

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

RECEIVED  
INSURANCE DEPARTMENT  
2007 AUG 27 AM 11:24  
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:  
: :  
WILLIAM J. MAGUIRE : Sections 611-A(4), (5), (7) and  
206 Pebble Court : (20) of Act 147 of 2002 (40 P.S.  
Chalfont, PA 18914 : §§ 310.11)  
: :  
Respondent. : Docket No. CO07-05-014

CONSENT ORDER

AND NOW, this 18<sup>th</sup> day of August, 2007, 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.

FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following

Findings of Fact:

- (a) Respondent is William J. Maguire, and maintains his address at 206 Pebble Court, Chalfont, Pennsylvania 18914.
- (b) At all relevant times herein, Respondent has been a licensed insurance producer.
- (c) During 2006, Respondent procured three surplus lines insurance policies through Century Surety Company and DRW Insurance Service, the surplus lines licensee.
- (d) The three Pennsylvania policyholders were New Wave Auto Sales (Philadelphia), Harvey Auto (Tunkhannock), and Rich's Auto Center (Philadelphia).

- (e) Pertinent to the three policyholders, Respondent's actions included the failure to remit the policyholders' premiums to the insurer and/or make restitution of unremitted payments to the policyholders, as well as actions that were detrimental to the policyholders' insurance programs in such a way as to constitute misrepresentation.
  
- (f) Respondent collected \$2,900.00 in premiums from New Wave for Century Surety Company policy #CCP416996, effective April 12, 2006.
  
- (g) Insufficient premiums were received from Respondent by Century Surety Company on policy #CCP416996 and it was cancelled by the insurer on July 2, 2006.
  
- (h) The premiums that Century Surety Company received totaled \$1,354.00, showing that Respondent failed to remit \$1,546.00 of the payment of \$2,900.00 against policy #CCP416996.
  
- (i) DRW Insurance Services confirmed that it had not received the full premiums from New Wave Auto Sales.
  
- (j) Restitution owed by Respondent to New Wave for coverage it did not receive was \$1,546.00.

- (k) New Wave Auto Sales confirmed that it had not received the restitution of \$1,546.00 from Respondent.
- (l) New Wave Auto Sales stated that Respondent affirmed he would correct the problems with its insurance through DRW Insurance Services and Century Surety Company.
- (m) Respondent collected \$1,307.00 Harvey's Auto for the procurement of Century Surety Company policy #400969, effective August 10, 2006.
- (n) A later endorsement for personal injury protection to the insurance added an additional \$56.00 to the earned premiums.
- (o) Century Surety Company only received a portion of the premium for policy #400969 from Respondent.
- (p) Century Surety Company eventually cancelled the coverage on the basis that Harvey's Auto did not have a required fence around the property, but not specifically for Respondent's failure to remit the premiums.
- (q) After calculating the earned premium, Century Surety Company determined the unearned premiums to be \$687.00, which it did not receive from Respondent, but which it refunded to Harvey's Auto.

- (r) Harvey's Auto stated that Respondent affirmed he would correct the problems with its insurance through DRW Insurance Services and Century Surety Company.
- (s) Respondent collected \$2,876.00 from Rick's Auto Center for premiums for the procurement of Century Surety Company policies #CCP400298 and #CCP400933, both effective February 27, 2006.
- (t) Respondent, had a premium finance contract established by DRW Insurance Services with Premium Financing Specialists, but remitted only \$2,837.79 of the down-payment, leaving a difference of \$38.21 that he retained and subsequently failed to remit to the insurer or refund to Rich's Auto Center.
- (u) The premium finance contract for Rich's Auto Center established nine payments of \$880.61 between March, 2006 and October, 2006.
- (v) Both Century Surety Company and DRW Insurance Services confirmed that Respondent procured the insurance for Rich's Auto Center, further confirming that only policy #CCP400933 continued through its one-year term.
- (w) Century Surety Company cancelled policy #CCP400298 on August 17, 2006, for failure to comply with the policy terms.

- (x) Even after the cancellation of policy #CCP400298 Rich's Auto Center continued paying the installments throughout the premium finance contract's term, eventually totaling \$7,925.49.
  
- (y) Rich's Auto Center stated it continued to pay the installments because it did not receive the cancellation notice from either Century Surety Company or Respondent.
  
- (a) During the period of policy #CCP400298 term, Rich's Auto Center only received two of the eight endorsements written by Respondent.
  
- (aa) DRW Insurance Services affirmed it received the endorsements from Century Surety Company but forwarded them to Respondent, who in turn was to give them to Rich's Auto Center.
  
- (bb) Due to over-payments being made on the premium financing, Century Surety Company made restitution to Rich's Auto Center of \$1,966.00 after calculating the unearned premiums, endorsements and premium financing, but not including the aforementioned \$38.21.
  
- (cc) Rich's Auto Center stated that Respondent affirmed he would correct the problems with its insurance through DRW Insurance Services and Century Surety Company.

- (dd) DRW affirmed that Respondent procured the surplus lines insurance for the three aforementioned policyholders, but subsequently terminated its relationship with Respondent because of problems associated with Respondent's management of the programs of the three policyholders.
- (ee) Restitution owed by Respondent to policyholders and Century Surety Company totaled \$4,237.21, for which Century Surety Company paid \$1,966.00 to Rich's Auto Center and \$687.00 to Harvey's Auto.

#### CONCLUSIONS OF LAW

4. 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(4) of Act 147 of 2002 prohibits a licensee from improperly withholding, misappropriating or converting money or property received in the course of doing business (40 P.S. § 310.11).

- (c) Section 611-A(5) of Act 147 of 2002 prohibits a licensee from intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance (40 P.S. § 310.11)
  
- (d) Section 611-A(7) of Act 147 of 2002 prohibits a licensee from using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this Commonwealth or elsewhere (40 P.S. § 310.11).
  
- (e) 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).
  
- (f) Respondent's violations of Sections 611-A(4), (5), (7) and (20) of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (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 each violation of the Act;
  - (iii) an order to cease and desist; and
  - (iv) any other conditions as the Commissioner deems appropriate.

ORDER

5. 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/certificates of Respondent to do insurance business are hereby revoked.
- (c) If Respondent should ever become licensed in the future, his 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 (ii) above is limited to a period of five (5) years from the date of issuance of such certificates and licenses.
- (d) 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.

(e) At the hearing referred to in paragraph (d) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance certificate and 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 certificate and license, Respondent's suspended certificates and licenses shall be revoked.

6. 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.

7. 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.

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.

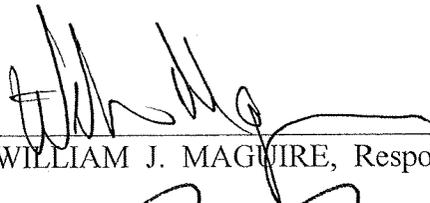
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 Insurance Department. Only the Insurance Commissioner or a duly authorized delegate 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:

  
WILLIAM J. MAGUIRE, Respondent

  
COMMONWEALTH OF PENNSYLVANIA  
By: Randolph L. Rohrbaugh  
Deputy Insurance Commissioner