RECEIVED INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER

OF THE

2011 MAR 24 PM 1:38

COMMONWEALTH OF PENNSYLVANIA

ADMIN HEARINGS OFFICE

IN RE:

VIOLATIONS:

MICHAEL A. VALLONE, d/b/a

40 P.S. §§ 310.11(4), (7), (20) and

SUBURBAN ABSTRACT

910-28

AFFILIATES, INC.

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483 Swamp Road

:

Newtown, PA 18940

Respondents.

Docket No. CO10-09-011

CONSENT ORDER

AND NOW, this 24th day of March, 2011, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

- 1. Respondents hereby admit and acknowledge that they have received proper notice of their rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.
- 2. Respondents hereby waive all rights to a formal administrative hearing in this matter, and agree 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, <a href="suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-suppraction-s

3. Without admitting the allegations of fact and conclusions of law contained herein, Respondents specifically deny that they violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

- 4. The Insurance Department finds true and correct each of the following Findings of Fact:
 - (a) Respondent is Michael A. Vallone and maintains his address at 483 Swamp Road, Newtown, Pennsylvania 18940.
 - (b) At all relevant times herein, Respondent has held a resident title agent license to conduct the business of title insurance in Pennsylvania, license no. #76207.
 - (c) Co-Respondent is Suburban Abstract Affiliates, Inc. and maintained its address at 7606 Castor Avenue, Philadelphia, PA 19152.
 - (d) At all relevant times herein, Co-Respondent was a resident title agency licensed to conduct the business of title insurance in Pennsylvania, license no. 55431.

- (e) At all times relevant herein, Respondent Vallone was the designated licensee of Co-Respondent and held an appointment with Lawyers Title Insurance Corporation (NAIC #50024), a subsidiary of Fidelity National Title Insurance Company (NAIC #51586).
- (f) On March 26, 2008, Respondents escrowed funds in the amount of \$12,000.00, to satisfy a property lien filed by the City of Philadelphia Water Collections Unit against the property located at 136 Moredun Street, Philadelphia, PA 19115.
- (g) Respondents satisfied said property lien in the amount of \$7,352.89, but retained \$4,647.11 of the escrow funds.
- (h) On several occasions, Respondents failed to respond in writing to the Department's inquiries.
- (i) Respondent agrees to refund the remainder of funds indicated in 4(g) above.
- (j) Respondent Vallone has agreed to voluntarily surrender his resident title agent license to the Department.

CONCLUSIONS OF LAW

- 5. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department concludes and finds the following Conclusions of Law:
 - (a) Respondents are subject to the jurisdiction of the Pennsylvania Insurance Department.
 - (b) 40 P.S. § 310.11(4) prohibits producers from improperly withholding, misappropriating, or converting money or property received in the course of doing business.
 - (c) Respondents' activities described above in paragraph 4(g) violate 40 P.S. §310.11(4).
 - (d) 40 P.S. § 310.11(7) prohibits a licensee or an applicant from using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business.
 - (e) Respondents' activities described above in paragraph 4(g) violate 40 P.S. § 310.11(7).

- (f) 40 P.S. § 310.11(20) prohibits a licensee or an applicant from demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the Department that the licensee is worthy of licensure.
- (g) Respondents' activities described above in paragraphs 4(g) and 4(h) violate 40 P.S. § 310.11(20).
- (h) Respondents' violations of §§ 310.11(4), (7) and (20) are punishable by the following, under 40 Purdons Statutes, §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.
- (i) 40 P.S. §910-28 states that every agent of a title insurance company shall reply, in writing, promptly to any inquiry of the commissioner relative to the agent's conduct of the business of title insurance, and failure to reply shall be a ground for revocation of the agent's license.

- (j) Respondents' activities described above in paragraph 4(j) violate 40 P.S. § 910-28.
- (k) Respondents' violations of 40 P.S. §§ 910-28 are punishable by the following, under 40 P.S. §910-48: The commissioner may, if he finds that any person or organization has violated any provision of this article, impose a penalty or not more than \$500 for each violation. If the violation is willful, the commissioner may impose a penalty of not more than \$5,000 for each violation, in addition to any other penalty provided by law.

ORDER

- 6. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondents consent to the following:
 - (a) Respondents shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
 - (b) Respondents shall immediately surrender all licenses to conduct the business of insurance within the Commonwealth of Pennsylvania as of the date of this Consent Order.

- Respondents shall enter into a restitution agreement with the parties who suffered a shortfall of premium escrow relating to paragraph 4(g) above.

 Proof of restitution agreement shall be provided to the Insurance Department by Respondents within thirty (30) days from the date of this Order. Future license applications will not be considered until full restitution has been made.
- 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 Respondents 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 issuance of such certificates and licenses.
- (e) Respondents specifically waive the 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 Respondents 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 Respondents' written request.

- (f) At the hearing referred to in paragraph 6(e) of this Order, Respondents shall have the burden of demonstrating that they are worthy of an insurance certificate and license.
- (g) In the event Respondents' certificates and licenses are suspended pursuant to paragraph 6(d) above, and Respondents either fail to request a hearing within thirty (30) days or at the hearing fail to demonstrate that they are worthy of a certificate and license, Respondents' suspended certificates and licenses shall be revoked.
- 7. In the event the Insurance Department 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, <u>supra</u>, 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.
- 8. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, <u>supra</u>, or other relevant provision of law.

- 9. In any such enforcement proceeding, Respondents 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.
- 10. Respondents hereby expressly waive any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.
- 11. 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.
- 12. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY:

VALLONE, individually and MICHAEL A. on behalf of SUBURBAN ABSTRACT AFFILIATES, INC., Respondents

ONWEALTH OF PENNSYLVANIA

By: RONALD A. GALLAGHER, JR.

Deputy Insurance Commissioner