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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:

Robert F. Walters, Jr.
Route 31, P.O. Box 1
Acme, PA 15623

Respondent

: ALLEGED VIOLATIONS:
:
: 40 P.S. §§ 310.6, 310.11 and 310.78
:
: Sections 37.46 and 37.48 of the Insurance
: Department Regulations (31 Pa. Code §§
: 37.46 and 37.48)
:
: Docket No. **SC03-12-021**

ADJUDICATION AND ORDER

AND NOW, this 1st day of September, 2004, M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania ("Commissioner"), makes the following Adjudication and Order.

HISTORY

This case began when the Pennsylvania Insurance Department ("Department") filed an Order to Show Cause ("OTSC") on December 17, 2003 directed to Robert F. Walters, Jr. ("the respondent"). The OTSC alleged that Mr. Walters violated the Insurance Department Act[1] and Department regulations.[2] Specifically, the OTSC alleged that the respondent, a licensed insurance producer, committed two felonies and one misdemeanor demonstrating his unworthiness as a producer, and also failed to disclose those convictions to the Department.

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1 Act of May 17, 1921, P.L. 789, No 285, 40 P.S. § 310.6, 310.11 and 310.78.

2 31 Pa. Code §§ 37.46 and 37.48.

DATE MAILED: September 1, 2004

More specifically, the OTSC consisted of thirty-two numbered averments divided into two counts. Count I was based upon the respondent's *nolo contendere* plea to three criminal counts of theft by failure to make required disposition of funds.[3] The Department alleged that two of the convictions were graded as felonies of the third degree and one was graded as a misdemeanor of the first degree. As alleged in the OTSC, each conviction constituted a violation of the Insurance Producers Act[4] as well as establishing a lack of professional competence and general fitness to engage in the business of insurance. In Count II, the Department alleged that the respondent failed to report the convictions to the Department within thirty days of being charged and within ten days of being convicted, as required by the Producers Act.

A presiding officer was appointed, and on February 2, 2004, Walters filed an answer to the OTSC which admitted most of the factual allegations contained therein. A prehearing telephone conference was held on February 11, 2004 during which the possibility of factual stipulations and need for an evidentiary hearing were discussed. Subsequently, the parties agreed to submit factual stipulations to supplement an evidentiary hearing. The parties submitted factual stipulations and prehearing statements as ordered, and an additional prehearing telephone conference was conducted. A hearing was held on April 27, 2004, attended by Mr. Walters, his wife and his counsel as well as by Department counsel and an Insurance Department investigator. Factual stipulations and stipulated documents were received into the record, as was testimony from the respondent, his wife and the Department investigator.

Following receipt of the hearing transcript, a briefing schedule was established and the Department filed a brief pursuant to that schedule as extended. This matter now is ready for adjudication.

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[3] 18 Pa.C.S. § 3927(a).

[4] Act of December 6, 2002, P.L. 1183, No. 147, 40 P.S. §§ 310.1-310.99a.

FINDINGS OF FACT[5]

1. Robert F. Walters, Jr. ("the respondent") maintains a residential address at Route 31, P.O. Box 1, Acme, Pennsylvania.

2. The respondent currently holds an insurance producer's license, #59852, issued by the Commonwealth of Pennsylvania Insurance Department ("Department") on or about May 29, 1990.

3. On or about June 27, 2002, a criminal complaint was filed against the Mr. Walters by the Pennsylvania Office of Attorney General ("Attorney General") in the Indiana County Court of Common Pleas, Docket No. 878 Crim. 2002.

4. The criminal complaint charged the respondent with eight (8) counts of theft, including five (5) felonies.

5. On or about March 6, 2003, the respondent entered a plea of *nolo contendere* to three (3) of the eight (8) counts as follows:

   a. Count 2, Theft by Failure to Make Required Disposition of Funds in violation of 18 Pa.C.S. § 3927(a), a felony of the third degree;

   b. Count 5, Theft by Failure to Make Required Disposition of Funds in violation of 18 Pa.C.S. § 3927(a), a misdemeanor of the first degree; and

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[5] Findings of Fact 1-12 are derived from the facts stipulated by the parties, and correspond to the numbered paragraphs in the stipulation. [Exhibit JS1]. The remainder of the findings are derived from the documents stipulated into the record and the testimony at hearing. No additional documents were offered at the hearing and the stipulated documents are part of the record for all purposes but with the parties reserving the right to argue weight or relevancy of the information contained within the documents. [N.T. 8-9]. In this adjudication, stipulated documents are designated as they are in the joint stipulation: Exhibits A-E.

c. Count 7, Theft by Failure to Make Required Disposition of Funds in violation of 18 Pa.C.S. § 3927(a), a felony of the third degree.

6. Pursuant to a plea agreement with the Attorney General, Counts 1, 4 and 6 were withdrawn and Counts 3 and 8 were consolidated with the remaining counts.

7. The plea and underlying criminal information were memorialized in a written plea agreement dated March 6, 2003. [Exhibit B].

8. On or about June 3, 2003, the respondent was sentenced to incarceration in the Indiana County Jail for a period of six (6) to twenty-three (23) months, followed by a two (2) year period of supervision by the Indiana County Adult Probation Department for the three convictions. The respondent also was ordered to pay the costs of prosecution, pay a fine in the amount of $1,000, be subject to mental health and/or drug and alcohol evaluations, perform fifty (50) hours of community service and make restitution totaling $16,598.00 to several individuals as follows:

a. Floyd Helman, Indiana, PA - $4,050.00;

b. Mary Ruth Helman, Indiana, PA - $1,150;

c. Ella Fodiak, Latrobe, PA - $7,400.00; and

d. Clair Geier, Greensburg, PA - $3,998.00

9. The terms of the sentence are contained in an amended sentencing order dated June 3, 2003. [Exhibit C].

10. The respondent is currently on parole and/or probation under the supervision of the Indiana County Adult Probation Department.

11. The Insurance Department was notified of the respondent's criminal convictions and sentencing via correspondence from Senior Deputy Attorney General Dennis A. Kistler dated June 4, 2003. [Exhibit D].

12. The respondent did not personally, nor through counsel or any other party acting on his behalf, notify the Department of either the criminal charges brought against him or the convictions.

13. The factual bases of the criminal charges and convictions, as contained in the criminal information to which the respondent pled *nolo contendere*, are as follows:

a. Between May 31 and November 14, 2000, the respondent intentionally obtained by agreement or withheld $2,300.00 belonging to Floyd Helman, purportedly to fund a living trust for Mr. Helman. The respondent failed to do so and instead dealt with the money as his own. The respondent also requested and obtained a loan from Mr. Helman in the amount of $1,500.00 and a lawn tractor for the agreed-upon price of $250.00 but failed to make payment as agreed.

b. In May 2000, the respondent obtained, by agreement, $1,150 from Wayne Helman purportedly to fund a living trust. The respondent failed to do so and instead dealt with the money as his own.

c. Between April 10 and August 4, 2000, the respondent obtained, by agreement, $7,400.00 belonging to Ella Fodiak to provide her with long term home health care insurance. The respondent failed to do so and instead dealt with the money as his own.

d. On May 18, 2000, the respondent obtained $2,000 from Leonard and

Claire Geier as a loan, but failed to repay the money.

[Exhibit B; N.T.32, 34-36].

14. Mr. Helman, Ms. Fodiak and the Geiers were elderly individuals, and had been insurance clients of the respondent except for the Helmans. [N.T. 52, 54; Exhibit A].

15. In 2000 and early 2001, Mr. Walters repaid approximately three thousand dollars ($3,000) to individuals from whom received monies, including over one thousand dollars ($1,000) each to Ms. Fodiak and the Geiers. [N.T. 55-57; Exhibit A].

16. Mr. Walters attempted to obtain the coverage desired by Ms. Fodiak but she was uninsurable except for life insurance. [N.T. 56; Exhibit A].

17. Mr. Walters provided a specimen trust for Wayne Helman's son to review and offered a payment schedule, but was asked to supply all of the monies which had been advanced by Wayne and Floyd Helman. The respondent made no restitution to the Helmans prior to being contacted by governmental authorities. [N.T. 36, 56].

18. The other repayments by the respondent were made prior to being contacted by governmental authorities. [N.T. 35-37, 58].

19. On the advice of his counsel, Mr. Walters made no further payments after being contacted by the Attorney General in order to determine exact final balances and to coordinate restitution with the criminal proceedings. Instead, Mr. Walters regularly placed funds into an agency escrow account so that he would be able to make restitution when required. [N.T. 52-53, 58-59].

20. The Attorney General's office received information about the respondent's

activities, but referred the case to the Department believing that insurance products were involved in those activities. [N.T. 66-67].

21. The case was assigned to Robert Downie, a special investigator for the Department. [N.T. 66-67].

22. Mr. Downie began an investigation and sent a letter to Mr. Walters outlining the allegations against him. [N.T. 67].

23. An interview was scheduled with the respondent, but Mr. Walters was unable to attend and the meeting was canceled. [N.T. 63, 67].

24. Mr. Downie contacted some of the individuals who were indicated in the referral from the Attorney General's office and discovered that the alleged malfeasance did not involve insurance. [N.T. 67, 70].

25. At that point, the Department's file was closed and the matter was referred back to the Attorney General. [N.T. 67].

26. Special agents from the Attorney General's office spoke to Mr. Downie, interviewed the victims and interviewed the respondent at his home. [N.T. 31-32; Exhibit A].

27. Mr. Walters cooperated with the investigation and supplied the agents with a written statement. [N.T. 31-32, 55].

28. The respondent's decision to plead *nolo contendere* was made in part because of the aggregate mandatory sentences he faced as well as avoid further burden to the victims. [N.T. 39].

29. Prior to his sentencing, Mr. Walters repaid through the court the remainder of the monies owed to the victims. To make this payment, he used the money he had set aside in escrow, his savings and a loan. [N.T. 52-53; Exhibit E].

30. Mr. Walters was unaware that he was required to report the charges and convictions to the Department, and he did not know that the Department did not remain involved in the investigation or in contact with the Attorney General. He did not intentionally hide the status of his case from the Department. Mr. Downie did not advise the respondent that the Department no longer was involved after the Department transferred the investigation back to the Attorney General. [N.T. 46-48, 63].

31. The respondent had been granted work release following his commitment. However, immediately prior to the time he was to serve his sentence, he received a telephone call from Mr. Downie advising him that he could not engage in the business of insurance because of his convictions. [N.T. 40; 50-51].

32. Until he began serving his jail sentence, Mr. Walters was working for another agency owned by a Mr. Banner, for whom the respondent had worked earlier in his career. [N.T. 26, 29-30].

33. Mr. Banner provided a mentoring relationship for the respondent and provided support during the criminal proceedings and these proceedings. The respondent would have a position with Mr. Banner's agency should he be allowed to engage in the business of insurance. [N.T. 30, 44, 48-49].

34. After learning that he could not engage in the business of insurance with his convictions, Mr. Walters could not utilize the work release he had been granted because he did not want to implicate Mr. Banner and because Mr. Walters had no other job. [N.T. 40-41].

35. The respondent served ninety days in jail before he was paroled. [N.T. 40-41].

36. The respondent's wife, who was not working outside the home at the time, started a home laundry and ironing business because she could not afford day care for their three children aged six, nine and eleven. [N.T. 14, 18-19].

37. The result of the criminal proceedings has been devastating to the respondent personally and to his family financially. [N.T. 13-14, 16-17, 19, 41-43, 49].

38. The family's income at the time of the hearing consisted of renewal commissions from past insurance product sales, occasional odd jobs, Mrs. Walter's laundry income and support from family and friends. [N.T. 44-45, 60-61].

39. Mr. Walters always has been devoted to his family, and his wife remains devoted to him. [N.T. 16-19].

40. The respondent is remorseful for his actions and has accepted responsibility for them. [N.T. 42-44].

41. Mr. Walters had no involvement with the criminal justice system prior to the present matter other than speeding tickets. [N.T. 32, 43].

42. Prior to the present matter, to the respondent's knowledge, none of his insurance clients ever complained about the way he conducted himself or the business of insurance. [N.T. 43-44].

43. Mr. Walters never was the subject of an investigation or disciplinary action by the Insurance Department before the present matter. [N.T. 32].

44. The respondent believes that other than the decisions he made in 2000, he has been a good agent, and he has enjoyed working in the profession. He [N.T. 44, 60-61].

45. Mr. Walters is convinced that he will never repeat the bad decisions he made which resulted in the convictions and these proceedings. [N.T. 50].

46. Additional factual findings contained in the Discussion section of this adjudication are incorporated herein.

47. Should any of these factual findings be deemed conclusions of law, they are incorporated therein by reference.

DISCUSSION

The respondent does not dispute the core factual allegations in the OTSC, and in fact stipulated to most of the allegations. Robert Walters was convicted of two felonies and one misdemeanor through his *nolo contendere* plea. He also concedes that he did not specifically report the convictions to the Department, although he contends that he reasonably believed that the Department knew of the convictions through its involvement in the investigation and prosecution of the charges. The testimony of all witnesses (the respondent, his wife and the Department investigator) was candid, straightforward, credible and without material conflict. The main issue in this case is what remedial action is appropriate given all of the circumstances in this case and given applicable law.

It should be noted that the respondent was charged with violating sections of the Producers Act[6] which amended the Insurance Department Act. [7] However, those sections did not become effective until June 4, 2003, three months after the respondent entered his guilty plea and one day after he was sentenced. Currently, 40 P.S. § 310.6 provides licensing standards including that the applicant possess general fitness, competence and reliability sufficient to satisfy the Department that the applicant is worthy of licensure. Previously, Section 604 of the Insurance Department Act[8] authorized the issuance of a certificate of qualification for an insurance agent when the Insurance Department "is satisfied that the applicant is worthy" of such certification. Both the prior and current statutes provided penalties for conduct which would disqualify an applicant from licensure.[9] Accordingly, the two statutes functionally are equivalent in penalizing a

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6 Act of December 6, 2002, P.L. 1183, No. 147, § 2, 40 P.S. §§ 310.6, 310.11 and 310.78.

7 Act of May 17, 1921, P.L. 789, No 285.

8 Formerly 40 P.S. § 234.

9 Insurance Department Act Sections 604 and 639, formerly 40 P.S. §§ 234, 279; Producers Act, 40 P.S. § 310.6, 310.11(20), 310.91.

licensee for demonstrating a lack of worthiness.

On the other hand, the prior statute did not specifically proscribe the commission of certain crimes or specifically require that criminal charges be reported to the Department, unlike the current statute. *See* 40 P.S. §§ 310.11(14), 310.11(15), 310.78(b). Currently, by statute the licensee must provide the Department within thirty days of their availability the following: 1) a copy of the criminal complaint, information or indictment; 2) a copy of the order resulting from a pretrial hearing, if any; and 3) a report of the final disposition of the charges. However, even prior to the effective date of the current statute, Department regulations provided that a plea of *nolo contendere* to any felony or to another crime relating to the applicant's worthiness constituted evidence of unworthiness. 31 Pa. Code § 37.46(7)(i). Regulations also required that an agent report such plea to the Department within ten days. 31 Pa. Code § 37.48. The Department charged Mr. Walters under both of these regulatory sections in addition to the statutory provisions which became effective following his plea and sentencing.

Under the circumstances of this case, it is not necessary to determine whether the respondent properly was charged under the new statute relative to the convictions and statutory reporting requirements. Mr. Walters did not object or raise any argument against being charged under the Producers Act instead of the statute in effect at the time he was convicted. Under either statute, the worthiness analysis is the same. The convictions were less than a year old when this action commenced, and are evidence of unworthiness even absent a specific statutory prohibition. *Novak v. Commonwealth, Ins. Dept.*, 525 Pa. Cmwlth. 1258 (1987). Even prior to promulgation of the current regulation in 1994, appellate courts affirmed license revocations based solely on felony convictions of offenses involving dishonesty.[10] *See In Re Friedman*, 457 A.2d 983 (Pa.

[10] The prior version of the regulation provided that conviction of an offense reflecting on the honesty and integrity of the applicant was evidence of unfitness. It did not, as does the regulation promulgated in 1994, provide that a felony conviction itself constitutes such evidence.

Cmwlth. 1983); *Fumo v. Insurance Department*, 427 A.2d 983 (Pa. Cmwlth. 1981); *Romano v. Pennsylvania Insurance Commissioner*, 404 A.2d 758 (Pa. Cmwlth. 1979). Finally, the regulations in effect at the time of the convictions not only defined them as evidence of unworthiness, but required the respondent to report them to the Department within ten days.

Mr. Walters acknowledged his convictions and that he did not report the convictions to the Department. Essentially, the respondent has conceded liability under both counts of the OTSC. Given the Department's substantial involvement in the investigation of Mr. Walters, the respondent reasonably believed that the Department already was aware of the convictions. In fact, the Department learned of the convictions a short time after Mr. Walters was sentenced. However, this does not negate that he failed to report his pleas to the Department as required, and his belief only will be considered in fashioning the appropriate penalty under this count. With Walters liable for remedial action under each of the two counts, the appropriate action must be established for each count.

PENALTIES

The Commissioner may suspend or revoke a license for conduct violating certain provisions of the Insurance Department Act, including those provisions violated by Walters's conduct.[11] The Commissioner may order that the respondent cease and desist from the violation.[12] Each act constituting a violation subjects the actor to a maximum five thousand dollar civil penalty.[13]

A Commissioner is given broad discretion in imposing penalties. *Termini v. Department of Insurance*, 612 A.2d 1094 (Pa. Cmwlth. 1992); *Judson v. Insurance Department*, 665 A.2d at 523, 528 (Pa. Cmwlth. 1995). The underlying course of conduct in the present case is of the most serious nature, and related to the respondent's duties as an insurance producer. Although the retention of client monies mostly involved living trusts and not insurance products, Mr. Walters utilized insurance clients and his status as a licensed agent to obtain funds which were then diverted from their intended use.

The seriousness of this conduct is reflected in the penalties imposed. The respondent's infliction of financial harm on others evidenced an attitude which is antithetical to the trustworthiness required in the profession. By definition, producers have extensive personal contact with applicants and insureds. The applicants and insureds entrust financial and personal matters to the producer, and rely upon the producer's integrity. A producer who has recently inflicted financial harm upon others is incapable of the trust necessary in the profession. Simply put, Mr. Walters at this time

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[11] This is true under either the prior section 639 (former 40 P.S. § 279(a)(1)) or the Producers Act (40 P.S. § 310.91(d)).

[12] Former 40 P.S. § 279(a)(1); 40 P.S. § 310.91(d).

[13] *Id.*

cannot be trusted with the pocketbooks, bank accounts and personal information of his customers. This is not because of a likelihood that Mr. Walters actually would engage in similar activity again, but rather because he presently cannot command the trust necessary in the profession.

In its OTSC, the Department requested revocation of the respondent's license, a civil penalty in the amount of $70,000.00 ($5,000 for each of fourteen total violations), a cease and desist order and other appropriate relief. In its brief, the Department requests a revocation of licensure for at least five years, a civil penalty of at least $50,000 and other appropriate relief.

The aggravating circumstances in this case are substantial. The victims were all elderly persons, a traditionally vulnerable segment of society. The respondent's conduct was related to the business of insurance even if the only insurance product involved was Ms. Fodiak's requested long term home health care insurance. Mr. Walters inflicted financial harm upon individuals even though restitution since has been made. The respondent's conduct and the convictions are recent. The respondent is currently on parole and faces two years of probation following expiration of parole.

However, the mitigating circumstances also are substantial. Mr. Walters has had no other involvement in the criminal justice system or in administrative enforcement proceedings. Other than the course of conduct for this brief period of time, Mr. Walters appeared to be a good agent, with no reported complaints about his conduct. The deprivation of his clients' money and diversion to his own use was intended to be temporary. He took the steps of seeking the coverage desired by Ms. Fodiak and supplying Wayne Helman with a specimen trust. He also offered to repay his victims through a payment schedule and made payments totaling approximately three thousand dollars prior to being contacted by authorities. Mr. Walters cooperated with criminal and

civil authorities at all times, admitting his conduct, candidly providing details to investigators, pleading no contest to the criminal charges and admitting to the charges in these proceedings. He has accepted responsibility for his actions and is remorseful. His failure to report the conviction in the peculiar circumstances of this case is understandable even if not excused. He has made full restitution to his victims. He now is associated with a mentor who provides support and moral guidance, even throughout the criminal and administrative proceedings.

The fact that Mr. Walters promised living trusts without having expertise in the subject is both an aggravating and mitigating circumstance. It evidences bad judgment to offer a product outside one's training and experience. On the other hand, it at least provides some explanation for the delay in fulfilling the wishes of the respondent's clients. One thing that the lack of expertise does not do is excuse the respondent's responsibility to keep his clients' funds inviolate and not used for his own benefit no matter how severe his financial problems. It also does not negate or mitigate the criminal convictions, which as discussed above are of the most serious nature.

Given the substantial mitigating circumstances, the respondent likely would have received a fixed period of suspension if his conduct did not inflict financial harm upon elderly clients placing their trust in him. However, the felony convictions and underlying conduct warrant revocation in this particular case, with a period of supervision should the respondent become relicensed. While even a negligent failure to report convictions also is serious, under the circumstances of the present case it warrants only an additional period of supervision should the respondent become relicensed.

With regard to a monetary civil penalty, the Department correctly argues that seriousness of the conduct and the need to maintain the integrity of the profession merits a substantial penalty. The Department asserts that the civil penalty should serve a

punitive purpose. However, Mr. Walters and his family already are receiving the most significant penalty in the accompanying order: loss of the respondent's livelihood. The similar cases cited by the Department resulted in a civil penalties much smaller than requested by the Department in the present matter, and those cases[14] did not contain a level of mitigation approaching the present one. Mr. Walters also was punished by the criminal justice system, having been sentenced to incarceration and a $1,000 fine. In the circumstances of this case, imposition of a large civil penalty would serve no purpose, even for punishment.

Considering the facts in this matter, the applicable law, the seriousness of the conduct and all aggravating and mitigating circumstances, penalties are imposed as set forth in the accompanying order.

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[14] *In re Baldwin*, SC99-04-011 (2000) ($15,000); *In re Young*, SC98-08-027 (2000) ($10,000); *In re Schmoll*, SC99-04-020 (2000) ($6,000); *In re Gottfried*, SC98-06-099 (1999) ($500).

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	ALLEGED VIOLATIONS:
	:	
Robert F. Walters, Jr. Route 31, P.O. Box 1 Acme, PA 15623	:	Sections n/aof the Insurance Department Act of 1921, P.L. 789, No. 285, *as amended*, (40 P.S. §§ 310.6, 310.11 and 310.78).
Respondent	:	
	:	Sections 37.46 and 37.48 of the Insurance Department Regulations (31 Pa. Code §§ 37.46 and 37.48)
	:	
	:	Docket No. **SC03-12-021**

ORDER

AND NOW, based upon the foregoing findings of fact, discussion and conclusions of law, it is **ORDERED** as follows:

1. Robert F. Walters, Jr. shall **CEASE AND DESIST** from the prohibited conduct described in the adjudication.

2. All of the insurance licenses or certificates of qualification of Robert F. Walters, Jr. **ARE REVOKED** for a minimum of five (5) years for Count I. Additionally, Robert F. Walters, Jr. is prohibited from applying for a certificate of qualification to act as an agent, broker or producer in this Commonwealth for a minimum of five (5) years. Robert F. Walters, Jr. is also prohibited from applying to renew any certificate of qualification previously held by him in this Commonwealth for a minimum of five (5) years. Notwithstanding the foregoing, should Robert F. Walters, Jr. be on parole or probation at the expiration of five years, he shall not be eligible to apply until his parole

and probation have been completed.

3. Ninety (90) days prior to expiration of the five years or the scheduled termination of parole and probation, whichever later occurs, Robert F. Walters, Jr. may apply for waiver pursuant to 18 U.S.C. § 1033. This order shall not be construed as a ruling that he necessarily will be eligible for waiver at that time.

4. Should Robert F. Walters, Jr. ever become licensed at any future date, his certificates and licenses may be immediately suspended by the Insurance Department following its investigation and determination that: (i) the penalty has not been fully paid; (ii) any other term of this order has not been complied with; or (iii) any complaint against the 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 seven (7) years from the date of any relicensure.

5. Robert F. Walters, Jr. shall have no right to prior notice of a suspension imposed pursuant to paragraph 4 of this order, 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 the respondent by certified mail, return receipt requested, notification of the suspension, which hearing shall be scheduled for a date within sixty (60) days of the Department's receipt of the respondent's written request.

6. At the hearing described in paragraph 5 of this order, the respondent shall have the burden of establishing that he is worthy of a license.

7. In the event that the respondent's certificates and licenses are suspended pursuant to paragraph 4 of this order, and the respondent either fails to request a hearing within thirty (30) days or at the hearing fails to establish that he is worthy of a license, the respondent's suspended certificates and licenses shall be revoked.

8. Robert F. Walters, Jr. shall pay a civil penalty to the Commonwealth of Pennsylvania as within thirty (30) days of this order as follows:

a. Count one: $1,500

b. Count two: $500

for a total of Two Thousand Dollars ($2,000). Payment shall be made by certified check or money order, payable to the Commonwealth of Pennsylvania, directed to: Sharon Harbert, Administrative Assistant, Bureau of Enforcement, 1321 Strawberry Square, Harrisburg, Pennsylvania 17120. In addition to the above restrictions, no certificate of qualification or other insurance license may be issued or renewed until the said civil penalty is paid in full.

9. This order is effective immediately.

M. Diane Koken
Insurance Commissioner