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INSURANCE DEPARTMENT

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ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
ACCESS GENERAL AGENCY	:	40 P.S. §§ 310.11(6), (7), (17), (20)
OF PENNSYLVANIA, LLC	:	1171.5(a)(7)(iii) and 1171.5(a)(12)
116 Pine St., Suite 320	:	
Harrisburg, PA 17101	:	
	:	
	:	
	:	
	:	
Respondent.	:	Docket No. CO18-05-001

CONSENT ORDER

AND NOW, this 28th day of August, 2018, 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 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 Access General Agency of Pennsylvania, LLC, and maintains its mailing address at 116 Pine St., Suite 320, Harrisburg, PA 17101.
- (b) Respondent is, and at all times relevant hereto has been, a licensed resident producer agency.
- (c) Respondent's prior management, from February 2015 to February 2018, through its agents either intentionally or through negligent business practices, did allow, condone, and/or instruct its sub producers to list individuals with no driving records or bad driving records as foreign operators on insurance applications at least 139 times, to decrease premium costs for insureds and gain business.
- (d) Respondent's prior management, from February 2015 to October 2016 through its agents either intentionally or through negligent business practices, allowed sub producers to list P.O. Boxes as a garaging address for insureds at least 204 times, using the same location for at least 88

separate insureds. Of the insureds listed at these P.O. box addresses, 120 were identified as insured's whose actual addresses were outside of the state of Pennsylvania.

- (e) Respondent's prior management, from February 2015 to February 2018, through its agents either intentionally or through negligent business practices, applied unearned Homeowner and Transfer discounts regardless of how the application questions were answered at least 280 times.
- (f) Respondent, from February 2015 to February 2018, misrated at least 627 insureds due to the aforementioned application issues.
- (g) Respondent's prior management, through its agents either intentionally or through negligent business practices, did not allow applications for individuals over 75 years of age to be submitted through their online portal, effectively making it impossible for sub producers to issue policies.

#### 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(c) through 3(g) violate 40 P.S. § 310.11(6).
- (d) 40 P.S. § 310.11(7) prohibits a licensee or an applicant from using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business.
- (e) Respondent's activities described above in paragraphs 3(c) through 3(g) violate 40 P.S. § 310.11(7).
- (f) 40 P.S. § 310.11(17) prohibits a licensee or an applicant from committing fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty.
- (g) Respondent's activities described above in paragraphs 3(c) through 3(g) violate 40 P.S. § 310.11(17).

- (h) 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.
- (i) Respondent's activities described above in paragraphs 3(c) through 3(g) violate 40 P.S. § 310.11(20).
- (j) Respondent's violations of §§ 310.11(6), (7), (17) and (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.
- (k) 40 P.S. § 1171.5(a)(7)(iii) defines and prohibits unfair methods of competition as making or permitting any unfair discrimination between individuals of the same class and essentially the same hazard with regard to underwriting standards and practices or eligibility requirements by reason of race, religion, nationality or ethnic group, age, sex, family size, occupation, place of residence or marital status;

- (l) Respondent's activities described in the paragraph 3(g) constitute unfair discrimination between individuals of the same class and essentially the same hazard and violate 40 P.S. § 1171.5(a)(7)(iii).
  
- (m) 40 P.S. § 1171.5(a)(12) prohibits agents from making false or fraudulent statements or representations on or relative to an application for an insurance policy.
  
- (n) Respondent's activities described above in paragraphs 3(c) through 3(f) constitute making false or fraudulent statements or representations on or relative to an application for an insurance policy and violate 40 P.S. § 1171.5(a)(12).
  
- (o) Respondent's violations of 40 P.S. § 1171.5(a)(7)(iii) and 1171.5(a)(12), are punishable by the following, under 40 P.S. §§ 1171.8, 1171.9, and 1171.11:
  - (i) an order requiring Respondent to cease and desist from engaging in such violation and/or, if such violation is a method of competition, act or practice defined in § 5 of this Act, suspension or revocation of Respondent's license(s);
  - (ii) commencement of an actions against Respondent for the following civil penalties:
    - (1) for each method of competition, act or practice defined in

- § 5 and in violation of the Act which Respondent knew or reasonably should have known was such a violation, a penalty of not more than five thousand dollars (\$5,000.00) for each violation, not to exceed an aggregate penalty of fifty thousand dollars (\$50,000.00) in any six month period;
- (2) for each method of competition, act or practice defined in § 5 and in violation of this Act which Respondent did not know nor reasonably should have known was such a violation, each violation, not to exceed an aggregate penalty of ten thousand dollars (\$10,000.00) in any six month period;
- (3) for each violation of an Order issued by the Commissioner pursuant to § 9 of the Act, which such Order is in effect, a penalty of not more than ten thousand dollars (\$10,000.00).

#### 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) All licenses of Respondent to do the business of insurance are hereby revoked.
  
- (c) If Respondent should ever become licensed in the future, its 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 licenses.
  
- (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 5(d) of this Order, Respondent shall have the burden of demonstrating that it is worthy of an insurance 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 it is worthy of a license, Respondent's suspended licenses shall be revoked.

6. In the event the Insurance Department find 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 provisions 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 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.

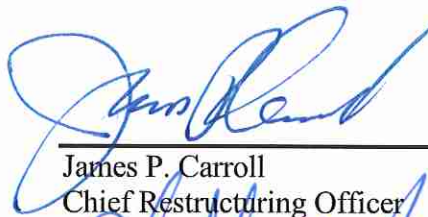
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

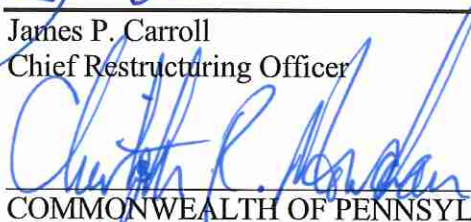
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or duly authorized delegee.

BY: ACCESS GENERAL AGENCY  
OF PENNSYLVANIA, LLC, Respondent



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James P. Carroll  
Chief Restructuring Officer




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COMMONWEALTH OF PENNSYLVANIA  
By: CHRISTOPHER R. MONAHAN  
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 28<sup>th</sup> day of March, 2018, Christopher R. Monahan,  
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.

  
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Jessica K. Altman  
Insurance Commissioner

