



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 Ace Public Adjusters, Inc. (Ace), and maintains a record of its address with the Pennsylvania Insurance Department (Dept.) as 7930 Frankford Avenue, Philadelphia, PA 19136.
- (b) Respondent Ace is, and at all times relevant hereto has been, a licensed resident public adjuster agency.
- (c) Co-Respondent is Hartman Wismer, Jr. (Wismer) and he maintains a record of his address with the Pennsylvania Insurance Department as 7930 Frankford Avenue, 2<sup>nd</sup> Floor, Philadelphia, PA 19136.
- (d) Co-Respondent Wismer is, and at all times relevant hereto has been, a licensed resident public adjuster and Qualifying Active Officer for Ace.

- (e) Respondents entered into twenty-four (24) public adjuster contracts between January 2018 and January 2019 with twenty-four (24) separate insureds.
- (f) Respondents received thirty-three (33) insurance settlement checks, totaling \$247,258.72, and failed to remit the payments to the insureds identified in finding 3(e) between January 2018 and January 2019.
- (g) Respondents forged eight (8) customers signatures on settlement checks without the authorization of the customers identified in finding 3(e).
- (h) Respondent Wismer admitted during a February 3, 2019 interview with the Dept. that he received settlement checks and used the customer's money to make other customers whole.
- (i) Respondents' surety bond for the penal sum amount of \$40,000.00 was called upon on March 28, 2019, and used to reimburse pro rata the customers identified in finding 3(f) a portion of the funds owed, leaving a balance of \$207,258.72.

## 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 P.S. § 1606(a)(2) prohibits a public adjuster from engaging in, or attempting to engage in, any fraudulent transaction with respect to a claim or loss that licensee is adjusting.
- (c) Respondents' activities in paragraphs 3(f) through 3(h) violate 63 P.S. § 1606(a)(2).
- (d) 63 P.S. § 1606(a)(5) prohibits a public adjuster from misappropriating or converting to his own use or improperly withholding moneys held on behalf of another party to the public adjuster contract.
- (e) Respondents' activities in paragraphs 3(f) through 3(h) violate 63 P.S. § 1606(a)(5).

- (f) 63 P.S. § 1606(a)(10) prohibits a public adjuster from violating any provisions of this act or any rule or regulation promulgated, published and adopted thereunder.
- (g) Respondents' activities in paragraphs 3(e) through 3(h) violate 63 P.S. § 1606(a)(10).
- (h) 63 P.S. § 1606(a)(12) prohibits a public adjuster from demonstrating or committing fraudulent practices.
- (i) Respondents' activities in paragraphs 3(g) and 3(h) violate 63 P.S. § 1606(a)(12).
- (j) 63 P.S. § 1606(a)(13) prohibits a public adjuster from demonstrating incompetence or untrustworthiness to transact the business of a public adjuster.
- (k) Respondents' activities in paragraphs 3(f) through 3(i) violate 63 P.S. § 1606(a)(13).
- (l) Respondents' violations of §§ 1606(a)(2), (a)(5), (a)(10), (a)(12) and (a)(13) are punishable by a fine, suspension and revocation of licenses under §1606(a) and the following, under 63 P.S. § 1606(b): the Insurance

Commissioner may impose a penalty of not more than \$5,000 for every violation of this Act.

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) All licenses of Respondents to do the business of insurance are hereby revoked.
- (c) If Respondents should ever become licensed in the future, their 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 ten (10) years from the date of issuance of such licenses.

- (d) Respondents specifically waive their rights 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.
- (e) At the hearing referred to in paragraph 5(d) of this Order, Respondents shall have the burden of demonstrating that they are worthy of an insurance license.
- (f) In the event Respondents' licenses are suspended pursuant to paragraph 5(c) 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 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 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 provisions of law.

7. Alternatively, in the event the Insurance Department finds 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 duly authorized delegee.

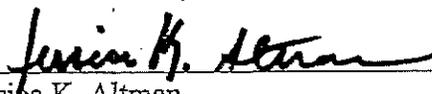
BY:   
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Hartman Wismer, Jr., individually  
And on behalf of Ace Public Adjusters, Inc.,  
Respondents

  
\_\_\_\_\_  
COMMONWEALTH OF PENNSYLVANIA  
By: CHRISTOPHER R. MONAHAN  
Deputy Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The  
Administrative Code of 1929

AND NOW, this 28<sup>th</sup> day of March, 2018, Christopher R. Monahan,  
Deputy Insurance Commissioner, is hereby designated as the Commissioner's duly  
authorized representative for purposes of entering in and executing Consent Orders. This  
delegation of authority shall continue in effect until otherwise terminated by a later Order  
of the Insurance Commissioner.

  
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Jessica K. Altman  
Insurance Commissioner

