

RECEIVED
INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

2008 SEP -3 AM 11:14
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
LEE. E. DAVIS, JR. : Sections 611-A, 678-A(b)
206 Hilloch Drive : of Act 147 of 2002.
West Chester, PA 19380 : (40 P.S. §§310.11, 310.78(b))
: :
Respondent. : Docket No.: CO08-08-019
: :

CONSENT ORDER

AND NOW, this *2^d* day of *September*, 2008, 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 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.

3. Without admitting the allegations of fact and conclusions of law contained herein, Respondent specifically denies that he violated any law or regulation of the Commonwealth of Pennsylvania or any other jurisdiction.

FINDINGS OF FACT

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

- (a) Respondent is Lee E. Davis, Jr., and resides at 1512 West Chester Pike, West Chester, Pennsylvania 19380.
- (b) At all relevant times here, Respondent has been a licensed producer, license number 354412, which expires on July 22, 2010.
- (c) Between December 2005 and June 2006, Respondent collected premiums for policies that were never issued.
- (d) On July 10, 2006, Respondent was arrested and charged with three criminal charges in the Montgomery County Court of Common Pleas.

- (e) Respondent failed to report in writing the filing the criminal charges against him to the Department within 30 day period as required by the Pennsylvania Insurance laws.
- (f) On July 22, 2006, Respondent filed a Resident Producer license renewal application in which he denied that there were any pending charges against him.
- (g) The Montgomery County criminal charges were resolved through the Accelerated Rehabilitative Disposition (“ARD”) process.
- (h) Respondent discontinued taking any new insurance applications effective August 2, 2008.

CONCLUSIONS OF LAW

5. 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 (“Department”).

- b) Section 611-A(1) of Act 147 of 2002 prohibits a licensee from providing incorrect, misleading, incomplete or false information to the Department in a license application (40 P.S. § 310.11(1)).

- c) Respondent's failure to disclose his July 10, 2006, criminal charges on his Resident Producer license renewal application dated July 22, 2006, violates 40 P.S. § 310.11(1).

- d) 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 (20)).

- e) Respondent's acts described in paragraphs 4(c) through 4(f) violate 40 P.S. § 310.11(20).

- f) Section 678-A(a) of Act 147 of 2002 requires a licensee to report in writing the criminal charges within 30 days of being charged with criminal conduct (40 P.S. § 310.78(a)).

- g) Respondent's failure to report the July 2008 criminal charges in writing within 30 days after he was charged with the criminal conduct constitutes the violation of 40 P.S. § 310.78(a).

- h) Respondent's violations of Sections 611-A(1) & (20), and 678-A(b) 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

6. 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 immediately surrender all producer licenses.

- (c) Should Respondent ever become re-licensed, Respondent's 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 this section is limited to a period of five (5) years from the date of any such relicensure.
- (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 6(d) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance certificate and license.
- (f) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 6(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 certificate and license, Respondent's suspended certificates and licenses shall be revoked.

7. 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.

8. 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.

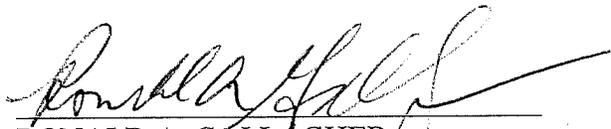
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

12. 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:



LEE E. DAVIS, Jr.
Respondent



RONALD A. GALLAGHER
Deputy Insurance Commissioner
Commonwealth of Pennsylvania