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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:  
: :  
PATRICIA MCNEAR : 40 P.S. §310.11(6), (7), (17) and (20)  
1825 W. 9th Street : :  
Beaver Falls, PA 16010 : :  
Respondent. : Docket No. CO16-11-015

CONSENT ORDER

AND NOW, this 3<sup>rd</sup> day of February, 2017, 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 she has received proper notice of her 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 Patricia McNear, and maintains her address at  
1825 W. 9th Street Beaver Falls, PA 16010.
- (b) Respondent is at all times relevant hereto, a licensed Pennsylvania resident  
producer.
- (c) On December 16, 2015, Respondent was charged with felony and  
misdemeanor Insurance Fraud and Forgery.
- (d) Respondent failed to report the aforementioned charges to the Department.
- (e) On August 31, 2016, Respondent pled guilty to Insurance Fraud, a  
misdemeanor of the first degree.
- (f) Respondent failed to report the disposition of the charges to the Department.
- (g) The aforementioned charges were as a result of actions Respondent took in  
her capacity as a licensed insurance producer in February of 2015, by

creating and back dating insurance coverage for a policyholder without the policyholder's knowledge or consent; filing a fraudulent claim on the policyholder's behalf to cover a loss; falsifying the date of the loss; advising the policyholder to falsify the date of loss; and advising the policyholder to have the provider inflate the claim. Respondent also provided the policy holder false proof of insurance cards in 2014.

- (h) Respondent issued insurance policies to other policyholders without their knowledge and consent and without having collecting premium.
- (i) Respondent, in December of 2014 used the personal identifying information of a policyholder to issue an insurance contract to another individual having the same name, who did not qualify for the policy issued.
- (j) The aforementioned actions of Respondent violated Department Consent Order Docket No. CO09-11-002.

#### 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(e) 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(j) 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 paragraph 3(e) 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(j) violate 40 P.S. §310.11(20).
  
- (j) Respondent's violations of Section 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.

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, her 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 ten (10) years from the date of issuance of such licenses.
- (d) Respondent specifically waives her 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 she 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 she 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.

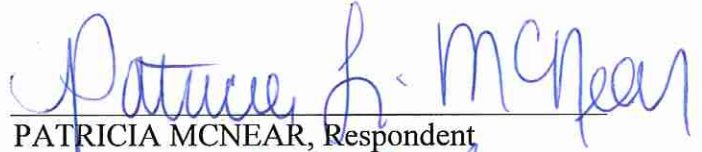
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.


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:

  
PATRICIA MCNEAR, Respondent

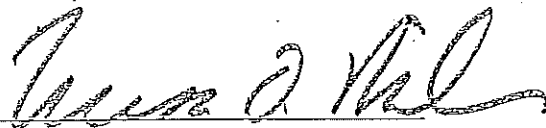
  
COMMONWEALTH OF PENNSYLVANIA  
By: CHRISTOPHER R. MONAHAN  
Deputy Insurance Commissioner



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 13<sup>th</sup> day of November, 2015, 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.



Teresa D. Miller  
Insurance Commissioner

