RECEIVED
INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER 2013 JAN 29 AM II: 32 OF THE COMMONWEALTH OF PENNSYLVANIA ADMIN HEARINGS OFFICE

IN RE:

VIOLATIONS:

SEAN DAVID SCOTT

40 P.S. §§ 310.11(1), (3), (20)

255 Price Avenue

and 310.78(b)

Berwyn, PA 19312

Respondent.

Docket No. CO12-12-013

CONSENT ORDER

AND NOW, this 29th day of January, 2013, 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. 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 Insurance Department finds true and correct each of the following Findings of Fact:
 - (a) Respondent is Sean David Scott and maintains his address at 255 Price Avenue, Berwyn, PA 19312.
 - (b) At all relevant times herein, Respondent has held an individual resident producer license to conduct the business of insurance in Pennsylvania.
 - (c) On April 26, 2006, Respondent was arrested for Driving Under the Influence.
 - (d) On December 4, 2006, Respondent entered a guilty plea for Driving Under the Influence.
 - (e) On May 22, 2006, Respondent was arrested for Driving Under the Influence charges and one other misdemeanor charge.
 - (f) On January 19, 2007, Respondent entered a guilty plea for Driving Under the Influence. All other charges were withdrawn.

- (g) On June 2, 2008, Respondent renewed his individual resident producer's license with the Department, but failed to disclose his 2006 and 2007 arrests and convictions on his license renewal application.
- (h) On August 24, 2010, Respondent renewed his individual resident producer's license with the Department, but failed to disclose his 2006 and 2007 arrests and convictions on his license renewal application.
- (i) On September 27, 2012, Respondent was arrested and charged with Theft of Services and Drug charges, all misdemeanors.

In Hospital And TREATMENT with 11/1/12. WITH CIMITED COMMUNICATIONS.

- (j) Respondent failed to report any of the arrests or convictions to the Pennsylvania

 Insurance Department within thirty (30) days.

 | HEARING 3/5/13,
- (k) On November 26, 2012, Respondent renewed his individual resident producer's license with the Department, however, Respondent failed to disclose his pending and current criminal arrest charges on his license renewal application.

 **RESERVATE RESERVATE RESERVATE RESERVATE PROPERTY OF THE RESERVATE PROPERTY OF THE P

CONCLUSIONS OF LAW

- 4. 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) Respondent is subject to the jurisdiction of the Pennsylvania Insurance

 Department.
 - (b) 40 P.S. § 310.11(1) prohibits a licensee or an applicant for a license from providing incorrect, misleading, incomplete or false information to the Department in a license application.
 - (c) Respondent's activities described above in paragraphs 3(e) through 3(i) violate 40 P.S. § 310.11(1).
 - (d) 40 P.S. § 310.11(3) prohibits a licensee or an applicant from obtaining or attempting to obtain a license through misrepresentation or fraud.
 - (e) Respondent's activities described above in paragraphs 3(e) through 3(i) violate 40 P.S. § 310.11(3).

- (f) 40 P.S. § 310.11(20) 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.
- (g) Respondent's activities described above in paragraphs 3(c) through 3(i) violate 40 P.S. § 310.11(20).
- (h) 40 P.S. § 310.78(b) requires that within 30 days of being charged with criminal conduct, a licensee shall report the charges to the Department. The licensee shall provide the Department with a copy of the criminal complaint, information or indictment, a copy of the order resulting from any pretrial hearing, and a report of the final disposition of the charges.
- (i) Respondent's activities described above in paragraph 3(h) violate 40 P.S. § 310.78(b).
- (j) Respondent's violations of Sections 310.11(1), (3), (20) and 310.78(b) are punishable by the following, under 40 P.S. § 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.

<u>ORDER</u>

- 5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department 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 report the disposition of all pending criminal charges to the Department within thirty (30) days thereof and otherwise fully and timely comply with 40 P.S. § 310.78(b). Notice of said disposition shall be sent by first class mail and directed to: The PA Insurance Department, Bureau of Licensing and Enforcement, Attn: Compliance Unit, 1227 Strawberry Square, Harrisburg, PA 17120, or by e-mail to: ra-in-ompliance@pa.gov
 - (c) Should Respondent be convicted of, or plead guilty or nolo contendere to, any of the pending charges, or any charges giving rise to sanctions or penalties under

Pennsylvania insurance laws or regulations, or fail to timely provide a copy of the order resulting from a pretrial hearing, or a report of the final charges, any such actions or failure shall constitute a violation of paragraphs 5a, 5b and 5d of the Consent Order.

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

- (g) In the event Respondent's licenses are suspended pursuant to paragraph 5(d) 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 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, 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.
- 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, 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 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.

SEAN DAVID SCOTT, Respondent

COMMONWEALTH OF PENNSYLVANIA

By: RONALD A. GALLAGHER, JR.

Deputy Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER OF THE COMMONWEALTH OF PENNSYLVANIA

IN RE:

The Act of April 9, 1929, P.L. 177, No. 175, known as The

Administrative Code of 1929

> Michael F. Consedine Insurance Commissioner

