

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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INSURANCE DEPARTMENT
2011 DEC 12 PM 2:52
ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
GREGORY T. BLEWETT : 40 P.S. §§ 310.11(6), (7), (20),
4133 Elbridge Street : 310.96, 1171.5(a)(3), 1171.5(a)(5)
Philadelphia, PA 19135 : and 1171.5(a)(12)
: :
ACCU-RATE INSURANCE AGENCY, :
INCORPORATED :
6378 Castor Avenue :
Philadelphia, PA 19149 :
: :
Respondents. : Docket No. CO11-10-013

CONSENT ORDER

AND NOW, this *12th* day of *December, 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. 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. § 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 Gregory T. Blewett, and maintains his address at 4133 Elbridge Street, Philadelphia, PA 19135.
- (b) Co-Respondent is Accu-Rate Insurance Agency, Inc., which maintains a business address at 6378 Castor Avenue, Philadelphia, PA 19149.
- (c) Respondent Blewett has an active resident individual license #583791 that expires on October 31, 2012.
- (d) Co-Respondent Accu-Rate has an active resident agency license # 55419 that expires on December 3, 2013.
- (e) On or about February 2, 2011, a Pennsylvania consumer contacted Respondents to renew his expired commercial liability policy.

- (f) The consumer's commercial liability coverage was expiring and Respondent, on behalf of the Co-Respondent, received a down payment check in the amount of \$3,500.00.
- (g) Respondent failed to place the commercial liability coverage.
- (h) When questioned by the consumer regarding the commercial liability coverage, Respondent gave the consumer a certificate of insurance from Western Heritage Insurance Company, policy # TBA98117.
- (i) Western Heritage Insurance Company confirmed that it never issued policy # TBA98117 to the consumer.
- (j) On October 15, 2011, Respondent made the consumer whole in the amount of \$3,500.00.

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) 40 P.S. § 310.11(6) prohibits a licensee or an applicant from committing any unfair insurance practice or fraud.
- (c) Respondents' activities described above in paragraphs 3(g) through 3(i) violate 40 P.S. § 310.11(6).
- (d) 40 P.S. § 310.11(7) prohibits a licensee or an applicant from using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business.
- (e) Respondents' activities described above in paragraphs 3(g) through 3(i) violate 40 P.S. § 310.11(7).
- (f) 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.
- (g) Respondents' activities described above in paragraphs 3(g) through 3(i) violate 40 P.S. § 310.11(20).
- (h) 40 P.S. § 310.96 states an insurance producer shall be responsible in a fiduciary capacity for all funds received or collected as an insurance producer

and shall not, without the express consent of the insurance entity on whose behalf the funds were received, mingle the funds with the producer's own funds or the funds held by the insurance producer in any other capacity.

- (i) Respondents' activities described above in paragraphs 3(g) through 3(i) violate 40 P.S. § 310.96.

- (j) Respondents' violations of Sections 310.11(6), (7), (20) and 310.96 are punishable by the following, under 40 P.S. § 310.91:
 - (i) suspension, revocation or refusal to issue the 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.

- (k) 40 P.S. §1171.5(a)(3) prohibits agents from making, issuing, publishing or circulating any written statement which is false.

- (l) Respondents' activities described above in paragraphs 3(h) through 3(i) violate 40 P.S. § 1171.5(a)(3).

- (m) 40 P.S. §1171.5(a)(5) prohibits agents from knowingly making any false entry of a material fact in any book, report, or statement.
- (n) Respondents' activities described above in paragraphs 3(h) through 3(i) violate 40 P.S. § 1171.5(a)(5).
- (o) 40 P.S. § 1171.5(a)(12) prohibits agents from making false or fraudulent statements or representations on or relative to an application for an insurance policy.
- (p) Respondents' activities described above in paragraphs 3(h) through 3(i) constitute making false or fraudulent statements or representations on or relative to an application for an insurance policy and violate 40 P.S. §1171.5(a)(12).
- (q) Respondents' violations of 40 P. S. §§1171.5(a)(3), (5) and (12) are punishable by the following, under 40 Purdons Statutes, Sections 1171.8, 1171.9, and 1171.11:
 - (i) an order requiring Respondents 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 Respondents' license(s);

(ii) commencement of an action against Respondents 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 Respondents 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 Respondents 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 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) Respondents' 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 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.
- (c) 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.

(d) At the hearing referred to in paragraph 5(c) of this Order, Respondents shall have the burden of demonstrating that they are worthy of a license.

(e) In the event Respondents' licenses are suspended pursuant to paragraph 5(b) above, and Respondents either fail to request a hearing within thirty (30) days or at the hearing fail to demonstrate that they are worthy of a license, Respondents' suspended 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, 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 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: 
GREGORY T. BLEWETT, individually and
on behalf of ACCU-RATE INSURANCE
AGENCY, INC., Respondents


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