

RECEIVED
INSURANCE DEPARTMENT
2016 DEC 20 AM 11:03
ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

| | | |
|-------------------------|---|--------------------------------------|
| IN RE: | : | VIOLATIONS: |
| | : | |
| GIL J. MURRAY | : | 40 P.S. §§310.11(4), (7), (17), (20) |
| 101 Marcaby Lane | : | 310.42 and 310.96 |
| Clarks Summit, PA 18411 | : | |
| | : | |
| | : | |
| | : | |
| | : | |
| | : | |
| Respondents. | : | Docket No. CO16-14-010 |

CONSENT ORDER

AND NOW, this 20TH day of DECEMBER, 2016, 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 admit and acknowledge that he has received proper notice of his rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa. C.S.A. §101, et seq., or other applicable law.

2. Respondent hereby waive all rights to a formal administrative hearing in this matter, and agree 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 Gil J. Murray, and maintains his address at 101 Marcaby Lane, Clarks Summit, PA 18411.
- (b) Respondent is, and at all times relevant hereto, has been a licensed resident producer.
- (c) Respondent accepted a premium payment of \$46,210.00 on June 24, 2015, which was never remitted to Highmark Casualty Insurance Company, and caused the insured to make an additional payment to the managing general agent to prevent the policy from being canceled.
- (d) Respondent failed to remit premiums on time for at least four (4) other insureds totaling \$43,952.00 between January 2014 and May 2015, causing the

policyholders to receive cancelation notices and in several instances the wholesale broker was forced to step in to ensure that no lapses in coverage occurred.

- (e) Respondent paid full restitution to the previously mentioned policyholders on August 17, 2016.
- (f) Respondent failed to remit payment of surety bonds in the amount of \$31,003.70 and issued six (6) bonds between March 2011 and December 2013, which were never reported to the insurer, Zurich North America.
- (g) Respondent co-mingled premium payments outlined in 3(d), with personal funds in the agency's general account without the insureds consent, and failed to delineate those funds, which in turn caused them to be spent on personal purchases.

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(4) prohibits producers from improperly withholding, misappropriating, or converting money or property received in the course of doing business.

- (c) Respondent's activities described above in paragraphs 3(c) through 3(g) constitute improperly withholding, misappropriating, or converting money or property received in the course of doing business, in violation of 40 P.S. §310.11(4).

- (e) 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.

- (f) Respondent's activities described above in paragraphs 3(c) through 3(g) violate 40 P.S. §310.11(7).

- (g) 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.

- (h) Respondent's activities described above in paragraphs 3(c) through 3(g) violate 40 P.S. §310.11(17).

- (i) 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.
- (j) Respondent's activities described above in paragraphs 3(c) through 3(g) violate 40 P.S. §310.11(20).
- (k) 40 P.S. §310.42 prohibits any producer from fraudulently appropriating, taking, disposing of, withholding, lending, investing or otherwise using any money received in the capacity of an insurance producer without the consent of the insurer.
- (l) Respondent's activities described above in paragraphs 3(c) through 3(g) constitute theft, in violation of 40 P.S. §310.42.
- (m) 40 P.S. §310.96 and 31 Pa. Code §37.81, prohibit producers from, without the express consent of the insurance entity on whose behalf the funds were received, mingle the funds with the producer's own funds or with funds held by the producer in any other capacity. The funds of each insurance entity must be reasonably ascertainable from the books of accounts and records of the insurance producer.

- (n) Respondent's activities described above in paragraph 3(g) constitute a violation of 40 P.S. §310.96, and 31 Pa. Code §37.81.

- (o) Respondent's violations of Sections 310.11(4), (7), (17), (20), 310.42 and 310.96 are punishable by the following, under 40 Purdons 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.

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondents consent 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 is hereby revoked.

- (c) Respondent shall make restitution to Wakefield Cottage in the amount of \$46,210.00 on or before 30 days from the date of this Consent Order.
- Respondent shall make restitution to persons or entities other than Wakefield Cottage if the Deputy Commissioner identifies such persons and determines that restitution is owed to them by Respondent. Proof of restitution payment shall be provided to the Insurance Department by Respondent.
- (d) If Respondent should ever become licensed in the future, his 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.
- (e) 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 Respondents written request.

- (f) At the hearing referred to in paragraph 5(e) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance license.
- (g) In the event Respondents 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 he is worthy of a license, Respondents 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, it may, in its discretion, pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or 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.

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.

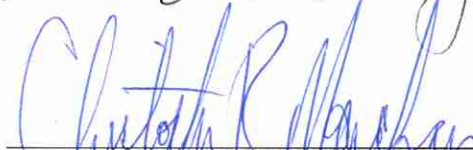
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 the duly authorized delegee 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 Department or a duly authorized delegee.

BY:

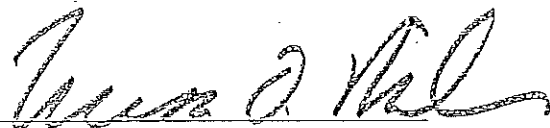

GIL J. MURRAY, Respondent


By: 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 13th 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

