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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ADMIN HEARINGS OFFICE

IN RE:	:	VIOLATIONS:
	:	
PENN-STAR INSURANCE COMPANY	:	Sections 641-A and 671-A(a) of
3 Bala Plaza East, Suite 300	:	Act 147 of 2002 (40 P.S. §§310.41
Bala Cynwyd, PA 19004	:	and 310.71)
	:	
	:	
Respondent.	:	Docket No. CO06-11-026

CONSENT ORDER

AND NOW, this *And* day of *November*, 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 it has received proper notice of its 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 Penn-Star Insurance Company, and maintains its address at 3 Bala Plaza East, Suite 300, Bala Cynwyd, Pennsylvania 19004.
- (b) Respondent is, and at all relevant times hereto has been, a licensed insurer authorized to conduct business in Pennsylvania.
- (c) Between 1998 and 2005, Shahinian Insurance Services, Tustin, California, procured commercial liability insurance for members of C.A.R.T., an association owned by Lizabeth Ann Shahinian, although neither possessed

appropriate licensing or appointments with Respondent to conduct admitted business in Pennsylvania.

- (d) Shahinian Insurance Services established and owned C.A.R.T., an association that provided professional guidance and services to members that operated retail marketing units, typified by kiosks that sold merchandise in shopping malls, trade shows, and similar outlets.
- (e) A service for members of C.A.R.T. included the option to procure commercial liability insurance for their retail outlets for periods from one day to one year.
- (f) On nine occasions, Shahinian Insurance Services procured insurance from Respondent through Bliss & Glennon, a producing agency domiciled in California that possessed no admitted Pennsylvania insurance licenses.
- (g) Respondent did not issue the insurance for members of C.A.R.T. on forms or rates approved by the Pennsylvania Insurance Department. Respondent issued a non-admitted master policy in the state of California with certificates of insurance issued in Pennsylvania. Its actions in issuing the certificates in Pennsylvania on a non-admitted basis were inadvertent and not an intentional attempt to circumvent the law.

- (h) The insurance procured by Shahinian Insurance Services was issued in California on a surplus lines basis, with all filings and taxes being remitted to California, although Respondent was licensed in Pennsylvania as admitted insurer.
- (i) Respondent confirmed that Shahinian Insurance Services issued binders for approximately 265 certificates of insurance for Pennsylvania risks.
- (j) Shahinian Insurance Services confirmed there were no Pennsylvania claims pending, nor did a history exist of problems associated with claims processing by Bliss & Glennon and Respondent.
- (k) Between 2001 and 2005, Louis A. Sands, Palatine, Illinois, procured insurance from Respondent for approximately 125 Pennsylvania risks that were members of the National Association of Mobile Entertainers.
- (l) Respondent issued the insurance to Pennsylvania risks on a surplus lines basis through the National Association of Mobile Entertainers and did not use forms and rates approved by the Pennsylvania Insurance Department. Respondent issued a non-admitted master policy in the state of Illinois with certificates of insurance issued in the Commonwealth of Pennsylvania. Its actions in issuing the certificates on a non-admitted basis were inadvertent and not an intentional attempt to circumvent the law.

- (m) Respondent did not establish an appointment for producer Louis A. Sands or his agency, Commercial Brokerage Services.
- (n) Louis A. Sands maintained the address of the master policies, #PAC6227529 and #PAC6288208, for the National Association of Mobile Entertainers at his address in Illinois.
- (o) The National Association of Mobile Entertainers was owed by Bruce Keslar and was domiciled in Willow Grove, Pennsylvania, and managed its operation through that location.
- (p) Louis A. Sands and G.A. Mavon & Company received payment from certificate holders, attributed to be surplus lines taxes.
- (q) Respondent did not collect taxes from the aforementioned policyholders and remit them to the Pennsylvania Department of Revenue as an admitted insurer in Pennsylvania. Rather, the surplus lines taxes collected were remitted to the State of Illinois.
- (r) G.A. Mavon & Company acknowledged that Respondent was an admitted insurer in Pennsylvania and should have remitted the premium taxes to the Pennsylvania Department of Revenue in lieu of remitting them to the state of Illinois.

- (s) On February 15, 2007, Respondent confirmed that the amount of premium taxes owed on the aforementioned insurance policies totaled \$4,151.25.

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 641.1-A of Act 147 of 2002 prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license (40 P.S. § 310.41a).
- (c) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).
- (d) Respondent's activities described above in paragraphs 3(c) through 3(s) violate Sections 641.1-A and 671-A of Act 147 of 2002.

(e) Respondent's violations of Sections 641.1-A and 671-A(a) 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) Respondent shall pay a civil penalty of Fifteen Thousand Dollars (\$15,000.00) 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, 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 shall make restitution of taxes to the Pennsylvania Department of Revenue in the amount of \$4,151.25 within thirty (30) days from the date of this Order. Proof of restitution payment shall be provided to the Insurance Department by Respondent.

- (d) 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 alleging it is improperly writing surplus lines business in the Commonwealth 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.

- (e) Respondent specifically waives its 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 5(e) of this Order, Respondent shall have the burden of demonstrating that it is worthy of a license.
- (g) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5(d) above, and Respondent either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that it is worthy of a 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 the duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law