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PA INSURANCE DEPARTMENT

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HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
T.H.E. INSURANCE COMPANY 10451 Gulf Boulevard Treasure Island, FL 33706	: : :	77 Purdons Statutes, Sections 997(a) and 1038.1(e)
	: : :	Title 34, Pennsylvania Code, Section 129.106
	:	
Respondent.	:	Docket No. CO04-02-017

CONSENT ORDER

AND NOW, this 22nd day of March, 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 T.H.E. Insurance Company, and maintains its address at 10451 Gulf Boulevard, Treasure Island, Florida 33706.

(b) At all times herein, Respondent has been a licensed insurer in the Commonwealth of Pennsylvania.

(c) Respondent was required to file an annual "Accident and Illness Prevention Services" report to the Pennsylvania Department of Labor and Industry by June 1, 2003.

(d) Respondent did not file the required LIBC-2101 ("Accident and Illness Prevention Services") report on June 1,2003.

(e) In November, 2003, the Pennsylvania Department of Labor and Industry advised Respondent that it did not submit the required LIBC-2101.

(f) On November 3, 2003, Respondent submitted the required Accident and Illness Prevention Services report to the Pennsylvania Department of Labor and Industry.

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) 77 Purdons Statutes, Section 1038.1(e), requires any insurer writing workers' compensation insurance in the Commonwealth shall maintain or provide accident and illness prevention services and at least once each year, each insurer must submit to the Department detailed information on the type of

accident prevention services offered or provided to the policyholders, including amount of money spent on accident prevention, number and qualifications of field safety representatives, number of site inspections, accident prevention services contracted for, premium size of the risks, and evidence of the effectiveness in accident prevention.

(c) Respondent's activities described above in paragraphs 3(c) through 3(f) constitutes failure to submit the accident and illness prevention report, in violation of 77 Purdons Statutes, Section 1038.1(e).

(d) Respondent's violation of 77 Purdons Statutes, Section 1038.1(e), is punishable under 77 Purdons Statutes, Section 1038.1(f): Failure to maintain or provide the accident prevention services required by this section shall constitute a continuing civil violation for each day the accident prevention services are not maintained or provided. Each day of noncompliance with this section is a separate violation. All fines recovered under this section shall be paid to the Department and deposited into the Workmen's Compensation Administration Fund.

(e) 77 Purdons Statutes, Section 997(a), requires that any insurer licensed to transact workmens compensation insurance in this Commonwealth that fails to submit any report under the Workers Compensation Act, is subject to license revocation or suspension by the Insurance Commissioner. The

Insurance Commissioner shall set forth detail the reasons for this recommendation, and shall furnish a copy to the insurer and set a date for public hearing.

(f) Respondent's activities described above in paragraphs 3(c) through 3(f) constitutes failing to submit a required report, in violation of 77 Purdons Statutes, Section 997(a).

(g) Title 34, Pennsylvania Code, Section 129.106 mandates, by June 1 of each year, annual reporting by licensed insurers regarding accident and illness prevention services being maintained or provided to policyholders.

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 shall pay a civil penalty of One Thousand Dollars ($1,000.00) 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.

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: T.H.E. INSURANCE COMPANY,
Respondent

President / Vice President

Secretary / Treasurer

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.

M. Diane Koken
Insurance Commissioner