

RECEIVED  
INSURANCE DEPARTMENT  
BEFORE THE INSURANCE COMMISSIONER  
2014 JAN 24 AM 9:58 OF THE  
COMMONWEALTH OF PENNSYLVANIA  
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:  
: :  
ROSALYN GILMORE : 40 P.S. §§ 310.11 (7) (20)  
1013 Tara View Drive : and 1171.5(a)(1)(i) and  
Stroudsburg, PA 18360 : 1171.5(a)(2)  
: :  
Respondent. : Docket No. CO13-11-012

CONSENT ORDER

AND NOW, this 24<sup>th</sup> day of January, 2014, 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, 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 Rosalyn Gilmore, and maintains her address at 1013 Tara View Drive, Stroudsburg, PA 18360.
  
- (b) Respondent is, and at times relevant hereto has been, a licensed insurance producer.
  
- (c) Respondent is employed at LW Pocono Insurance Agency and is listed as Qualifying Active Officer, under the supervision and management of Lorenzo Wright and Jeanette Wright, identified as the agency owners.
  
- (d) Respondent, between July 2012 and June 2013, used various National General Insurance Online, Inc., (formerly GMAC Insurance Company Online, Inc., hereinafter GMAC) customers' identifying credit information to obtain lower premium quotes for applicants, who would have not normally qualified for the lower premiums, per the underwriting guidelines in place at the time.

- (e) Respondent, between July 2012 and June 2013, was not appointed with GMAC, however, she acted as a GMAC appointed producer when she negotiated policies for GMAC Insurance with applicants.
- (f) Respondent acknowledged in 2012 she had personally obtained a lower quoted GMAC insurance premium via the activity described in (d).
- (g) GMAC provided information which identified policies that were issued in the manner described in (d) by the Lorenzo Wright Insurance Agency and LW Pocono Insurance Agency, which was determined to be owned and operated by Lorenzo Wright, a properly appointed GMAC Producer.
- (h) On June 19, 2013, Respondent was interviewed and admitted that, between July 2012 and June 2013, she used identifying information of other persons to obtain lower quotes for customers and herself: and obtained policies for customers using the lower premium quotes obtained without the consent or knowledge of the other persons but could not specifically identify all of the policies affected but admitted it was common practice to sell the GMAC automobile insurance in the manner described in (d).
- (i) On June 28, 2013, Lorenzo Wright was interviewed and admitted his personal knowledge that identifying credit information of other persons was used to

obtain lower premium quotes for applicants without the consent or knowledge of the person whose information was utilized.

- (j) Lorenzo Wright affirmed that these acts were completed by and through Respondent.

#### 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 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.
- (c) Respondent's activities described above in paragraphs 3(d) through 3(j) violate 40 P.S. § 310.11(7).

- (d) 40 P.S. § 310.11(20) prohibits a licensee or an applicant from demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the department that the licensee is worthy of licensure.
  
- (e) Respondent's activities described above in paragraphs 3(d) through 3(j) violate 40 P.S. § 310.11(20).
  
- (f) Respondent's violations of Sections 310.11(7) 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.
  
- (g) 40 P.S. § 1171.5(a)(1)(i) prohibits persons from misrepresenting the benefits, advantages, conditions or terms of any insurance policy.
  
- (h) Respondent's activities described above in paragraphs 3(d) through 3(j) constitute misrepresenting the benefits, advantages, conditions or terms of any insurance policy and violate 40 P.S. § 1171.5(a)(1)(i).

(i) 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.

(j) Respondent's activities described above in paragraphs 3(d) through 3(j) constitute 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 and violate 40 P.S. § 1171.5(a)(2).

(k) Respondent's violations of 40 P. S. §§ 1171.5(a)(1)(i) and 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 Respondent 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 Respondent's license(s);

(ii) commencement of an action against Respondent 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 Respondent 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 Respondent 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 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 pay a civil penalty of Two Thousand Five Hundred Dollars (\$2,500.00) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made by certified check or money order, payable to the PA Insurance Department, 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) Respondent's 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.

(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 5(d) of this Order, Respondent shall have the burden of demonstrating that she is worthy of a license.

(f) In the event Respondent's 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 license, Respondent's 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, 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.

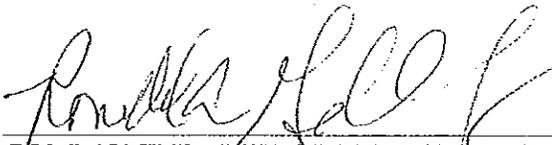
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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:   
ROSALYN GILMORE, Respondent

  
COMMONWEALTH 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 27<sup>th</sup> day of April, 2011, 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.

  
Michael F. Consedine  
Insurance Commissioner

