

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

2008 OCT 15 AM 10:46
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
Salvatore A. Spedale, Jr. : Sections 611-A(1), (20), 678-A(a)
4591 Summerhill Drive : of Act 147 of 2002.
Doylestown, Pennsylvania 18901 : (40 P.S. §§310.11(1), (20), 310.78(a))
: :
Respondent. : Docket No.: 2008-10-013
: :

CONSENT ORDER

AND NOW, this 15th day of October, 2008, 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 he 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 Salvatore A. Spedale, Jr., residing at 4591 Summerhill Drive, Doylestown, Pennsylvania 18901.
- (b) Respondent is, and during all relevant times herein, has been a resident licensed producer since December 02, 2004, with an individual producer license number 418680 that expires on December 02, 2008.
- (c) In 2006, Respondent was subject to an administrative action taken by the New York Insurance Department.
- (d) On October 17, 2006, Respondent filed with the Pennsylvania Insurance Department ("Department") a resident producer license renewal application in which he failed to report the New York Insurance Department 2006 administrative action.

- (e) On January 15, 2007, the New York Insurance Department revoked Respondent's New York producer license for misappropriating an annuity premium in the amount of \$23,000 received from his insurance client.
- (f) Respondent failed to report the revocation of his New York producer license to the Department within 30 days of the final disposition of the matter as required by the Pennsylvania Insurance laws.

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 ("Department").
- b) Section 678-A(a) of Act 147 of 2002 requires a licensee to report any administrative action taken against the licensee in another jurisdiction within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents. (40 P.S. § 310.78(a)).

- c) Respondent's failure to report the New York Insurance Department 2006 administrative action and January 2007 revocation of his New York insurance producer license within 30 days of the final disposition of the matter to the Department constitutes the violation of 40 P.S. § 310.78(a).

- d) Section 611-A(1) of Act 147 of 2002 prohibits a licensee from providing incorrect, misleading, incomplete or false information to the Department in a license application (40 P.S. § 310.11(1)).

- e) Respondent's failure to disclose the New York Insurance Department 2006 administrative action and January 2007 revocation of his New York insurance producer license on his Pennsylvania resident producer license renewal application dated October 17, 2006, violates 40 P.S. § 310.11(1).

- f) 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)).

- g) Respondent's acts described in paragraphs 4(c) through 4(f) violate 40 P.S. § 310.11(20).

- h) Respondent's violations of Sections 611-A(1) & (20), and 678-A(a) of Act 147 of 2002 are punishable under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91), by the following:
 - (i) denial, suspension, revocation or refusal to renew the 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

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) All licenses or certificates issued to Respondent by the Department are hereby suspended for a period of six (6) months from the date of this Consent Order.

- (c) Respondent shall pay a civil penalty of Five Thousand Dollars (\$5,000.00) 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 Fraser, Office Manager, Bureau of Licensing and 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.
- (d) Respondent's certificates and licenses may be immediately suspended by the Department following its investigation and determination that 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 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 this Order.
- (e) Respondent specifically waives his right to prior notice of said suspension as provided in paragraph 6(d) above, 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 6(e) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance certificate and license.

(f) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 6(d) 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 certificate and 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 brought pursuant to paragraph 7 above, 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 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 violation of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY: Salvatore A. Spedale
SALVATORE A. SPEDALE, JR.
Respondent

Ronald A. Gallagher
RONALD A. GALLAGHER
Deputy Insurance Commissioner
Commonwealth of Pennsylvania