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ADMINISTRATIVE OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
DAVID A. VAHEY	:	40 P.S. §§ 310.11(1), 310.11(4),
7934 Heather Road	:	310.11(7), 310.11(13) and 310.11(20)
Elkins Park, PA 19027	:	
	:	
	:	
Respondent.	:	Docket No. CO10-05-018

CONSENT ORDER

AND NOW, this *17th* day of *September*, *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 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.

3. Respondent neither admits nor denies that he has violated any insurance laws of the Commonwealth of Pennsylvania.

FINDINGS OF FACT

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

- (a) Respondent is David A. Vahey, and maintains his address at 7934 Heather Road, Elkins Park, Pennsylvania 19027.
- (b) At all times relevant, Respondent had an active resident producer license #89210 that expires on January 8, 2012.
- (c) On March 6, 2009, a tax lien in the total amount of \$13,816.45 was filed by the Pennsylvania Department of Revenue against Respondent for Personal Income Tax due for the 2004 tax year.
- (d) Respondent provided incorrect, misleading, incomplete and/or false responses to the Insurance Department on license renewal applications regarding outstanding Pennsylvania state income taxes.
- (e) Respondent failed to promptly forward premium funds collected from several insureds to the appropriate insurer during the period from 2006-2008,

resulting in complaints to the Pennsylvania Insurance Department regarding four separate insurance clients, as reflected in Department investigative records and communications. In some instances, Respondent deposited an insured's checks payable to the insurer into a general business account under his control.

- (f) Respondent has agreed to voluntarily surrender his Pennsylvania producer license through a Consent Order.

CONCLUSIONS OF LAW

5. 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(1) prohibits a licensee from providing incorrect, misleading, incomplete or false information to the department in a license application.
- (c) Respondent's activities described above in paragraph 4(d) violate 40 P.S. § 310.11(1).

- (d) 40 P.S. §310.11(4) prohibits a licensee from improperly withholding, misappropriating or converting money or property received in the course of doing business.
- (e) Respondent's activities described above in paragraph 4(e) violate 40 P.S. § 310.11(4).
- (f) 40 P.S. §310.11(7) prohibits a licensee from, inter alia, demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business.
- (g) Respondent's activities described above in paragraphs 4(c) and 4(e) violate 40 P.S. § 310(7).
- (h) 40 P.S. § 310.11(13) prohibits a licensee or an applicant from failing to pay state income tax or comply with any administrative or court order directing the payment of state income tax.
- (i) Respondent's activities described above in paragraph 4(c) violate 40 P.S. § 310.11(13).
- (j) 40 P.S. § 310.11(20) prohibits a licensee or an applicant from demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the Department that the licensee is worthy of licensure.

- (k) Respondent's activities described above in paragraphs 4(c) through 4(e) violate 40 P.S. § 310.11(20).
- (l) Respondent's violations of 40 P.S. §§ 310.11(1), 310.11(4), 310.11(7), 310.11(13) and 310.11(20) 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

6. 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) Respondent, in accordance with this Consent Order, shall immediately surrender all licenses to conduct the business of insurance within the Commonwealth of Pennsylvania as of the date of this Consent Order.
- (c) If Respondent should ever become licensed in the future, his 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.
- (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 6(d) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance certificate and license.

(f) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 6(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 certificate and license, Respondent's suspended certificates and licenses shall be revoked.

7. 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.

8. 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.

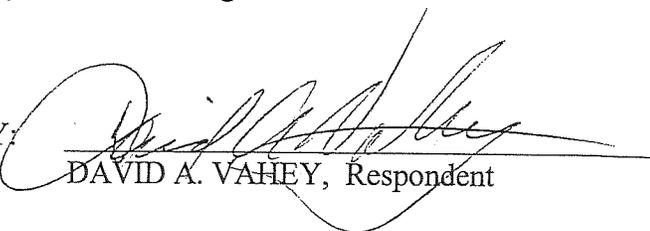
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

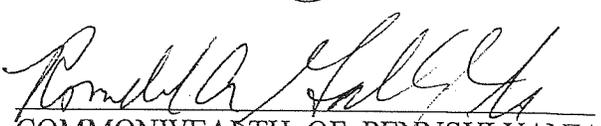
10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

11. 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.

12. 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:


DAVID A. VAHEY, Respondent


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