

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

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INSURANCE DEPARTMENT  
2017 FEB 27 AM 11:03  
ADMIN HEARINGS OFFICE

IN RE:	:	VIOLATIONS:
	:	
SOUTHWEST RISK, LP	:	40 P.S. §§310.11(20)
8144 Walnut Hill Drive, Suite #1400	:	991.1621(d.1)(1)
Dallas, TX 75231	:	
	:	
	:	
Respondent.	:	Docket No. CO16-12-010

CONSENT ORDER

AND NOW, this 27<sup>th</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 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 Southwest Risk, LP, and maintains its address at 8144 Walnut Hill Drive, Suite #1400, Dallas, TX 75231.
- (b) Respondent is, and at all times relevant hereto has been, a licensed non-resident producer agency and non-resident surplus lines licensee.
- (c) The Pennsylvania Surplus Lines Association, under contract as the stamping office for the Pennsylvania Insurance Department, reported that it had not received, in accordance with the surplus lines laws, copies of the annual surplus lines tax filings for 2013 that were required to be filed with the Pennsylvania Department of Revenue.
- (d) On June 21, 2016, Respondent's qualifying active officer and surplus lines licensee was requested to provide copies of surplus lines tax filings and

remittances for years 2013 through 2015 to validate whether or not surplus lines taxes were filed and paid.

- (e) On August 11, 2016, Respondent provided complete verification that its 2014 surplus taxes had been filed and remitted, however, copies of the surplus lines tax filings for 2013 and 2015 failed to include verification that taxes were remitted to the Pennsylvania Department of Revenue.
- (f) On November 30, 2016, Respondent provided a cancelled check that verified its 2015 surplus lines taxes had been remitted to the Pennsylvania Department of Revenue.
- (g) On November 30, 2016, Respondent verified that it had not filed or remitted surplus lines taxes for 2013 with the Pennsylvania Department of Revenue until November 2016 by completing its filing on November 14, 2016, and remitting the taxes on November 17, 2016.
- (h) Respondent's surplus lines taxes for 2013 totaled \$233.00 against sales of \$7,750.00.

## 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(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.
- (c) Respondent's activities described above in paragraphs 3(c) through 3(h) violate 40 P.S. §310.11(20).
- (d) Respondent's violations of Sections 310.11(20) are punishable by the following, under 40 Purdon's Statutes, Section 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.
- (e) 40 P.S. §991.1621(d.1)(1) requires each surplus lines licensee shall, on or before January 31 of each year, file a report of all premiums transacted from the placement of insurance with either an eligible surplus lines insurer or other nonadmitted insurers during the previous calendar year. The report shall be filed as prescribed by the Department of Revenue with any payment. A full copy of the report shall be filed with the Department by the surplus lines licensee.
- (f) Respondent's activities described above in paragraphs 3(c), 3(e) and 3(g) constitute failure to collect and remit the required three percent surplus lines premium tax, and violate 40 P.S. §991.1621(d.1)(1).

#### 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 pay a civil penalty of Two Thousand Dollars (\$2,000.00) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made by certified check or money order, payable to the Commonwealth of Pennsylvania. Payment should be directed to Bureau of Licensing and Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment may be enclosed with the Consent Order, but must be paid in any event no later than fourteen (14) days after the date 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 confirmed 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 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 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 it 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 Insurance 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.

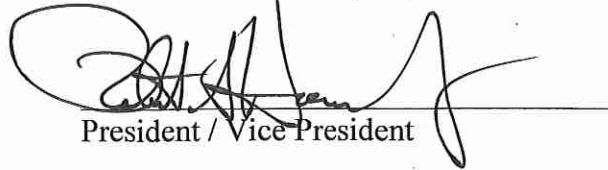
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or the duly authorized delegate is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law

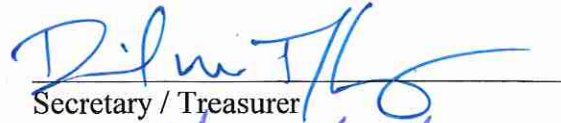


contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or the duly authorized delegee.

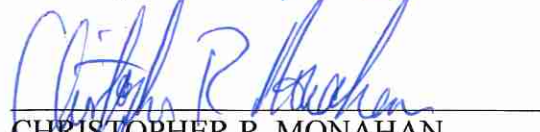
BY: SOUTHWEST RISK, LP, Respondent



President / Vice President



Secretary / Treasurer

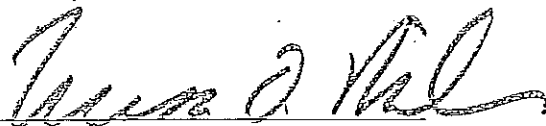


CHRISTOPHER R. MONAHAN  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

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

