

RECEIVED
INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA
ADMIN HEARINGS OFFICE

SEP 17 PM 3:09

IN RE:	:	VIOLATIONS:
	:	
JAMES W. WOLF, JR.	:	Section 611-A(20) of 147 of 2002
2608 McKenzie Road	:	(40 P.S. § 310.11)
Ellicott City, MD 21042	:	
	:	Section 1615 of the Surplus Lines
	:	Act, Act of May 17, 1921, P.L.
	:	682, <u>added by</u> the Act of
	:	December 18, 1992, P.L. 1519
	:	(40 P.S. § 991.1615)
	:	
Respondent.	:	Docket No. CO06-05-018

CONSENT ORDER

AND NOW, this *17th* day of *September*, 2008, 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.A. §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 the allegations of fact and conclusions of law contained herein, Respondent specifically denies that he violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

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

- (a) Respondent is James W. Wolf, Jr., and maintains his address at 2608 McKenzie Road, Ellicott City, Maryland 21042.
- (b) Respondent is, and at all times relevant hereto has been since February 18, 1992, a non-resident licensed insurance producer of property and casualty insurance for carriers admitted in Pennsylvania.

- (c) During the period beginning February 18, 1992 until June 6, 2004, Respondent procured property and casualty insurance for insureds located in Pennsylvania from admitted carriers.
- (d) Respondent asserts on December 6, 2003, Great American Insurance Company (herein "GAIC"), an admitted carrier in Pennsylvania and from whom Respondent held an agency appointment, advised Respondent it was terminating its property and casualty business effective as of June 6, 2004.
- (e) Respondent asserts the GAIC advice made it necessary that Respondent find a replacement carrier to service the insurance needs of Respondent's customers in Pennsylvania, among whom were Mansion Inn, New Hope, Pennsylvania (a customer since 2001) and Old Country Bed and Breakfast, Glen Mills, Pennsylvania (a customer since 1999).
- (f) Respondent asserts the only insurer responding to and meeting Respondent's requirements for a replacement carrier was General Electric Company (through its financial services division). On May 26, 2004, it offered Respondent an agency appointment with First Specialty Insurance Company ("FSIC"), a non-admitted, surplus lines carrier in Pennsylvania, to be effective June 1, 2004.

- (g) Respondent asserts FSIC advised Respondent that, until Respondent procured a surplus lines license, Island Financial Insurance Associates (“IFIA”), Puyallup, Washington, was licensed in Pennsylvania, was authorized to and for a fee would, act as filing agent for Respondent until Respondent received his Pennsylvania surplus lines license.
- (h) Respondent asserts he contacted IFIA in May, 2004, and received assurance from IFIA that it was authorized to and would act as Respondent’s filing agent in Pennsylvania until Respondent received his surplus lines license.
- (i) Under the date of May 26, 2004, Respondent executed a certain “Filing Agent Standard Agency Agreement” with IFIA.
- (j) The next day, on May 27, 2004, Respondent applied to the Insurance Department for issuance of a surplus lines license; Respondent received a surplus lines license on August 4, 2004.
- (k) Respondent asserts at all times on and after May 26, 2004 until May 11, 2005, IFIA represented to Respondent that the former was authorized to act as filing agent for all insurance business Respondent procured for FSic for insureds located in Pennsylvania.

- (l) To provide the property and casualty insurance coverage requested and required by Respondent's customers, Respondent, acting pursuant to the aforementioned IFIA Agreement, procured the following customer requested coverage with FSIC; relying upon its advice and that of IFIA that IFIA could lawfully act as filing agent for the following three (3) insureds whose policy years became effective after Respondent had applied to Pennsylvania for a surplus lines license but before Pennsylvania issued the same, some seventy (70) days from the date of Respondent's application: Tattersail Inn, Point Pleasant (policy #FCP13300234130004, effective June 30, 2004), Mansion Inn, New Hope (policy #FCP13300239820004, effective July 12, 2004) and Old Country Bed & Breakfast, Glen Mills (policy #FCP13300200630004, effective August 1, 2004).
- (m) IFIA made filings for the above three surplus lines policies pursuant to the agreement between Respondent and IFIA. IFIA did not participate in the procurement of the policies.
- (n) On April 17, 2006, Respondent confirmed the aforementioned information, provided copies of the policy declarations and due-diligence affidavits.

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) Section 611-A(20) of Act 147 of 2002 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 (40 P.S. § 310.11).
- (c) Respondent's activities described above in paragraphs 3(c) through 3(n) violate Section 611-A(20) of Act 147 of 2003 (40 P.S. § 310.11).
- (d) Violations of Section 611-A(20) of Act 147 are punishable by the following, under Section 691-A of Act 147 of 2003 (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.

(e) Section 1615 of the Surplus Lines Act 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 (40 P.S. § 991.1615).

(f) Respondent's activities described above in paragraphs 3(c) through 3(n) constitute transacting surplus lines insurance without being properly licensed.

(g) Respondent's violations of Section 1615 of the Surplus Lines Act are punishable by the following, under 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 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 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 three (3) years from the date of this Order.
- (c) 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.
- (d) At the hearing referred to in paragraph 5(b) of this Order, Respondent shall have the burden of demonstrating that it is worthy of a license.

(e) In the event Respondent's certificates and licenses are 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 it is worthy of a 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 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 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.

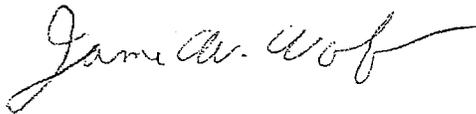
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

BY:



JAMES W. WOLF, JR., Respondent



RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner
Commonwealth of Pennsylvania