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INSURANCE DEPARTMENT

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BEFORE THE INSURANCE COMMISSIONER ADMIN HEARINGS OFFICE
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
VINCENT J. SMITH : 40 P.S. §§ 310.6(a)(6) and 310.11(1)
15 North 6th St. : 310.11(8), (13) and (20)
Reading, PA 19601 : :
Respondent. : Docket No. CO13-05-012

CONSENT ORDER

AND NOW, this 4th day of JUNE, 2013, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania ("the Insurance Department") 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. 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 Vincent J. Smith, and maintains his business address at 15 North 6th St., Reading PA, 19601.
- (b) Respondent does not currently possess a producer license.
- (c) Respondent previously held a resident agent and producer licenses between October 23, 1989 and September 1, 2004.
- (d) On July 23, 2003, Respondent entered into a Consent Order with the Insurance Department, which ordered Respondent to cease and desist insurance law violations and imposed a three year supervision period on his license.

- (e) In 2004, Respondent was subject to various states' administrative orders and actions, imposing fines and licensure restrictions (i.e. New Hampshire, California, and Florida) dealing with, *inter alia*, the failure of Capital Bonding Corporation ("CBC") to cover risks relating to Immigration and Naturalizations Services (now Immigration Customs Enforcement, "ICE"). At that time, Respondent was the president of CBC.
- (f) On September 1, 2004, Respondent voluntarily surrendered his producer license to the Insurance Department, stating that he was no longer in the business of insurance.
- (g) Since that time, in excess of \$34 million in CBC's bail bond obligations have been satisfied.
- (h) While previously licensed, Respondent failed to fully and timely report all state administrative actions and orders to the Insurance Department within thirty (30) days of final disposition, as required.
- (i) On October 23, 2012, Respondent electronically initiated an application for a resident producer's license, wherein he failed to fully disclose all state administrative actions.

- (j) On his October 23, 2012, license application, Respondent answered "No" to the question: "Have you ever failed to pay state income tax or comply with any administrative or court order directing the payment of state income tax?"
- (k) In fact, Respondent has had an outstanding tax liability with the Pennsylvania Department of Revenue for unpaid personal income taxes.
- (l) Respondent is currently coordinating with the Department of Revenue to make restitution for his unpaid state taxes; further, Respondent has made substantial payments to the Department of Revenue in anticipation of settlement of that liability.
- (m) Respondent has agreed to licensure with ten (10) years of licensure supervision and, in any event, that he will not act in the capacity as a designated licensee.

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 P.S. § 310.6(a)(6), states that the Department shall issue a producer license, provided the applicant possesses the general fitness, competence and reliability sufficient to satisfy the Department that the applicant is worthy of a license.

- (c) Respondent's activities described above in paragraphs 4(d) through 3(k) violate 40 P.S. § 310.6(a)(6).

- (d) 40 P.S. § 310.11(1) prohibits a licensee or an applicant for a license from providing incorrect, misleading, incomplete or false information to the Department in a license application.

- (e) Respondent's activities described above in paragraphs 4(i) through 3(k) violate 40 P.S. § 310.11(1).

- (f) 40 P.S. § 310.11(8) prohibits a licensee or an applicant from having a producer license or other financial services license denied, suspended or revoked by a governmental entity.

- (g) Respondent's activities described above in paragraph 4(e) violate 40 P.S. § 310.11(8).

- (h) 40 P.S. § 310.11(13) prohibits a licensee or an applicant from failing to pay state income tax or comply with any administrative or court order directing the payment of state income tax.

- (i) Respondent's activities described above in paragraph 4(k) violate 40 P.S. § 310.11(13).

- (j) 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.

- (k) Respondent's activities described above in paragraphs 4(k) through 4(k) violate 40 P.S. § 310.11(20).

- (l) Respondent's violations of Sections 310.6(a)(6), 310.11(1), (8), (13) 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.

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) Within sixty (60) days from the date of this Order, Respondent shall (i) enter into a Deferred Payment Plan (DPP) with the Department of Revenue for payment of unpaid taxes, and (ii) provide proof of such to the Insurance Department.
- (c) Respondent must fully and timely comply with all aspects and terms of the Deferred Payment Plan (DPP) agreement entered into with the Pennsylvania Department of Revenue. Further, upon demand, Respondent shall demonstrate to the Insurance Department that he is current and fully compliant with all terms of the DPP; failure to provide timely proof thereof, shall be a basis for suspending Respondent's license under paragraph 6(e), below.
- (d) In no event may Respondent act in the capacity as a designated licensee.

- (e) Respondent's 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 ten (10) years from the date of this Order.
- (f) 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.
- (g) At the hearing referred to in paragraph 5(f) of this Order, Respondent shall have the burden of demonstrating that he is worthy of a license.
- (h) In the event Respondent's licenses are suspended pursuant to paragraph 5(e) 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 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 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: 

VINCENT S. SMITH, Respondent



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

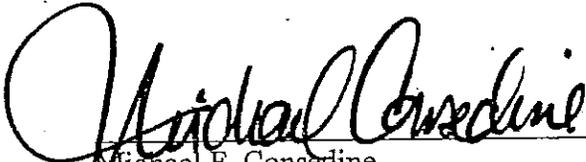
BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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. Considine
Insurance Commissioner

