

STATE OF ILLINOIS

DEPARTMENT OF INSURANCE



IN THE MATTER OF:
THE REVOCATION OF LICENSING
AUTHORITY OF:

RMS Service Group, Inc.
d/b/a Alliance Insurance Agency
13532 Julie Drive
Poplar Grove, IL 61065

And

14-HR-0482

Owen G. Costanza

STIPULATION AND CONSENT ORDER

WHEREAS, Owen Costanza (Licensee), is a licensed producer in the State of Illinois and RMS Service Group, Inc. d/b/a Alliance Insurance Agency (Business Entity) was a licensed business entity in the State of Illinois; and

WHEREAS, the Licensee and Business Entity are aware that Section 5/500-70(e) [215 ILCS 5/500-70(e)] states the following: "The Director has the authority to enforce the provisions of and impose any penalty or remedy authorized by this Article against any person who is under investigation for or charged with a violation of this Code or rules even if the person's license or registration has been surrendered or has lapsed by operation of law;" and

WHEREAS, the Licensee and Business Entity are aware of the actions, steps and remedies which the Director of Insurance is authorized to take under Section 5/500-70 of the Illinois Insurance Code (215 ILCS 5/500-70); and

WHEREAS, the Licensee and Business Entity are advised that the Department of Insurance has caused an investigation to be commenced to determine whether or not such causes and conditions exist as would authorize the Director of Insurance to take such actions and steps or pursue such remedies as are

provided in Section 5/500-70 of the Illinois Insurance Code; and

WHEREAS, the Licensee and Business Entity are aware of and understand the nature of this investigation and the charges and their various rights in connection therewith, including the right to counsel, notice, hearing and appeal under Section 5/500-70 of the Illinois Insurance Code and 50 Ill. Adm. Code 2402; and

WHEREAS, the Licensee and Business Entity, for the purpose of resolving all matters raised by the investigation without the necessity of an administrative hearing, enters into this Stipulation and Consent Order.

NOW THEREFORE, IT IS AGREED by and between the Licensee and Business Entity and the Director of Insurance as follows:

I. To waive the Notice and Hearing as required under Section 5/500-70 of the Illinois Insurance Code.

II. To stipulate that the Director of Insurance alleges the following:

A. A fiduciary review revealed that for the time period of August 31, 2010 through January 14, 2011, the Business Entity and Licensee's PFTA was deficient in respect to those premium monies under examination on 117 days during that time period. The review pertained to premiums collected from 17 consumers.

During the 117 days in which the PFTA was deficient, the deficiency differences ranged from \$200.14 to \$24,574.16 with an average of \$15,240.35.

B. From August 2, 2010 through October 21, 2010, the Business Entity and Licensee collected insurance premiums from three (3) consumers but failed to forward the premiums to the insurer within the required timeframe.

C. The examination revealed the Business Entity and Licensee failed to return four (4) return premiums to insureds within 15 days of receipt from the insurer or other licensee.

On those four (4) occasions, the Business Entity and Licensee failed to obtain written authorization from the insured to hold credit balances.

Of the four (4) return premiums not returned timely, the average return premium was \$611.32. Furthermore, the Business Entity and Licensee held the four (4) return premiums for an average of 301 days.

D. During March 2010, the Business Entity and Licensee made unlawful withdrawals that totaled \$9,400.00 from the PFTA, \$10,733.97 from the Main Account and \$16,385.66 from the Operating Account, all held at National City Bank.

E. On September 22, 2010, the Business Entity and Licensee deposited

\$365.83 received from a consumer for a homeowner's insurance policy. On September 27, 2010, \$196.40 was paid to the insurer. The remainder of \$169.43 was not repaid to the consumer until October 5, 2011.

F. During the course of the examination the examiner reviewed 13 consumer files for service fees. Nine (9) of the thirteen (13) files revealed the consumers were being charged a service fee and all nine (9) files had no Service Fee Agreements and six (6) of the nine (9) had no invoices sent to the consumer informing them of the service fee.

G. During February 2009, the Business Entity and Licensee deposited premium monies totaling \$1,011.00 and paid premiums totaling \$1,535.50 from the Main Account. During July 2009, the Business Entity and Licensee deposited premium monies totaling \$2,242.00 into the Main Account, \$3,283.88 into the Operating Account and paid premiums totaling \$5,838.17 from the Main Account. During March 2010, the Business Entity and Licensee deposited premium monies totaling \$1,756.17 into the Operating Account and paid premiums totaling \$567.00 from the Main Account. During July 2010, the Business Entity and Licensee paid premiums totaling \$76.00 from the Main Account.

H. The check register provided by the Business Entity and Licensee did not include positive running balances after each deposit or disbursement entry.

From May 31, 2008 through February 28, 2011, the Business Entity and Licensee's bank accounts held at National City/PNC Bank had a combined negative balance on thirty-two (32) separate dates.

I. The Business Entity and Licensee maintained a Bond in the amount of \$2,500.00 from 2008 through 2011. The Business Entity and Licensee brokered \$146,831.00 in 2010 indicating the minimum amount of the bond for calendar year 2011 should have been \$7,342.00.

J. In 2008, the State of Wisconsin denied the Business Entity and Licensee's application for failing to disclose previous criminal convictions on an insurance license application and failing to disclose a company termination for allegations of misconduct.

In 2010, the State of Indiana filed an Agreed Entry with a \$1,500 civil penalty against the Licensee for failing to disclose prior criminal convictions, having a judgment withheld or deferred, pending criminal investigation, or being named as a party in administrative proceedings regarding a professional or occupational license or registration on their application.

K. The Business Entity and Licensee answered "No" to question #2 when asked about their involvement in an administrative proceeding regarding a professional or occupational license or registration, regarding whether administrative action was taken by another State on their 2010 and 2012 application renewals for a license.

L. The Business Entity and Licensee's PFTA bank statement with National City Bank/PNC have the account labeled: "DBA Alliance Insurance." An Illinois Casualty Direct Bill Statement was issued to "Alliance Insurance Agency." Premiums sent in by consumers are written to "Alliance Insurance Agency." Alliance Insurance Agency is not licensed as a business entity to transact insurance business with the State of Illinois in violation of Section 5/500-30(c) of the Illinois Insurance Code (215 ILCS 5/500-30(c)) nor does the license issued for the Business Entity include the DBA Alliance Insurance Agency in violation of Section 5/500-55 of the Illinois Insurance Code (215 ILCS 5/500-55)).

M. The Business Entity and Licensee provided the Department examiner with a Check Register Report which did not have all checks issued listed and was not accurate as to actual checks issued with the correct check number.

N. The Business Entity and Licensee did not provide the Department examiner with a listing of deposits or monies received. Although some deposits of premium monies had been entered into their Applied computer system, it was not done on a consistent or complete basis. Deposit slips did not have the name of the consumer or payee listed.

O. The Business Entity and Licensee did not prepare and maintain bank reconciliations for any of the bank accounts for the time period from June 1, 2008 through January 31, 2011.

P. The Business Entity and Licensee have a PFTA held at National City Bank which was changed to PNC Bank. The Business Entity and Licensee's PFTAs were labeled "Premium Trust Account" on the bank statements and the checks. The Business Entity and Licensee's bank statements through January, 2011 were labeled "Premium Trust Account." Check #1314 written on September 9, 2010 on the Business Entity and Licensee's National City Bank account [REDACTED] has "Premium Fund Trust Account" on the face of the check.

III. The Licensee and Business Entity does consent to entry of the following Order based upon the above stipulations.

NOW THEREFORE, IT IS HEREBY ORDERED by the undersigned Director of Insurance, Department of Insurance, pursuant to Section 5/500-70 of the Illinois Insurance Code that Licensee and


Business Entity:

1. Shall voluntarily agree to the revocation of the Business Entity license of RMS Service Group, Inc., d/b/a Alliance Insurance Agency.
2. Shall pay a civil penalty in the amount of \$30,000.00 to the Director of the Illinois Department of Insurance. The payment of the civil penalty shall be as follows: \$10,000.00 is due to the Director of the Illinois Department of Insurance within 15 days of the date of this Order and the remainder (\$20,000.00) is due to the Director of the Illinois Department of Insurance within one year of the date of this Order to be paid in monthly installments directly to the Illinois Department of Insurance, Attention: Cathy Suhling, 320 West Washington Street, 4th Floor, Springfield, Illinois 62767.
3. Shall not violate any sections of the Illinois Insurance Code or Title 50 of the Illinois Administrative Code.

This Stipulation and Consent Order supersedes the Order of Revocation dated April 3, 2014. Hearing No. 14-HR-0482 shall be dismissed based upon the entry of this Stipulation and Consent Order.

A material violation of the above Stipulation & Consent Order, including failure to comply with the monthly payments of the civil penalty, shall subject the Licensee to further administrative action pursuant to Section 5/407.2 of the Illinois Insurance Code (215 ILCS 5/407.2).

Nothing contained herein shall prohibit the Director of Insurance from taking any and all appropriate action should the Licensee violate any of the provisions of this Stipulation and Consent Order or any provisions of the Illinois Insurance Code or Title 50 of the Illinois Administrative Code.


Owen G. Costanza, Licensee
and as representative of RMS
Service Group, Inc., Business Entity

Date: 2/18/15

State of Illinois)
)SS
County of Winnebago)


Subscribed and sworn to,
before me, this 18 day of
Feb, 2015


Notary Public



DEPARTMENT OF INSURANCE
of the State of Illinois;

Date: 2/20/15


James A. Stephens
Acting Director