

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT
2007 SEP 28 AM 10:42
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
WEEKES & CALLAWAY, INC. : Sections 603-A and 606-A of 147 of
777 East Atlantic Avenue, Suite 300 : 2002 (40 P.S. §§ 310.3 and 310.6)
Delray Beach, FL 33483 :
: Section 1615 of the Surplus Lines
: Act, Act of May 17, 1921, P.L. 682,
: added by the Act of December 18,
: 1992, P.L. 1519 (40 P.S. § 991.1615)
: :
Respondent. : Docket No. CO07-07-032

CONSENT ORDER

AND NOW, this *28th* day of *September*, 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 it has received proper notice of its 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.

FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following

Findings of Fact:

- (a) Respondent is Weekes & Callaway, Inc., and maintains its address at 777 East Atlantic Avenue, Suite 300, Delray Beach, Florida 33483.
- (b) Respondent has not possessed any Pennsylvania insurance licenses at any time herein.
- (c) Effective March 26, 2007, Respondent procured surplus lines liability insurance policy #PLS2292148 from American International Specialty Lines Insurance Company for Richland partners, LLC, Douglasville, Pennsylvania, although Respondent did not possess any Pennsylvania insurance licenses.
- (d) The premium for policy #PLS2292148 was \$71,849.00, and the surplus lines tax, at 3%, was \$2,155.00.

- (e) On May 8, 2007, Respondent filed the surplus lines tax form and taxes to the Pennsylvania Department of Revenue on behalf of Richland Partners, LLC.
- (f) On June 14, 2007, Respondent confirmed the aforementioned information.

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 603-A of Act 147 of 2002 (40 P.S. 310.3(a)), prohibits a person from acting as a producer unless he obtains a certificate from the Insurance Department reflecting the lines of authority for the kinds of insurance for which he intends to act as producer.
- (c) Respondent's activities described above in paragraphs 3(c) through 3(f) constitute acting as an insurance producer without a certificate of qualification, in violation of Section 603-A of Act 147 of 2003 (40 P.S. §310.3(a)).

(d) Section 606-A of Act 147 of 2002 prohibits the grant of a producers license except to an applicant worthy of a license (40 P.S. § 310.6).

(e) Respondent's activities described above in paragraphs 3(c) through 3(f) demonstrate that it is not worthy of a license and violate Section 606-A of Act 147 of 2002.

(f) Respondent's violations of Sections 603-A and 606-A of Act 147 are punishable by the following, under Section 691-A of Act 147 of 2003 (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 every violation of the Act;
- (iii) an order to cease and desist; and
- (iv) any other conditions as the Commissioner deems appropriate.

(g) Section 1615 of the Surplus Lines Act (40 P.S. § 991.1615) prohibits any agent or broker licensed by the Department to transact surplus lines insurance unless such agent or broker is licensed as a surplus lines agent.

(h) Respondent's activities described above in paragraphs 3(c) through 3(f) constitute transacting surplus lines insurance without being properly licensed.

(i) Respondent's violations of Section 1615 of the Surplus Lines Act are punishable by the following, under Section 1625(b) of the Insurance Company Law:

(i) imposition of a penalty not exceeding \$1,000 for the first offense and \$2,000 for each succeeding offense.

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) Respondent shall pay a civil penalty of One Thousand Dollars (\$1,000.00) 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 L. Fraser, Office Manager, Bureau of 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.

- (c) If Respondent should ever become licensed in the future, its 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.
- (d) Respondent specifically waives its 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.
- (e) At the hearing referred to in paragraph 5(d) of this Order, Respondent shall have the burden of demonstrating that it is worthy of an insurance certificate and license.

(f) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5(c) above, and Respondent either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that it 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.

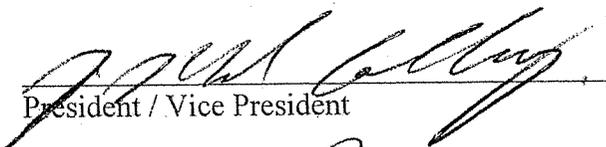
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

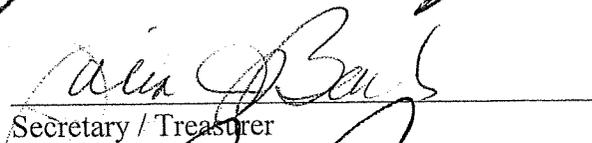
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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.

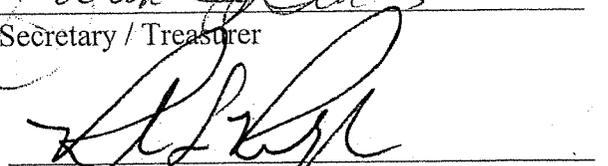
BY: WEEKES & CALLAWAY, INC., Respondent



President / Vice President



Secretary / Treasurer



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