BEFORE THE INSURANCE COMMISSIONER 7 PH 2: 06
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:

VIOLATIONS:

DAVID H. HEIDER, and

INTEGRITY INSURANCE AGENCY,

INC.

1405 South Broad Street Philadelphia, PA 19147 : 40 P.S. §§ 310.11(1), (13) and (20)

Respondents.

: Docket No. CO10-05-017

CONSENT ORDER

AND NOW, this 27th day of July, 2010, 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, <u>supra</u>, 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 Integrity Insurance Agency, Inc., and maintains its address at 1405 South Broad Street, Philadelphia, PA 19147.
 - (b) At all relevant times herein, Respondent has held a resident producer agency license number 64592 to conduct the business of insurance in Pennsylvania.
 - (c) Co-Respondent is David H. Heider, and maintains a business address at 1405 South Broad Street, Philadelphia, PA 19147.
 - (d) At all relevant times herein, Co-Respondent has held an individual resident producer license number 324752 to conduct the business of insurance in Pennsylvania.
 - (e) At all relevant times herein, Co-Respondent has been the owner/operator of Integrity Insurance Agency, Inc.

- (f) Between December, 1999 and December, 2009, Respondents failed to pay state income tax to the Commonwealth of Pennsylvania.
- (g) On October 14, 2008, the Pennsylvania Department of Revenue placed a lien No: 081003685 against Respondent in the Court of Common Pleas in the City and County of Philadelphia, for unpaid taxes in the amount of \$12,969.90.
- (h) On May 19, 2010, Respondent submitted an insurance license renewal application to the Department and incorrectly indicated that Respondent did not owe state income taxes to the Commonwealth of Pennsylvania.
- (i) On May 13, 2010, Respondent entered into a Deferred Payment Plan with the Pennsylvania Department of Revenue to satisfy said lien.

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) Respondents are 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) Respondents' activities described above in paragraph 3(h) violate 40 P.S.§ 310.11(1).
- (d) 40 P.S. § 310.11(13) prohibits a licensee or an applicant from failing to pay state income tax or comply with any administrative or court order directing the payment of state income tax.
- (e) Respondents' activities described above in paragraphs 3(f) and 3(g) violate 40 P.S. § 310.11(13).
- (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) Respondents' activities described above in paragraphs 3(f) through 3(h) violate 40 P.S. § 310.11(20).

- (h) Respondents' violations of Sections 310.11(1), (13) and (20) are punishable by the following, under 40 P.S. § 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.

ORDER

- 5. 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 must fully and timely comply with all aspects and terms of the Deferred Payment Plan (DPP) agreement entered into with the Pennsylvania Department of Revenue.
 - (c) Respondents' certificates and 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 this Order.

- (d) 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.
- (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' certificates and licenses are suspended pursuant to paragraph 5(c) 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 license, Respondents' suspended certificates and 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, 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 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:

DAVID H. HEIDER, individually and on behalf of INTEGRITY INSURANCE AGENCY, INC., Respondents

COMMONWEALTH OF PENNSYLVANIA

By: RONALD A. GALL/AGHER, Jr. Deputy Insurance Commissioner