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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
RICHARD B. RYON INSURANCE	:	Sections 611-A(11) and (20) of
200 West Norwegian Street	:	Act 147 of 2002 (40 P.S. § 310.11)
Pottsville, PA 17901-0189	:	
	:	Title 31, Pennsylvania Code,
	:	Section 37.61(a)
	:	
Respondent.	:	Docket No. CO04-07-016

CONSENT ORDER

AND NOW, this *27th* day of *October*, 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 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is Richard B. Ryon Insurance and maintains its address at 200 West Norwegian Street, Pottsville, PA 17901-0189
- (b) Respondent is, and at all times relevant hereto has been, a licensed insurance producer.
- (c) Between February and October, 2003, Respondent engaged in the procurement of property and casualty insurance for eleven policyholders involving licensed producers that were not appointed with the respective insurers and two individuals whose Pennsylvania insurers had been revoked prior to this period.

- (d) Respondent's producers that were not appointed with Sirius America Insurance Company and Triumphe Casualty Company were Robert L. Peiffer, Bridget A. Klazas, Richard F. Ryon Jr., and James W. Ryon; Bridget A. Klazas did not have an appointment with ACE USA; and Daniel A. Lombardo did not have an appointment with Triumphe Casualty Company.
- (e) The two unlicensed individuals who engaged in the business of insurance were Emil Kesselring III and Larry A. Hoopes, both of whose insurance licenses had been revoked for violations of the Pennsylvania insurance laws and regulations prior to their affiliation with Respondent.
- (f) Respondent asserts that it was unaware of the activities and unlawful practices of Emil Kesselring, III and Larry A. Hoopes at all times prior to being contacted by the Commonwealth of Pennsylvania.
- (g) Immediately upon learning the non-licensed status of Larry A. Hoopes, as well as the unlawful practices of Emil Kesselring, Respondent terminated all insurance and business relationships with them.
- (h) Policyholder KEL-ER Express, Sciota, Pennsylvania: Richard F. Ryon Jr. was identified as the producer for policy LHT1000934A102 with Sirius America Insurance Company and policy TCPS0090224 with Triumphe Casualty Company, but the application was prepared and signed by Emil Kesselring III,

who also communicated terms of insurance with Seaboard Underwriters, the underwriting agency.

- (i) Policyholder Blessing Trucking, Hummelstown, Pennsylvania: Bridget A. Klazas and Larry A. Hoopes were identified as the producers for policy TCXS0110319 Triumphe Casualty Company, but the application signed by Larry A. Hoopes and prepared by Emil Kesselring III, who also communicated terms of insurance with Seaboard Underwriters.
- (j) Policyholder Kreider & Martin, Mannheim, Pennsylvania: Robert L. Peiffer and Richard F. Ryon, Junior, were identified as the producers for policy LHT1000968A102 with Sirius America Insurance Company and policy TCPS0100320 with Triumphe Casualty Company, and Emil Kesselring III communicated terms of insurance with Seaboard Underwriters.
- (k) Policyholder J. B. D., Kunkletown, Pennsylvania: Bridget A. Klazas and Larry A. Hoopes were identified as the producers for policy LHT1000983A102 with Sirius America Insurance Company, but the application was signed by Larry A. Hoopes and terms of insurance were communicated to Seaboard Underwriters by Emil Kesselring III.
- (l) Policyholder Bob Altemose Trucking, Bath, Pennsylvania: Bridget A. Klazas and Larry A. Hoopes were identified as the producers for policy

LHT1001011A102 with Sirius America Insurance Company, but the application signed by Larry A. Hoopes and terms of insurance were communicated to Seaboard Underwriters by Emil Kesselring III.

- (m) Policyholder Chapman Transport, Waterford, Pennsylvania: Richard F. Ryon Jr. was identified as the producer for policy TCPS0130425 with Triumphe Casualty Company, and Emil Kesselring III communicated terms of insurance with Seaboard Underwriters.
- (n) Policyholder John's Leasing, Auburn, Pennsylvania: Bridget A. Klazas was identified as the producer for the procurement of policy 844146 with ACE USA, but Larry A. Hoopes was identified as the producer on most of the correspondence and Emil Kesselring III communicated terms of insurance with Seaboard Underwriters.
- (o) Policyholder Carlin Messenger Service, Harrisburg, Pennsylvania: Daniel A. Lombardo was identified as the producer for the procurement of policy TCPS0170801 with Triumphe Casualty Company, and Emil Kesselring III communicated terms of insurance with Seaboard Underwriters. Associated documents showed Lombardo was knowledgeable that Kesselring was not a licensed insurance producer.

- (p) Policyholder E. N. B., Kunkletown, Pennsylvania: No licensed and appointed producer employed by Respondent was identified as the producer for the procurement of policy TCPS0140529 with Triumphe Casualty Company and policy LHT1001079A with Sirius America Insurance Company, but Larry A. Hoopes was identified as the producer and signed the application and Emil Kesselring III communicated terms of insurance with Seaboard Underwriters.
- (q) Policyholder Harold M. Felty, Pine Grove, Pennsylvania: No licensed and appointed producer employed by Respondent was identified as the producer for the procurement of policy SE11000098 with State National Insurance Company, but Larry A. Hoopes was identified as the producer and Emil Kesselring III communicated terms of insurance with Seaboard Underwriters.
- (r) Policyholder Joseph Huya, McKean, Pennsylvania: James W. Ryon was identified as the producer for the procurement of policy LHT1001129A102 with Sirius American Insurance Company, and Emil Kesselring III communicated terms of insurance with Seaboard Underwriters.
- (s) On May 18, 2004, Emil Kesselring III confirmed that he was contracted as a consultant by Respondent between April 2002 and May 2004.
- (t) Emil Kesselring III confirmed that during the period of his contract as a consultant that he worked in conjunction with Respondent's licensed

producers and Larry A. Hoopes, and that the prepared and signed applications for insurance and communicated terms of insurance with Respondent's policyholders and Seaboard Underwriters.

- (u) On June 3, 2004, Respondent, represented by Richard F. Ryon, Senior, confirmed the aforementioned licensed producers did not have appointments with the aforementioned insurers and received commissions for the procurement of insurance for its policyholders.
- (v) Respondent confirmed that it had contracted with Emil Kesselring III between April 2002 and May 2004 as a consultant to train its licensed producers in the procurement of insurance for policyholders in the trucking-related industry, but asserted that Kesselring was not an employee or authorized to conduct the business of insurance.
- (w) Respondent confirmed that it had employed Larry A. Hoopes as a producer between January 1998 and September 2003 and authorized him to engage in the business of insurance with the aforementioned, respective policyholders.
- (x) Respondent confirmed that it failed to verify the licensing status of Larry A. Hoopes upon employment, but terminated him from employment when he failed to provide proof of licensing during September 2003.

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 611-A(11) of Act 147 prohibits a licensee from knowingly accepting insurance business which was sold, solicited or negotiated by a person who is not licensed as an insurance producer (40 P.S. § 310.11).
- (c) Respondent's activities described above in paragraphs 3(c) through 3(x) violates Section 611-A(11) of Act 147 of 2002.
- (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(x) violates Section 611-A(20) of Act 147 of 2002.

(f) Respondent's violations of Sections 611-A(11) and 611-A(20) of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (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 each violation of the Act;
- (iii) an order to cease and desist; and
- (iv) any other conditions as the Commissioner deems appropriate.

(g) Title 31, Pennsylvania Code, Section 37.61(a) requires a written appointment from each sponsoring entity.

(h) Respondent's activities described above in paragraphs 3(c) through 3(x) constitute a violation of Title 31, Pennsylvania Code, Section 37.61(a).

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) Respondent shall pay a civil penalty of Fifteen Thousand, Five Hundred Dollars (\$15,500.00) 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. Harbert, Administrative Assistant, Bureau of Enforcement, 1227 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 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) penalty payment has not been made, (ii) any terms of this Order have not been

complied with, or (iii) 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 three (3) years from the date of this Order.

- (d) Respondent specifically waives his 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 he 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 he is worthy of a 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.

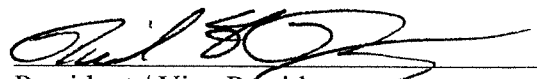
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

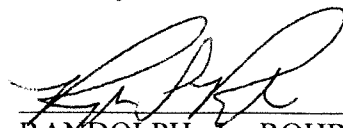
11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner.

BY: RICHARD B. RYON INSURANCE,
Respondent



President / Vice President

Secretary / Treasurer



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania