

RECEIVED
INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER
OF THE COMMONWEALTH OF PENNSYLVANIA
2009 JUL 31 AM 11:00
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
BRIAN J. MURRAY : Sections 611-A (7), (20) and
811 Clay Avenue : 641.1-A(a) of Act 147 of 2002
Scranton, PA 18510 : (40 P.S. §§310.11(7), (20)
: and 310.41a(a)).
: :
: :
: :
Respondent : Docket No. C009-07-034

CONSENT ORDER

AND NOW, this 31st day of JULY, 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.

3. Respondent denies that he has 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, Brian J. Murray ("Murray" or "Respondent Murray"), is the owner and Designated Licensee for Murray Insurance Agency, Inc. ("Murray Agency"). Respondent maintains a residence at 811 Clay Avenue, Scranton, PA 18510.

(b) Respondent is, and at all times relevant hereto has been, a Pennsylvania licensed insurance producer.

(c) As of Spring of 2006, Christine M. Oliver ("Oliver"), a licensed insurance producer, was employed by Respondent as president of Murray Agency.

(d) In August of 2006, and at times subsequent thereto, Respondent learned that Oliver had misappropriated clients' premium, created

fraudulent premium finance agreements, altered insurance policies and otherwise engaged in insurance law violations.

(e) Prior to learning of Oliver's illegal insurance activities, Respondent failed to exercise sufficient managerial supervision and oversight to detect and prevent insurance law violations.

(f) After learning of Oliver's insurance law violations, Respondent failed to implement sufficient safeguards to determine the extent of, and mitigate, Oliver's fraudulent activities, including the failure to: audit all client accounts; notify the affected clients or the Department of the premium theft and other illegal activity and; ensure that adequate and appropriate insurance coverage was in place for all affected accounts.

(g) Further, Oliver continued to act as producer for and on behalf of Respondent and Murray Agency after her producer license was surrendered in March of 2008.

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) Section 611-A(7) of Act 147 of 2002 prohibits a licensee from inter alia demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business. (40 P.S. §310.11(7)).
- (c) Respondent's activities described above in paragraphs 4(e) through 4(g) violate 40 P.S. §310.11(7).
- (d) Section 611-A(20) of Act 147 of 2002 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. (40 P.S. §310.11(20)).
- (e) Respondent's activities described above in paragraphs 4(e) through 4(g) violate 40 P.S. §310.11(20).
- (f) Section 641.1-A(a) of Act 147 of 2002 prohibits an insurance entity or licensee from accepting applications or orders for insurance from any person or securing any insurance business that

was sold, solicited or negotiated by any person acting without an insurance producer license. (40 P.S. §310.41a(a)).

(g) Respondent's activities described above in paragraph 4(g) violate 40 P.S. §310.41a(a).

(h) Respondent's violations of Sections 611-A(7), (20), 606-A and 641.1-A(a) of Act 147 of 2002 are punishable by the following, under Section 691-A, (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 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 or certificates issued to Respondent by the Department are hereby revoked and Respondent shall not reapply for relicensure in the future.

- (c) In a time acceptable to the Department: a) Respondent shall be liable for, and shall resolve all outstanding claims, relating to activities referenced in paragraphs 4(d) through 4(f), above, and; b) Respondent shall divest himself of ownership interest in the Murray Agency. After divestiture of his ownership interest in the Murray Agency, Respondent may not act as, or be employed in any managerial or supervisory capacity with or for the Murray Agency.

- (d) Pursuant to Respondent's license revocation in paragraph 6(b), above, Respondent may not engage in any activity that requires licensure, such as the sale, solicitation, negotiation or placement of insurance, or any other activity not permitted under 40 P.S. §310.3.

- (e) Respondent shall pay a civil penalty of One Hundred and Twenty Thousand Dollars (\$120,000.00) 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. Fraser, Office Manager, Insurance Department, Bureau of Licensing and Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment may be enclosed with the Consent Order but, in any case, must be paid by no later than 60 days from the date of this Order.

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.

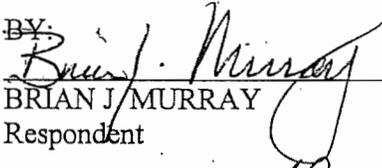
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

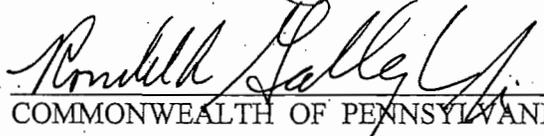
10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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.

13. The signatories hereto represent and warrant that they have full authority to bind the parties named herein.

BY: 
BRIAN J. MURRAY
Respondent


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