

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT

2012 APR -9 PM 12:05

ADMINISTRATIVE OFFICE

IN RE: : VIOLATIONS:
: :
CHARLES B. NEWKERK : 40 P.S. §§ 310.6, 310.11(1), (14),
74 North Palmway Avenue : and (20)
Rockledge, FL 32955-2831 :
: :
Respondent. : Docket No. CO12-03-023

CONSENT ORDER

AND NOW, this *9th* day of *April*, *2012*, 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 Charles B. Newkerk, and maintains his address at 74 North Palmway Avenue, Rockledge, Florida 32955-2831.
- (b) Respondent has an active individual non-resident insurance producer's license #593581 that expires on October 31, 2013.
- (c) On May 25, 1973, in the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida, Respondent was convicted of one (1) felony count each of Sale of Cocaine, Possession of Marijuana and Possession of LSD and was sentenced to three (3) years concurrent prison terms for each count.
- (d) On December 1, 2010, Respondent electronically initiated an application for an initial non-resident producer's license, wherein he failed to disclose his criminal history.
- (e) On November 22, 2011, Respondent electronically initiated an application to add a qualification to his non-resident producer's license and disclosed his criminal history.

- (f) On March 22, 2012, Respondent agreed to a Consent Order with five (5) years of license supervision.

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 P.S. § 310.6(a)(6), states that the Department shall issue a producer license, provided the applicant possesses the general fitness, competence and reliability sufficient to satisfy the Department that the applicant is worthy of a license.
- (c) Respondent's activities described above in paragraphs 3(c) and 3(d) violate 40 P.S. § 310.6(a)(6).
- (d) 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.

(e) Respondent's activities described above in paragraphs 3(d) violate 40 P.S. § 310.11(1).

(f) 40 P.S. § 310.11(14) prohibits a licensee or an applicant from committing a felony or its equivalent.

(g) Respondent's activities described above in paragraph 3(c) violate 40 P.S. § 310.11(14).

(h) 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.

(i) Respondent's activities described above in paragraphs 3(c) and 3(d) violate 40 P.S. § 310.11(20).

(j) Respondent's violations of Sections 310.6, 310.11(1), (14) and (20) are punishable by the following, under 40 P.S. § 310.91:

(i) suspension, revocation or refusal to issue the 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's 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 five (5) years from the date of this Order.
- (c) 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.

- (d) At the hearing referred to in paragraph 5(c) of this Order, Respondent shall have the burden of demonstrating that he is worthy of a license.
- (e) In the event Respondent's licenses are suspended pursuant to paragraph 5(b) 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 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.

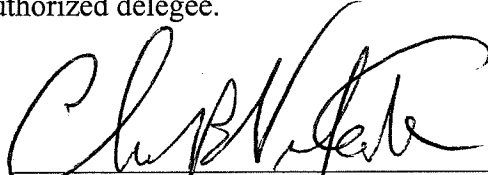
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 delegate 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:


A handwritten signature in cursive script, appearing to read "Charles B. Newkerk".

CHARLES B. NEWKERK, Respondent


A handwritten signature in cursive script, appearing to read "Ronald A. Gallagher, Jr.". The signature is written over a horizontal line.

COMMONWEALTH OF PENNSYLVANIA

By: RONALD A. GALLAGHER, JR.

Deputy Insurance Commissioner

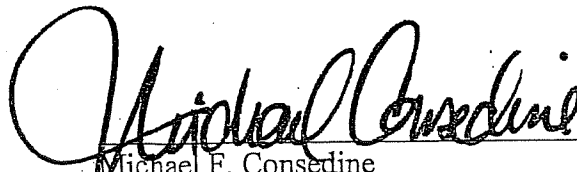
BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA.

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The
Administrative Code of 1929

AND NOW, this 27th day of April, 2011, Ronald A.

Gallagher, Deputy Insurance Commissioner, is hereby designated as the Commissioner's
duly authorized representative for purposes of entering in and executing Consent Orders.

This delegation of authority shall continue in effect until otherwise terminated by a later
Order of the Insurance Commissioner.


Michael F. Consedine
Insurance Commissioner

