HEURI DEPARTMENT

#### BEFORE THE INSURANCE COMMISSIONER 2008 SEP 10 AH 11: 26 OF THE ADMIN HEARINGS OFFICE COMMONWEALTH OF PENNSYLVANIA

IN RE:

VIOLATIONS:

PAUL A. HARRIS

Sections 611-A(5) and (20) of

106 Hartman Road

Act 147 of 2002 (40 P.S. §§ 310.11(5)

and (20))

Danville PA 17821

Respondent

Docket No. CO08-07-037

### CONSENT ORDER

AND NOW, this 10 day of September, 2008, 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 Paul A. Harris, and maintain his address at 134 Duke Street, Northumberland, PA 17857.
    - (b) Respondent is, and at all times relevant hereto have been, licensed insurance producer.
      - (c) During November and December 2007, Respondent submitted four false applications for accident-only insurance with Combined Insurance Company of America.
        - (d) The four applications submitted by Respondent were for people that were non-existent.
          - (e) Respondent paid the premiums, totaling approximately \$400.00, for the policies and received commissions for each policy.

(f) On July 15, 2008, Respondent stated his intent for submitting the false applications was to retain employment with Combined because his production of new policyholders was below the requirements of the insurer.

# 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) Section 611-A(5) of Act 147 of 2002 (40 P.S. § 310.11) prohibits a licensee from intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
      - (c) Respondent's activities described above in paragraphs 3(c) through 3(f) violate Section 611-A(5) of Act 147 of 2002.
      - (d) Section 611-A(20) of Act 147 of 2002 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 (40 P.S. § 310.11).

- (e) Respondent's activities described above in paragraphs 3(c) and 3(q) violates Section 611-A(20) of Act 147 of 2002.
- (f) Respondent's violations of Sections 611-A(4) and (20) of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (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 each 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 pay a civil penalty of One Thousand Dollars (\$1000 .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 Ginny Baker, Administrative Assistant, Insurance Department, Bureau of Licensing and Investigations, 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) Respondent's certificates and licenses may be immediately suspended by the Department following its investigation and determination that (i) penalty payment has not been made, or (ii) any other terms of this Order have not been complied with, or (iii) 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.
- (d) 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.

- (e) At the hearing referred to in paragraph 5(d) of this Order, Respondent shall have the burden of demonstrating that he 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 he 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, <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.

BY:

PAUL A. HARRIS, Respondent

COMMONWEALTH OF PENNSY By: Ronald A. Gallagher, Jr., PE.

Deputy Insurance Commissioner