

06 SEP 28 PM 2:03

ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
MICHAEL EMMANUEL PIHAKIS	:	Sections 605-A(b), 611-A(2), (6)
240 County Line Road	:	and (19) of Act 147 of 2002
Bridgeville, PA 15017	:	(40 P.S. §§ 310.5 and 310.11)
	:	
	:	Title 31, Pennsylvania Code,
	:	Section 37.42
	:	
Respondent.	:	Docket No. CO06-07-002

CONSENT ORDER

AND NOW, this *28th* day of *September*, 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 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is Michael Emmanuel Pihakis, and maintains his address at 240 County Line Road, Bridgeville, Pennsylvania 15017.
- (b) Respondent, at all relevant times herein, has been a licensed resident producer.

- (c) On June 9, 1997, Respondent registered the business corporation Pihakis & Associates, Incorporated, with the Pennsylvania Department of State.
- (d) Respondent failed to license the business corporation Pihakis & Associates, Incorporated, with the Insurance Department.
- (e) Respondent, in addition to failing to license Pihakis & Associates, Incorporated, operated under the fictitious name Pihakis & Associates.
- (f) Respondent has not registered the fictitious name Pihakis & Associates with the Pennsylvania Department of State.
- (g) Respondent has failed to notify the Insurance Department of the fictitious name Pihakis & Associates.
- (h) Respondent failed to notify the Insurance Department of the change in his business location address that occurred in January of 1998, until July of 2006.

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) Section 605-A(b) of Act 147 of 2002 requires a business entity with an office in this Commonwealth to apply for a resident insurance producer license.
- (c) Respondent's activities described above in paragraphs 4(c) through 4(h) violates Section 605-A(b) of Act 147 of 2002.
- (d) Section 611-A(2) of Act 147 of 2002 prohibits a licensee from violating the insurance laws or regulations of this Commonwealth (40 P.S. § 310.11(2)).
- (e) Respondent's activities described above in paragraphs 4(c) through 4(h) violates Section 611-A(2) of Act 147 of 2002.
- (f) Section 611-A(6) of Act 147 of 2002 prohibits a licensee from committing any unfair insurance practice or fraud (40 P.S. § 310.11(6)).
- (g) Respondent's activities described above in paragraphs 4(c) through 4(h) violates Section 611-A(6) of Act 147 of 2002.

- (h) Section 611-A(19) of Act 147 of 2002 requires a licensee to notify the Department of a change of address within 30 days (40 P.S. § 310.11(19)).
- (i) Respondent's activities described above in paragraphs 4(c) through 4(h) violates Section 611-A(19) of Act 147 of 2002.
- (j) 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)).
- (k) Respondent's activities described above in paragraphs 4(c) through 4(h) violates Section 611-A(20) of Act 147 of 2002.
- (l) Respondent's violations of Sections 605-A, 611-A(2), (6), (19) 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.

- (m) Title 31, Pennsylvania Code, Section 37.42 requires certificates and licenses to accurately reflect the name of the individual producer and indicate if fictitious names in which the producer transacts insurance are on file with the Department. Fictitious names used by a producer shall be registered with the Department of State and will be provided by the Department upon request.
- (n) Respondent's activities described above in paragraphs 3(c) through 3(h) violate Title 31, Pennsylvania Code, Section 37.42.

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) 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) 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 three (3) years from the date of this Order.

- (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 5(d) of this Order, Respondent shall have the burden of demonstrating that he is 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.

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, 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 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.

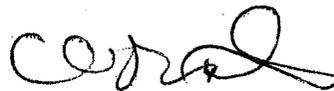
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

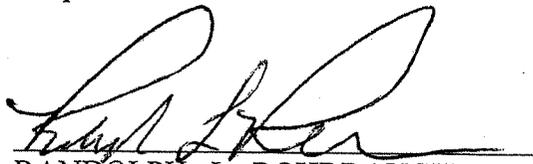
11. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

12. This Order shall be final upon execution by the 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:



MICHAEL EMMANUEL PIHAKIS,
Respondent



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania