

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

RECEIVED  
INSURANCE DEPARTMENT  
2009 AUG 24 PM 1:42  
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:  
: :  
MARC J. GROSSMAN : 63 Purdon's Statutes, Sections  
4446 Germantown Pike : 1606 (a)(2). 1606 (a)(5),  
P.O. Box 647 : 1606 (a)(12) and 1606(a)(13)  
Lafayette Hills, Pennsylvania 19444 : :  
: 40 Purdon's Statutes, Section  
: 1171.5(a)(2)  
: :  
Respondent. : Docket No. CO09-05-001

CONSENT ORDER

AND NOW, this *24<sup>th</sup>* day of *August*, 2009, 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 he has received proper notice of his rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S.A. §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 Marc J. Grossman, and maintains his address at  
4446 Germantown Pike, P.O. Box 647, Lafayette Hills, Pennsylvania 19444.
- (b) At all relevant times herein, Respondent has held a Public Adjuster License, No. 141288, which expires on July 13, 2009.
- (c) On November 9, 2007, Respondent was hired to adjust an insurance claim for insureds Louis and Agnes Lepold.
- (d) On November 16, 2007, Liberty Mutual Insurance Company settled the claim and issued the Respondent a check for the claim in the amount of \$6,599.50.
- (e) Respondent endorsed the signatures of the insureds on the above settlement check without the authorization, consent or knowledge of the insureds, and kept the proceeds.

- (f) Respondent did make a statement to the insured which was untrue, deceptive or misleading regarding the settlement of their insurance claim.
- (g) Respondent failed to remit the proceeds of that settlement claim check to the insureds until July 2008.
- (h) Respondent made restitution to the insureds in July, 2008.

#### 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) 63 Purdon's Statutes, Section 1606(a)(2) states that a public adjuster or public adjuster solicitor who engages in, or attempts to engage in, any fraudulent transaction with respect to a claim or loss that licensee is adjusting, may be fined or face suspension or revocation of their public adjuster license.

- (c) Respondent's activities in paragraphs 3(e) through 3(g) violate 63 Purdon's Statutes, Section 1606(a)(2).
- (d) 63 Purdon's Statutes, Section 1606(a)(5) states that a public adjuster or public adjuster solicitor who misappropriates or convert to their own use or improperly withholds moneys held on behalf of another party to the contract, may be fined or face suspension or revocation of their public adjuster license.
- (e) Respondent's activities in paragraphs 3(c) through 3(g) violate 63 Purdon's Statutes, Section 1606(a)(5).
- (f) 63 Purdon's Statutes, Section 1606(a)(12) states that public adjusters or public adjuster solicitors who demonstrate the commission of fraudulent practices, shall be grounds for fine, suspension or revocation of their public adjuster license.
- (g) Respondent's activities in paragraphs 3(c) through 3(g) violates 63 Purdon's Statutes, Section 1606(a)(13).
- (h) 63 Purdon's Statutes, Section 1606(a)(13) states that public adjusters or public adjuster solicitors who demonstrate incompetency or untrustworthiness to transact the business of a public adjuster shall be grounds for fine, suspension or revocation of their public adjuster license.

- (i) Respondent's activities in paragraphs 3(c) through 3(g) violates 63 Purdon's Statutes, Section 1606(a)(13).
  
- (j) Respondent's violations of Sections 1616(a)(2), (5), (12) and (13) are punishable by a fine, suspension and revocation of licenses under Section 1606(a) and the following, under 63 Purdon's Statutes, Section 1606(b): The Insurance Commissioner may impose a penalty of not more than \$1,000 for every violation of this Act under 63 Purdon's Statutes, Section 1606(b).
  
- (k) 40 Purdon's Statutes, Section 1171.5(a)(2) prohibits persons from making, an announcement or statement containing any representation or statement with respect to the business of insurance which is untrue, deceptive or misleading.
  
- (l) Respondent's activities described above in paragraphs 3(e) and 3(f) constitute making an untrue, deceptive or misleading statement, and violate 40 Purdon's Statutes, Section 1171.5(a)(2).
  
- (m) Respondent's violation of 40 Purdon's Statutes, Section 1171.5(a)(2), is punishable by the following, under 40 Purdon's Statutes, Sections 1171.8, 1171.9, and 1171.11:
  - (i) 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 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 Secretary, 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) All licenses of Respondent to do insurance business are hereby suspended for a period of 6 months, effective the date the Deputy Commissioner signs this Order, of which Respondent will be notified immediately.

- (d) If Respondent should ever become licensed in the future, his 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.
- (e) 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.
- (f) At the hearing referred to in paragraph 5(e) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance certificate and license.
- (g) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5(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.

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, it may, in its discretion, pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or 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.

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.

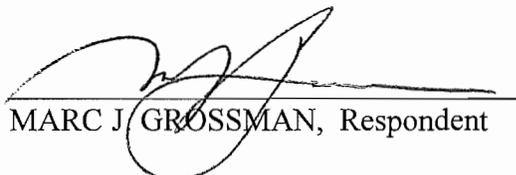
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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 the duly authorized delegee 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 Department or a duly authorized delegee.

BY:

  
MARC J. GROSSMAN, Respondent

  
By: RONALD A. GALLAGHER, JR.  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania