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INSURANCE DEPARTMENT
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ADMIN HEARINGS OFFICE

FOR THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
Application of James W. Barnes Requesting Written Consent to Engage in the Business of Insurance	:	Pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. § 1033
	:	Docket No. CW19-08-007

CONSENT ORDER

AND NOW, this 17th day of September, 2019, 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. To the extent applicable, Applicant 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, 2 Pa.C.S. § 101, et seq., or other applicable law.

FINDINGS OF FACT

2. The Insurance Department finds true and correct each of the following Findings of Fact:

(a) Applicant is James W. Barnes and maintains a record of his address with the Pennsylvania Insurance Department as 7809 Summerdale Avenue, Philadelphia, PA 19111.

(b) Applicant does not possess a license to transact insurance as a public adjuster in this Commonwealth.

(c) Applicant was convicted of felony Burglary on February 4, 1980, in the Court of Common Pleas of Philadelphia County, Pennsylvania.

(d) Applicant was convicted of felony Criminal Trespass on April 9, 1980, in the Court of Common Pleas of Philadelphia County, Pennsylvania.

(e) Applicant pleaded guilty to felony Burglary and felony Criminal Trespass on May 12, 1980, in the Court of Common Pleas of Philadelphia County, Pennsylvania.

(f) Applicant pleaded guilty to felony Burglary on October 24, 1984, in the Court of Common Pleas of Philadelphia County, Pennsylvania.

(g) Applicant was convicted of felony Attempted Criminal Trespass, and felony Attempted Burglary on May 16, 1985, in the Court of Common Pleas of Philadelphia County, Pennsylvania.

(h) Applicant pleaded guilty to felony Retail Theft on April 15, 1999, in the Court of Common Pleas of Chester County, Pennsylvania.

(i) Applicant, on or about June 20, 2019, submitted an application to the Pennsylvania Insurance Department for written consent to engage in the business of insurance pursuant to 18 U.S.C. § 1033(e)(2).

(j) Applicant answered "yes" to the criminal history question on his application.

(k) The activities in which Applicant desires to engage, constitutes the business of insurance within the meaning of 18 U.S.C. § 1033(e)(1)(A) and (f).

CONCLUSIONS OF LAW

3. In accordance with the above Findings of Fact and applicable provisions of law, the Insurance Department concludes and finds the following Conclusions of Law:

(a) 18 U.S.C. § 1033(e)(2) provides that persons convicted of a felony involving dishonesty or a breach of trust may not engage in the business of insurance or participate in such business unless such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to 18 U.S.C. § 1033(e)(2).

(b) Applicant's activities described in paragraphs 2(c) through 2(h), constitute convictions of a felony involving dishonesty or a breach of trust.

(c) Pursuant to 18 U.S.C. § 1033(e)(2), the Commonwealth of Pennsylvania Insurance Department has the discretion to grant written consent permitting the Applicant to engage in the business of insurance.

ORDER

4. Accordingly, the Deputy Insurance Commissioner orders and Applicant consents to the following:

(a) Applicant is granted the consent to engage in the business of insurance subject to the conditions of this Order.

(b) Applicant shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

(c) Applicant shall further comply with all Pennsylvania insurance laws and regulations.

(d) Applicant shall engage in the business of insurance in a manner that is not reasonably likely to cause harm to the public, policyholders or the industry.

5. The terms of this Order shall remain in place for a period of five years and thereafter, unless and until the Department or the Commissioner terminates the Order. Nothing in this Order shall preclude the Department, the Deputy Commissioner or the Commissioner, in their sole discretion, from decreasing or lessening the restrictions

contained in this Order in whole or in part while it is in effect. Any such lessening of the restrictions contained in this Order shall be made in writing by the Department, the Deputy Commissioner or the Commissioner. Further, Applicant shall not apply nor otherwise seek to reduce or remove the restrictions contained in this Order for a period of at least five years.

6. Following the five-year period referenced in paragraph 5, above, this Order shall continue unless and until the Department affirmatively terminates it. Nothing in this Order shall be construed as conferring upon Applicant any property right or interest as a result of receiving this conditional consent to engage in the business of insurance in accordance with the terms of this Order. Applicant expressly waives any right to assert that he is entitled to a hearing on the termination of this Order following the expiration of the five-year period referenced in paragraph 5. Should the Insurance Department or the Commissioner, terminate this Order after the five year period referenced in paragraph 5, above, Applicant may file a new application for a written consent to engage in the business of insurance under 18 U.S.C. § 1033(e)(2).

7. The Department's conditional consent permitting Applicant to engage in the business of insurance, and Applicant's existing licenses, may be immediately suspended upon notice by the Department following its investigation and determination that Applicant has failed to adhere to any condition set forth in this Order or has violated an insurance statute or regulation.

8. Applicant shall have no right to prior notice of such a suspension, but will be entitled to a hearing upon written request received by the Department no later than thirty (30) days from the date the Department mailed to Applicant by certified mail, return receipt requested, notification of such suspension, which hearing shall be held within sixty (60) days of the Department's receipt of Applicant's written request for a hearing.

9. At a hearing referred to in paragraph 8 above, Applicant shall have the burden of demonstrating that he is worthy of an insurance license and a conditional consent to engage in the business of insurance. In the event Applicant's conditional consent, and licenses are suspended pursuant to paragraph 8 above, and Applicant either fails to request a hearing within 30 days or at the hearing fails to demonstrate that he is worth of a license, Applicant's suspended conditional consent, and licenses shall be revoked.

10. In the event the Insurance Department find 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 provisions of law; or, if applicable, the Department may enforce the provisions of this Order in any other court of law or equity having jurisdiction.

11. Alternatively, in the event the Insurance Department finds 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.

12. In any such enforcement proceeding, Applicant 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.

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

14. 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.

15. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee 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 duly authorized delegee.

BY: James W. Barnes

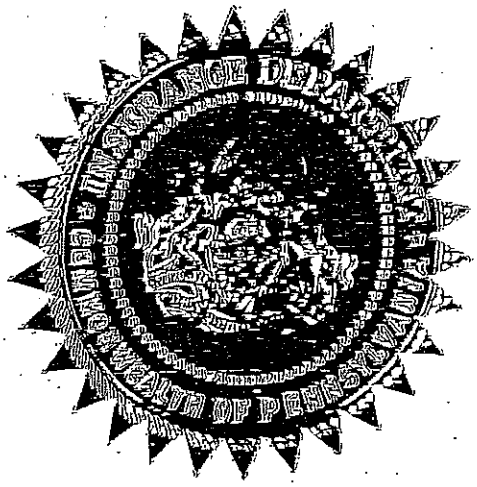
James W. Barnes, Applicant

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 28th day of March, 2018, 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.

Jessica K. Altman
Insurance Commissioner