

duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

3. Respondent neither admits nor denies the Findings of Fact or Conclusions of Law contained herein.

FINDINGS OF FACT

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

(a) Respondent is SCA Enterprises, Inc., and maintains its address at 3817 West Magnolia Boulevard, Burbank, California 91505-2820.

(b) Respondent, doing business as SCA Appraisal Company, an unregistered fictitious entity in Pennsylvania, managed the claims process of motor vehicle physical damage appraisals between various insurers and motor vehicle physical damage appraisers.

(c) Neither Respondent nor many of its appraisers possessed Motor Vehicle Physical Damage Appraiser licenses at any time herein.

(d) Pertinent to the management of motor vehicle physical damage appraisals, Respondent maintained written agreements with insurers and appraisers in order to coordinate the assignment, completion and submission of the appraisals.

(e) Respondent received monetary compensation from the insurers for its services based upon each completed appraisal and subsequently paid appraisers from the corresponding proceeds.

(f) Respondent submitted numerous appraisals conducted by its appraisers, many of which were performed by appraisers that were not licensed by the Pennsylvania Insurance Department.

(g) Violations of the Pennsylvania insurance laws and regulations covering motor vehicle physical damage appraisals included the use of fictitious names and license numbers by appraisers, the failure to provide policyholders and claimants with required disclosures, and the use of license numbers of Pennsylvania appraisers by other unlicensed appraisers.

(h) Respondent affirmed it employed an appraiser from New York, Ted Kubiak, who used the fictitious name of Ted King on appraisals that were submitted to various insurers by Respondent.

(i) Respondent affirmed it employed an appraiser from New Jersey, Joe Small, who used the fictitious name of Fred Smolka, et al., on appraisals that were submitted to various insurers by Respondent.

(j) Respondent's appraisers, whose activities were non-complaint with Pennsylvania appraiser laws and regulations, performed appraisals on behalf of the following insurers: Balboa Insurance Company, CUNA Mutual Insurance Society, Electric Insurance Company, Esurance Insurance Company, and The Hartford Insurance Companies.

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) 40 Purdons Statutes, Sections 1171.4 and 1171.5 prohibit unfair methods of competition and unfair or deceptive acts or practices in the business of insurance.

- (c) Respondent's activities described above in paragraphs 3(c) through 3(j) violate 40 Purdons Statutes, Sections 1171.4 and 1171.5.

- (d) Respondent's violations of 40 Purdons Statutes, Sections 1171.4 and 1171.5 are punishable by the following, under 40 Purdons Statutes, Sections 1171.8, 1171.9, and 1171.11:
 - (i) order requiring Respondent to cease and desist from engaging in such violation and/or, if such violation is a method of competition, act or practice defined in Section 5 of this Act, suspension or revocation of Respondent's license(s);

 - (ii) commencement of an action against Respondent for the following civil penalties:
 - (1) for each method of competition, act or practice defined in Section 5 and in violation of the Act which Respondent knew or reasonably should have known was such a violation, a penalty of not more than five thousand dollars (\$5,000.00) for each violation, not to exceed an aggregate penalty of fifty thousand dollars (\$50,000.00) in any six month period;

- (2) for each method of competition, act or practice defined in Section 5 and in violation of this Act which Respondent did not know nor reasonably should have known was such a violation, a penalty of not more than one thousand dollars (\$1,000.00) for each violation, not to exceed an aggregate penalty of ten thousand dollars (\$10,000.00) in any six month period;
- (3) for each violation of an Order issued by the Commissioner pursuant to Section 9 of the Act, while such Order is in effect, a penalty of not more than ten thousand dollars (\$10,000.00).
- (e) 63 Purdons Statutes, Section 856, states the Commissioner may deny initial issuance of, suspend, revoke or refuse to renew any appraiser's license if the licensee obtained his license through willful misrepresentation or fraud, or has shown himself to be incompetent, untrustworthy, or a source of injury and loss to the public.
- (f) Respondent's activities described above in paragraphs 3(c) through 3(j) violate 63 Purdons Statutes, Section 856.
- (g) 63 Purdons Statutes, Section 861(a), requires each appraiser, while engaged in appraisal duties, to carry the license issued to him by the Insurance Department and display it, upon request, to an owner whose vehicle is being inspected, to

the repair shop representative involved or to any authorized representative of the Insurance Department.

- (h) Respondent's activities described above in paragraphs 3(c) through 3(j) violate 63 Purdons Statutes, Section 861(a).
- (i) 63 Purdons Statutes, Section 861(b), requires appraisers to leave a legible copy of the appraisal with the repair shop and furnish a copy to the owner of the vehicle. The appraisal shall contain the name of the insurance company ordering it, the insurance file number, the number of the appraiser's license and the identification number of the vehicle being inspected.
- (j) Respondent's activities described above in paragraphs 3(c) through 3(j) violate 63 Purdons Statutes, Section 861(b).
- (k) Respondent's violations of 63 Purdons Statutes, Sections 856(1), 861(a) and 861(b) are punishable by the following, under 63 Purdons Statutes, Section 856:
 - (i) The commissioner may suspend or revoke any appraiser's license for any of the following causes:

- (1) If the licensee willfully violates, fails to comply with, or knowingly participates in the violation of or failure to comply with any provision of this act or regulation promulgated thereunder.
 - (2) If the licensee has materially misrepresented the terms of any insurance contract or has engaged in any fraudulent transaction.
 - (3) If the licensee has shown himself to be incompetent or untrustworthy.
- (l) Title 31, Pennsylvania Code, Section 62.3(a)(1), requires appraisals to be signed by the appraiser before the appraisal is submitted to the insurer, the consumer, or another involved party. The appraiser may utilize an electronic signature.
- (m) Respondent's activities described above in paragraphs 3(c) through 3(z) violate Title 31, Pennsylvania Code, Section 62.3(a)(1).

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) Respondent will immediately create and implement procedures to ensure that all motor vehicle physical damage appraisers used by Respondent in its Pennsylvania operations are licensed with the Department.
- (c) Respondent will ensure that all appraisals processed for Pennsylvania claims are compliant with Pennsylvania insurance laws and regulations.
- (d) Respondent shall ensure that no appraisals are assigned to Ted Kubiak for a period of five (5) years from the date of this Order and, in no case, unless and until he is licensed.
- (e) Respondent shall ensure that no appraisals are assigned to Joe Small for a period of five (5) years from the date of this Order and, in no case, unless and until he is licensed.

7. Respondent shall cooperate with the Department in every respect with regard to the Department's review, investigation, litigation, hearing, or any other process or relating to the facts and circumstances of this Consent Order. This includes but is not

limited to providing any and all documentary and testimonial evidence relating thereto.

8. 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.

9. 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.

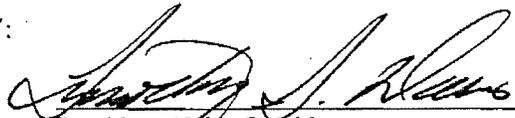
10. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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

12. 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.

13. 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 contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or the duly authorized delegee.

BY:



President / Vice President
On behalf of SCA Enterprises, Inc., Respondent



~~Secretary / Treasurer~~ CFO



RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner
Commonwealth of Pennsylvania