RECEIVED INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER OF THE COMMONWEALTH OF PENNSYLVANIA DMIN HEARINGS OFFICE

IN RE:

VIOLATIONS:

CLARICE FULTZ

40 Purdons Statutes, Sections

158 Papermill Road, Apt. 4104

310.11(9), (19) and (20)

Lawrenceville, GA 30045

:

Respondent.

Docket No. CO08-09-003

CONSENT ORDER

AND NOW, this 31 At day of Octaber, 2008, 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. 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, supprace, 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 Clarice Fultz, and maintains her address at 158 Papermill Road, Apt. 4104, Lawrenceville, GA 30045.
 - (b) At all relevant times herein, Respondent has been a licensed insurance producer.
 - (c) From 2006 through 2008, Respondent signed applicants' names to electronic applications 33 times.
 - (d) Respondent purported to have previously obtained written applications with the insureds' original signatures, however could not produce the written applications.
 - (e) Respondent admitted to transferring applicant information and signatures in a written statement to the Department.

(f) Respondent was informed by the Department that she was required to update her address on file, and failed to do so within the required limit.

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) Respondent is subject to the jurisdiction of the Pennsylvania Insurance

 Department.
 - (b) 40 Purdons Statutes, Section 310.11(9) prohibits a licensee from forging another person's name on an application for insurance or on any document related to an insurance or financial service transaction.
 - (c) Respondent's activities described above in paragraphs 3(c) through 3(e) violate 40 Purdons Statutes, Section 310.11(9).
 - (d) 40 Purdons Statutes, Section 310.11(19) requires a licensee to notify the Department of a change of address within 30 days.
 - (e) Respondent's activities described above in paragraph 3(f) violate 40 Purdons Statutes, Section 310.11(19).

- (f) 40 Purdons Statutes, Section 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.
- (g) Respondent's activities described above in paragraphs 3(c) through 3(f) violate 40 Purdons Statutes, Section 310.11(20).
- (h) Respondent's violations of Sections 310.11(9), (19) and (20) are punishable by the following, under 40 Purdons Statutes, Section 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 every 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 Insurance Department 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'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 this Order.
- (c) 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.
- (d) At the hearing referred to in paragraph 5(c) of this Order, Respondent shall have the burden of demonstrating that she is worthy of a license.
- (e) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5(b) 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 license, Respondent's suspended certificates and 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, <u>supra</u>, 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, <u>supra</u>, 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 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 a duly authorized delegee.

BY:

CLARICE FULTZ, Responden

COMMONWÉALTH OF PENNSYLVANIA

By: Ronald A. Gallagher, Jr.

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 <u>3200</u> day of <u>July</u>, 2008, Ronald A.

Gallagher, 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.

Joel S. Ario

Insurance Commissioner

