BEFORE THE INSURANCE COMMISSIONER 2010 OCT 26 PM 3:48
OF THE
COMMONWEALTH OF PENNSYLVANIA ADMINISTRATIVE OFFICE

IN RE: Marjorie Dee Rothrauff 473 Shelbourne Drive Pittsburgh, PA 15239	: : : : : : :	ALLEGED VIOLATIONS: 40 P.S. §§ 310.11 (2), (4), (7), (11), (17) & (20) Docket No. C010-10-021

CONSENT ORDER

AND NOW, this 26th day of Oct., 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. Respondent hereby admits and acknowledges that she has received proper notice of her 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, Marjorie Dee Rothrauff, as last noted on her file with the Department, resides at 473 Shelbourne Drive, Pittsburgh, Pennsylvania 15239.

(b) At all times relevant herein, Respondent Rothrauff has been licensed by the Insurance Department as a resident producer, license number 353967, which expires October 31, 2011.

(c) At all times relevant herein, Respondent Rothrauff is and has been the Vice President of Morry Hoffman Agency, Inc. ("Hoffman Agency"). Hoffman Agency is licensed by the Insurance Department as a resident agency.

(d) At all times relevant herein, since February 8, 2010, Respondent has been the Designated Licensee of Hoffman Agency.

(e) As Hoffman Agency's designated licensee, Rothrauff is and has been responsible for ensuring compliance with Pennsylvania insurance laws. 40 P.S. § 310.6(b).

(f) In May of 2008, the Hoffman Agency agreed to pay restitution and interest to Mid-Continent for the $838,218 of premium that Hoffman Agency had misappropriated or failed to remit to Mid-Continent.

(g) Under the terms of the Mid-Continent settlement, Hoffman Agency expressly admitted liability for the unremitted premium.

(h) Between June 2008 and December 2008, Hoffman Agency paid a total of $120,000 to Mid-Continent pursuant to the settlement agreement. Since December 2008, Hoffman Agency has made no further payments under the Mid-Continent settlement agreement.

(i) Accordingly, Hoffman Agency currently still owes approximately $718,218 plus interest to Mid-Continent in unremitted premium under the Mid-Continent settlement agreement.

(j) Additionally, from 2009 through March of 2010, Hoffman Agency issued at least 60 premium checks, totaling in excess of $33,000, to Mid-Continent, which were returned for insufficient funds.

(k) The Department received information that Hoffman Agency also misappropriated and/or failed to remit an additional $331,525 in premiums due

to Mid-Continent between January 2009 and May 2010, for a total amount owed of approximately $1,082,743.58.

(l) In August of 2009, Hoffman Agency entered into a Broker Agreement with RCA Insurance Group (RCA) to place insurance policies with RCA.

(m) Between September 2009 and February 2010, Hoffman Agency moved some of the business that had previously been written by Mid-Continent over to RCA.

(n) During that period, Hoffman Agency misappropriated and/or failed to remit to RCA approximately $34,660.74 in premium due on at least 18 accounts.

(o) Hoffman Agency also transferred at least four Mid-Continent insureds to the Tuscano Agency between September 2008 and August 2009.

(p) For each of these four accounts, Hoffman Agency misappropriated and/or failed to timely remit their premium payments to Tuscano.

(q) One of Hoffman Agency's accounts, Finlan's Tavern, paid premium to Hoffman Agency for liquor liability coverage. However, due to Hoffman Agency's failure to timely remit Finlan's Tavern's premium to Tuscano, there was a gap in coverage during which time Finlan's suffered a claim that has been denied.

(r) In total, Hoffman Agency failed to remit $17,078.18 in premiums to Tuscano.

(s)On October 8, 2009, Hoffman Agency entered into an Agency Agreement with The Farmers Fire Insurance Company (Farmers Fire) to solicit and issue insurance coverage with Farmers Fire.

(t) Between October 2009 and June 2010, Respondent issued at least thirteen (13) premium checks, totaling approximately $47,854.61, to Farmers Fire that were returned for insufficient funds.

(u) Additionally, during that same time period, Hoffman agency misappropriated and/or failed to remit premiums owed to Farmers Fire in the amount of $48,756.74.

(v) Hoffman Agency submitted to Mid-Continent an Acord form dated June 18, 2010, requesting non-renewal of Deborah Early/Edgewood Inn's Mid-Continent policy.

(w) The Acord form was issued on behalf of Hoffman Agency by Carol Hughes, Agency's president. In fact, Carol Hughes was not a licensed producer, and has not been licensed since 2004, when her license expired.

(x) Moreover, Hoffman Agency and Hughes issued the Acord form, attempting to cancel the Edgewood Inn policy, without the insured's knowledge or consent.

(y) The Department received information and evidence that, in the Spring of 2010, Hoffman Agency then again moved its insureds, this time to Insential, for coverage. Again, Hoffman Agency failed to fully and timely remit premium, resulting in approximately $22,352.52 in unremitted premium to Insential.

(z) As its designated licensee, Respondent failed to ensure that Hoffman Agency did not misappropriate or fail to remit premiums, place business without the insureds' knowledge or consent, issue premium checks that were returned for insufficient funds, submit forged forms or otherwise violate Pennsylvania insurance laws.

(aa) Respondent has advised the Department that she has permitted Hoffman Agency to operate without her involvement or oversight since May 2010 and she has agreed to the revocation of her license.

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) As the designated licensee for Hoffman Agency, Respondent's failure to ensure that Hoffman Agency complied with Pennsylvania insurance laws violates 40 P.S. §§ 310.11(2)(violating the insurance laws of this Commonwealth), (4) (improperly withholding or misappropriating money received in the course of business), (7) use of fraudulent or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business), (11) knowingly accepting business from an unlicensed producer), (17) (commit fraud forgery or dishonest acts), and (20) demonstrating a general lack of fitness, competence or reliability).

(c) Respondent's violations of 40 P.S. §§ 310.11(2), (4), (7), (11), (17) and (20) give rise to the following penalties 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 accordance 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) All licenses or certificates issued to Respondent by the Department are hereby revoked for a minimum period of ten (10) years. Additionally, Respondent may not be relicensed unless and until she provides proof to the Department that full restitution has been made for all of the accounts referenced above.

(c) Should Respondent ever become re-licensed, Respondent's 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 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 ten (10) years from relicensure, should that occur.

(d) Respondent 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 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.

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

(f) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5 (c) above, and Respondent either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that she is worthy of a license, Respondent's 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, supra, 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, supra, 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.

BY: Marjorie Dee Rothrauff

MARJORIE DEE ROTHRAUFF, Respondent

Ronald A. Gallagher, Jr.

COMMONWEALTH OF PENNSYLVANIA
By: Ronald A. Gallagher, Jr.
Deputy Insurance Commissioner