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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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CONSENT ORDER

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 Empire Underwriters, LLC and maintains a record of its address with the Pennsylvania Insurance Department as 12300 Race Track Road, Tampa, FL 33626.
- (b) Respondent is, and at all times relevant hereto has been, a licensed non-resident surplus lines agency.
- (c) Co-Respondent is Urania Vargas and maintains a record of her address with the Pennsylvania Insurance Department as 12300 Race Track Road, Tampa, FL 33626.
- (d) Co-Respondent is, and at all times relevant hereto has been, a licensed non-resident surplus lines individual.
- (e) Respondents did not file outstanding affidavits, endorsements, 1620 monthly reports, and copies of the RCT-123 annual tax reports to the Pennsylvania Surplus Lines Association (PSLA) from 2015 to present.

- (f) From 2017 through 2020, the PSLA repeatedly made attempts to contact Respondents regarding these issues to no avail.
- (g) Respondents were contacted by the Pennsylvania Insurance Department between July 28, 2017 and February 4, 2020 and has agreed to rectify the problems identified by the PSLA.

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(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.
- (c) Respondents' activities described in paragraphs 3(e) through 3(g) violate 40 P.S. § 310.11(20).
- (d) Respondents' violations of 40 P.S. § 310.11(20) 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.
- (e) 40 P.S. § 991.1620 requires surplus lines licensees to file with the Department within 30 days following the end of each month, a verified report on forms prescribed by the Department of all surplus lines insurance transacted during the preceding month.
- (f) Respondents' activities described in paragraph 3(e) constitute failure to file required reports with the Department.
- (g) 40 P.S. § 991.1621 requires a tax of three percent to be levied against insureds on all premiums charge, and for that tax to be collected by the licensee and remitted to the Pennsylvania Department of Revenue.
- (h) Respondents' activities described in paragraph 3(e) constitute failure to collect and remit the required three percent surplus lines premium tax, and violate 40 P.S. § 991.1621.

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 shall pay a civil penalty of Two Thousand Dollars (\$2,000.00) 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 the Pennsylvania Insurance Department, 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) 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 confirmed 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.
- (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 suspensions, 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 a 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 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:



URANIA VARGAS, individually And on behalf of

EMPIRE UNDERWRITERS, LLC, Respondents



COMMONWEALTH OF PENNSYLVANIA

By: CHRISTOPHER R. MONAHAN

Deputy Insurance Commissioner