

RECEIVED  
INSURANCE DEPARTMENT  
2009 FEB 18 PM 12:38  
ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:  
: :  
JOSEPH TODD JESSOME : 40 Purdons Statutes, Section  
7751 N.W. 21st Court : 310.6(b)  
Sunrise, Florida 33322 : :  
: Title 31, Pennsylvania Code,  
: Section 37.42  
: :  
Respondent. : Docket No. CO08-12-007

CONSENT ORDER

AND NOW, this *18<sup>th</sup>* day of *February*, 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. § 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 Joseph Todd Jessome, and maintains his address at 7751 N.W. 21st Court, Sunrise, Florida 33322.
- (b) Respondent is a non-resident producer with the Commonwealth of Pennsylvania. His non-resident license #459576 became effective April 27, 2006 and expires April 27, 2010. Respondent owns Smart Health Insurance, Inc., a corporation which is not licensed as a producer in Pennsylvania.
- (c) Respondent is licensed as a resident agent in his home state of Florida, and his corporation, Smart Health Insurance, Inc., is also licensed as an agency in the state of Florida.
- (d) Between October 7, 2006 and February 24, 2008, Smart Health Insurance solicited health insurance to Pennsylvania residents by e-mail, regular mail,

and telephone without being properly licensed.

- (e) On or about September 2, 2008, Respondent acknowledged to the Department that while he is licensed in Pennsylvania and Florida, his corporation is only licensed in Florida.
- (f) On or about September 2, 2008, Respondent acknowledged to the Department that his corporation solicited health insurance to Pennsylvania residents without having a non-resident business agency license.
- (g) Respondent has taken the proper steps to have his corporation Smart Health Insurance, Inc. licensed and registered with the Pennsylvania Insurance Department and the Corporation Bureau of Pennsylvania.

#### 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 310.6(b), Business Entities, states the Department shall issue a resident or nonresident producer license to a business entity when the Department determines the required criteria have been met.
- (c) Respondent's activities described above in paragraphs 3(b) through 3(f) violate 40 Purdons Statutes, Section 310.6(b).
- (d) Respondent's violations of Section 310.6(b) 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.
- (e) Title 31, Pennsylvania Code, Section 37.42 requires certificates and licenses to accurately reflect the name of the individual producer and indicate if fictitious names in which the producer transacts insurance are on file with the Department. Fictitious names used by a producer shall be registered with the Department of State and will be provided by the Department upon request.

- (f) Respondent's activities described above in paragraphs 3(b) through 3(f) violate Title 31, Pennsylvania Code, Section 37.42.

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 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.

- (d) At the hearing referred to in paragraph 5(c) of this Order, Respondent shall have the burden of demonstrating that he 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 he 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, 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.

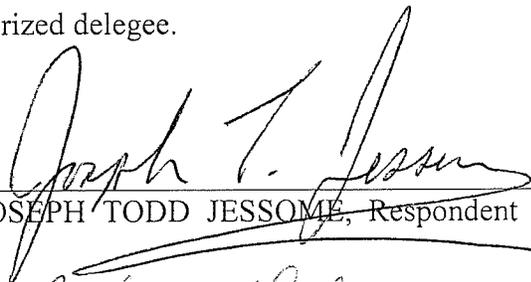
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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:

  
\_\_\_\_\_  
JOSEPH TODD JESSOME, Respondent

  
\_\_\_\_\_  
COMMONWEALTH OF PENNSYLVANIA  
By: Ronald A. Gallagher, Jr.  
Deputy Insurance Commissioner