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PA INSURANCE DEPARTMENT
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IN RE:

Charles R. Eckardt, Jr.
412 Brookside Avenue
Ambler, PA 19002

Respondent

: Violations:
:
: Sections 611-A and 678-A of the Insurance Department Act (40 P.S. §§310.11(a) and 310.78);

Sections 37.46 and 37.47 of the Insurance Department Regulations (31 Pa. Code §§37.46 and 37.47).

Docket No. CO05-01-032

CONSENT ORDER

AND NOW, this 14th day of March 2005, 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. 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

(a) Respondent is Charles R. Eckardt, Jr., who maintains his address at 412 Brookside Avenue, Ambler, PA 19002.

(b) Respondent, at all times relevant hereto, possessed Pennsylvania resident producer's license #346162 (formerly known as an "agent's license") issued by the Pennsylvania Insurance Department ("Department").

(c) On or about September 23, 2003, Respondent was convicted of insurance application fraud (in violation of 18 Pa. C.S. §4117(b)(4)) and criminal conspiracy to commit same (in violation of 18 Pa. C.S. §903(a)), both misdemeanor offenses, in the Court of Common Pleas of the County of Montgomery, Pennsylvania.

(d) The charges referenced-above stemmed from the submission of an application for disability insurance containing false information regarding the health of the applicant. Specifically, Respondent submitted an application to Unum Provident insurance company seeking issuance of a disability policy to Mark Eckardt, Respondent's brother, which failed to disclose the existence of a pre-existing back injury. The policy was never issued and Respondent's appointment with the company was terminated.

(e) As a result of the misdemeanor convictions referenced-above, Respondent was sentenced on or about September 23, 2003 to five (5) years probation, a fine of $5,000.00 and one hundred (100) hours of community service.

(f) Respondent did not report either the charges or the convictions as required by 40 Pa. C.S. §310.78.

CONCLUSIONS OF LAW

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

(a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.

(b) 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 dissatisfied the applicant is worthy of a certificate of qualification.

(c) Sections 37.46 and 37.47 of the Department regulations (31 Pa. Code §§37.46 and 37.47) provide that the Department may deny an application for certificate/licensure, and consequently revoke or suspend the certificate/license, upon showing that the applicant does not process the professional competence and general fitness required to engage in the business of insurance, particularly with regard to honestly, reliability, efficiency, business experience and reputation.

(d) Section 611-A of the Insurance Department Act (40 P.S. §310.11(a)) prohibits licensees from, inter alia:

i) admitting to or being found guilty of any unfair insurance practice or fraud (40 Pa. C.S. §310.11(6));

ii) using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial responsibility in the conduct of doing business in this Commonwealth or elsewhere (40 Pa. C.S. §310.11(7));

iii) committing fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty (40 Pa. C.S. §310.11(17)); and

iv) demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the department that the licensee is worthy of licensure (40 Pa. C.S. §310.11(20)).

(e) Section 678-A of the Insurance Department Act requires licensees to report to the Department that they have been charged with a criminal offense within thirty (30) days of being charged. Licensees are further required to provide a copy of the criminal complaint, information or indictment, an order resulting from any pretrial hearing and a report of the final disposition of the charges within thirty (30) days of their availability (40 Pa. C.S. §310.78(b)).

(f) Respondent's activities described above in paragraphs 3(c) through 3(f) violate Sections 611-A and 678-A of the Insurance Department Act (40 Pa. C.S. §310.11) and Sections 37.46 and 37.47 of the Department's regulations (31 Pa. Code §§37.46 and 37.47), and reflect on his worthiness to transact the business of insurance in the Commonwealth.

(g) Producer violations of the Insurance Department Act are punishable under Section 691-A (40 P.S. §310.91) by the following:

i. suspension, revocation or refusal to issue the certificate of qualification or license;

ii. imposition of a civil penalty not to exceed $5,000 (five thousand dollars) for every violation of the Act.

iii. an Order to cease and desist; and

iv. any other conditions as the Commissioner may deem appropriate.

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner orders and Respondent consents to the following:

(a) Respondent shall cease and desist from the activities and conduct identified in paragraph 3 above and any other activities or conduct that may constitute a violation of the Commonwealth's insurance laws.

(b) Respondent shall immediately surrender any and all insurance licenses.

(c) Respondent shall not seek relicensure for a period of three (3) years from the date of this Order.

(d) Should Respondent ever become licensed by the Department in any capacity, Respondent's license(s) may be immediately suspended by the

Department following its investigation and determination that:

(i) any terms of this consent have not been complied with; or

(ii) any complaint against Respondent is accurate and a statute or regulation has been violated.

(e) The Department's right to immediately suspend Respondent's license accordingly, as set forth above, is limited to a period of five (5) years from the date of issuance of any subsequent license issued to the Respondent by the Department.

6. Respondent specifically waives his right to prior notice of the suspension pursuant to paragraph 5(d), but will be entitled to a hearing upon a 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.

7. At the hearing referenced to in paragraph 6 of this order, Respondent shall have the burden of demonstrating that he is worthy of an insurance license.

8. In the event Respondent's licenses are suspended pursuant to paragraph 5, the 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 license shall be revoked.

9. 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, he may in his discretion, pursue any and all legal remedies available to him, including but not limited to the following: The Deputy Insurance Commissioner 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 Deputy Insurance Commissioner may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

11. 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.

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

13. 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 parties hereto.

14. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or her duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law contained herein, and this Order is not effective until executed by the Insurance Commissioner or her duly authorized Deputy Insurance Commissioner. The penalties, if any, imposed by this Order are not effective until execution by the Insurance Commissioner or her duly authorized Deputy Insurance Commissioner.

Charles R. Eckardt, Jr.
Respondent

Randolph L. Rohrbaugh
Deputy Insurance Commissioner
Commonwealth of Pennsylvania