

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT
2012 DEC -5 AM 11:22
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
MARTIN E. SHIRMAN : 40 P.S. §§ 310.11(5), (6), (7), (14),
9310 Jamison Avenue, #B : (17), (20) and 1171.5(a)(12)
Philadelphia, PA 19115-4277 :
: :
MARTIN SHIRMAN AGENCY, LLC :
9831 Bustleton Avenue :
Philadelphia, PA 191115 :
: :
Respondents. : Docket No. CO12-11-023

CONSENT ORDER

AND NOW, this *5th* day of *December*, *2012*, 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. Respondents hereby admit and acknowledge that they have received proper notice of their rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondents hereby waive all rights to a formal administrative hearing in this matter, and agree 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 Martin E. Shirman and maintains his address at 9310 Jamison Avenue, #B, Philadelphia, PA 19115-4277.
- (b) Co-Respondent is Martin Shirman Agency, LLC, and maintains its address at 9831 Bustleton Avenue, Philadelphia, PA 19115.
- (c) At all relevant times herein, Respondent has held an active resident producer license to conduct the business of insurance in Pennsylvania.
- (d) At all times relevant herein, Co-Respondent has held an active resident producer agency license to conduct the business of insurance in Pennsylvania.
- (e) Between August, 2011 and March, 2012, Respondents submitted applications for insurance to Travelers Insurance Company (hereinafter, Travelers) which contained inaccurate, false and misleading credit scoring information.

- (f) Respondents improperly placed policyholders in better rating tiers which resulted in the applicants receiving more favorable rates than they were qualified to receive.
- (g) As a result of their actions, Respondents caused Travelers to suffer financial harm.
- (h) On November 5, 2012, Respondent pled guilty in the U.S. District Court for the Eastern District of Pennsylvania to one count of Bank Fraud, a felony violation, under Criminal Docket No. 2:12-CR-00553-PBT.

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) Respondents are subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) 40 P.S. § 310.11(5) prohibits a licensee or an applicant from intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

- (c) Respondents' activities described above in paragraphs 3(e) through 3(g) violate 40 P.S. § 310.11(5).
- (d) 40 P.S. § 310.11(6) prohibits a licensee or an applicant from committing any unfair insurance practice or fraud.
- (e) Respondents' activities described above in paragraphs 3(e) through 3(h) violate 40 P.S. § 310.11(6).
- (f) 40 P.S. § 310.11(7) prohibits a licensee or an applicant from using fraudulent coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business.
- (g) Respondents' activities described above in paragraphs 3(e) through 3(h) violate 40 P.S. § 310.11(7).
- (h) 40 P.S. § 310.11(14) prohibits a licensee or an applicant from committing a felony or its equivalent.
- (i) Respondents' activities described above in paragraph 3(h) violate 40 P.S. § 310.11(14).

- (j) 40 P.S. § 310.11(17) prohibits a licensee or an applicant from committing fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty.

- (k) Respondents' activities described above in paragraphs 3(e) through 3(h) violate 40 P.S. § 310.11(17).

- (l) 40 P.S. § 310.11(20) 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.

- (m) Respondents' activities described above in paragraphs 3(e) through 3(h) violate 40 P.S. § 310.11(20).

- (n) Respondents' violations of Sections 310.11(5), (6), (7), (14), (17) and (20) are punishable by the following, under 40 P.S. § 310.91:
 - (i) suspension, revocation or refusal to issue the 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.

- (o) 40 P.S. § 1171.5(a)(12) prohibits agents from making false or fraudulent statements or representations on or relative to an application for an insurance policy.
- (p) Respondents' activities described above in paragraphs 3(e) through 3(g) violate 40 P.S. § 1171.5(a)(12).
- (q) Respondents' violations of 40 P. S. §1171.5(a)(12) are punishable by the following, under 40 P.S. §§ 1171.8, 1171.9, and 1171.11:
 - (i) an 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).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondents consent to the following:

(a) Respondents shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

- (b) All licenses of Respondents to do the business of insurance are hereby revoked.
- (c) If Respondents should ever become licensed in the future, their 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 Respondents 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 five (5) years from the date of issuance of such licenses.
- (d) Respondents specifically waive the 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 Respondents 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 Respondents' written request.
- (e) At the hearing referred to in paragraph 5(d) of this Order, Respondents shall have the burden of demonstrating that they are worthy of an insurance license.
- (f) In the event Respondents' licenses are suspended pursuant to paragraph 5(c) above, and Respondents either fail to request a hearing within thirty (30) days

or at the hearing fail to demonstrate that they are worthy of a license, Respondents' suspended 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, Respondents 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. Respondents hereby expressly waive any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

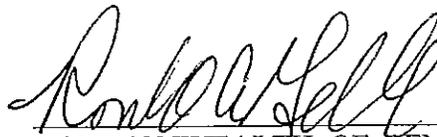
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized 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.

BY:



MARTIN E. SHIRMAN, individually and on behalf of MARTIN SHIRMAN AGENCY, LLC, Respondents



COMMONWEALTH OF PENNSYLVANIA
By: RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA.

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The
Administrative Code of 1929

AND NOW, this 27th day of April, 2011, Ronald A.

Gallagher, Deputy Insurance Commissioner, is hereby designated as the Commissioner's
duly authorized representative for purposes of entering in and executing Consent Orders.

This delegation of authority shall continue in effect until otherwise terminated by a later
Order of the Insurance Commissioner.


Michael F. Consedine
Insurance Commissioner

