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INSURANCE DEPARTMENT
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ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

| | | |
|------------------------|---|------------------------------|
| IN RE: | : | VIOLATIONS: |
| | : | |
| JOHN E. KENNEDY, T/A | : | Sections 1602 and 1606(a)(4) |
| JOHN E. KENNEDY PUBLIC | : | of Title 63 of 2002 (63 P.S. |
| ADJUSTERS, INC. | : | §§ 1602 and 1606) |
| 471 Larchwood Avenue | : | |
| Feasterville, PA 19053 | : | |
| | : | |
| Respondent. | : | Docket No. CO06-01- 012 |

CONSENT ORDER

AND NOW, this *29th* day of *March*, 2006, this Order is hereby issued by the Deputy Insurance Commissioner 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 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.

FINDINGS OF FACT

3. The Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is John E. Kennedy t/a John E. Kennedy Public Adjusters, Inc. who maintains a business address at 471 Larchwood Avenue, Feasterville, Pennsylvania 19053.
- (b) At all relevant times herein, Respondent has been a licensed public adjuster in Pennsylvania.
- (c) On or about July 2, 2003, Respondent Kennedy was arrested for assault, harassment and related offenses against another individual in Bucks County, Pennsylvania.

- (d) On November 17, 2003, Respondent Kennedy entered a guilty plea in the Court of Common Pleas of Bucks County (docket #2033-05233) for the misdemeanor offenses of assault and reckless endangerment and the summary offenses of disorderly conduct and harassment, and was sentenced to probation for two years.

- (e) Between September 29, 2005 and November 22, 2005, Respondent Kennedy was interviewed and confirmed the aforementioned information.

- (f) Copies of Respondent Kennedy's renewal applications for his public adjuster license were obtained from Producer Services, showing that Respondent Kennedy affirmed on the applications, dated December 1, 2003 and December 3, 2004, that he had not been convicted of a crime or misdemeanor.

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner concludes and finds the following Conclusions of Law:

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

- (b) Section 1602 of Title 63 of 2002 states when the Insurance Commissioner is satisfied that the applicant is trustworthy and competent to transact business as a public adjuster and public adjuster solicitor, respectively, in such manner as to safeguard the interest of the public, he shall issue a license (63 P.S. § 1602).
- (c) Respondent's activities described above in paragraphs 3(c) through 3(f) violate Section 1602 of Title 63.
- (d) Section 1606(a)(4) of Title 63 prohibits conviction by any court of or a plea of nolo contendere to a felony under the laws of this Commonwealth, shall be grounds for fine, suspension or revocation of a public adjuster's license (63 P.S. § 1606).
- (e) Respondent's activities described above in paragraphs 3(c) through 3(f) violate Section 1606(a)(4) of Title 63.
- (f) Respondents' violations of Section 1602 and 1606(a)(4) are punishable under Section 1606(b) of Title 63 which states regardless of whether the public adjuster or public adjuster solicitor was licensed or not, the Insurance Commissioner may, at her discretion, in cases warranting such action, impose a civil penalty of not more than \$1,000 for each and every violation of this act (63 P.S. § 1606).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner 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 Sharon L. Harbert, Administrative Assistant, Bureau of 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 certificates and licenses may be immediately suspended by the Department following its investigation and determination that (i) penalty payment has not been made, or (ii) any other terms of this Order have not been complied with, or (iii) 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 waive their rights 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 they are worthy of a license.
- (f) In the event Respondent's certificates and 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 he is worthy of a license, Respondent's suspended certificates and licenses shall be revoked.

6. In the event the Deputy Insurance Commissioner 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 Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner 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.

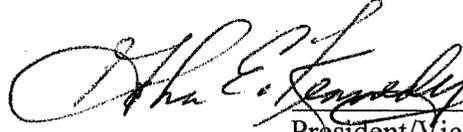
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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

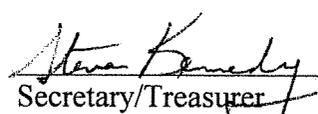
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner 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 Commissioner or the duly authorized Deputy Insurance Commissioner.

BY: JOHN E. KENNEDY AND JOHN E.
KENNEDY PUBLIC ADJUSTERS, INC.,
Respondent



President/Vice President



Secretary/Treasurer



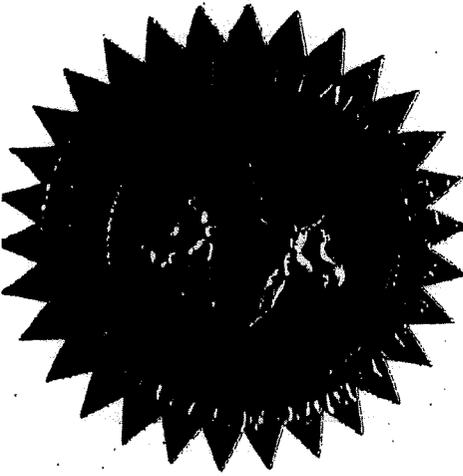
RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

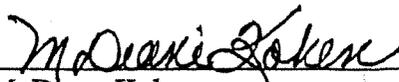
BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The
Administrative Code of 1929

AND NOW, this 29 day of April, 2002, Randolph L.

Rohrbaugh, 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.




M. Diane Koken
Insurance Commissioner