BEFORE THE INSURANCE COMMISSIONER OF THE 2011 APR 27 AM 11: 34 COMMONWEALTH OF PENNSYLVANIA ADMIN HEARINGS OFFICE

IN RE:

VIOLATIONS:

DUONG THI KING

40 P.S. §§ 310.11(6), (7), (20)

310 No. 5th Street

and 310.12 and 310.41.1-A

Reading, Pennsylvania 19601

and

ADONIRAM INSURANCE AGENCY, INC.

1906 E. Allegheny Avenue

Philadelphia, Pennsylvania 19134

Respondents.

Docket No. CO11-04-003

CONSENT ORDER

AND NOW, this 27th day of Opril, 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.A. §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, supra, or other applicable law.

FINDINGS OF FACT

- The Insurance Department finds true and correct each of the following Findings of Fact:
 - Respondent is Duong Thi King, and maintains an address at 310 N. 5th Street, (a) Reading, PA 19601.
 - (b) Respondent has an active resident producer individual license No. 362390, which expires on June 30, 2011.
 - (c) Co-Respondent is Adoniram Insurance Agency, Inc., which maintains business addresses at 1906 E. Allegheny Avenue, Philadelphia, PA and 304 N. 5th Street, Reading, PA 19601.
 - Co-Respondent has an active resident producer agency license No. 64963, (d) which expires on August 3, 2012.

- (e) Co-Respondent, using an address at 310 No. 5th Street, Suite 203, Reading, PA, was registered with the Pennsylvania Department of State, on October 9, 2003, entity No. 3172624. The registration listed Timothy King as the President, using an address at 249 S. 12th Street, Reading, PA, who was revoked by the Department in 2007.
- (f) On June 21, 2007, Respondent, trading as Co-Respondent, was issued a Consent Order No. CO06-07-032 which included \$5,000.00 fine and five (5) years of supervision.
- (g) On July 14, 2010, a consumer went into Respondent's Agency at 1906 E.
 Allegheny Avenue, Philadelphia, PA 19134, to purchase automobile insurance for her vehicle.
- (h) At this time, the consumer spoke to Shawn Danh, who was later identified as Xuong Van Danh, an unlicensed insurance producer, who works at Respondent's Agency.
- (i) At this time, Xuong Van Danh accessed Infinity Insurance Company's database, completed an application, and accepted premium without being properly licensed.

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- (j) At this time, Xuong Van Danh issued the consumer two (2) receipts for a total of \$220.46 for Infinity policy No. 137-19431-001, however, only \$86.47 in premium was forwarded to the carrier.
- (k) On August 3, 2010, the same consumer received an Infinity Notice of Cancellation for non-payment of premium; subsequently, the insured's automobile policy No. 137-19431-001 was cancelled.
- (l) In January 2011, the consumer's daughter was driving the vehicle in Ridley Township, PA and the vehicle was impounded by the police for not having insurance coverage.
- (m) The action at the Respondent's agency caused the consumer financial harm in the amount of \$585.00, which included \$145.00 towing fee regarding no insurance coverage, the \$134.00 not applied to the Infinity coverage, and \$306.00 to re-register the vehicle.
 - (n) On January 13, 2011, the Department went to the Respondent's agency to deliver a contact letter for Respondent and spoke to Shawn Danh, a/k/a Xuong Van Danh, who asserted that he processed the consumer's Infinity application, along with collecting the premium.
 - (o) During February, 2011, Respondents failed to respond to the Department's inquiry in a timely manner.

- On February 2, 2011, the Department, as a result of receiving no response p. from its previous inquiry, sent Respondent and Co-Respondent another request for information via certified and first class mail.
- On February 3, 2011 the certified letter was delivered to Co-Respondent at q. 1906 E. Allegheny Ave. Philadelphia, PA.
- On March 1, 2011, Respondent on behalf of the Co-Respondent responded Ţ. and partially addressed the Department's inquiry.

CONCLUSIONS OF LAW

- 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(6) prohibits a licensee or an applicant from committing any unfair insurance practice or fraud.
 - Respondents' activities described above in paragraphs 3(g) through 3(r) (c) violate 40 P.S. § 310.11(6).

- 40 P.S. § 310.11(7) prohibits a licensee or an applicant from using (d) fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business.
- Respondents' activities described above in paragraphs 3(g) through 3(r) (e) violate 40 P.S. § 310.11(7).
- 40 P.S. § 310.11(20) prohibits a licensee or an applicant from (f) demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the Department that the licensee is worthy of licensure.
- Respondents' activities described above in paragraphs 3(g) through 3(r) (g) violate 40 P.S. § 310.11(20).
- (h) 40 P.S. § 310.12(a) states that a licensee who fails to provide a written response to the department within 30 days of receipt of a written inquiry from the department, or who fails to remit valid payment for all fees due and owing to the department shall, after notice from the department specifying the violation and advising of corrective action to be taken, correct the violation within 15 days of receipt of the notice.

- (i) Respondents' violations of 40 P.S. § 310.12(a) are punishable under Section 310.12(b), which provides that if a licensee fails to correct the violation within 15 days of receiving notice, the department may assess an administrative fine or no more than \$100 per day per violation.
- (j) 40 P.S. § 310.41.1-A prohibits any insurance entity or licensee from accepting applications or orders for insurance from any person or securing any insurance business that was sold, solicited or negotiated by any person acting without an insurance producer license.
- (k) Respondents' activities described above in paragraphs 3(h) through 3(j) constitute doing business with unlicensed people, in violation of 40 P.S. § 310.41.1-A.
- (1) Respondents' violations of Sections 310.11(6), (7), (20) and 310.12 and 310.41.1-A are punishable by the following, under 40 Purdons Statutes, Section 310.91:
 - (i) suspension, revocation or refusal to issue the 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.

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ORDER

- 5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondents consent to the following:
 - Respondents shall cease and desist from engaging in the activities described (a) herein in the Findings of Fact and Conclusions of Law.
 - Respondents shall pay a civil penalty of Five Thousand Dollars (\$5,000.00) (b) 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 April Phelps, Bureau Secretary, Bureau of Licensing and 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.
 - Respondents' licenses may be immediately suspended by the Department (c) following its investigation and determination that (i) any terms of this Order have not been complied with, or (ii) any complaint against Respondents are accurate and a statute or regulation has been violated. The

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Department's right to act under this section is limited to an additional five (5) year period from the conclusion of Respondents' previous supervision period, (i.e., from June 21, 2017).

- (d) Respondents specifically waives 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.
- (e) At the hearing referred to in paragraph 5(d) of this Order, Respondents shall have the burden of demonstrating that they are worthy of a license.
- (f) In the event Respondents' licenses are suspended pursuant to paragraph 5(c) above, and Respondents either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that they are worthy of a license, Respondents' suspended licenses shall be revoked.
- 6. 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, it may, in its discretion, pursue any and all legal remedies available, including but not limited to the following: The Insurance Department 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 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.

- 7. 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.
- 8. 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.
- 9. Respondents 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 Insurance Department. Only the Insurance Commissioner or the duly authorized delegee 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 Department or a duly authorized delegee.

ADONIRAM INS AGENCY

BY:

DUONG THI KING, individually and on behalf of ADONIRAM INSUR AGENCY, INC., Respondents

By: RONALD A. GALLAGHER, JR.

Deputy Insurance Commissioner Commonwealth of Pennsylvania