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PA INSURANCE DEPARTMENT  
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ADMIN HEARINGS OFFICE

**BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA**

**IN RE:** : Pursuant to the Violent Crime Control and  
 : Law Enforcement Act of 1994, 18 U.S.C.  
 : § 1033

Application of Antonette K. Fennick :  
 Requesting Written Consent to engage in the : **ALLEGED VIOLATIONS:**  
 Business of Insurance :  
 : Section 606-A & 691-A of the Insurance  
 : Department Act, Act of December 6, 2002,  
 : P.L. 1183, No. 147 (40 P.S. §§ 310.6(a) &  
 : 310.91).  
 :  
 : Title 31, Pennsylvania Code,  
 : Section 37.48  
 :  
 : Docket No. CW04-11-025

CONSENT ORDER

AND NOW, this *21* day of *December*, 2004, this Order is hereby issued by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. To the extent applicable, Applicant 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, 2 Pa.C.S.A. §§101 et seq., or other applicable law.

PA INS DPI 004

FINDINGS OF FACT

2. The Deputy Insurance Commissioner finds true and correct each of the following

**Findings of Fact:**

- (a) Applicant is Antonette K. Fennick, who maintains her address at 134 Shawnee Drive, Butler, Pennsylvania 16001.
- (b) Applicant was previously licensed by this Department.
- (c) Applicant has a pending producer license application dated December 29, 2003, before the Pennsylvania Insurance Department ("Department").
- (d) In August 1987, Applicant pled guilty to the felony of retail theft in Butler County, Pennsylvania.
- (e) Applicant knew, or should have known, that her conviction constituted a criminal felony.
- (f) Applicant failed to notify the Department of her felony conviction, during a period of licensure, within 10 days after the occurrence of the event.
- (g) Applicant failed to disclose the felony conviction on her producer license application dated December 29, 2003.
- (h) On or about September 15, 2004, Applicant submitted an application to the Department for written consent to engage in the business of insurance pursuant to 18 U.S.C. § 1033(e)(2).
- (i) The activities in which Applicant desires to engage constitute the business of insurance within the meaning of 18 U.S.C. § 1033(e)(1)(A) and (f).
- (j) The Department will issue Applicant a producer license upon execution of this document and payment of the associated \$3,000 civil penalty.

CONCLUSIONS OF LAW

3. In accordance with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner concludes and finds the following Conclusions of Law:

- (a) Applicant is subject to the jurisdiction of the Department.
- (b) 18 U.S.C. § 1033(e)(2) provides that persons convicted of felonies involving dishonesty or a breach of trust may not engage in the business of insurance or participate in such business unless such person has the written consent of any insurance regulatory official authorized to regulate the person, which consent specifically refers to 18 U.S.C. § 1033(e)(2).
- (c) Applicant's conviction for retail theft is a criminal felony involving dishonesty or a breach of trust within the meaning of 18 U.S.C. § 1033(e)(1)(A).
- (d) Accordingly, Applicant may not engage in the business of insurance without a written consent issued by the Deputy Insurance Commissioner pursuant to 18 U.S.C. § 1033(e)(2).
- (e) Section 606-A of the Insurance Department Act (40 P.S. § 310.6(a)) provides that the Insurance Department shall grant a certificate of qualification when it is satisfied that the applicant is worthy of a certificate of qualification.
- (f) Applicant's failure to disclose her felony conviction reflects on her worthiness to transact the business of insurance under Section 606-A of the Insurance Department Act (40 P.S. § 310.6(a)).

- (g) Applicant's violation of Section 606-A of the Insurance Department Act (40 P.S. § 310.6(a)) is punishable by the following, under Section 691-A of the Insurance Department Act (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.
- (h) Title 31, Pennsylvania Code, Section 37.48, Reporting Requirements, requires a producer or broker who has been found guilty of criminal conduct to report this fact to the Department in writing within ten business days after the occurrence of the event.
- (i) Applicant's failure to notify the Department of her criminal felony conviction constitutes a violation of Title 31, Pennsylvania Code, Section 37.48, Reporting Requirements (31 Pa. Code §37.48).

#### ORDER

4. Accordingly, the Deputy Insurance Commissioner orders and Applicant consents to the following:

- (a) Applicant shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Applicant shall comply with Pennsylvania insurance laws and regulations.
- (c) Applicant agrees to supervision unless and until affirmatively terminated by the Department in the Department's sole discretion.

- (d) Applicant shall pay the sum of Three Thousand Dollars (\$3,000) to the Commonwealth of Pennsylvania. The check should be made payable to the Commonwealth of Pennsylvania and payment should be directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1321 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment may be enclosed with the Consent Order, but must be paid in any event no later than thirty (30) days from the date of this Order.
- (e) Pursuant to 18 U.S.C. § 1033(e)(2), Applicant may engage in the business of insurance as a licensed producer, and only in such capacity, subject to the terms and conditions of this Order, which terms and conditions contained herein are necessary and sufficient to ensure that Applicant may engage in the business of insurance in a manner that is not reasonably likely to cause harm to the public, policyholders or the industry.
- (f) Applicant may not engage in any insurance activities outside of the scope of her producer license without prior written approval of the Department, the Deputy Commissioner or the Commissioner.

5. The term of this Order shall remain in place for a period of five years and, thereafter, unless and until the Department or the Commissioner terminates the Order. Nothing in this Order shall preclude the Department, the Deputy Commissioner or the Commissioner, in their sole discretion, from decreasing or lessening the restrictions contained in this Order in whole or in part while it is in effect. Any such lessening of the restrictions contained in this Order shall be made in writing to the Department, the Deputy Commissioner or the Commissioner in accordance with the procedures set forth in paragraph 14 of this Order.

Further, Applicant shall not apply nor otherwise seek to reduce or remove the restrictions contained in this Order for a period of at least five years.

6. Following the five-year period referenced in paragraph 5, above, this Order shall continue unless and until the Department affirmatively terminates it. Nothing in this Order shall be construed as conferring upon the Applicant any property right or interest as a result of receiving this conditional consent to engage in the business of insurance in accordance with the terms of this Order. Applicant expressly waives any right to assert that she is entitled to a hearing on the termination of this Order following the expiration of the five-year period referenced in paragraph 5. Should the Department or the Commissioner, terminate this Order after the five-year period referenced in paragraph 5, above, Applicant may file a new application for a written consent as set forth in paragraph 4(b), above, to engage in the business of insurance under 18 U.S.C. § 1033(e)(2).

7. The Department's conditional consent permitting Applicant to engage in the business of insurance, and Applicant's certificate and license, may be immediately suspended upon notice by the Department following its investigation and determination that Applicant has failed to adhere to any condition set forth in this Order or has violated an insurance statute or regulation.

8. Applicant shall have no right to prior notice of such a suspension, but will be entitled to a hearing upon written request received by the Department no later than thirty (30) days from the date the Department mailed to Applicant by certified mail, return receipt requested, notification of such suspension, which hearing shall be held within sixty (60) days of the Department's receipt of Applicant's written request for a hearing.

9. At the hearing referred to in paragraph 8 above, Applicant shall have the burden of demonstrating that she is worthy of an insurance certificate and license and a conditional consent to engage in the business of insurance. In the event Applicant's conditional consent, certificates, and licenses are suspended pursuant to paragraph 7 above, and Applicant either fails to request a hearing within 30 days or at the hearing fails to demonstrate that she is worthy of a certificate and license, Applicant's suspended conditional consent, certificates and licenses shall be revoked.

10. In the event the Deputy Insurance Commissioner 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.

11. Alternatively, in the event the Deputy Insurance Commissioner finds that there has been a breach of any provisions of this Order, the Deputy Insurance Commissioner 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.

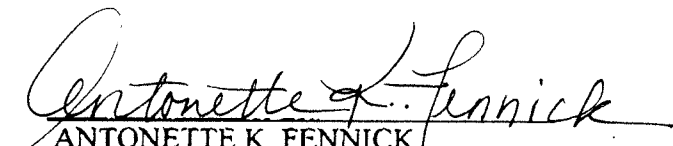
12. In any such enforcement proceeding, Applicant may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact or Conclusions of Law contained herein.


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

14. 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.

15. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the matters addressed herein, and this Consent Order is not effective until executed by the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner.

BY:

  
ANTONETTE K. FENNICK  
Applicant

  
RANDY ROHRBAUGH  
Deputy Insurance Commissioner,  
Commonwealth of Pennsylvania