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ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
DENNIS A. FOGLIA, t/a	:	40 P.S. §§ 310.11(6), (7), (17), (20),
FOGLIA INSURANCE, INC.	:	and 1171.5(a)(2)
2071 Kent Road	:	
Huntingdon Valley, PA 19006-6705	:	
	:	
Respondents.	:	Docket No. CO12-03-010

CONSENT ORDER

AND NOW, this 13TH day of APRIL, 2012, 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. Respondents hereby admit and acknowledge that they have received proper notice of their rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondents hereby waive all rights to a formal administrative hearing in this matter, and agree 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 Dennis A. Foglia and maintains his address at 2073 Kent Road, Huntingdon Valley, PA 19006-6705.
- (b) Co-Respondent is Foglia Insurance, Inc., and maintains its business address at 9456 State Road, Philadelphia, PA 19114.
- (c) Respondent has an active resident individual license #348871 that expires on November 30, 2013.
- (d) Co-Respondent has an active resident agency license #65547 that expires on September 29, 2012.
- (e) Between September, 2004 and December, 2005, Respondent placed two individuals who were not employees of Co-Respondent under Co-Respondent's Blue Cross Blue Shield Personal Choice Plan, and one of the individuals was required to pay a monthly premium to Respondent.

- (f) Blue Cross Blue Shield has confirmed that they paid claims during this time frame in the amount of \$1,226.00 on the two individuals mentioned in paragraph 3(e).
- (g) The two individuals mentioned in paragraph 3(e) were dropped from Co-Respondent's Blue Cross Blue Shield Personal Choice Plan in December, 2005.
- (h) Respondent, between February 1, 2011 and February 6, 2012, placed an individual, who was not an employee of Co-Respondent, on Co-Respondent's group dental coverage with United Concordia.
- (i) United Concordia has confirmed that they did not pay any claims during this time frame on the individual mentioned in paragraph 3(h).
- (j) Respondent has been cooperative and agreed to immediately drop the individual mentioned in paragraph 3(h) above from Co-Respondent's United Concordia group dental plan.

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) Respondents are subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) 40 P.S. § 310.11(6) prohibits a licensee or an applicant from committing any unfair insurance practice or fraud.
- (c) Respondents' activities described above in paragraphs 3(e) and 3(h) violate 40 P.S. § 310.11(6).
- (d) 40 P.S. § 310.11(7) prohibits a licensee or an applicant from using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business.
- (e) Respondents' activities described above in paragraphs 3(e) and 3(h) violate 40 P.S. § 310.11(7).
- (f) 40 P.S. § 310.11(17) prohibits a licensee or an applicant from committing fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty.
- (g) Respondents' activities described above in paragraphs 3(e) and 3(h) violate 40 P.S. § 310.11(17).

- (h) 40 P.S. § 310.11(20) 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.

- (i) Respondents' activities described above in paragraphs 3(e) and 3(h) violate 40 P.S. § 310.11(20).

- (j) Respondents' violations of Sections 310.11(6), (7), (17) and (20) are punishable by the following, under 40 P.S. § 310.91:
 - (i) suspension, revocation or refusal to issue the license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
 - (iii) an order to cease and desist; and
 - (iv) any other conditions as the Commissioner deems appropriate.

- (k) 40 P.S. § 1171.5(a)(2) prohibits persons from making, issuing, publishing or circulating in any manner an advertisement, announcement or statement containing any representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business which is untrue, deceptive or misleading.

(l) Respondents' activities described above in paragraphs 3(e), and 3(h) violate 40 P.S. § 1171.5(a)(2).

(m) Respondents' violations of 40 P. S. §§1171.5(a)(2) are punishable by the following, under 40 Purdons Statutes, Sections 1171.8, 1171.9, and 1171.11:

(i) an order requiring Respondents to cease and desist from engaging in such violation and/or, if such violation is a method of competition, act or practice defined in Section 5 of this Act, suspension or revocation of Respondents' license(s);

(ii) commencement of an action against Respondents for the following civil penalties:

(1) for each method of competition, act or practice defined in Section 5 and in violation of the Act which Respondents knew or reasonably should have known was such a violation, a penalty of not more than five thousand dollars (\$5,000.00) for each violation, not to exceed an aggregate penalty of fifty thousand dollars (\$50,000.00) in any six month period;

- (2) for each method of competition, act or practice defined in Section 5 and in violation of this Act which Respondents did not know nor reasonably should have known was such a violation, a penalty of not more than one thousand dollars (\$1,000.00) for each violation, not to exceed an aggregate penalty of ten thousand dollars (\$10,000.00) in any six month period;
- (3) for each violation of an Order issued by the Commissioner pursuant to Section 9 of the Act, while such Order is in effect, a penalty of not more than ten thousand dollars (\$10,000.00).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondents consent to the following:

- (a) Respondents shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondents shall pay a civil penalty of One Thousand Dollars (\$1,000.00) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made by certified check or money order, payable to the Commonwealth of

Pennsylvania. Payment should be directed to April Phelps, Bureau of Licensing and Enforcement, 1227 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.

- (c) Respondents' 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 Respondents 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 this Order.
- (d) Respondents specifically waives the 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 Respondents 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 Respondents' written request.
- (e) At the hearing referred to in paragraph 5(d) of this Order, Respondents shall have the burden of demonstrating that they are worthy of a license.

(f) In the event Respondents' licenses are suspended pursuant to paragraph 5(c) above, and Respondents either fail to request a hearing within thirty (30) days or at the hearing fail to demonstrate that they are worthy of a license, Respondents' 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.

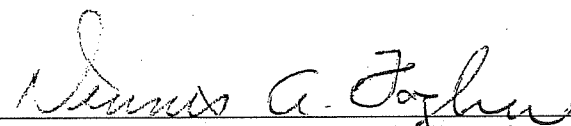
8. In any such enforcement proceeding, Respondents may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

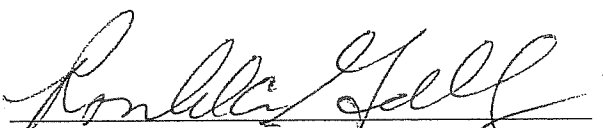
9. Respondents hereby expressly waive any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 delegate.

BY:


DENNIS A. FOGLIA, individually and on
behalf of FOGLIA INSURANCE, INC.,
Respondents


COMMONWEALTH OF PENNSYLVANIA
By: RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner