

RECEIVED
INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER
OF THE COMMONWEALTH OF PENNSYLVANIA

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IN RE:	:	40 Purdons Statutes, Section 310.6	ADJUDICATIVE HEARINGS OFFICE
Appeal of	:	§310.11(1) and 310.11(20)	
Wayne C. Crecelius	:		
75 Foxfire Lane	:		
Lewisberry, PA 17339	:		
	:		
(Petitioner)	:	Docket No. CO09-04-021 (2011)	

SETTLEMENT AGREEMENT

THIS AGREEMENT is made this 12 day of July, 2011
between the Insurance Department of the Commonwealth of Pennsylvania ("Department") and
Wayne C. Crecelius ("Petitioner") (collectively, "the Parties").

BACKGROUND

WHEREAS, Petitioner, Wayne C. Crecelius, resides at 75 Foxfire Lane, Lewisberry,
Pennsylvania 17339.

WHEREAS, On or about March 5, 2009, Petitioner submitted an Individual Insurance
Producer Application ("Application") electronically via SIRCON to the Insurance Department.

WHEREAS, As noted on Petitioner's Application, Petitioner answered "no" to the
question: "[h]ave you ever been convicted of or plead nolo contendere (no contest) to any
misdemeanor or felony or currently have pending misdemeanor or felony charges filed against
you?"

WHEREAS, As noted on Petitioner's Application, Petitioner answered "no" to the question: "[h]ave you ever failed to pay state income tax or comply with any administrative or court order directing the payment of state income tax?"

WHEREAS, On April 28, 2009, Petitioner entered into a Consent Order with the Department in the action In re: Wayne Crecelius, Dkt. #09-04-021. This Order found that Petitioner committed insurance law violations by failing to disclose his criminal history on his initial Application for producer licensure. The Order required that Petitioner cease and desist committing insurance law violations, and it imposed a seven year supervision period.

WHEREAS, On August 6, 2009, Petitioner's license was suspended by letter from Ronald A. Gallagher, Deputy Insurance Commissioner for failing to report the disposition of the criminal charges relating to the April 28, 2009 Consent Order.

WHEREAS, On August 31, 2009, the Department then issued an Amended Consent Order against Petitioner for failure to report the disposition of the criminal charges, which constituted a violation of the original April 28, 2009 Consent Order. Under the terms of the Amended Order, Petitioner's license was reinstated under the condition that Petitioner was, again, ordered to cease and desist committing insurance law violations, and the supervision period was extended to seven years from the date of the Amended Order, and Petitioner was ordered to pay a \$2000.00 fine.

WHEREAS, On January 5, 2010, the Department then issued a Second Amended Order for Petitioner's violation of the August 31, 2009 Amended Order, specifically, Petitioner's failure to pay the \$2,000.00 fine. The Second Amended Order required Petitioner to pay the fine by March 1, 2010, and Petitioner was, again, ordered to cease and desist committing insurance law violations. The supervision period was extended to seven years from the date of the Second Amended Order.

WHEREAS, The Department, then, obtained documents indicating that Petitioner committed the following additional violations of insurance laws:

- a. Act 147 of 2002, Section 310.11(13): Failure to pay State income tax or comply with any administrative or court order directing the payment of State income tax.
- b. Act 147 of 2002, Section 310.11(20): Demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the department that the licensee is worthy of licensure.
- c. Act 147 of 2002, Section 310.78(b): Within 30 days of being charged with criminal conduct, a licensee shall report the charges to the department. The licensee shall provide the department with all of the following within 30 days of their availability to the licensee.
 - (1) A copy of the criminal complaint, information or indictment.
 - (2) A copy of the order resulting from pretrial hearing, if any.
 - (3) A report of the final disposition of the charges.

WHEREAS, Specifically, in November 2009, criminal charges of three (3) counts of Misdemeanor Theft were brought against Petitioner in Cumberland County, Pennsylvania. In September 2010, Petitioner was convicted of a criminal violation as the result of the November 2009 criminal charges. Petitioner failed to report the criminal charges filed against him or his conviction to the Department.

WHEREAS, In January 2010, criminal charges of Felony Theft, Misdemeanor Theft and Bad Checks were brought against Petitioner in Cumberland County, Pennsylvania. In May 2010,

Petitioner was convicted of a criminal violation as a result of the January 2010 criminal charges. Petitioner failed to report the criminal charges filed against him or his conviction to the Department.

WHEREAS, In April 2010, criminal charges of Felony Theft, two (2) counts of Misdemeanor Theft and Bad Checks were brought against Petitioner in Cumberland County, Pennsylvania. In June 2010, Petitioner was convicted of a criminal violation as a result of the April 2010 criminal charges. Petitioner failed to report the criminal charges filed against him or his conviction to the Department.

WHEREAS, On March 4, 2010, the Department of Revenue filed Lien Docket 10NO-2152, in the amount of \$445.47 in State Personal Income Taxes which Petitioner failed to pay.

WHEREAS, On May 17, 2011, Ronald A. Gallagher, Deputy Insurance Commissioner, sent Petitioner an official notification letter advising Petitioner that his insurance licenses were suspended effective immediately because Petitioner violated Section 5(c) of the, aforementioned, Consent Order by committing these documented violations.

WHEREAS, Petitioner appealed the Department's suspension of his license by facsimile received by the Administrative Hearings Office, dated June 6, 2011.

WHEREAS, in an effort to settle the disputes arising out of this matter, the Parties hereto have agreed to settle, inter alia, all claims asserted in the litigation previously described and all claims which the Department, on the one hand, and Petitioner, on the other hand, have against

each other, arising out of, or in any way related to, the above-described matter, all subject to, and on the terms and conditions hereinafter set forth.

AGREEMENTS

NOW THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Petitioner understands his rights to a formal administrative hearing and hereby waives the same. Petitioner further agrees that the agreements contained herein shall have the same force and effect of an Order entered in accordance with Administrative Agency Law, 2 Pa.C.S. §101 et seq. or other applicable law.

2. Petitioner shall cease and desist from any future violations of Pennsylvania insurance laws and regulations, including, but not limited to those described in the Background section, above.

3. Petitioner's resident producer license is revoked effective the date of this Settlement Agreement.

4. One year from the date of this Settlement Agreement, Petitioner may apply as a new applicant for a resident producer license, under the provisions of Act 147. Prior to any future relicensure by the Department, Petitioner shall pay a civil penalty of five thousand dollars (\$5,000.00) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made by

certified check or money order, payable to the Commonwealth of Pennsylvania and should be directed to Sharon L. Fraser, Administrative Officer, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120.

5. Should Petitioner otherwise qualify for licensure under Act 147 at that time, the Department will issue Petitioner's resident producer license without consideration by the Department of the insurance law violations noted in the Background, above, as disqualifying factors provided that his penalty is paid in full and that Petitioner is otherwise in full compliance with this Agreement.

6. Should Petitioner be relicensed after the period of revocation provided in paragraphs 3 and 4, above, his licenses may be immediately suspended again by the Department following its investigation and determination that (i) any terms of this Settlement Agreement have not been complied with, or (ii) any complaint against Petitioner 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 any relicensure of the Petitioner.

7. Petitioner 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 Petitioner 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 Petitioner's written request.

8. At the hearing referred to in paragraph seven (7) of this Settlement Agreement, Petitioner shall have the burden of demonstrating that he is worthy of an insurance license.

9. In the event Petitioner's certificates and licenses are suspended pursuant to paragraph six (6) above, and Petitioner either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that he is worthy of a license, Petitioner's suspended licenses shall be revoked.

10. Nothing in this Agreement obviates or relieves Petitioner from otherwise complying with Pennsylvania law in every respect, with regard to licensure, including but not limited to, providing complete, truthful and accurate information and disclosures on all relevant forms, applications and other inquiries and communications.

11. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Agreement, 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 Agreement 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 Agreement in any other court of law or equity having jurisdiction.

12. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Agreement, the Department may declare this Agreement 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.

13. Petitioner hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Agreement.

14. This Agreement is intended only to resolve the above-captioned litigation between the Department and Petitioner resulting from the Petitioner's request for an administrative hearing.

15. For and in consideration of Petitioner's release and discharge of the Commonwealth of Pennsylvania and the Department from any action, claim or demand arising out of the activities and conduct identified in the Background section, above, the Commonwealth of Pennsylvania and the Department hereby release and discharge Petitioner from any claims in any court which the Commonwealth of Pennsylvania and/or the Department have or may have as a result of the activities and conduct stated in the Background section, above.

16. For and in consideration of the Commonwealth of Pennsylvania's and the Department's release and discharge of Petitioner from any action, claim or demand arising out of the activities and conduct identified in the Background section, above, Petitioner hereby releases and discharges the Commonwealth of Pennsylvania and the Department from any claims in any court which Petitioner has or may have as a result of the activities and conduct stated in the Background section, above. This release does not foreclose Petitioner from his right to defend against claims brought by the Department concerning potential future violations or in relation to

any enforcement proceeding taken pursuant to paragraph six (6) above.

17. Within five business days of the entry of this Settlement Agreement by the Administrative Hearings Office, Petitioner shall file for the dismissal with prejudice of his appeal in the Administrative Hearings Office under docket number CO09-04-021 (2011).

18. This Agreement shall be final upon execution by Petitioner and by the Deputy Insurance Commissioner. Only the Insurance Commissioner or his duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violations and this Settlement Agreement is not effective until executed by the Insurance Commissioner or his duly authorized Deputy Insurance Commissioner.

19. Miscellaneous.

(A) Captions and Section headings. Captions used herein are for convenience only, and are not a part hereof, and shall not be used in construing this Agreement.

(B) Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns, and, in addition hereto, shall be binding upon any receiver, liquidator, rehabilitator, conservator, supervisor and any other person or entity governmental or non-governmental, exercising or seeking to exercise the powers of the persons named above.

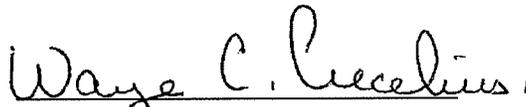
(C) Governing Law. This Agreement shall be governed by, and construed in accordance with the laws of the Commonwealth of Pennsylvania.

(D) Integration. This Agreement contains the entire agreement of the parties respecting the subject matter herein and supersedes all previous communications, representations, or agreements, either verbal or written, among the parties.

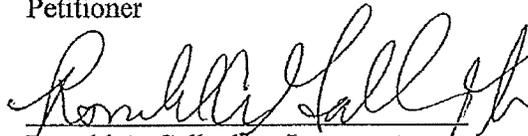
(E) Copies. This Agreement may be executed in multiple copies, each of which is to be treated as an original.

Executed the day and year first above written.

BY:



Wayne C. Crecelius
Petitioner



Ronald A. Gallagher, Jr.
Deputy Insurance Commissioner
Commonwealth of Pennsylvania