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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:
	:	
KENNETH F. GEERING	:	40 P.S. §§ 310.11(1), (7), (13), (20)
39 Bryce Road	:	310.74(a), 310.96 and 31 Pa. Code
Berlin, NJ 08009	:	§ 37.81
	:	
	:	
	:	
	:	
	:	
Respondent.	:	Docket No. CO18-04-014

CONSENT ORDER

AND NOW, this 29th day of June, 2018, 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 Kenneth F. Geering and maintains his address at 39 Bryce Road, Berlin, NJ 08009.
- (b) Respondent is, and at all times relevant hereto has been, a licensed non-resident producer.
- (c) Respondent at various times through June 2014 changed the mailing address on at least seven (7) commercial policies in order to have policy information sent to his personal P.O. Boxes. Respondent then generated altered invoices for insureds based on the policy information he received from the insurer.
- (d) Respondent by his own admission included fees on these invoices in addition to any commissions received by the insurer of the commercial policies. These additional fees were inadequately disclosed on the invoices.
- (e) Respondent extracted the above-mentioned policy fee from an insured's premium check, made payable to the insurer. By utilizing a check writing software, the Respondent was able to rewrite the check making said check payable to himself.

- (f) Respondent engaged in comingling of funds by depositing these checks into his personal checking account keeping the policy fee and forwarding the remaining required premium to the insurer via an Automated Clearing House (ACH) transfer.
- (g) Respondent failed to pay state taxes from 2001 through 2007 and from 2009 through 2013, resulting in liens totaling \$53,736.72. Respondent stated that he did not feel he was liable for these state taxes as he was living in New Jersey, but admitted that he listed his mother's Pennsylvania address when filing his federal taxes as he considers it his business address.
- (h) Respondent on his renewal applications with dates of August 13, 2007, April 21, 2012, June 2, 2014 and May 5, 2016 was asked, "Since the last renewal or initial application in this state, have you failed to pay state income tax or comply with any administrative or court order directing the payment of state income tax? Respondent responded, "No", even though he failed to pay taxes referenced in (g) above.

#### 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(1) prohibits a licensee or an applicant for a license from providing incorrect, misleading, incomplete or false information to the Department in a license application.
- (c) Respondent's activities described above in paragraph 3(h) violate 40 P.S. § 310.11(1).
- (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 above in paragraphs 3(c) through 3(h) violate 40 P.S. § 310.11(7).
- (f) 40 P.S. § 310.11(13) prohibits a licensee or an applicant from failing to pay state income tax or comply with any administrative or court order directing the payment of state income tax.

- (g) Respondent's activities described above in paragraph 3(g) violate 40 P.S. § 310.11(13).
- (h) 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.
- (i) Respondent's activities described above in paragraphs 3(c) through 3(h) violate 40 P.S. § 310.11(20).
- (j) 40 P.S. § 310.74(a) requires an insurance producer to disclose additional fees in advance in writing to the insured.
- (k) Respondent's activities described above in paragraph 3(d) violates 40 P.S. § 310.74(a).
- (l) 40 P.S. § 310.96 and 31 Pa. Code § 37.81, prohibit producers from, without the express consent of the insurance entity on whose behalf the funds were received, mingle the funds with the producer's own funds or with funds held by the producer in any other capacity. The funds of each insurance entity must be reasonably ascertainable from the books of accounts and records of the insurance producer.

- (m) Respondent's activities described above in paragraph 3(f) constitute a violation of 40 P.S. § 310.96, and 31 Pa. Code § 37.81.
  
- (n) Respondent's violations of §§ 310.11(1), (7), (13), (20), 310.74(a) and 310.96 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 ten (10) 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.



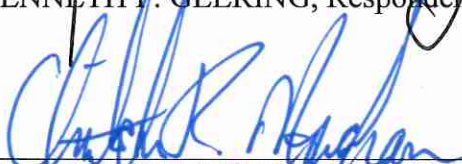
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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:

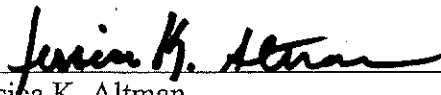
  
KENNETH F. GEERING, Respondent

  
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

