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INSURANCE DEPARTMENT

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ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
FREDA J. BATIPPS	:	40 P.S. §§ 310.11 (20), 310.78(b) and
1427 Astor Street	:	1171.5(a)(10)(i)
Norristown, PA 19401	:	
	:	
	:	
Respondent.	:	Docket No. CO11-02-001

CONSENT ORDER

AND NOW, this *13<sup>th</sup>* day of *September, 2011*, 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 she has received proper notice of her 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 she violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

4. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is Freda J. Batipps and maintains her address at 1427 Astor Street, Norristown, PA 19401.
- (b) Respondent is, and during all times relevant herein was, a licensed insurance producer with a resident individual license #346711 which expires on August 31, 2011.
- (c) Respondent, along with another USI Mid-Atlantic, Incorporated (hereinafter, USI) agent, presented an insurance policy to the insured, Bristol Township, Pennsylvania (hereinafter Bristol), from the insurer, Zurich American Insurance Company (hereinafter, Zurich).
- (d) The effective policy period of the Bristol policy referenced in (c) above was March 1, 2005 through March 1, 2006.

- (e) At the time the Bristol policy referenced in (c) above was presented, Bristol officials verbally stated their desire to reject Uninsured (hereinafter, UM) and Underinsured (hereinafter, UIM) coverage.
- (f) Respondent, along with another USI agent, gave blank UM and UIM waiver forms to Bristol officials for their signature and date to reject the UM and UIM coverage, referenced in (e) above as required by 75 Pennsylvania Consolidated Statutes- Subchapter C - Uninsured and Underinsured Motorist Coverage.
- (g) Respondent was the Account Manager for the maintenance of the Bristol policy.
- (h) Respondent was responsible for ensuring that all relevant insurance documents were properly signed, dated and forwarded to Zurich in a timely manner.
- (i) Respondent failed to timely obtain valid, signed and dated UM and UIM waiver forms referenced in (f) above, from insured Bristol, as required by 75 Pennsylvania Consolidated Statutes.
- (j) In August, 2005, two (2) Bristol police officers (hereinafter Officers) were seriously injured in an on-duty auto accident when they were struck by an intoxicated, uninsured motorist.

- (k) Between October 2005 and January 2006, Respondent, USI Senior Claims Analyst Linda Magovern and persons at Bristol searched for, but could not find, signed and dated UM and UIM waiver forms referenced in (f) and (i) above.
- (l) Respondent, in November, 2005 and again in January 2006, then sent new blank UM and UIM waiver forms by email to Bristol officials with instructions to sign, date and return the UM and UIM waiver forms as soon as possible so the forms could be forwarded to Zurich.
- (m) Respondent, on January 27, 2006 received and accepted by email from Bristol officials UM and UIM waiver forms which were signed and backdated to March 1, 2005.
- (n) Respondent, on January 27, 2006 forwarded by email the signed and backdated UM and UIM waiver forms referenced in (m) above to Zurich.
- (o) Accordingly, Zurich denied the claim.
- (p) Respondent, in January 2006, advised USI Vice President and Claims Manager, Robert J. Brown, that the UM and UIM waiver forms referenced in (l) and (m) above had been received from Bristol, signed and backdated to March 1, 2005 and were forwarded to Zurich.

- (q) Not until November, 2006, and only after discovering that the UM and UIM waiver forms were backdated, did Zurich pay the officers UM and UIM claim in full.
- (r) Respondent, on February 26, 2009 was arrested by Bucks County, Pennsylvania Detectives and charged with numerous felonies and misdemeanors.
- (s) Respondent failed to report her arrest referenced in (r) above to the Department.
- (t) On April 23, 2010 all criminal charges against Respondent were dismissed and Respondent reported the dismissal to the Department.

#### 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. § 310.11(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.

- (c) Respondent's activities described above in paragraphs 4(i) through 4(s) violate 40 P.S. § 310.11(20).
- (d) 40 P.S. § 310.78(b) requires that within 30 days of being charged with criminal conduct, a licensee shall report the charges to the Department. The licensee shall provide the Department with a copy of the criminal complaint, information or indictment, a copy of the order resulting from any pretrial hearing, and a report of the final disposition of the charges.
- (e) Respondent's activities described above in paragraphs 4(r) and 4(s) violate 40 P.S. § 310.78(b).
- (f) Respondent's violations of Sections 310.11 (20) and 310.78(b) are punishable by the following, under 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) 40 P.S. § 1171.5(a)(10)(i) holds that misrepresenting policy provisions relating to coverage at issue constitutes unfair claim settlement or compromise practices.
- (h) Respondent's activities described above in paragraphs 4(i) through 4(o) violate 40 P.S. § 1171.5(a)(10)(i).
- (i) Respondent's violations of 40 P. S. § 1171.5(a)(10)(i) are punishable by the following, under 40 Purdons Statutes, Sections 1171.8, 1171.9, and 1171.11:
- (i) an 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

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) Respondent shall pay a civil penalty of Twenty Thousand Dollars (\$20,000.00) 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, 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.
- (c) Respondent will assist to the best of her ability the Pennsylvania Insurance Department in conducting investigations and prosecution of any licensed or unlicensed entity performing the business of insurance including, but not limited to, any public adjuster, insurance producer, company, etc., their employees and officers, including but not limited to testifying as a witness relative to any of the aforesaid entities, their employees and officers in any civil or administrative action involving same.
- (d) Respondent's 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 this section is limited to a period of ten (10) years from the date of this Order.

- (e) Respondent specifically waives her 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 6(e) of this Order, Respondent shall have the burden of demonstrating that she is worthy of a license.
- (g) 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 she is worthy of a license, Respondent's suspended certificates and licenses shall be revoked.

7. 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.

8. 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.

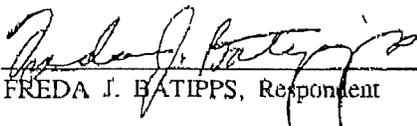
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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 violations of law

contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegate.

BY:   
FREDA J. BATIPPS, Respondent

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