

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
2010 MAY 17 AM 9:39
ADMINISTRATIVE SERVICES OFFICE

IN RE: : VIOLATIONS:
: :
BENJAMIN ADRIEL LYNCH : 40 P.S. §§ 310.3, 310.11(20) and
2219 Cambridge Court : 991.1615
Cranberry, PA 16066 :
: Respondent. : Docket No. CO10-04-011

CONSENT ORDER

AND NOW, this 17th 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. 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.

3. Without admitting the allegations of fact and conclusions of law contained herein, Respondent specifically denies that it violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

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

(a) Respondent is Benjamin Adriel Lynch and maintains his address at 2219 Cambridge Court, Cranberry, Pennsylvania 16066.

(b) Respondent at all times relevant hereto did not possess Pennsylvania producer or surplus lines licenses.

(c) Between 2007 and 2010, Bass Underwriters, Incorporated, Plantation, Florida, employed Respondent as a producer to sell surplus lines insurance to Pennsylvania policyholders although Respondent possessed no insurance licenses.

(d) Respondent acted as the first level surplus lines producer and interacted between various surplus lines insurers and the retail producers representing the policyholders.

- (e) Surplus lines filings submitted to the Pennsylvania Insurance Department for specific policies identified, generally, Edward Jackson as the surplus lines licensee for Bass Underwriters but did not identify Respondent.
- (f) During interviews between February and March 2010, Bass Underwriters affirmed that Respondent was not licensed in Pennsylvania as an insurance producer but engaged in the procurement of surplus lines for Pennsylvania policyholders through other retail producers.
- (g) Bass Underwriters provided a spreadsheet and a sampling of policies identifying approximately 668 policies that were sold by Respondent or involved his participation.
- (h) Premiums for the surplus lines insurance procured through Respondent totaled \$2,274,735.75.
- (i) On April 8, 2010, Respondent was interviewed and affirmed that he acted as the surplus lines licensee in order to broker insurance between surplus lines insurers and the producers representing Pennsylvania policyholders.
- (j) Respondent affirmed that his responsibilities while acting as a producer for Bass Underwriters included receiving applications and conferring with retail producers on their policyholders' insurance, conferring with surplus lines insurers, inputting

data into brokerage (policyholder) accounts, and using underwriting guidelines to set up quotes for retail producers.

- (k) Respondent affirmed that approximately 50% of the policies that he brokered were procured through his direct contact with insurers, while acknowledging that he frequently conferred with two senior producers for Bass Underwriters that possessed Pennsylvania surplus lines licenses.
- (l) Respondent affirmed that he advised senior managers of Bass Underwriters during April 2009 that he may need to be licensed as a producer and surplus lines licensee in Pennsylvania but was mistakenly advised by the latter that their own Pennsylvania surplus lines licenses would suffice for compliance with the Pennsylvania insurance laws and regulations.

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) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.

- (b) 40 P.S. § 310.3(a) prohibits a person from acting as a producer unless he obtains a certificate from the Insurance Department reflecting the lines of authority for the kinds of insurance for which he intends to act as producer.

- (c) Respondent's activities described above in paragraphs 4(c) through 4(k) constitute acting as an insurance producer without a certificate of qualification, in violation of 40 P.S. § 310.3(a).

- (d) 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.

- (e) Respondent's activities described above in paragraphs 4(c) through 4(k) violate 40 P.S. § 310.11(20).

- (f) Respondent's violations of Sections 310.3 and 310.11(20) 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.
- (g) 40 P.S. § 991.1615 prohibits any producer licensed by the Department to transact surplus lines insurance unless such producer is licensed for surplus lines.
- (h) Respondent's activities described above in paragraphs 4(c) through 4(l) constitute transacting surplus lines insurance without being properly licensed.
- (i) Respondent's violations of 40 P.S. §991.1615 of the Surplus Lines Act are punishable by the following, under 40 Purdons Statutes, Section 1625(b) of the Insurance Company Law:
- (i) imposition of a penalty not exceeding \$1,000 for the first offense and \$2,000 for each succeeding offense.

ORDER

6. 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.

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.

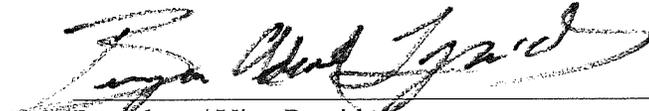
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

10. Respondent hereby expressly waives 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.

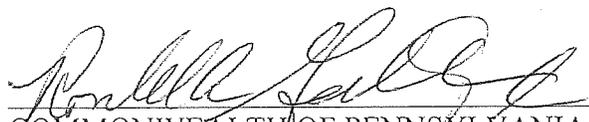
12. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY: BENJAMIN ADRIEL LYNCH., Respondent



~~President / Vice President~~

Secretary / Treasurer



COMMONWEALTH OF PENNSYLVANIA
By: RONALD A. GALLAGHER
Deputy Insurance Commissioner