging in such violation and/or, if such violation is a method of competition, act or practice defined in Section 5 of this Act, suspension or revocation of Respondent's license(s);

(ii) commencement of an action against Respondent for the following civil penalties:

(1) for each method of competition, act or practice defined in Section 5 and in violation of the Act which Respondent knew or reasonably should have known was such a violation, a penalty of not more than five thousand dollars (\$5,000.00) for each violation, not to exceed an aggregate penalty of fifty thousand dollars (\$50,000.00) in any six month period;

(2) for each method of competition, act or practice defined in Section 5 and in violation of this Act which Respondent did not know nor reasonably should have known was such a violation, a penalty of not more than one thousand dollars (\$1,000.00) for each violation, not to exceed an aggregate penalty of ten thousand dollars (\$10,000.00) in any six month period;

- (3) for each violation of an Order issued by the Commissioner pursuant to Section 9 of the Act, while such Order is in effect, a penalty of not more than ten thousand dollars (\$10,000.00).

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) All licenses/certificates of Respondent to do the business of insurance are hereby revoked.
- (c) Respondent shall make restitution to all persons listed in the above Findings of Fact. Proof of restitution payment shall be provided to the Insurance Department by Respondent. Future license applications will not be considered until restitution has been made.
- (d) If Respondent should ever become licensed in the future, her 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.

(e) Respondent specifically waives her 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.

(f) At the hearing referred to in paragraph 5(e) of this Order, Respondent shall have the burden of demonstrating that she is worthy of an insurance certificate and license.

(g) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5(d) above, and Respondent either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that she is worthy of a certificate and 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: Quynh T. Tran  
QUYNH T. TRAN, Respondent

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