

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

RECEIVED  
INSURANCE DEPARTMENT  
2011 MAR -8 PM 2:08  
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:  
: :  
JOHN M. BURKMAN : 40 P.S. §§ 310.11(6), (11), (19) and (20)  
Miami Jewish Health Systems : :  
1 Meyer Building, Room 104H : :  
Miami, FL 33137 : :  
Respondent. : Docket No. CO11-02-019

CONSENT ORDER

AND NOW, this 8<sup>th</sup> day of March, 2011, 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 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 Insurance Department finds true and correct each of the following

Findings of Fact:

- (a) Respondent is John M. Burkman, and maintains his address at Miami Jewish Health Systems, 1 Meyer Building, Room 104H, Miami, FL 33137.
- (b) Respondent was a licensed insurance producer until his license expired on February 28, 2011.
- (c) On October 25, 2010, Carol Hughes, President, Morry Hoffman Agency, Incorporated, filed a designated licensee form with the Pennsylvania Insurance Department that would have appointed Respondent as the sole designated licensee of the agency.
- (d) The designated licensee form was rejected by the Pennsylvania Insurance Department because it contained errors, including a signature attributed to Respondent that appeared to be non-genuine, and a tax identification number that was bogus.
- (e) On November 15, 2010, Respondent advised that he had never seen the designated licensee form submitted by the Morry Hoffman Agency.

- (f) Respondent acknowledged that Carol Hughes and Morry Hoffman Agency had been using his producer license number and had been paying commissions to him when in fact he was not actively involved in the placement of insurance.
- (g) On February 14, 2011, the Morry Hoffman Agency entered into a Settlement Agreement with the Pennsylvania Insurance Department that revoked the agency's licenses.
- (h) Respondent moved to Miami, Florida, during or about January, 2010, but failed to report the change of address to the Pennsylvania Insurance Department.
- (i) On February 24, 2011, Respondent acknowledged that he had been living in Miami, Florida, for approximately one year and had not reported the change of address.
- (j) Respondent agreed to surrender his license.

#### CONCLUSIONS OF LAW

4. 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(6) prohibits a licensee or an applicant from committing any unfair insurance practice or fraud.
- (c) Respondent's activities described above in paragraphs 3(f) and 3(h) violate 40 P.S. § 310.11(6).
- (d) 40 P.S. § 310.11(11) prohibits a licensee or an applicant from knowingly accepting insurance business which was sold, solicited or negotiated by a person who is not licensed as an insurance producer.
- (e) Respondent's activities described above in paragraph 3(f) violate 40 P.S. § 310.11(11).
- (f) 40 P.S. § 310.11(19) prohibits a licensee or an applicant from failing to notify the Department of a change of address within 30 days.
- (g) Respondent's activities described above in paragraph 3(h) violate 40 P.S. § 310.11(19).

- (h) 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.
- (i) Respondent's activities described above in paragraphs 3(f) and 3(h) violate 40 P.S. § 310.11(20).
- (j) Respondent's violations of Sections 310.11(6), (11), (19) and (20) are punishable by the following, under 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.

ORDER

5. 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 immediately surrender all licenses 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 this section 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) At the hearing referred to in paragraph 5(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 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.

7. 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.

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.

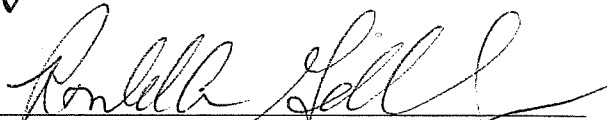
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee 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:   
JOHN M. BURKMAN, Respondent

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