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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:  
LIBERTY FINANCIAL SERVICES, : Sections 611-A(17) and (20)  
INC. : of Act 147 of 2002 (40 P.S.  
Liberty Place : §§ 310.11)  
1701 McFarland Road :  
Pittsburgh, PA 15216 :  
Respondent. : Docket No. CO03-11-008

CONSENT ORDER

AND NOW, this 18<sup>th</sup> day of February, 2004, this Order is hereby issued by the Deputy Insurance Commissioner 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is Liberty Financial Services, Incorporated, and maintains its address at Liberty Place, 1701 McFarland Road, Pittsburgh, Pennsylvania 15216.
- (b) At all times relevant hereto, Respondent has been a licensed insurance producer.
- (c) During November, 2001, Christine G. Wilson, Respondent's employee and licensed producer, invoiced and accepted a premium payment of approximately \$74,161.00 from the School District of Pittsburgh, Pennsylvania, for insurance.

- (d) Christine G. Wilson relinquished the aforementioned premiums to Respondent and deposited the money into the agency premium account, but failed to procure the insurance for the School District of Pittsburgh.
  
- (e) Christine G. Wilson misrepresented to the School District of Pittsburgh that insurance with Genesis Insurance Company was procured under policy #EOGEN2001437.
  
- (f) Genesis Insurance Company confirmed that no application or premiums were received from Christine G. Wilson for insurance for the School District of Pittsburgh.
  
- (g) Respondent confirmed to the School District of Pittsburgh and the Pennsylvania Insurance Department that it was not cognizant until October, 2002, that the premiums were in the agency account, nor that Christine G. Wilson failed to procure the insurance as represented to the School District of Pittsburgh.
  
- (h) Respondent learned of Ms. Wilson's actions in late October, 2002. Respondent immediately contacted the appropriate representatives of the School District of Pittsburgh, and advised them of the situation, and also made contact with this Department and advised it of the situation.

- (i) Demand was made upon Respondent by the School District of Pittsburgh for the return of the premium money collected by Ms. Wilson.
  
- (j) Initially, Respondent made written inquiries with representatives of the School District of Pittsburgh questioning the amount of money owed, due to its inability to understand certain accounting entries made by Ms. Wilson.
  
- (k) Shortly after receipt of this inquiry, and prior to responding to it, the School District of Pittsburgh commenced suit and formal legal pleadings and discovery began. Part of the recovery sought in said suit was the premium of \$74,161.00.
  
- (l) In July, 2003, the School District of Pittsburgh renewed its demand for immediate repayment of the premium.
  
- (m) By letter dated July 23, 2003, counsel for Respondent again raised the questions originally raised by Respondent, as described in the sub-paragraph above. In the same correspondence, however, a check from Respondent was provided for the amount that did not appear to be questionable, \$35,828.00.

- (n) The School District of Pittsburgh's attorney responded to the specific questions raised by counsel for Respondent in letters of August 15 and 20, and by letter of August 27, 2003, Liberty reimbursed the School District of Pittsburgh the remainder of the premium paid in full.

#### CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner concludes and finds the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Section 611-A(17) of Act 147 of 2002 prohibits a licensee from committing fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty (40 P.S. § 310.11).
- (c) The activities of Respondent's employee described above in paragraphs 3(c) through 3(h) demonstrate dishonest acts involving fiduciary duty, in violation Section 611-A(17) of Act 147 of 2002 (40 P.S. § 310.11).

- (d) Section 611-A(20) of Act 147 of 2002 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 (40 P.S. § 310.11).
  
- (e) The activities of Respondent's employee described above in paragraphs 3(c) through 3(h) violate Section 611-A(20) of Act 147 of 2002.
  
- (f) Respondent's violations of Sections 611-A(17) and (20) of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2003 (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 each 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 Deputy Insurance Commissioner 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 agrees to accept responsibility for all claims that occurred during the period the policy was to be in effect.
- (c) Respondent shall pay a civil penalty of Three Thousand Dollars (\$3,000.00) to the Commonwealth of Pennsylvania. This penalty shall be made payable to the Commonwealth of Pennsylvania, and directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1311 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment may be enclosed with the Consent Order, but must be paid in any event no later than thirty (30) days after the date of the Consent Order.
- (d) Respondent's certificates and licenses may be immediately suspended by the Department following its investigation and determination that (i) penalty payment has not been made, or (ii) any other terms of this Order have not been complied with, or (iii) 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.

- (e) 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.
- (f) At the hearing referred to in paragraph 5(e) of this Order, Respondent shall have the burden of demonstrating that it is worthy of a license.
- (g) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5(d) 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 certificates and licenses shall be revoked.

6. In the event the Deputy Insurance Commissioner 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 Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner 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 Deputy Insurance Commissioner. Only the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner 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 Deputy Insurance Commissioner.

BY: John V. Ghera, President  
LIBERTY FINANCIAL SERVICES,  
INC., Respondent

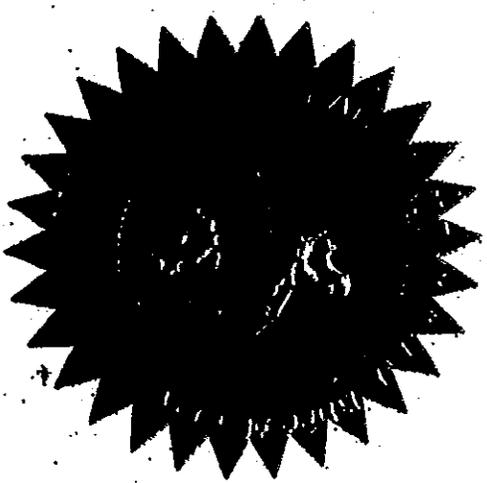
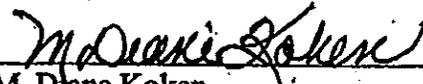
R. L. Rohrbaugh  
RANDOLPH L. ROHRBAUGH  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

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 29 day of April, 2002, Randolph L.

Rohrbaugh, 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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M. Diane Koken  
Insurance Commissioner