

RECEIVED
INSURANCE DEPARTMENT

2019 MAR 22 AM 11:17

ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
ABSOLUTE ABSTRACT AGENCY, INC.	:	40 P.S. § 910-26.1(2), (5), 910-27
3360 Rt. 940	:	910-39.1(1) and (3)
Mt. Pocono, PA 18344	:	
	:	
and	:	
	:	
Elwood C. Kurtz III	:	
18 Mountain View Dr.	:	
Tannersville, PA 18372	:	
	:	
	:	
	:	
	:	
	:	
Respondents.	:	Docket No. CO18-10-016

CONSENT ORDER

AND NOW, this 22nd day of March, 2019, 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 Absolute Abstract Agency, Inc., and maintains its mailing address at 3360 Rt. 940, Mt. Pocono, PA 18344.
- (b) Respondent is, and at all times relevant hereto has been, a licensed resident title agency.
- (c) Co-Respondent is Elwood C. Kurtz III, and maintains his mailing address at 18 Mountain View Dr. Tannersville, PA 18372.
- (d) Co-Respondent is, and at all times relevant hereto has been, a licensed resident title agent and Designated Licensee for Respondent.

- (e) Respondents' required bond was cancelled October 26, 2016 due to a substantial increase in risk and the Respondents failed to obtain another bond.
- (f) Respondents collected fees, totaling \$2,665.90, during home closings to cover the cost of recording deeds and mortgages but failed to complete, file and pay for the recordings of the documents from 2016 to 2018.
- (g) Respondents collected \$29,806.93 during home closings from 2016 to 2018 to pay taxes due on properties but failed to forward those taxes collected to the required agencies for payment.
- (h) Respondents advise that an unlicensed partner misappropriated the funds identified in findings 3(f) and 3(g) without their knowledge.
- (i) Respondents failed to maintain possession of closing transaction records for review by the Department.

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. § 910-26.1(2) requires that agents shall obtain a blanket fidelity bond covering all agency employees in an amount acceptable to the title insurance company appointing the agent, but in no event in amount less than one hundred fifty thousand dollars (\$150,000) and with a deductible not larger than fifteen percent of the bond penalty.
- (c) Respondents' activities described above in paragraph 3(e) violate 40 P.S. § 910-26.1(2).
- (d) 40 P.S. § 910-26.1(5) requires that title agents shall collect and hold in a fiduciary capacity for the account of a title insurer all funds due the title insurer in a bank or other financial institution insured by an agency of the Federal Government. Each account shall be used for all payments on behalf of the title insurer with whom a title agency contract exists.
- (e) Respondents' activities described above in paragraphs 3(f) through 3(i) violate 40 P.S. § 910-26.1(5).
- (f) 40 P.S. § 910-27, which requires every agent of a title insurance company to keep the books, records, accounts and vouchers pertaining to the

business of title insurance, in such a manner that the commissioner or his authorized representative may readily ascertain from time to time, whether or not the agent has complied with all the applicable provisions of this Act;

- (g) Respondents' activities described above in paragraph 3(i) violate 40 P.S. § 910-27.

- (h) 40 P.S. § 910-39.1(1) states a title insurer or title agent may engage in the escrow, settlement or closing business or any combination of such businesses and operate as an escrow, settlement or closing agent, in connection with the issuance of a title insurance policy, provided that:
 - 1. Funds deposited in connection with any escrow, settlement, closing or title indemnification shall be deposited in a separate fiduciary trust account or accounts in a bank or other financial institution insured by an agency of the Federal Government. Such funds shall be the property of the person or persons entitled thereto in accordance with the provision of the escrow, settlement, closing or title indemnification and shall be segregated by escrow, settlement, closing or title indemnification in the records of the title insurer or title agent. Such funds shall not be subject to any debts of the title insurer or title agent and shall be used only in accordance with the

terms of the individual escrow, settlement, closing or title indemnification under which the funds were accepted.

- (i) Respondents' activities described above in paragraph 3(h) violate 40 P.S. § 910-39.1(1).

- (j) 40 P.S. § 910-39.1(3) states a title insurer or title agent may engage in the escrow, settlement or closing business or any combination of such businesses and operate as an escrow, settlement or closing agent, in connection with the issuance of a title insurance policy, provided that:
 - 3. The title insurer or title agent shall comply with any rules or regulations promulgated by the Insurance Commissioner pertaining to escrow, settlement, closing or title indemnification transactions.

- (k) Respondents' activities described above in paragraphs 3(e) through 3(i) violate 40 P.S. § 910-39.1(3).

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 five (5) years from the date of issuance of such licenses.
- (d) Respondents specifically waive their 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.

- (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 fail to demonstrate that they are worthy of a license, Respondents' suspended licenses shall be revoked.

6. In the event the Insurance Department find 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 provisions 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 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.

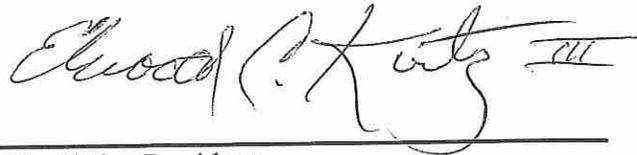
9. Respondents hereby expressly waive any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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.

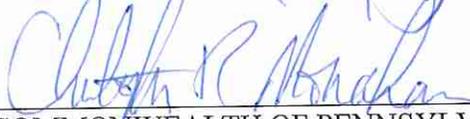
BY: ABSOLUTE ABSTRACT AGENCY, INC. AND
ELWOOD C. KURTZ III, Respondents



President/Vice President



Secretary/Treasurer

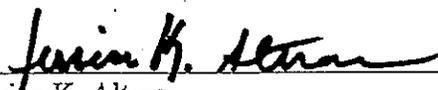


COMMONWEALTH OF PENNSYLVANIA
By: CHRISTOPHER R. MONAHAN
Deputy Insurance Commissioner

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 28th 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.



Jessica K. Altman
Insurance Commissioner

