

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:  
: :  
THOMAS ALEX CINER : 40 P.S. § 310.6(a)(6) and 310.11(20)  
2413 Benshoff Hill Road : :  
Johnstown, PA 15909 : :  
Respondent. : Docket No. CO12-08-006

CONSENT ORDER

AND NOW, this *28<sup>th</sup>* day of *September* 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 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 Thomas Alex Ciner and maintains his address at 2413 Benshoff Hill Road, Johnstown, PA 15909.
- (b) On March 23, 2012, Respondent applied for a resident producer license.
- (c) On July 31, 2003, Respondent was convicted of Accident Involving Bodily Injury, a misdemeanor of the first degree.
- (d) On August 24, 2006, Respondent was convicted of Trademark Counterfeiting, a misdemeanor of the first degree.
- (e) On December 6, 2008, Respondent was convicted of Terroristic Threats, a misdemeanor of the first degree.
- (f) On February 4, 2012, Respondent was charged with Recklessly Endangering Another Person, a misdemeanor of the second degree; and Simple Assault, a misdemeanor of the first degree. Respondent has a pending court date of October 29, 2012.

(g) Respondent reported the above convictions on his application for a resident producer license.

(h) In order to remedy this matter, Respondent has agreed to licensure with three (3) years of supervision.

#### 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. § 310.6(a)(6), states that the Department shall issue a producer license, provided the applicant possesses the general fitness, competence and reliability sufficient to satisfy the Department that the applicant is worthy of a license.
- (c) Respondent's activities described above in paragraphs 3(c) through 3(f) violate 40 P.S. § 310.6(a)(6).
- (d) 40 P.S. § 310.11(20) prohibits a licensee or an applicant from demonstrating

a lack of general fitness, competence or reliability sufficient to satisfy the Department that the licensee is worthy of licensure.

(e) Respondent's activities described above in paragraphs 3(c) through 3(f) violate 40 P.S. § 310.11(20).

(f) Respondent's violations of Sections 310.6(a)(6) and 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.

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) Should Respondent be convicted of, or plead guilty or nolo contendere to, any of the charges referenced in paragraph 3(f) or any other charges that may constitute a basis for sanctions under Pennsylvania insurance laws or regulations, or fail to timely provide a copy of the order resulting from a pretrial hearing, or a report of the final charges, any such actions or failure shall constitute a violation of paragraph 5(c) of the Consent Order.
- (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 three (3) years from the date of this Order.
- (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 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 license, Respondent's suspended 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:   
THOMAS ALEX CINER, Respondent

  
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 27<sup>th</sup> 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

