

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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INSURANCE DEPARTMENT
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ADMIN HEARINGS OFFICE

IN RE:

JOSEPH C. BUCCI
1025 Persimmon Court
Fairview, Pennsylvania 16415

VIOLATIONS:

Sections 604 and 633
of the Insurance Department Act,
Act of May 17, 1921, P.L. 682,
No. 285 (40 P.S. §§ 234 and 273)

Respondent. : Docket No. C003-06-028

CONSENT ORDER

AND NOW, this 4th day of JUNE, 2004, 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. Respondent neither admits nor denies the findings herein.

FINDINGS OF FACT

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

Findings of Fact:

- (a) Respondent is Joseph C. Bucci and maintains his address at 1025 Persimmon Court, Fairview, Pennsylvania 16415.
- (b) Respondent is, and at all times relevant hereto has been, a licensed insurance agent.
- (c) Columbian Life Insurance Company reported that Respondent had collected from 494 Pennsylvania policyholders approximately \$20,994.52 during 2002 in insurance premiums that were not remitted.
- (d) Columbian Life Insurance Company received complaints from numerous policyholders after receiving lapse notices from the insurer claiming they paid premiums to Respondent.
- (e) Columbian Life Insurance Company provided monthly accounting reports prepared by Respondent's agency and other information attesting that Respondent received premiums from the policyholders.
- (f) Respondent confirmed knowledge of the allegations but did not make a statement.
- (g) Columbian Life Insurance Company confirmed it made all policyholders whole.
- (h) Respondent agrees to surrender all licenses.

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) Section 604 of The Insurance Department Act (40 P.S. § 234) prohibits the grant of a license/certificate except to an applicant worthy of a license/certificate.
- (c) If proven in accordance with the law and proper procedure, Respondent's activities described above in paragraphs 3(c) through 3(f) would violate Section 604 of the Insurance Department Act (40 P.S. § 234).
- (d) Section 633 of The Insurance Department Act prohibits agents from embezzling or fraudulently converting insurance funds (40 P.S. § 273).
- (e) If proven in accordance with the law and proper procedure, Respondent's activities described above in paragraphs 3(c) through 3(f) would constitute embezzling or fraudulent conversion of insurance funds and violate Section 633 of the Insurance Department Act (40 P.S. § 273).
- (f) If found guilty, Respondent's violations of Sections 604 and 633 of the Insurance Department Act (40 P.S. §§ 234 and 273) are punishable by the following, under Section 639 of the Insurance Department Act (40 P.S. § 279):
 - (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 each violation of the Act.

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 surrender all licenses/certificates 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 (ii) above 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) Should he desire to retain his license, which at present he does not, then at the hearing referred to in paragraph (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 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 certificate and license, Respondent's suspended certificates and licenses 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.

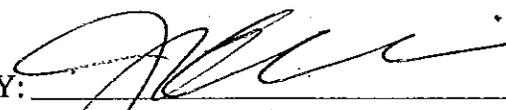
7. Alternatively, in the event the Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, 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.

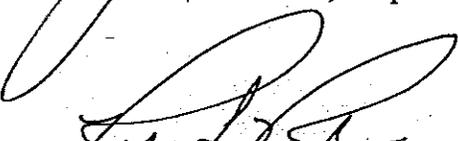
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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: 

JOSEPH C. BUCCI, Respondent


RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania