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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:
	:	
MICHAEL J. DURIE	:	63 P.S. §§ 1606(a)(10), (a)(11)
10901 Modena Drive	:	(a)(13) and (a)(18)
Philadelphia, PA 19154	:	
	:	
	:	
	:	
	:	
	:	
Respondent.	:	Docket No. CO19-12-018

CONSENT ORDER

AND NOW, this 23rd day of January, 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 Michael J. Durie and maintains a record of his address with the Pennsylvania Insurance Department as 10901 Modena Drive, Philadelphia, PA 19154.
- (b) Respondent is, and at all times relevant hereto has been, a licensed public adjuster.
- (c) Respondent was charged on November 28, 2018, by the Horsham Township Police Department (Montgomery, PA) with Simple Assault, Recklessly Endangering Another Person, Accidents Involving Death/Personal Injury-Not Properly Licensed, Use/Possession of Drug Paraphernalia, and DUI, all misdemeanors; and Driving while License Suspended, a summary.
- (d) Respondent's charge of Simple Assault was dismissed on April 23, 2019. Respondent's remaining charges identified in finding 3(c) were waived and are pending final disposition in the Court of Common Pleas of Montgomery County.
- (e) Respondent's listed address on the court documents identified in findings 3(c) and 3(d) is 6650 Stouder Street, Philadelphia, PA 19149.

- (f) Respondent failed to notify the Department of his change of address within 30 days.
- (g) Respondent was charged on July 23, 2019, by the Tincum Township Police Department (Delaware, PA) with 15 counts of Theft from Motor Vehicle, a misdemeanor; 15 counts of Receiving Stolen Property, a misdemeanor; 15 counts of Criminal Mischief, no grading; and 1 count of Criminal Trespass, no grading.
- (h) Respondent's listed address on the court documents identified in finding 3(g) is 6627 Marsen Street, Philadelphia, PA 19135.
- (i) Respondent failed to notify the Department of his change of address within 30 days.
- (j) Respondent completed a license renewal application on October 28, 2019, and answered "No" to the question "Have you been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor, which has not been previously reported to this insurance department?"
- (k) Respondent was pending the charges identified in findings 3(d) and 3(g) at the time he completed the license renewal application identified in finding 3(j).

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) 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.
- (c) Respondent's activities in paragraphs 3(c) through 3(k) violate 63 P.S. § 1606(a)(10).
- (d) 63 P.S. § 1606(a)(11) states that committing any of the following acts shall be grounds for fine, suspension or revocation of a public adjuster's license: ... (11) Making a material misstatement in the application for any such license.
- (e) Respondent's activities described in paragraph 3(j) violate 63 P.S. § 1606(a)(11).

- (f) 63 P.S. § 1606(a)(13) prohibits a public adjuster from demonstrating incompetence or untrustworthiness to transact the business of a public adjuster.
- (g) Respondent's activities in paragraphs 3(c) through 3(k) violate 63 P.S. § 1606(a)(13).
- (h) 63 P.S. § 1606(a)(18) states that by failing to notify the Department of a change of address within 30 days is grounds for fines, suspensions or revocations of the public adjuster's license.
- (i) Respondent's activities described in paragraphs 3(f) and 3(i) violate 63 P.S. § 1606(a)(18).
- (j) Respondent's violations of §§ 1606(a)(10), (a)(11), (a)(13) and (a)(18) 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 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 One Thousand Dollars (\$1,000.00) 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 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 fourteen (14) days after the date of the Consent Order.
- (c) Respondent's 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 confirmed 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 this Order.
- (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 a 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, it may, in its discretion, 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 provision 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, 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.

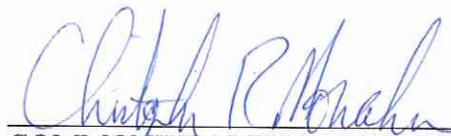
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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:

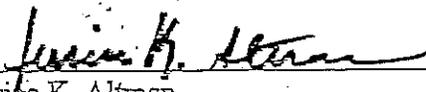

MICHAEL J. DURIE, Respondent


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 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

