BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT
2007 JAN 24 PM 2:00
ADMIN HEARINGS OFFICE

In Re:	:	Violations:
	:	
SCOTT J. KELLY 52 Falcon Drive Chalfont, PA 18914	: : :	Sections 611-A (2), (14) and (20) of Act 147 of 2002 (40 P.S. §§310.11) and 40 P.S. §310.78(b).
	:	
Respondent.	:	Docket No. C007-01-014

CONSENT ORDER

AND NOW, this 24th day of January, 2007, 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 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

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

(a) Respondent is Scott J. Kelly and maintains his address at 52 Falcon Drive, Chalfont, PA 18914.

(b) At all relevant times herein, Respondent has been a licensed Pennsylvania Individual Resident Producer, license number 426240, which expires on March 27, 2007.

(c) In December of 2005, Respondent was arrested by Buckingham Township Police Department for manufacture/delivery/possession with intent to manufacture or deliver a controlled substance, a felony offense.

(d) In October of 2006, Respondent was convicted of manufacture/delivery/possession with intent to manufacture or deliver a controlled substance and sentenced to two years probation and fees and costs.

(e) Respondent failed to report this conviction to the Department within 30 days of the conviction.

(f) Respondent's conviction is a crime involving breach of trust or dishonesty pursuant to 18 U.S.C. §1033.

CONCLUSIONS OF LAW

5. 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) Respondent's activities, above, constitute violations of Pennsylvania Insurance laws, specifically:

(i) Violating the insurance laws or regulations of this Commonwealth. 40 P.S. §310.11(2).

(ii) Committing a felony or its equivalent. 40 P.S. §310.11(14).

(iii) Demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the Department that the licensee is worthy of licensure. 40 P.S. §310.11(20).

(iv) Failing to report the criminal charges to the Department within 30 days of being charged. 40 P.S. §310.78(b).

(c) Respondent's violations subject him to the following penalties under 40 P.S. §310.91:

(1) Denial, suspension, refusal to renew or revocation of Respondent's license.

(2) A civil penalty of up to $5,000 per violation.

(3) A cease and desist order.

(4) Any other conditions as the Commissioner deems appropriate.

ORDER

6. 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) All licenses/certificates of Respondent to do insurance business are hereby revoked for five (5) years from the date of this Order.

(c) Should Respondent apply for licensure after the expiration of the five year period referenced in 6(b) above, Respondent must also apply for, and obtain, a waiver and a written consent from the Department to engage in the business of insurance in compliance with 18 U.S.C. §1033(e)(2). In any event, prior to any future licensing by the Department, Respondent must provide proof that he has made restitution

of all amounts due under 4(d) above.

(d) Should Respondent ever become licensed in the future, Respondent's license(s) may be immediately suspended by the Department following its investigation and determination that (i) any other terms of this Order have not been complied with, and/or (ii) any complaint against Respondent is accurate and a statute or regulation has been violated. The Department's right to act under (d) above is limited to a period of five (5) years from the date that Respondent becomes re-licensed if and when he does so.

(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 6(e) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance license.

(g) In the event Respondent's license(s) are suspended pursuant to paragraph 6(d) above, and the 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 license(s) shall be revoked.

7. 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, he may, in his discretion, pursue any and all legal remedies available to him, including but not limited to the following: The Deputy Insurance Commissioner 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 Deputy Insurance Commissioner may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

8. 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 provisions 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 parties hereto.

12. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or her 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 her duly authorized Deputy Insurance Commissioner. The penalties, if any, imposed by this Order are not effective until execution by the Insurance Commissioner or her duly authorized Deputy Insurance Commissioner.

BY: _____
SCOTT J. KELLY, Respondent

_____
Randolph L. Rohrbaugh
Deputy Insurance Commissioner
Commonwealth of Pennsylvania