

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT
2007 AUG 20 AM 10:56
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
EDWARD SNODGRASS : Sections 611-A(5), (6), (7), (9), and
506 Millers Lane : (17) of Act 147 of 2002 (40 P.S.
Pittsburgh, PA 15239 : §§ 310.11)
: :
: Section 5(a)(12) of the Unfair
: Insurance Practices Act, Act of
: July 22, 1974, P.L. 589, No. 205
: (40 P.S. § 1171.5)
: :
Respondent. : Docket No. CO07-07-037

CONSENT ORDER

AND NOW, this 20th day of August, 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 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

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 Edward Snodgrass and maintains his address at 506 Millers Lane, Pittsburgh, Pennsylvania 15239.
- (b) Respondent is, and during all times herein was, a licensed insurance producer with a Certificate Of Qualification #335511, that expires on April 29, 2008.
- (c) Throughout the period from January 17, 2007 to March 1, 2007, Respondent produced approximately twelve (12) bogus Western & Southern Life Assurance Company, (hereinafter Western & Southern), Life Insurance Applications for twelve (12) individuals without their knowledge and/or consent.

- (d) During the period referenced in 3(c) above, Respondent produced approximately twelve (12) bogus Western & Southern Critical Illness Insurance Applications for twelve (12) individuals without their knowledge and/or consent.
- (e) During the period referenced in 3(c) above, Respondent forged the signatures of approximately thirty-four (34) individuals and/or forged the initials of approximately eleven (11) individuals on the bogus Western & Southern Life Insurance Applications referenced in 3(c) above without their knowledge and/or consent.
- (f) During the period referenced in 3(c) above, Respondent forged the signatures of approximately thirty-four (34) individuals on the bogus Western & Southern Critical Illness Insurance Applications referenced in 3(d) above without their knowledge and/or consent.
- (g) Respondent then submitted the approximately twenty-four (24) bogus Western & Southern Applications referenced in (c) and (d) above to Western & Southern.

- (h) Respondent was paid five-hundred-thirty-nine dollars and thirty-one cents (\$539.31) in commission by Western & Southern as the result of his submission of the bogus Western & Southern Applications referenced in 3(c) and 3(d) above.
- (i) No policies were ever issued as the result of the Respondent's actions, and there was no harm to consumers.
- (j) In March 2007, Respondent self-reported his wrongdoing above to Western & Southern.
- (k) In March 2007, Western & Southern removed all the bogus applications from its records.

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 611-A(5) of Act 147 of 2002 prohibits a licensee from intentionally misrepresenting the terms of an insurance contract or application for insurance.
- (c) Section 611-A(6) of Act 147 of 2002 prohibits a licensee from admitting or be found to have committed any unfair insurance practice or fraud.
- (d) Section 611-A(7) of Act 147 of 2002 prohibits a licensee from using fraudulent, coercive or dishonest practices or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this Commonwealth or elsewhere.
- (e) Section 611-A(9) of Act 147 of 2002 prohibits a licensee from forging another person's name on an application for insurance or on any document related to an insurance or financial service transaction.
- (f) Section 611-A(17) of Act 147 of 2002 prohibits a licensee from committing fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty.
- (g) Respondent's activities described above in paragraphs 3(c) through 3(k) violate Sections 611-A(5), (6), (7), (9) and (17) of Act 147 of 2002 (40 P.S. §§ 310.11).

(h) Respondent's violations of Sections 611-A(5), (6), (7), (9) and (17) 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.

(i) Section 5(a)(12) of the Unfair Insurance Practices Act prohibits agents from making false or fraudulent statements or representations on or relative to an application for an insurance policy (40 P.S. § 1171.5).

(j) Respondent's activities described above in paragraphs 3(c) through 3(k) constitute making false or fraudulent statements or representations on or relative to an application for an insurance policy and violate Section 5(a)(12) of the Unfair Insurance Practices Act (40 P.S. § 1171.5).

(k) Respondent's violations of Section 5(a)(12) of the Unfair Insurance Practices Act are punishable by the following, under Sections 8, 9, and 11 of the Act (40 P.S. §§ 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).

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) All licenses/certificates of Respondent to do insurance business are hereby revoked.
- (c) Respondent shall make restitution to Western & Southern in the amount of \$539.31 within 90 days from the date of this Order. Proof of restitution payment shall be provided to the Insurance Department by Respondent.
- (d) If Respondent should ever become licensed in the future, his certificates and 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 (ii) above is limited to a period of five (5) years from the date of issuance of such certificates and licenses.

- (e) 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.
- (f) At the hearing referred to in paragraph 5(e) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance certificate and 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 he is worthy of a certificate and 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 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:


EDWARD SNODGRASS, Respondent


COMMONWEALTH OF PENNSYLVANIA
By: Randolph L. Rohrbaugh
Deputy Insurance Commissioner