

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

2010 MAY 25 PM 2:26
ADMINISTRATIVE OFFICE

IN RE:	:	VIOLATIONS:
	:	
KDN / LANCASTER CORPORATION	:	40 P.S. §§ 310.11(4), (6), (7), (17),
45 Commerce Drive	:	(20) and 310.42
Wyomissing, PA 19610	:	
	:	
KEVIN PICKELL	:	
1260 Normandy Drive	:	
Blue Bell, PA 19422	:	
	:	
ROBERT PICKELL	:	
2007 Windsor Drive	:	
Collegeville, PA 19426	:	
	:	
Respondent.	:	Docket No. CO10-03-022

CONSENT ORDER

AND NOW, this *5th* day of *May*, *2010*, 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.

3. Respondents neither admit nor deny the Findings of Fact or Conclusions of Law contained herein; further, Respondents expressly deny that they violated any Pennsylvania insurance laws.

FINDINGS OF FACT

4. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondents are: KDN/Lancaster Corporation, located at 45 Commerce Drive, Wyomissing, PA 19610; Kevin Pickell, located at 1260 Normandy Drive, Blue Bell, PA 19422; and Robert Pickell, located at 2007 Windsor Drive, Collegeville, PA 19426.
- (b) Respondents, at all times relevant hereto, have been resident producers, i.e., as an agency and individual resident producers, licensed in Pennsylvania.

- (c) Respondent Kevin Pickell is the designated licensee of KDN.
- (d) Respondents collected \$839,166.86 of insurance premium, however Respondents failed to remit the premium to the School Board Insurance Corporation (SBIC).
- (e) Respondents issued four checks to SBIC totaling \$136,055.79 that were returned for insufficient funds.
- (f) Respondents have agreed to revocation of all insurance licenses effective July 1, 2010.

CONCLUSIONS OF LAW

5. 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(4) prohibits producers from improperly withholding, misappropriating, or converting money or property received in the course of doing business.

- (c) Respondents' activities described above in paragraphs 4(d) through 4(e) constitute improperly withholding, misappropriating, or converting money or property received in the course of doing business, in violation of 40 P.S. § 310.11(4).
- (d) 40 P.S. § 310.11(6) prohibits a licensee or an applicant from committing any unfair insurance practice or fraud.
- (e) Respondents' activities described above in paragraphs 4(d) through 4(e) violate 40 P.S. § 310.11(6).
- (f) 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.
- (g) Respondents' activities described above in paragraphs 4(d) through 4(e) violate 40 P.S. § 310.11(7).
- (h) 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.

- (i) Respondents' activities described above in paragraphs 4(d) through 4(e) violate 40 P.S. § 310.11(17).
- (j) 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.
- (k) Respondents' activities described above in paragraphs 4(d) through 4(e) violate 40 P.S. § 310.11(20).
- (l) 40 P.S. § 310.42 prohibits any producer from fraudulently appropriating, taking, disposing of, withholding, lending, investing or otherwise using any money received in the capacity of an insurance producer without the consent of the insurer.
- (m) Respondents' activities described above in paragraphs 4(d) through 4(e) constitute theft, in violation of 40 P.S. § 310.42.
- (n) Respondents' violations of Sections 310.11(4), (6), (7), (17), (20) and 310.42 are punishable by the following, under 40 P.S. § 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

6. 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) All licenses/certificates of Respondents to do the business of insurance are hereby revoked.
- (c) If Respondents should ever become licensed in the future, their 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 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 issuance of such certificates and licenses.

- (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 6(d) of this Order, Respondents shall have the burden of demonstrating that they are worthy of an insurance certificate and license.
- (f) In the event Respondents' certificates and licenses are suspended pursuant to paragraph 6(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 certificate and license, Respondents' suspended certificates and licenses shall be revoked.

7. 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.

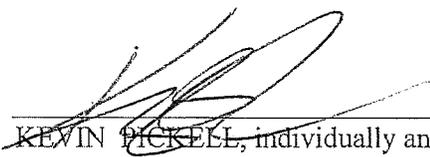
8. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

9. 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.

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

11. 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.

12. 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: 

KEVIN PICKELL, individually and on behalf
KDN/LANCASTER CORPORATION,
Respondents



ROBERT PICKELL, Respondent



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