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PA INSURANCE DEPARTMENT
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
DAMIAN VANSUCH : 40 P.S. §§310.11(15); 310.6(a)(6),
835 South Main Street : 310.11(20) and 310.91(d); 31 Pa.
Allentown, PA 18103 : Code § 37.46(7)(i)
: :
Respondent. : Docket No. CO05-05-010

CONSENT ORDER

AND NOW, this *1st* day of *JUNE*, 2005, this Order is hereby issued by the Deputy Insurance Commissioner 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. Without admitting or denying the Conclusions of Law or Findings of Fact, Respondent hereby consents to the following terms:

FINDINGS OF FACT

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

- (a) Respondent is Damian Vansuch, and maintains his address at 835 South Main Street, Allentown, Pennsylvania 18103.
- (b) Respondent is a licensed Pennsylvania producer, Individual Resident Producer License # 296880. His license is scheduled to expire on October 5, 2005.

- (c) Respondent sold insurance clients non-valid or fictitious insurance policies and collected, and kept, the premium.
- (d) As a result thereof, on May 9, 2005, Respondent pleaded guilty to theft by deception and was placed on five years probation and ordered to pay restitution in the amount of \$34,539.00.

CONCLUSIONS OF LAW

5. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner concludes and finds the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's actions constitute violations of the following statutes: 40 P.S. § 310.42 (theft by insurance producers, and § 310.96 (fiduciary capacity of an insurance producer).

(c) Respondent's actions violate 40 P.S. § 310.11 (prohibited acts, subsections:

- (i) (2) Violate the insurance laws or regulations of this Commonwealth or a subpoena or order of the commissioner or of another state's insurance commissioner;
- (ii) (4) Improperly withhold, misappropriate or convert money or property received in the course of doing business;
- (iii) (6) Admit to or been found to have committed any unfair insurance practice or fraud;
- (iv) (7) Use fraudulent, coercive or dishonest practices or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this Commonwealth or elsewhere;
- (v) (15) Commit a misdemeanor that involves the misuse or theft of money or property belonging to another person;
- (vi) (17) Commit fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty;

(vii) (20) Demonstrate a lack of general fitness, competence or reliability sufficient to satisfy the department that the licensee is worthy of licensure;

(d) Respondent's actions constitute violations of 31 Pa. Code , § 37.46(7)(i), criminal conviction which relates to the producer's suitability to engage in the business of insurance.

(e) Respondent's conviction demonstrates that he is not worthy of licensure under 40 P.S. §§ 310.6(a)(6) and 310.11(20).

(f) Under 40 P.S. §§310.6(a)(6) and 310.91(d), the Insurance Department may suspend or revoke Respondent's license and impose a \$5,000 penalty per violation.

ORDER

6. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner 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's insurance licenses are hereby surrendered.

- (c) Respondent shall make full and timely restitution as provided under the terms of the sentencing plea.
- (d) If Respondent should ever become licensed in the future, said 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 (ii) above is limited to a period of five (5) years from the date of issuance of such certificates and licenses.
- (e) 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.
- (f) At the hearing referred to in paragraph (e) of this Order, Respondent shall have the burden of demonstrating that he 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 he is worthy of a certificate and license, Respondent's suspended certificates and licenses shall be revoked.

7. In the event the Deputy Insurance Commissioner 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 Deputy Insurance Commissioner may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Deputy Insurance Commissioner may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, *supra*, or other relevant provision of law.

8. Alternatively, in the event the Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner 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.

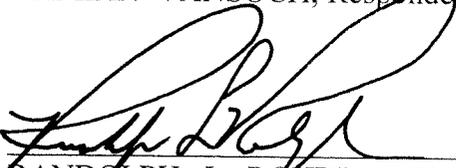
10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 Deputy Insurance Commissioner. Only the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner. The penalties, if any, imposed by this

Order are not effective until execution by the Insurance Commissioner or her duly authorized Deputy Insurance Commissioner.

BY: 
DAMIAN VANSUCH, Respondent


RANDOLPH L. RCHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania