

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT

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ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
CARL S. WEISER : 63 P.S. §§ 856(1), (3) and (6)
987 Hillside Drive : :
Southampton, PA 18966 : :
Respondent. : Docket No. CO12-05-017

CONSENT ORDER

AND NOW, this *26th* day of *June* *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 Carl S. Weiser and maintains his address at 987 Hillside Drive, Southampton, Pennsylvania 18966.
- (b) At all times relevant, Respondent held a motor vehicle physical damage appraiser license #138460 (hereinafter, MVPDA license) to practice the appraisal of motor vehicle physical damage in Pennsylvania.
- (c) On April 10, 2003, Respondent was arrested by members of the Philadelphia Police Department and charged for violations of the Pennsylvania Criminal Code, Title 18, P.S., for aggravated assault and related offenses (reference the Court of Common Pleas of Philadelphia, Docket No. CP-51-CR-06007711-2003).
- (d) On September 23, 2003, Respondent pleaded guilty to violations of the Pennsylvania Criminal Code, Title 18, P.S., for simple assault, a misdemeanor of the second degree (M-2), and received two (2) years probation.

- (e) Since 2004, and on at least eight (8) separate occasions, Respondent failed to disclose and answered falsely on his MVPDA license renewal application with the Department his 2003 criminal arrest when asked, "Since the last renewal or initial application in this state, have you been convicted of or pled nolo contendere (no contest) to any misdemeanor or felony or currently have any pending misdemeanor or felony charges filed against you?"

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) 63 P.S. §856(1) states the Commissioner may deny initial issuance of, suspend, revoke or refuse to renew any appraiser's license for any cause, if the issuance of the license could have been refused had that cause been existent and been known to the commissioner.
- (c) Respondent's activities described above in paragraphs 3(c) through 3(e) violate 63 P.S. § 856(1).

- (d) 63 P.S. § 856(3), states the Commissioner may deny initial issuance of, suspend, revoke or refuse to renew any appraiser's license if the licensee obtained his license through willful misrepresentation or fraud.
- (e) Respondent's activities described above in paragraphs 3(c) through 3(e) violate 63 P.S. § 856(3).
- (f) 63 P.S. § 856(6), states the Commissioner may deny initial issuance of, suspend, revoke or refuse to renew any appraiser's license if the licensee obtained has shown himself to be incompetent, untrustworthy, or a source of injury and loss to the public.
- (g) Respondent's activities described above in paragraphs 3(c) through 3(e) violate 63 P.S. § 856(6).
- (h) Respondent's violations of 63 P.S. §§ 856(1), (3) and (6) are punishable by the following, under 63 P.S. § 856:
 - (i) The commissioner may suspend or revoke any appraiser's license for any of the following causes:

- (1) If the licensee willfully violates, fails to comply with, or knowingly participates in the violation of or failure to comply with any provision of this act or regulation promulgated thereunder.
- (2) If the licensee has materially misrepresented the terms of any insurance contract or has engaged in any fraudulent transaction.
- (3) If the licensee has shown himself to be incompetent or untrustworthy.

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 pay a civil penalty of One Thousand Dollars (\$1,000.00) 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 April Phelps, Bureau of Licensing and Enforcement, 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 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.
- (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 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 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.

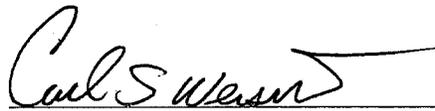
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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 the duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or the duly authorized delegee.

BY:



CARL S. WEISER, Respondent



RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

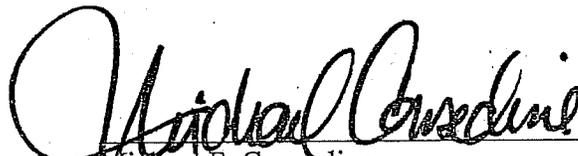
BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA.

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

