

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT
05 SEP 23 AM 10:23
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
ROSIE K. BARNHART : Sections 611-A(20) and 647-A of
4122 Smoketown Road : Act 147 of 2002 (40 P.S. §§ 310.11
Glennville, PA 17329 : and 310.47)
: :
: :
Respondent. : Docket No. CO05-08-031

CONSENT ORDER

AND NOW, this *23rd* day of *September*, 2005, 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 she has received proper notice of her 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. Respondent neither admits nor contests the findings herein.

FINDINGS OF FACT

3. The Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is Rosie K. Barnhart, and maintains an address at 4122 Smoketown Road, Glenville, Pennsylvania 17329.
- (b) At all relevant times herein, Respondent has possessed a current resident producer license.
- (c) On January 25, 2005, at about 12:45 pm, Respondent was notified by Jacqueline Neiderer that Neiderer's daughter, Jessica Fetrow, was just involved in an automobile accident and Fetrow's automobile insurance policy had expired the previous day.

- (d) On January 25, 2005, Neiderer went to Respondent's place of employment, The Weber Insurance Agency, for the purpose of obtaining automobile insurance for her daughter. Neiderer paid an initial premium and signed Fetrow's name to the application.
- (e) Respondent backdated the aforementioned application to Progressive Insurance Company, making it effective 12:01 am of January 24, 2005, with knowledge that the accident had occurred, however did not indicate the accident on the application.
- (f) The Weber Insurance Agency, upon discovery of the backdated application, withdrew the claim to Progressive Insurance and submitted the claim under its Errors and Omissions policy, which was between \$6,000 and \$7,000 for both vehicles involved in Fetrow's accident.
- (g) Respondent admits to backdating the application, believed she had the binding authority for the transaction, and asserts that she was acting in the best interests of the insured.
- (h) As Respondent is no longer in the business of insurance, she has agreed to the revocation of her insurance licenses.

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(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).
- (c) Respondent's activities described above in paragraphs 3(c) through 3(h) violates Section 611-A(20) of Act 147 of 2002.
- (d) Section 647-A of Act 147 of 2002 (40 P.S. § 310.47) prohibits producers from misrepresenting the terms of policies and future dividends.
- (e) Respondent's activities described above in paragraphs 3(c) through 3(h) constitute misrepresenting the terms of policies and future dividends and violate Section 647-A of Act 147 of 2002 (40 P.S. § 310.47).

(f) Respondent's violations of Sections 611-A(20) and 647-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (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:

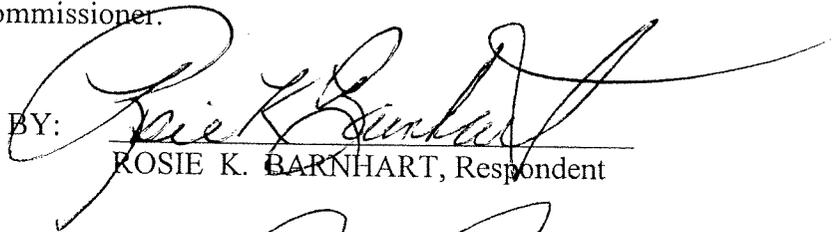
- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) All licenses/certificates of Respondent to do insurance business are hereby revoked.

- (c) If Respondent should ever become licensed in the future, her certificates and 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 (ii) above is limited to a period of five (5) years from the date of issuance of such certificates and licenses.
- (d) Respondent specifically waives her 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 (d) of this Order, Respondent shall have the burden of demonstrating that she is worthy of an insurance certificate and license.
- (f) In the event Respondent's certificates and 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 she is worthy of a

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:



ROSIE K. BARNHART, Respondent



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

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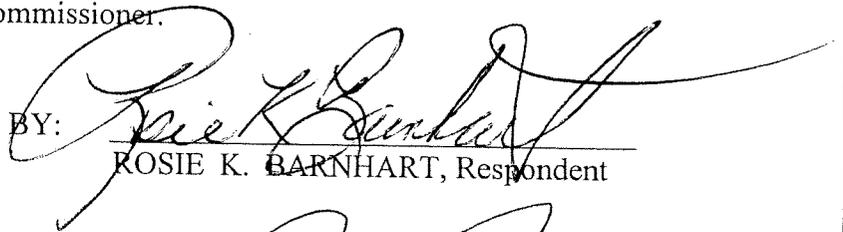
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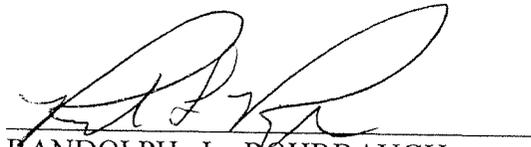
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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:



ROSIE K. BARNHART, Respondent



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania