

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT

2009 MAY 20 AM 11:14

ADMIN HEARINGS OFFICE

IN RE: : VIOLATIONS:
: :
ERIC THOMAS SHERDEL : 63 Purdons Statutes, Sections 856(1),
1350 Memory Lane Ext. Apt. E : and 856(5)
York, Pennsylvania 17402 : :
Respondent. : Docket No. CO09-04-033

CONSENT ORDER

AND NOW, this *20th* day of *May*, 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, 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 Eric Thomas Sherdel, and maintains his address at
1350 Memory Lane Ext., Apt. E., York, Pennsylvania 17402.

- (b) Respondent currently holds a Motor Vehicle Physical Damage Appraisal
License with the State of Pennsylvania.

- (c) On February 19, 2009, in York County, Pennsylvania, Respondent was
convicted of 1 Count Manufacturing/Delivery/Possession With the Intent to
manufacture or Deliver a controlled Substance (marijuana)-Felony.
Respondent was sentenced to 60 days confinement/work release, 2 years
probation, and \$1,346.00 costs and fines.

- (d) On March 9, 2009, Respondent was identified by the Pennsylvania Insurance
Department as being convicted of the Felony charge.

- (e) On April 24, 2009, Respondent agreed to a Consent Order with ten (10) 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) 63 Purdons Statutes, Section 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) and 3(d) violate 63 Purdons Statutes, Section 856(1).
- (d) 63 Purdons Statutes, Section 856(5), states the Commissioner may deny initial issuance of, suspend, revoke or refuse to renew any appraiser's license if the licensee has been convicted, by final judgment, of a felony.
- (e) Respondent's activities described above in paragraphs 3(c) and 3(d) violate 63 Purdons Statutes, Section 856(5).

(f) Respondent's violations of 63 Purdons Statutes, Sections 856(1) and 856(5) are punishable by the following, under 63 Purdons Statutes, Section 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's certificates and 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 ten (10) 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 certificates and 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 certificates and 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:


ERIC THOMAS SHERDEL, Respondent


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