BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

2010 DEC 15 AM 11:29
ADMINISTRATIVE OFFICE

IN RE:	:	VIOLATIONS:
	:	
RISK MANAGEMENT SOLUTIONS OF AMERICA, INC. 309 West Washington Street Chicago, IL 60606	:	40 P.S. §§ 310.11(20) and 991.1621(c)
Respondent.	:	Docket No. CO10-10-019

CONSENT ORDER

AND NOW, this 15th day of December, 2010, 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 it has received proper notice of its 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 Risk Management Solutions of America, Inc., and maintains its address at 309 West Washington Street, Chicago, IL 60606.

(b) Respondent, and its designated licensee Bennie Jones, possessed a Pennsylvania non-resident producer and surplus lines license.

(c) The Pennsylvania Surplus Lines Association reported during April, 2010, that Respondent had not provided it with a copy of its 2009 surplus lines filings that were due to the Pennsylvania Department of Revenue on January 31, 2010.

(d) On May 5, 2010, Respondent provided a copy of its 2009 surplus lines tax filing, dated May 3, 2010, and subsequently wrote a tax remittance check to the Pennsylvania Department of Revenue for $15,144.00.

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(20) prohibits a licensee from demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the Department that the licensee is worthy of licensure.

(c) Respondent's activities described above in paragraph 3(c) violate 40 P.S. § 310.11(20).

(d) Respondent's violation of Section 310.11(20) is punishable by the following, under 40 P.S. § 310.91:

(i) suspension, revocation or refusal to issue the certificate of qualification or 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. § 991.1621(c) requires the surplus lines licensee to collect from the insured or the producing broker the amount of the tax at the time of delivery of the initial policy, cover note or other evidence of insurance or at such time

thereafter as is reasonably consistent with normal credit terms customary in the business. Each surplus lines licensee shall, on or before January 31 of each year, file with the Department of Revenue a report of all transactions involving the placement of insurance with either an eligible surplus lines insurer or other nonadmitted insurers during the previous calendar year. The report shall set forth the name of the insured, identification of the insurer, the type of insurance, gross premiums charged less any return premiums allowed and the tax due as provided in this section. The remittance for the taxes due shall accompany this report. Such report shall be made on forms prescribed and furnished by the Department of Revenue. A copy of the report shall be filed with the commissioner by the surplus lines licensee.

(f) Respondent's activities described above in paragraph 3(c) violate 40 P.S. § 991.1621(c).

(g) Respondent's violations of 40 P.S. § 991.1621(c) are punishable by the following, under 40 P.S. §991.1625(b):

(i) imposition of a penalty not exceeding $1,000 for the first offense and $2,000 for each succeeding offense.

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 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 Sharon L. Fraser, Manager, Bureau of Licensing and Enforcement, PA Insurance Department, 1227 Strawberry Square, Harrisburg, PA 17120. Payment may be enclosed with the Consent Order, but must be paid in any event no later than thirty (30) days after the date of the Consent Order.

(c) Respondent's certificates and 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 five (5) years from the date of this Order.

(d) Respondent specifically waives its 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 it is worthy of a license.

(f) In the event Respondent's certificates and 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 it is worthy of a license, Respondent's suspended certificates and 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 provision 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 that 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.

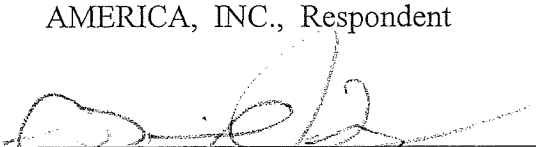
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 a duly authorized delegee.

BY: RISK MANAGEMENT SOLUTIONS OF AMERICA, INC., Respondent



President / Vice President

Secretary / Treasurer

COMMONWEALTH OF PENNSYLVANIA
By: RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner