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INSURANCE DEPARTMENT  
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

|                         |   |                                   |
|-------------------------|---|-----------------------------------|
| IN RE:                  | : | VIOLATIONS:                       |
|                         | : |                                   |
| THOMAS J. SCHWARTZ, JR. | : | 63 Purdons Statutes, Section 1602 |
| 3356 Cottman Avenue     | : |                                   |
| Philadelphia, PA 19149  | : |                                   |
|                         | : |                                   |
| Respondent.             | : | Docket No. CO05-02-004            |

CONSENT ORDER

AND NOW, this *4<sup>th</sup>* 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 Thomas J. Schwartz, Jr., and maintains his address at 3356 Cottman Avenue, Philadelphia, Pennsylvania 19149.
- (b) Respondent's Public Adjuster license expired on January 24, 2005, and he is currently in the process of renewing his license.
- (c) On July 21, 2004, while at the ABC Public Adjusters office in Philadelphia, Pennsylvania, Respondent assaulted Daniel Monaco, General Manager of ABC Public Adjusters by punching him twice. Monaco subsequently filed criminal charges against Respondent for simple assault and harassment.

- (d) On July 21, 2004, while at the ABC Public Adjusters office, Respondent stated to Michael Tracy, Vice President of ABC Public Adjusters: "I am going to physically hurt you." Tracy subsequently filed criminal charges against Respondent for terroristic threats and harassment.
- (e) Respondent received a summons in the mail from the Philadelphia Municipal Court, Philadelphia, Pennsylvania, to appear in court on August 13, 2004 for the aforementioned misdemeanor offenses.
- (f) On January 27, 2005, the Court of Common Pleas, Philadelphia, Pennsylvania, withdrew the charges and prosecution of simple assault, harassment and terroristic threats. Respondent made restitution to Mr. Monaco in the amount of \$1,161.00 and is under treatment for anger management.
- (g) On August 17, 2004, the Department received five written complaints from insurance agents representing insurance companies negotiating with Respondent in his capacity as a Public Adjuster, wherein they allege that Respondent verbally abused and harassed them.

## 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) 63 Purdons Statutes, Section 1602, prohibits a licensee from demonstrating a lack of trustworthiness and competence sufficient to satisfy the department that the licensee is worthy of licensure.
- (c) Respondent's activities described above in paragraphs 3(c) through 3(g) violates 63 Purdons Statutes, Section 1602.
- (d) Respondent's violations of Section 1602 are punishable by the following, under 63 Purdons Statutes, Section 1606:
  - (i) suspension, revocation or refusal to issue the public adjusters license;

- (ii) imposition of a civil penalty not to exceed one thousand dollars (\$1,000.00) for each violation;
- (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) Respondent's license 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.
- (c) 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.

- (d) At the hearing referred to in paragraph 5(c) of this Order, Respondent shall have the burden of demonstrating that he is worthy of a license.
- (e) In the event Respondent's license is 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 he is worthy of a license, Respondent's suspended license 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

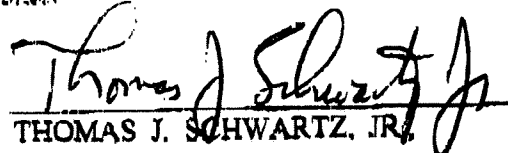
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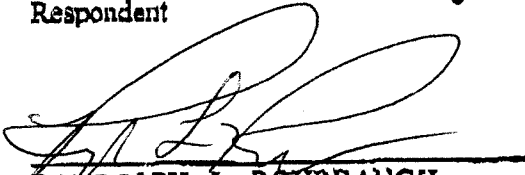
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Order is not effective until executed by the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner.

BY:

  
THOMAS J. SCHWARTZ, JR.  
Respondent

  
RANDOLPH L. ROHRBAUGH  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania