RECEIVED
INSURANCE DEPARTMENT

06 OCT 13 AM 10: 13

ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
THOMAS J. SCHWARTZ, JR. 3122 Cottman Avenue Philadelphia, PA 19149	: : : :	63 Purdons Statutes, Section 1602
Respondent.	:	Docket No. CO06-08-019

CONSENT ORDER

AND NOW, this 13th day of October, 2006, 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.

FINDINGS OF FACT

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

(a) Respondent is Thomas J. Schwartz, Jr., and maintains his address at 3122 Cottman Avenue, Philadelphia, Pennsylvania 19149.

(b) At all relevant times herein, Respondent.has been a licensed public adjuster in Pennsylvania whose license is scheduled to expire on March 8, 2007.

(c) On March 22, 2006, Respondent failed to allow representatives of Erie Insurance Group access to an insured's property for inspection during the Adjustment phase of an insurance claim in Harrisburg, Pennsylvania.

(d) On March 30, 2006, Respondent failed to allow a subcontractor for Erie Insurance Group access to a claimant's property for inspection.

(e) On April 26, 2006, Respondent became hostile and verbally abusive towards a representative of Erie Insurance Group and two representatives of National Forensic Consultants, Inc. The inspection was subsequently terminated at the insured's property in Harrisburg, Pennsylvania.

(f) On all of these occasions, Respondent has conducted himself in an unprofessional manner using foul and abusive language towards these representatives.

(g) Respondent has admitted to the Department that he has verbally abused these representatives and is currently under doctor's care for anger management.

(h) Since March, 2005, Respondent has been under license supervision for similar behavior, via Consent Order at Docket No. CO05-02-004.

CONCLUSIONS OF LAW

4. 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) 63 Purdons Statutes, Section 1602, prohibits a licensee from demonstrating a lack of trustworthiness and competence sufficient to satisfy the department that the licensee is worthy of licensure.

(c) Respondent's activities described above in paragraphs 3(c) through 3(h) violates 63 Purdons Statutes, Section 1602.

(d) Respondent's violations of Section 1602 are punishable by the following, under 63 Purdons Statutes, Section 1606:

(i) suspension, revocation or refusal to issue the public adjusters license;

(ii) imposition of a civil penalty not to exceed one thousand dollars ($1,000.00) for each violation;

(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 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 shall pay a civil penalty of One Thousand Dollars ($1,000.00) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made by certified check or money order, payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment may be enclosed with the Consent Order, but must be paid in any event no later than thirty (30) days after the date of the Consent Order.

(c) In addition to the five year license supervision under Docket No. CO05-02-004 which expires on March 4, 2010, Respondent shall have an additional five year period of license supervision, which shall be effective the date of this Order. During this period, Respondent's license may be immediately suspended by the Department following its investigation and determination that (i) penalty payment has not been made, (ii) any terms of this Order have

not been complied with, or (iii) any complaint against Respondent is accurate and a statute or regulation has been violated.

(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 license is 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 license shall be revoked.

6. 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 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 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.

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 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.

BY: _____
THOMAS J. SCHWARTZ, JR.,
Respondent

_____
RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania