

RECEIVED
INSURANCE DEPARTMENT

2020 FEB 14 AM 11:56

ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
ZENITH PUBLIC ADJUSTERS, LLC	:	63 P.S. § 1606(a)(5), (a)(10), (a)(12)
4641 West Chester Pike	:	and (a)(13)
Newtown Square, PA 19073	:	
	:	
and	:	
	:	
MICHAEL RONALD SHELLY	:	
3 Paper Mill Road	:	
Newtown Square, PA 19073	:	
	:	
Respondents.	:	Docket No. CO20-01-023

CONSENT ORDER

AND NOW, this 14th day of February, 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. 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

(ms)

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 Zenith Public Adjusters, LLC and maintains a record of its address with the Pennsylvania Insurance Department as 4641 West Chester Pike, Newtown Square, PA 19073.
- (b) Respondent is, and at all times relevant hereto has been, a licensed resident public adjuster agency.
- (c) Co-Respondent is Michael Ronald Shelly and maintains a record of his address with the Pennsylvania Insurance Department as 3 Paper Mill Road, Newtown Square, PA 19073.
- (d) Co-Respondent is, and at all times relevant hereto has been, a licensed resident public adjuster and Qualifying Active Officer for Zenith.
- (e) Respondents entered into a public adjuster contract with two (2) Pennsylvania consumers on October 10, 2018.
- (f) Respondents received two (2) checks from Erie Insurance on December 11, 2018, totaling \$5,569.68.



- (g) Respondents, issued the consumers identified in finding 3(e) a check in the amount of \$3,708.65 on August 22, 2019, eight (8) months after receiving payment.
- (h) Respondents failed to remit payment in a timely manner.
- (i) Respondents entered into a public adjuster contract with two (2) Pennsylvania consumers on July 7, 2019.
- (j) Respondents, after receiving a check from Travelers for \$27,510.01 written out to the consumers identified in finding 3(i), were unresponsive to contact attempts by those consumers. The consumers could not cash the check without the Respondents' endorsement.
- (k) Respondents entered into a public adjuster contract with a Pennsylvania consumer on January 24, 2019.
- (l) Respondents received an "urgent" check from Nautilus Insurance on April 6, 2019, in the amount of \$50,000 for the consumer identified in finding 3(k).
- (m) Respondents received two (2) more checks from Nautilus Insurance on June 26, 2019, totaling \$672,486.41, for the consumer identified in finding 3(k).
- (n) Respondents failed to remit the payments identified in findings 3(l) and 3(m) to the consumer identified in finding 3(k).

MS

- (o) During his Departmental interview, Co-Respondent Shelly admitted to mismanaging the escrow account, not paying customers in a timely manner, and failing to pay customers' funds that were due after receiving payment from insurance companies.
- (p) Co-Respondent Shelly, on January 14, 2020, was charged by the Philadelphia District Attorney's Office under Criminal Dockets MC-51-CR-0001391-2020 and MC-51-CR-0001392-2020. The charges included: Insurance Fraud, Theft by Deception, Theft by Failure to Make Required Disposition of Funds, and Forgery, all felonies.

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. § 1606(a)(5) prohibits a public adjuster from misappropriating or converting to his own use or improperly withholding moneys held on behalf of another party to the public adjuster contract.
- (c) Respondents' activities in paragraphs 3(g), 3(h), 3(j), 3(n) and 3(o) violate 63 P.S. § 1606(a)(5).

MS

- (d) 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.
- (e) Respondents' activities in paragraphs 3(g), 3(h), 3(j), 3(n) and 3(o) violate 63 P.S. § 1606(a)(10).
- (f) 63 P.S. § 1606(a)(12) prohibits a public adjuster from demonstrating or committing fraudulent practices.
- (g) Respondents' activities in paragraphs 3(g), 3(h), 3(j), 3(n) and 3(o) violate 63 P.S. § 1606(a)(12).
- (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(g), 3(h), 3(j), 3(n) through 3(p) violate 63 P.S. § 1606(a)(13).
- (k) Respondents' violations of § 1606(a)(5), (a)(10), (a)(12) and (a)(13) 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.

MS

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) All licenses of Respondents to do the business of insurance are hereby revoked.
- (c) Respondents shall make restitution to such persons the Deputy Commissioner identifies and determines that restitution is owed to them by Respondents. Proof of restitution payment shall be provided to the Insurance Department by Respondents. Future license applications will not be considered until restitution has been made.
- (d) If Respondents should ever become licensed in the future, their 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 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.
- (e) Respondents specifically waive their 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 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.

- (f) At the hearing referred to in paragraph 5(d) of this Order, Respondents shall have the burden of demonstrating that they are worthy of an insurance license.
- (g) 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 fails 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.

MS

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

MS

law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or duly authorized delegee.

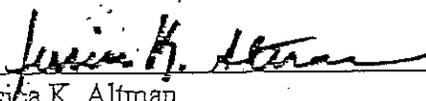
BY: 
MICHAEL RONALD SHELLY, individually and
on behalf of ZENITH PUBLIC ADJUSTERS, LLC,
Respondents


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

