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INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER 8 AM II: 39 OF THE COMMONWEALTH OF PENNSYLVANIA EARINGS OFFICE

IN RE:

VIOLATIONS:

WILLIAM FOUCART DONOVAN

40 Purdons Statutes, Sections

180 Legion Lane

310.11(4), (14), (17) and (20)

State College, Pennsylvania 16801

:

Respondent.

Docket No. CO08-10-027

CONSENT ORDER

AND NOW, this 7th day of January, 2009, 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, <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 William Foucart Donovan, and maintains his address at 180Legion Lane, State College, Pennsylvania 16801.
 - (b) At all relevant times herein, Respondent has been a licensed insurance producer in Pennsylvania.
 - (c) The Respondent admitted to depositing proceeds into his personal bank account from title closings he was involved with that were to be utilized for payments to required parties involved in the transaction. The Respondent then utilized the deposited funds for his own personal use in 2007.
 - (d) The Respondent admitted to one count of felony theft in Federal Court and is awaiting sentencing.

(e) The Respondent admitted to the Department violations, via his attorney, and agreed to surrender via Consent Order his resident producer license to the Department.

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 Purdons Statutes, Section 310.11(4) prohibits producers from improperly withholding, misappropriating, or converting money or property received in the course of doing business.
 - (c) Respondent's activities described above in paragraph 3(c) constitute improperly withholding, misappropriating, or converting money or property received in the course of doing business, in violation of 40 Purdons Statutes, Section 310.11(4).
 - (d) 40 Purdons Statutes, Section 310.11(14) prohibits a licensee from committing a felony or its equivalent.

- (e) Respondent's activities described above in paragraph 3(c) violate 40 Purdons Statutes, Section 310.11(14).
- (f) 40 Purdons Statutes, Section 310.11(17) prohibits a licensee from committing fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty.
- (g) Respondent's activities described above in paragraph 3(c) violate 40 Purdons Statutes, Section 310.11(17).
- (h) 40 Purdons Statutes, Section 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.
- (i) Respondent's activities described above in paragraph 3(c) violate 40 Purdons Statutes, Section 310.11(20).
- (j) Respondent's violations of Sections 310.11 (4), (14), (17) and (20) are punishable by the following, under 40 Purdons Statutes, Section 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 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 immediately surrender all licenses to conduct the business of insurance within the Commonwealth of Pennsylvania as of the date of this Consent Order.
 - (c) Should Respondent be convicted, or plead guilty to the felony theft charge, future license applications, if any, will require a 1033 Waiver, pursuant to the Violent Crime Control and Law Enforcement Act, 18 U.S.C. Sections 1033 and 1034.
- 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:

WILLIAM FOUCART DONOVAN,

Respondent

COMMONWEALTH OF PENNSYLVANIA

By: Ronald A. Gallagher, Jr. Deputy Insurance Commissioner