

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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INSURANCE DEPARTMENT
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ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
WALDORF RISK SOLUTIONS, LLC. : 40 P.S. §§ 310.11(20), 991.1615
30 Prospect Street : and 991.1621
Huntington, NY 11743-1725 :
: :
Respondent. : Docket No. CO12-01-009

CONSENT ORDER

AND NOW, this *14th* day of *November*, *2012*, 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 it has received proper notice of its 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 voluntarily 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 the allegations of fact and conclusions of law contained herein, Respondent specifically denies that it violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

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

(a) Respondent is Waldorf Risk Solutions, LLC, and maintains its address at 30 Prospect Street, Huntington, NY 11743.

(b) Respondent did not receive a Pennsylvania non-resident surplus lines license until November 30, 2009. Respondent has been a licensed non-resident producer since September 3, 2004.

(c) Upon request, Respondent provided a report of approximately 200 surplus lines policies that were brokered with Lloyd's London to Pennsylvania policyholders, either directly or through multi-state policies, between 2005 and 2010, inclusive, for which taxes had not been remitted.

- (d) Respondent examined its surplus lines sales from 2005 and 2010 with the Pennsylvania Surplus Lines Association. During the course of the examination, it was determined the following was owed to the Pennsylvania Department of Revenue and the Pennsylvania Surplus Lines Association.
- (e) Respondent's report identified sales totaling approximately \$2,173,637.17 between 2005 and 2010 for approximately 200 policyholders. Taxes that were not remitted totaled approximately \$65,209.12.
- (f) Respondent reconciled the sales and taxes for years 2005 through 2010, inclusive, with the Pennsylvania Surplus Lines Association, which determined it also owed \$7,410.00 in filing fees to the association.
- (g) Respondent has confirmed that it has ceased from engaging in the activities described herein.

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(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.
- (c) Respondent's activities described above in paragraphs 3(b) through 3(d) violate 40 P.S. § 310.11(20).
- (d) Respondent's violations of Section 310.11(20) are punishable by the following, under 40 P.S. § 310.91:
 - (i) suspension, revocation or refusal to issue the 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.
- (e) 40 P.S. § 991.1615 prohibits any agent or broker licensed by the Department to transact surplus lines insurance unless such agent or broker is licensed as a surplus lines agent.
- (f) Respondent's activities described above in paragraphs 3(b) through 3(e) constitute transacting surplus lines insurance without being properly licensed.

- (g) 40 P.S. § 991.1621 requires a tax of three percent to be levied against insureds on all premiums charged, and for that tax to be collected by the licensee and remitted to the Pennsylvania Department of Revenue.
- (h) Respondent's activities described above in paragraphs 3(c) through 3(e) constitute failure to collect and remit the required three percent surplus lines premium tax, and violate 40 P.S. § 991.1621.
- (i) Respondent's violations of 40 P.S. §§991.1615 and 991.1621 of the Surplus Lines Act are punishable by the following, under 40 Purdons Statutes, Section 1625(b) of the Insurance Company Law:
 - (i) imposition of a penalty not exceeding \$1,000 for the first offense and \$2,000 for each succeeding offense.

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 shall make restitution to the Pennsylvania Department of Revenue in the amount of \$65,209.12 and the Pennsylvania Surplus Lines Association for filing fees in the amount of \$7,410.00 within (30) thirty days from the date of this Consent Order. Respondent shall make restitution to persons other than Pennsylvania Department of Revenue and Pennsylvania Surplus Lines Association if the Deputy Commissioner identifies such persons and determines that restitution is owed to them by Respondent. Proof of restitution payment shall be provided to the Insurance Department by Respondent.

(c) Respondent's 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 this Order.

(d) Respondent specifically waives its 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 it is worthy of maintaining its license in Pennsylvania.

(f) In the event Respondent's 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 it is worthy of a license, Respondent's suspended 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.

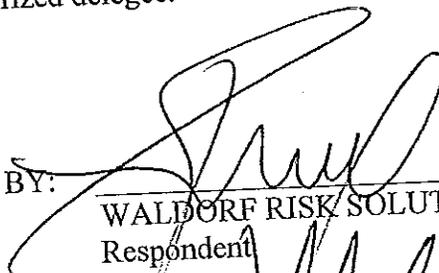
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

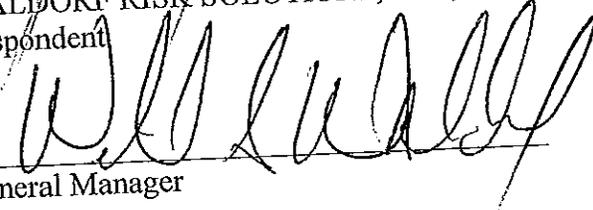
10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

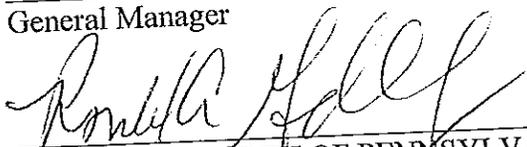
11. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

12. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegate 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: 
WALDORF RISK SOLUTIONS, LLC,
Respondent


General Manager

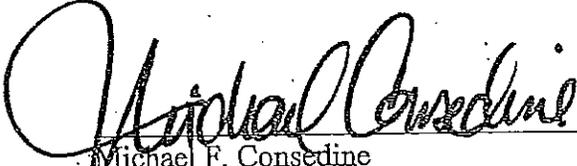
General Manager

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

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA.

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The
Administrative Code of 1929

AND NOW, this 27th day of April, 2011, Ronald A.

Gallagher, Deputy Insurance Commissioner, is hereby designated as the Commissioner's
duly authorized representative for purposes of entering in and executing Consent Orders.
This delegation of authority shall continue in effect until otherwise terminated by a later
Order of the Insurance Commissioner.


Michael F. Considine
Insurance Commissioner

