

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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INSURANCE DEPARTMENT
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ADMINISTRATIVE SERVICES

IN RE:

NANCY J. HAGERMAN
P.O. Box 740
Stratford, NJ 08084

: VIOLATIONS:

:
: Sections 603-A and 611-A(20) of 147
: of 2002 (40 P.S. §§ 310.3 and 310.11)
:

Respondent.

: Docket No. CO04-10-013

CONSENT ORDER

AND NOW, this 3rd 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. Respondent hereby admits and acknowledges that she has received proper
notice of her rights to a formal administrative hearing pursuant to the Administrative
Agency Law, 2 Pa.C.S.A. § 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 Nancy J. Hagerman, and maintains her address at Post Office Box 740, Stratford, New Jersey 08084.
- (b) Respondent did not possess a Pennsylvania insurance producer license.
- (c) Respondent accepted an application dated August 18, 2003 for commercial liability insurance for Venuti's Market, Philadelphia, Pennsylvania, although she possessed no Pennsylvania insurance license.
- (d) The application was submitted by Respondent through a surplus lines licensee, McSweeney Agency, Bristol, Pennsylvania, which procured policy #CPS0603822 from Scottsdale Insurance Company, effective September 1, 2003.
- (e) Subsequent to taking the application for surplus lines insurance from Venuti's Market, Respondent submitted a signed due-diligence affidavit, dated September

11, 2003, through the McSweeney Agency for three declining, admitted insurers using her New Jersey broker license, #821314.

- (f) On September 30, 2004, Respondent confirmed the above information.

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 603-A of Act 147 of 2002 (40 P.S. 310.3(a)), prohibits a person from acting as a producer unless he obtains a certificate from the Insurance Department reflecting the lines of authority for the kinds of insurance for which he intends to act as producer.
- (c) Respondent's activities described above in paragraphs 3(c) through 3(f) constitute acting as an insurance producer without a certificate of qualification, in violation of Section 603-A of Act 147 of 2003 (40 P.S. §310.3(a)).

- (d) Section 611-A(20) of Act 147 of 2002 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 (40 P.S. § 310.11).
- (e) Respondent's activities described above in paragraphs 3(c) through 3(f) violate Section 611-A(20) of Act 147 of 2002.
- (f) Respondent's violations of Sections 603-A and 611-A(20) of Act 147 are punishable by the following, under Section 691-A of Act 147 of 2003 (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.

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 engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) If Respondent should ever become licensed in the future, her 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 (ii) above is limited to a period of three (3) years from the date of issuance of such certificates and licenses.
- (c) Respondent specifically waives her 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.
- (d) At the hearing referred to in paragraph (c) of this Order, Respondent shall have the burden of demonstrating that she is worthy of an insurance certificate and license.

(e) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5(b) above, and Respondent either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that she is worthy of a certificate and license, Respondent's suspended certificates and licenses shall be revoked.

6. 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.

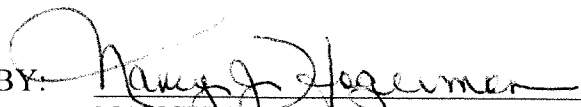
7. Alternatively, in the event the Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

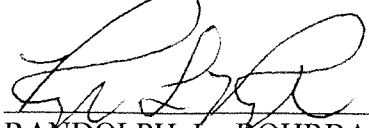
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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 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 settlement of the alleged violation of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner.

BY: 
NANCY J. HAGERMAN, Respondent


RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania