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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:
: :
BENJAMIN RAYMOND RODGERS : 63 P.S. §§856(5) and (6)
129 Davis Street : :
Blossburg, PA 16912 : :
Respondent. : Docket No. CO16-04-015

CONSENT ORDER

AND NOW, this 23rd day of May, 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 admits and acknowledges that he has received proper notice of his 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 Benjamin Raymond Rodgers, and maintains his address at 129 Davis Street, Blossburg, PA 16912.
- (b) Respondent is, and at all times relevant hereto has been, a licensed motor vehicle physical damage appraiser.
- (c) On February 2, 2015, Respondent was charged with nine (9) counts of felony Theft by Deception, four (4) counts of misdemeanor Theft by Unlawful Taking and two (2) counts of misdemeanor Theft by Deception.
- (d) On February 8, 2016, Respondent entered a guilty plea to two (2) felony counts of Theft by Deception.
- (e) On March 28, 2016, Respondent was sentenced to three to twenty-three and a half months in Tioga County Prison and ordered to pay \$108,987.33 in restitution to Matthew's Motor Company and \$10,000 to Erie Insurance Company.

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) 63 P.S. §856(5), states the Commissioner may deny initial issuance of, suspend, revoke or refuse to renew any appraiser's license if the licensee has been convicted, by final judgment, of a felony.
- (c) Respondent's activities described above in paragraph 3(e) violate 63 P.S. §856(5)
- (d) 63 P.S. §856(6), states the Commissioner may deny initial issuance of, suspend, revoke or refuse to renew any appraiser's license if the licensee has shown himself to be incompetent, untrustworthy, or a source of injury and loss to the public.
- (e) Respondent's activities described above in paragraphs 3(c) through 3(e) violate 63 P.S. §856(6).

- (0) Respondent's violations of 63 Purdons Statutes, Sections 856(5) and (6) are punishable by the following, under 63 Purdons Statutes, Section 856:

The commissioner may suspend or revoke any appraiser's license for any of the following causes:

- (1) For any cause for which issuance of the license could have been refused had it been existent and been known to the commissioner.
- (2) If the licensee willfully violates or fails to comply with or knowingly participates in the violation of or failure to comply with any provision of this act or any rule or regulation promulgated thereunder.
- (3) If the licensee has obtained or attempted to obtain any such license through wilful misrepresentation or fraud, or has failed to pass any examination required under this act.
- (4) If the licensee has, with intent to deceive, materially misrepresented the terms or effect of any insurance contract; or has engaged or is about to engage in any fraudulent transaction.
- (5) If the licensee has been convicted by final judgment, of a felony.
- (6) If in the conduct of his affairs under the license, the licensee has shown himself to be, and is so deemed by the commissioner, incompetent, or untrustworthy, or a source of injury and loss to the public.

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, 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 five (5) years from the date of issuance of such licenses.
- (d) 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 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 he 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 he 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 delegate 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: Benjamin R. Rodgers
BENJAMIN RAYMOND RODGERS,
Respondent

Christopher R. Monahan
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 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

