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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:
	:	
KIRK P. HEWITT	:	63 P.S. §§ 1602(a), 1606(a)(10),
1047 Mill Creek Drive	:	1606(a)(13), and 1606(d)
Feasterville, PA 19053	:	
	:	
and	:	
	:	
A-PLUS PUBLIC ADJUSTERS, INC.	:	
1047 Mill Creek Drive	:	
Feasterville, PA 19053	:	
	:	
Respondents.	:	Docket No. CO18-12-003

CONSENT ORDER

AND NOW, this 4th day of February, 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 Kirk P. Hewitt, and maintains his address at 780 Mourning Glory Drive, Southampton PA 18966.
- (b) Respondent is, and at all times relevant hereto has been, a licensed resident public adjuster and is the Qualifying Active Officer for A-Plus Public Adjusters, Inc.
- (c) Co-Respondent is A-Plus Public Adjusters, Inc. and maintains its address at 1047 Mill Creek Drive, Feasterville, PA 19053.
- (d) Co-Respondent is, and at all times relevant hereto has been, a licensed resident public adjuster agency.

- (e) Respondents employed a licensed public adjuster from January through May 2015. On May 31, 2015 that employee's public adjuster license expired.
- (f) Respondents allowed that same unlicensed employee to execute 147 public adjuster contracts between June 1, 2015 – January 3, 2018 on behalf of the agency.
- (g) Respondents failed to implement any procedures to periodically verify that their public adjusters were actively licensed.

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) 63 P.S. § 1602(a) states no person shall, directly or indirectly, act within the Commonwealth as a public adjuster without first procuring from the Insurance Commissioner a license as a public adjuster.

- (c) Respondents' activities in paragraph 3(f) violate 63 P.S. § 1602(a).
- (d) 63 P.S. § 1606(a)(10) states that violations of any provisions of this act or any rule or regulation promulgated, published and adopted thereunder, shall be grounds for fine, suspension or revocation of their public adjuster license.
- (e) Respondents' activities in paragraphs 3(f) and 3(g) violate 63 P.S. § 1606(a)(10).
- (h) 63 P.S. § 1606(a)(13) prohibits a public adjuster from demonstrating incompetence or untrustworthiness to transact the business of a public adjuster.
- (i) Respondents' activities in paragraphs 3(e) through 3(g) violate 63 P.S. § 1606(a)(13).
- (j) 63 P.S. § 1606(d) states that any public adjuster employing, or using the services of, any person to solicit business shall be held fully responsible for the conduct of that person in connection with business dealings, including, but not limited to, making certain that such person has a valid license as a public adjuster.

- (k) Respondents' activities in paragraph 3(e) violate 63 P.S. § 1606(d).

- (l) Respondent's violations of §§ 1602(a), 1606(a)(10), (a)(12), (a)(13) and 1606(d) 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 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 Five Thousand Dollars (\$5,000.00) 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) 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 complaint against Respondents are accurate and a statute or regulation has been violated. The Department's right to act under this section is limited to a period of three (3) years from the date of this Order.

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.

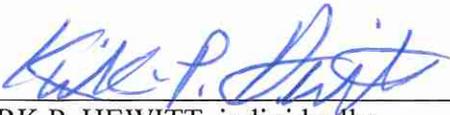
8. In any such enforcement proceeding, Respondents may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

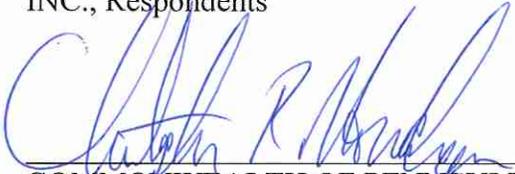
9. Respondents hereby expressly waive any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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.

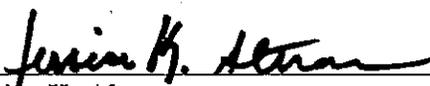
BY: 
KIRK P. HEWITT, individually
And on behalf of A-PLUS PUBLIC ADJUSTERS,
INC., Respondents


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

