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INSURANCE DEPARTMENT

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ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:

SEAN E. BARRETT  
1154 5<sup>TH</sup> Avenue  
East McKeesport, PA 15035

VIOLATIONS:

40 P.S. §§ 310.11(4), (7), (16), (17),  
(20), and 310.42

Respondent.

Docket No. CO19-09-002

CONSENT ORDER

AND NOW, this 4<sup>th</sup> day of March, 2020, 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 he has received proper  
notice of his 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.

### FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following

Findings of Fact:

- (a) Respondent is Sean E. Barrett and maintains a record of his address with the Pennsylvania Insurance Department as 1154 5<sup>th</sup> Avenue, East McKeesport, PA 15035.
- (b) Respondent is, and at all times relevant hereto has been, a licensed resident producer.
- (c) Respondent, on March 29, 2018, collected \$400.00 from insured A to be applied in part to a new auto policy for the insured's camper but failed to apply it.
- (d) Respondent, on March 29, 2018, had insured A complete an application for the policy identified in 3(c) without dating it.
- (e) Respondent submitted the application identified in 3(c) on April 4, 2018, which was instantly denied by the insurer.
- (f) Respondent issued insured A a fraudulent insurance card showing an active policy by using a policy number from a previously canceled policy.
- (g) Respondent failed to notify insured A that the completed insurance application identified in finding 3(c) was rejected by the insurance company causing insured A to have no coverage.

- (h) Respondent failed to notify insured A that he was without coverage or write a new policy for the insured's camper.
- (i) Respondent, on April 26, 2018, submitted a new auto insurance application to a different insurance company after a fire had caused a total loss to the insured A's camper and back dated the coverage to before the loss occurred.
- (j) Respondent, on March 31, 2019, added insured B's Peterbilt 367 dump truck to insured B's brother's commercial insurance policy without the knowledge or consent of insured B or the policy owner.
- (k) Respondent, when adding the vehicle identified in finding 3(g) entered a gross vehicle weight of 10,000 pounds when it was actually 50,000 pounds.

#### 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) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) 40 P.S. § 310.11(4) prohibits producers from improperly withholding, misappropriating, or converting money or property received in the course of doing business.

- (c) Respondent's activities described in paragraph 3(c) constitute improperly withholding, misappropriating, or converting money or property received in the course of doing business, in violation of 40 P.S. § 310.11(4).
- (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) Respondent's activities described in paragraphs 3(c) through 3(k) violate 40 P.S. § 310.11(7).
- (f) 40 P.S. § 310.11(16) prohibits a licensee or an applicant from committing a violation of subarticle B; acts that would constitute a violation of subarticle B include 40 P.S. § 310.42 – misrepresentation.
- (g) Respondent's activities described in paragraphs 3(c) violate 40 P.S. § 310.11(16) and 310.42.
- (h) 40 P.S. § 310.11(17) prohibits a licensee or an applicant from committing fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty.
- (i) Respondent's activities described in paragraphs 3(c) through 3(k) violate 40 P.S. § 310.11(17).

- (j) 40 P.S. § 310.11(20) prohibits a licensee or an applicant from demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the Department that the licensee is worthy of licensure.
- (k) Respondent's activities described above in paragraphs 3(c) through 3(k) violate 40 P.S. § 310.11(20).
- (n) Respondent's violations of §§ 310.11(4), (7), (16), (17), (20) and 310.42 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.

#### ORDER

5. 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) All licenses of Respondent to do the business of insurance are hereby revoked.

- (c) If Respondent should ever become licensed in the future, his 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 five (5) years from the date of issuance of such licenses.
- (d) Respondent specifically waives his 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.
- (e) At the hearing referred to in paragraph 5(d) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance license.
- (f) In the event Respondent's licenses are suspended pursuant to paragraph 5(c) above, and Respondent either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that he is worthy of a license, Respondent's 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 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, 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.

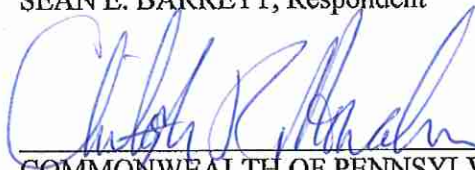
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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:

  
SEAN E. BARRETT, Respondent


  
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

