

RECEIVED
INSURANCE DEPARTMENT

2009 APR 20 AM 10:18

ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
KEITH ALLEN YORK	:	63 Purdon's Statutes, Section
15 Juniper Drive	:	1606(a)(5) and (13)
Levittown, PA 19056, and	:	
	:	
YORK ADJUSTMENT COMPANY,	:	
INCORPORATED	:	
4955 Upper Mountain Road	:	
New Hope, PA 18938	:	
	:	
Respondents.	:	Docket No. CO09-03-020

CONSENT ORDER

AND NOW, this *20th* day of *April*, 2009, 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.A. §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 Keith Allen York (hereinafter, referred to as "York"), who maintains his address at 15 Juniper Drive, Levittown, Pennsylvania 19056.
- (b) Respondent is also York Adjustment Company, Incorporated, and maintained a business address at 4955 Upper Mountain Road, New Hope, Pennsylvania 18938.
- (c) Respondent York, at all relevant times herein, has held a Public Adjuster License #22689, which expired on January 27, 2009, to conduct the business of insurance in Pennsylvania.
- (d) At all times herein, Respondent York has been the Qualifying Active Officer of York Adjustment Company, Incorporated.

- (e) In August, 2007, insureds Jamon and Rachel Tarity hired Respondents to adjust a claim filed by the insureds.
- (f) In December, 2007, Respondent York endorsed an NGM Insurance Company settlement check in the amount of \$22,526.14, cashed the check, and misappropriated the proceeds for his personal use.
- (g) In April, 2008, insured John White hired Respondents to adjust a claim filed by the insured.
- (h) Respondent York failed to respond to Mr. White's requests or Harleysville Insurance Company's requests for assistance and information on the above-referenced claim.
- (i) In July, 2008, insured Sharon Gavin hired Respondents to adjust a claim filed by the insured.
- (j) In September, 2008, insured Dorothy Walcott Benson hired Respondents to adjust a claim filed by the insured.
- (k) In December, 2008, Respondent York received a \$4,000.00 settlement check from State Farm Insurance Company on behalf of the insured, and failed to remit the proceeds to the insured.

- (l) Respondent York has made full restitution to the Taritys and Ms. Garvin, however the \$4,000.00 due to Ms. Benson remains outstanding as of this date.

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) 63 Purdon's Statutes, Section 1606(a)(5) states that a public adjuster or public adjuster solicitor who misappropriates or convert to their own use or improperly withholds moneys held on behalf of another party to the contract, may be fined or face suspension or revocation of their public adjuster license.
 - (c) Respondents' activities in paragraphs 3(f) through 3(m) violate 63 Purdon's Statutes, Section 1606(a)(5).
 - (d) 63 Purdon's Statutes, Section 1606(a)(13) states that public adjusters or public adjuster solicitors who demonstrate incompetency or untrustworthiness to

transact the business of a public adjuster may face fine, suspension or revocation of their public adjuster license.

- (e) Respondents' activities in paragraphs 3(f) through 3(m) violate 63 Purdon's Statutes, Section 1606(a)(13).

- (f) Respondents' violations of Sections 1606(a)(5) and 1606(a)(13) are punishable by a fine, suspension and revocation of licenses under Section 1606(a) and a penalty of not more than \$1,000 for every violation of this Act under 63 Purdon's Statutes, Section 1606(b).

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) Respondent York shall make restitution to Dorothy Walcott Benson in the amount of \$4,000.00 within thirty (30) days from the date of this Order.

Respondent shall make restitution to persons other than Ms. Benson if the Deputy Commissioner identifies such persons and determines that restitution is

owed to them by Respondent. Proof of restitution payment shall be provided to the Insurance Department by Respondent.

- (c) All licenses of Respondent York and Respondent York Adjustment Company, Incorporated to do the business of insurance are hereby revoked.
- (d) If Respondents should ever become licensed in the future, the 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 Respondents are 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) 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.

(f) At the hearing referred to in paragraph (e) of this Order, Respondents shall have the burden of demonstrating that they are worthy of an insurance certificate and license.

(g) In the event Respondents' certificates and licenses are suspended pursuant to paragraph 5(d) above, and Respondents either fail to request a hearing within thirty (30) days or at the hearing fails to demonstrate that they are worthy of a certificate and license, Respondents' 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, it may, in its discretion, pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or 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.

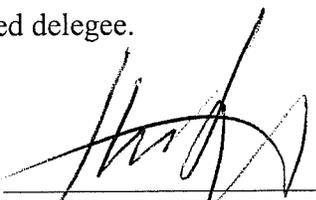
7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, 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.

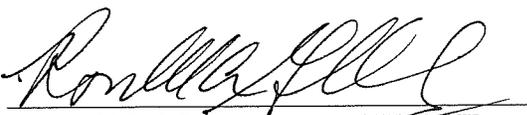
9. Respondents hereby expressly waive any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 the 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 Department or a duly authorized delegee.

BY: 

KEITH ALLEN YORK, individually and
on behalf of YORK ADJUSTMENT
COMPANY, INCORPORATED,
Respondent



By: RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner
Commonwealth of Pennsylvania