RESCIVED MOURANCE DEPARTMEN

BEFORE THE INSURANCE COMMISSIONERS | | AM | |: 20 OF THE COMMONWEALTH OF PENNSYLVANIAMES ARINGS OFFICE

IN RE:

VIOLATIONS:

JAMES M. WAGNER

63 Purdon's Statutes, Sections

4742 Essex Drive

1606(a)(10)

Doylestown, PA 18901

and

•

ALLIANCE ADJUSTMENT

GROUP, INC

263 N. Main Street

Doylestown, PA 18901

Respondents.

Docket No. CO11-03-019

CONSENT ORDER

AND NOW, this // day of Ava of , 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.

- 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, <u>supra</u>, or other applicable law.

3. Respondents do not admit that they have violated Pennsylvania insurance laws or regulations.

FINDINGS OF FACT

- 4. The Insurance Department finds true and correct each of the following Findings of Fact:
- (a) Respondent is James M. Wagner and he maintains his residence at 4742 Essex Drive, Doylestown, PA 18901.
- (b) Co-Respondent is Alliance Adjustment Group, Inc. and it maintains a business address at 263 N. Main Street, Doylestown, PA 18901.
- (c) Respondent has an active public adjuster license No. 443352 that expires on October 31, 2011.
- (d) Co-Respondent has an active public adjuster license No. 443353 that expires on October 31, 2011.

- (e) Respondent is the President, Secretary, and is one of the Qualifying Active

 Officers for Co-Respondent; and is responsible for the day to day operations of

 Respondent's business (Alliance Adjustment Group, Inc.).
- (f) In the summer of 2010, Respondent, acting as President and Qualifying Active Officer of Co-Respondent, advertised on Craig's List for individuals seeking knowledge in the business of public adjusting.
- (g) In August 2010, an individual answered the Respondent's advertisement, and met with two representatives of Co-Respondent for training at the Co-Respondent's address in Doylestown, PA for training on how to become a Public Adjuster Solicitor.
- (h) After the initial training, the individual, without being properly licensed as a

 Public Adjuster and/or Public Adjuster solicitor, approached several consumers
 in an attempt to have them employ the services of the Co-Respondent.
- (i) Respondent asserts that this individual was referring the business to the Co-Respondent and not acting in any way as a Public Adjuster Solicitor and/or as a representative of Co-Respondent.
- (j) Between, August and December of 2010, of the several consumers approached by this individual in an attempt to have them employ the services of

Co-Respondent, three (3) consumers signed Co-Respondent's Public Adjuster contracts using a licensed representative of the Respondent.

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) 63 P.S. § 1606(a)(10) states that public adjusters or public adjuster solicitors who violate any provision of this act or any rule or regulation promulgated, published and adopted thereunder, shall be grounds for fine, suspension or revocation of their public adjuster license.
 - Respondents' violations of Section 1606(a)(10) are punishable by a fine, suspension and revocation of licenses under Section 1606(a) and the following, under 63 P.S. § 1606(b): The Insurance Commissioner may impose a penalty of not more than \$1,000 for every violation of this Act under 63 P.S. § 1606(b).

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 pay a civil penalty of Four Thousand Dollars (\$4,000.00) 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 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.
 - (c) Respondents' 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 are 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.

- (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 6(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 6(c) above, and Respondents either fail 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, <u>supra</u>, 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 waive 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.

BY:

JAMES M. WAGNER, individually and on behalf of ALLIANCE ADJUSTMENT GROUP, INC., Respondents

By: RONALD A. GALLAGHER, JR.

Deputy Insurance Commissioner Commonwealth of Pennsylvania