BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	ALLEGED VIOLATIONS:
	:	
Gerard J. Halloran 6 Trout Lane Pocono Springs P.O. Box 541 Gouldsboro, PA 18424	:	Sections 310.11(4), (7), (17) and (20) of the Insurance Department Act of 1921, P.L. 789, No. 285, *as amended* (40 P.S. §§ 310.11(4), (7), (17) and (20)).
and	:	
GJH INSURANCE CENTER, INC. 39 RTE 435, Gouldsboro Plaza P.O. Box 1138 Gouldsboro, PA 18424	:	
Respondents	:	Docket No. **SC16-10-018**

ADJUDICATION AND ORDER

AND NOW, this 13th day of February, 2017, Teresa D. Miller, 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 October 31, 2016 directed to Gerard J. Halloran ("Halloran") and GJH Insurance Center, Inc. ("GJH") (collectively "the respondents"). The OTSC alleged that the respondents violated the Insurance Department

DATE MAILED: February 13, 2017

Act.[1] Specifically, the OTSC alleged that Halloran, a licensed insurance producer and on behalf of GJH, accepted premium payments from a customer without remitting the payments to procure coverage and also issued fraudulent certificates of insurance to the customer. The OTSC was served on Halloran and GJH on October 31, 2016 by certified and first class mail, evidenced by a certificate of service appended to the OTSC.

The OTSC advised Halloran and GJH to file an answer in accordance with applicable regulations (1 Pa. Code § 35.37), and further advised them that the answer must specifically admit or deny each of the factual allegations made in the OTSC as well as the authenticity of appendices attached to the OTSC. The respondents were advised to set forth the facts and state concisely the matters of law upon which they rely. They further were advised of the consequences of failing to answer the OTSC, including that the factual allegations and the authenticity of the appendices would be deemed admitted. Following the filing of the OTSC, a presiding officer was appointed and the appointment order was served on Halloran and GJH by first class and certified mail.

Halloran failed to answer the Department's order to show cause or otherwise respond to the Administrative Hearings Office until December 5, 2016. On that date, Halloran and GHJ filed a response to the OTSC which reads in its entirety:

> Pennsylvania Insurance Dept.
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> I writing [sic] to you in response to the departments' documents. "Order to show cause" Please accept my response to deny all such allegations. And to defend my rights to maintain my license and the corporate license of G.J.H Insurance Center Inc. I await your decision and response.

The response did not indicate that it was served on the Insurance Department, and the Administrative Hearings Office transmitted a copy of the response to the Department.

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[1] Act of May 17, 1921, P.L. 789, No 285, 40 P.S. § 310.11(4), (7), (17) and (20).

On December 15, 2016, the Department filed a motion for default judgment and to have allegations and authenticity of documents deemed admitted. In its motion, the Department summarized the allegations in its OTSC and reasserted its service of the OTSC on Halloran and GJH (appending copies of the signed certified return receipt cards). Also in its motion, the Department asserted that Halloran's and GJH's response was late and unresponsive to the specific allegations in the OTSC. The Department requested that the Commissioner enter default judgment against the respondents, deem the facts asserted in the OTSC admitted and the appendices authentic and impose penalties on the respondents. The motion was served on each of the respondents by first class and certified mail.

The respondents have not answered the Department's motion. Nor have the respondents filed a more specific answer or requested leave to do so, or filed anything besides the general denial on December 5, 2016.

This adjudication and order addresses the motion for default judgment and the order to show cause. Factual findings and some legal conclusions are contained within the body of this adjudication.

DISCUSSION

This adjudication is issued without scheduling an evidentiary hearing, since Halloran and GJH failed to answer the order to show cause properly or timely. Nor have the respondents answered or objected to the motion for default judgment.

Regulations applicable to these proceedings against the respondent allow for default judgment and deemed admission of the facts and documents in the OTSC:

> A person upon whom an order to show cause has been served under § 35.14 (relating to orders to show cause) shall, if directed so to do, respond

> to the same by filing within the time specified in the order an answer in writing. The answer shall be drawn so as specifically to admit or deny the allegations or charges which may be made in the order, set forth the facts upon which respondent relies and state concisely the matters of law relied upon. Mere general denials of the allegations of an order to show cause which general denials are unsupported by specific facts upon which respondent relies, will not be considered as complying with this section and may be deemed a basis for entry of a final order without hearing, unless otherwise required by statute, on the ground that the response has raised no issues requiring a hearing or further proceedings. A respondent failing to file answer within the time allowed shall be deemed in default, and relevant facts stated in the order to show cause may be deemed admitted.

1 Pa. Code § 35.37. In the present case, the order to show cause advised as to the consequences of the failure to respond,[2] the requirement to answer within thirty days from October 31, 2016, and the requirement to answer the averments with specificity.

The respondents' answer was due by November 30, 2016. Halloran and GJH failed to answer the OTSC in the required time. In addition, the response filed on December 5, 2016 was a short general denial unsupported by any specific facts. The response thus fails to raise any factual issue requiring a hearing or further proceedings. Deemed admissions and default judgment in these circumstances is appropriate pursuant to 1 Pa. Code § 35.37. *Zook v. State Bd. of Dentistry*, 683 A.2d 713 (Pa. Cmwlth. 1996); *Kinniry v. Professional Standards and Practices Comm'n*, 678 A.2d 1230 (Pa. Cmwlth. 1996). However, because of the language in the penalty provisions of applicable statutes, an analysis of the Commissioner's ability to impose penalties absent an evidentiary hearing is required.

There are no factual disputes in the present matter because all factual averments in the OTSC are deemed to be admitted. Pursuant to 1 Pa. Code § 35.37, a final order may be entered without hearing for an insufficient answer to the OTSC unless otherwise

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[2] The OTSC warned the respondent that failure to answer in writing would result in the factual allegations being deemed admitted and that the Commissioner could enter an order imposing penalties.

provided by statute. *See* 1 Pa. Code § 35.37 ("Mere general denials . . . will not be considered as complying with this section and may be deemed a basis for entry of a final order without hearing, unless otherwise required by statute, on the ground that the response has raised no issues requiring a hearing or further proceedings."). A respondent failing to file an answer within the time allowed shall be deemed in default. *Id.* Department regulations do not limit the Commissioner's ability to order a default judgment without a hearing, so any limitation must come, if at all, from a statute.

In order for an adjudication by a Commonwealth agency to be valid, a party must have a "reasonable notice of a hearing and an opportunity to be heard." 2 Pa.C.S. § 504 (Administrative Agency Law). Similarly, the statute specifically applicable to the present case[3] provides for a hearing procedure prior to certain penalties being imposed by the Commissioner. *See* 40 P.S. § 310.91.[4] However, given that the respondent has not answered the order to show cause and given current caselaw, these hearing procedures are inapplicable.

While no court directly has addressed the power of a Commissioner to enter a default judgment without hearing in a case under the Insurance Department Act, the caselaw supports such power. For example, in *United Healthcare Benefits Trust v. Insurance Commissioner*, 620 A.2d 81 (Pa. Cmwlth. 1993), the Court affirmed the Commissioner's grant of summary judgment for civil penalties despite the language contained in the applicable statutes which seemed to require a hearing. Also, the Court

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[3] Insurance Department Act, Act of May 17, 1921, P.L. 789 as amended (40 P.S. §§ 1 *et seq.*).

[4] The Insurance Department Act section mandates written notice of the nature of the alleged violations and requires that a hearing be fixed at least ten (10) days thereafter, and further provides that:

> After the hearing or upon failure of the person to appear at the hearing, if a violation of this act is found, the commissioner may, in addition to any penalty which may be imposed by a court, impose any combination of the following deemed appropriate: . . .

40 P.S. § 310.91. This Section then lists available penalties.

specifically has upheld a decision in which the Commissioner granted default judgment for an Unfair Insurance Practices Act (UIPA)[5] violation. *Zimmerman v. Foster*, 618 A.2d 1105 (Pa. Cmwlth. 1992).

In a case involving another agency, the Commonwealth Court upheld summary judgment imposing discipline issued by a commission despite the fact that the respondent had requested a hearing. *Kinniry v. Professional Standards and Practices Comm'n*, 678 A.2d 1230 (Pa. Cmwlth. 1996). In *Kinniry*, the applicable statute (24 P.S. §§ 2070.5(11), 2070.13) provided for a hearing procedure before discipline was imposed. However, the respondent's attorney merely requested a hearing without answering the specific factual averments in the charges against the respondent (which charges were treated as an order to show cause). The Court upheld the summary judgment since deemed admission of the factual averments presented no factual issues to be resolved at hearing.

The Commissioner consistently has applied the reasoning of *United Healthcare* and similar cases when the respondent does not answer the order to show cause and a motion for default judgment. *See In re Phelps*, P95-09-007 (1997); *In re Crimboli*, SC99-04-015 (1999); *In re Young*, SC98-08-027 (2000); *In re Jennings*, SC99-10-001 (2001); *In re Warner*, SC01-08-001 (2002); *In re Taylor*, SC07-11-015 (2008); *In re Kroope*, SC09-12-005 (2010); *In re Kletch*, SC15-04-022 (2015). The Commissioner adopts this reasoning in the present case: the important aspects of 2 Pa.C.S. § 504 are notice and the *opportunity* to be heard. Default judgment is appropriate, despite language in applicable statutes which seems to require a hearing, when a respondent fails to take advantage of his opportunity to be heard. When a respondent in an enforcement action is served with an order to show cause detailing the nature of the charges against him as well as the consequences of failing to respond, yet fails to answer the allegations timely and specifically or to answer a subsequent motion for default judgment, the Commissioner

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[5] Act of July 22, 1974, P.L. 589, No. 205, 40 P.S. §§ 1171.1-1171.15.

adopts the Commonwealth Court's reasoning that the respondent had an opportunity to be heard but has rejected the opportunity.

Additionally, there are no factual matters to address at a hearing. Since the factual allegations of the OTSC are deemed admitted, the determination by the Commissioner is a legal rather than a factual one. A hearing is not necessary for this type of determination. *See Mellinger v. Department of Community Affairs*, 533 A.2d 1119 (Pa. Cmwlth. 1987); *United Healthcare, supra*. The Commissioner adjudicates the present case based upon the undisputed, admitted facts as alleged in the OTSC.

The facts include that Halloran was a licensed resident insurance producer and the president and owner of licensed insurance agency GJH Insurance Center, Inc., and acted on behalf of and as the agent of GJH. [OTSC ¶¶ 1-5]. In April 2012, the respondents sold a general liability insurance policy purportedly through Main Street America Assurance Company ("Main Street") to Michelle Wheeler on behalf of her company doing business as Chad Wheeler Excavating ("Wheeler"). [OTSC ¶ 6; Appendix A]. Wheeler paid $575 to GJH procure the coverage. [OTSC ¶¶ 7-8; Appendix A]. In September 2012, Wheeler paid $1,409.00 to the respondents to procure workers compensation insurance with the State Workers Insurance Fund ("SWIF"). [OTSC ¶ 9-11; Appendix B].

In September 2012, the respondents gave to Wheeler a Certificate of Liability Insurance showing commercial general liability coverage with Main Street and workers compensation insurance with SWIF. [OTSC ¶ 12; Appendix C]. The Certificate included false policy numbers for both purported policies. [OTSC ¶ 13; Appendix C]. In July 2014, the respondents gave to Wheeler a Certificate of Liability Insurance showing commercial general liability coverage with Main Street, again with a false policy number.

Halloran and GJH were unresponsive to Wheeler's numerous requests for loss runs reports for the purported policies, and Main Street indicated that it did not have Wheeler in its system. [OTSC ¶ 16]. In August 2014, Wheeler filed a complaint with the Pennsylvania Insurance Department which made written inquires to the respondents in September and October 2014. [OTSC ¶¶ 16-17; Appendices E and F]. Halloran and GJH did not respond to the Department's inquiries. [OTSC ¶ 17].

In March 2015 as part of its investigation, the Department received a letter from Main Street indicating that the policy number on the Certificates was not a valid number. [OTSC ¶ 18; Appendix G]. In May of 2015, the Department received information from SWIF that the quote for workers compensation coverage was returned to the respondents due to insufficient information together with a premium payment in the amount of $1,309.00.

The Department was able to contact Halloran by telephone in May 2015 and he gave explanations in which he blamed Wheeler for not supplying the information required by SWIF and for possibly not paying the premium required by Main Street in 2014. [OTSC ¶¶ 21-22]. He stated that the 2014 Certificate of Liability Insurance was issued in error by the respondents. [OTSC ¶ 22]. Despite repeated requests by the Department and promises by Halloran to supply documentation surrounding the transactions, the respondents failed to supply such documentation. [OTSC ¶¶ 23-28]. In one of the Department's conversations with Halloran, he indicated that Donaghy Insurance had documents relative to the purported Main Street policy. [OTSC ¶¶ 25-26]. When the Department contacted Donaghy Insurance, it learned that Donaghy had no record of a policy for Wheeler Excavating and that it had informed Halloran of this information. [OTSC ¶ 27].

The respondents accepted the premium payments from Wheeler for general liability insurance coverage and for workers compensation insurance coverage but failed to remit the payments. [OTSC ¶ 29]. The respondents issued fraudulent Certificates of Liability Insurance to Wheeler in 2012 and in 2014 when no insurance coverage was in place. [OTSC ¶ 30].

Halloran previously was disciplined by the Department in 2011 via a consent order and placed under supervision for three years. [OTSC ¶ 31; Appendix H]. The discipline was for violating insurance laws by selling insurance coverage to a consumer from an entity not recognized as a bona fide group by the federal or state government and for not verifying coverage. [*Id.*].

In the present case, each respondent was charged with six distinct violations of the Insurance Department Act in twelve total counts. In Counts I-IV, each respondent was charged with failure to remit premiums for the general liability policy and for the workers compensation policy without refund to Wheeler and as such improperly withheld, misappropriated or converted money in each instance in violation of 40 P.S. § 310.11(4). In Counts V-VIII, each respondent was charged with falsifying two Certificates of Liability Insurance, in each instance violating 40 P.S. 310.11(7) which proscribes fraudulent or dishonest practices or demonstrating incompetence or untrustworthiness. In Counts IX-X, each respondent was charged with a breach of fiduciary duty in violation of 40 P.S. § 310.11(17) by retaining the premium payments made by Wheeler and failing to follow up on the policies to ensure that Wheeler had the desired and paid-for coverage. Finally, in Counts XI and XII, each respondent was charged with a demonstrated lack of general fitness, competence or reliability sufficient to satisfy the department that the licensee is worthy of licensure in violation of 40 P.S. § 310.11(20) by their course of conduct throughout the transactions and the Insurance Department investigation.

For each of the counts, the Commissioner has authority to impose remedial action against the respondent, including suspension or revocation of licenses as well as imposing a penalty of up to $5,000.00 per violation. 40 P.S. § 310.91(d)(1), (2). The Commissioner also may order a respondent to cease and desist and impose other conditions the Commissioner deems appropriate. 40 P.S. § 310.91(d)(3), (4). In the present case, the admitted facts support sanctions in all twelve of the counts against the respondents. Because Halloran's course of conduct was attributable both to himself individually as well as on behalf of his agency, liability will be discussed against the respondents collectively.

By failing to remit premiums for the general liability policy and for the workers compensation policy without refund to Wheeler, the respondents in each instance violated 40 P.S. § 310.11(4). That section provides that a licensee shall not "[i]mproperly withhold, misappropriate or convert money or property received in the course of doing business." Because the respondents neither remitted the premium monies nor refunded them to Wheeler for each of the two policies,[6] the respondents violated this statutory proscription in each instance.

By falsifying two Certificates of Liability Insurance, the respondents in each instance violated 40 P.S. 310.11(7). That subsection requires that a licensee shall not "[u]se fraudulent, coercive or dishonest practices or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this Commonwealth or elsewhere." Certifying the existence of coverage when none existed is fraudulent and dishonest, and demonstrates incompetence and untrustworthiness. Using a fabricated policy number for the purported commercial liability coverage particularly demonstrates the dishonesty of the certification.

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[6] It is recognized that the respondents initially remitted the premium to SWIF, but when SWIF returned the premium with the incomplete application, the respondents neither resubmitted the premium with complete information nor refunded it to Wheeler.

The course of conduct relative to the transactions purported coverages violated 40 P.S. § 310.11(17). That provision proscribes a licensee committing "fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty." In addition to failing to remit or return premiums and creating the fraudulent insurance certificates, the respondents failed to effect the very purpose of their relationship with Ms. Wheeler and Chad Wheeler Excavating: procure business insurance coverage for general liability and workers compensation. Although there is no evidence that Wheeler suffered a claim during the period when insurance was not in effect, the business was bare of the coverage it had paid for and engaged the respondents to procure. By retaining the paid premiums, covering up the lack of insurance and not following through to obtain either business coverage, Halloran and GJH breached the duties and the position of trust they had assumed.

Finally, the entire course of conduct including Halloran's dealings with the Department investigators violated 40 P.S. § 310.11(20). That subsection provides that a licensee shall not "[d]emonstrate a lack of general fitness, competence or reliability." The conduct violating the other three subsections causing harm to a consumer itself demonstrates a lack of general fitness, competence and reliability. By failing to cooperate fully in the Department's investigation, the respondents hindered the regulator of their profession and delayed resolution of the consumer's complaint, requiring the regulator to obtain essentially all of the information from other sources. The respondent's course of conduct demonstrates a lack of trustworthiness, fitness and reliability necessary in the profession. The respondents each are liable under 40 P.S. 310 .11(20).

Liability of Halloran and GJH under six counts each results from the course of conduct in retaining the premium payments instead of procuring coverage as well as the fraudulent certifications that coverage existed. However, they are separately liable under

each count because each statutory section proscribes certain aspects of the course of conduct. The two misappropriation counts for each respondent are for misappropriating two premium payments for two policies. The two fraud and dishonesty counts are for twice falsifying a Certificate of Liability Insurance. The fiduciary duty section is based not just upon the misapplication of entrusted funds but also the failure to procure insurance in breach of the respondents' duties and position of trust. Finally, especially by causing Wheeler to be bare of insurance, then delaying the investigation of his actions, Halloran callously disregarded basic standards of conduct required of agents. This course of conduct establishes a lack of diligence towards those the respondents purported to serve as well as the regulator of the respondents' profession.

With Halloran and GJH liable for remedial action under each of the six counts for each respondent, the appropriate action must be established for each count. Because GJH's conduct was coextensive with Halloran's conduct acting as GJH's agent, the two respondents will be considered together for the purpose of remedial action, with joint and several liability.

PENALTIES

The Commissioner may suspend or revoke a license for conduct violating certain provisions of the Insurance Department Act, including those provisions violated by the respondents' conduct. 40 P.S. 310.91(d)(1). Each violation subjects the actor to a maximum five thousand dollar civil penalty. 40 P.S. 310.91(d)(2). The actor may be ordered to cease and desist his conduct. 40 P.S. 310.91(d)(3). The Commissioner also may impose other appropriate conditions. 40 P.S. 310.91(d)(4).

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 directly connected to Halloran's duties as an insurance producer. This seriousness is reflected in the penalties imposed. Halloran's infliction of financial harm and risk on others evidences a moral turpitude 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 and increased risk of harm upon others is incapable of the trust necessary in the profession. Simply put, Halloran and GJH at this time cannot be trusted with the pocketbooks, bank accounts and personal information of their customers.

In addition, the respondents' failure to cooperate with the Commonwealth's regulator also breached the respondents' duties to the Commonwealth and to the public. Whether a conscious concealment or a negligent nondisclosure, the failure to respond to the Department's inquiries and the failure to supply documentation hindered the Insurance Department's ability to regulate the profession and protect insurance

consumers. This lack of cooperation goes to the heart of the requirement that insurance producers be trustworthy and reliable in their work with the insurance-buying public and the regulator.

As an additional aggravating factor, the violations involved the business of insurance rather than some other business or endeavor. Also, the consumer suffered direct pecuniary harm as well as the increased risk of financial harm should there have been a claim while bare of insurance. Further, although there is no evidence of it in the record, the respondents potentially caused Wheeler to breach its duties to contractors, employees and government entities by conducting business without liability and workers compensation insurance. Finally, Halloran has a recent history of discipline, a consent order for conduct somewhat similar if far less egregious than in the present matter. In the previous matter, the respondent sold health care coverage through an entity not recognized as a bona fide association by the federal or state government for the purpose of group health care coverage. The respondent was ordered to cease and desist from such activities and was placed under supervision for a period of three years which expired on May 2, 2014. The respondents' actions in the present case, although unknown to the Department at the time, took place during the period of supervision which is similar to a probationary period.

Little evidence exists to mitigate the seriousness of the violations. The respondents have not offered mitigating evidence or arguments. However, although the respondents exhibited a pattern of conduct with regard to Wheeler, there is no evidence of a business practice or pattern of the same nature involving other consumers.

The Department in its order to show cause requested that the Commissioner revoke the respondents' insurance producer's license(s), bar the respondents from future licensure as insurance producers, bar the respondents from applying to renew any license

previously held by them, impose a $5,000.00 fine per violation, order the respondents to cease and desist from violating insurance laws, and impose other appropriate conditions including supervision should the respondents ever become relicensed. In its motion for default judgment, the Department requested the same remedies.

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.

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	ALLEGED VIOLATIONS:
	:	
Gerard J. Halloran 6 Trout Lane Pocono Springs P.O. Box 541 Gouldsboro, PA 18424	:	Sections 310.11(4), (7), (17) and (20) of the Insurance Department Act of 1921, P.L. 789, No. 285, *as amended* (40 P.S. §§ 310.11(4), (7), (17) and (20)).
and	:	
GJH INSURANCE CENTER, INC. 39 RTE 435, Gouldsboro Plaza P.O. Box 1138 Gouldsboro, PA 18424	:	
Respondents	:	Docket No. **SC16-10-018**

ORDER

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

1. Gerard J. Halloran and GJH Insurance Center, Inc. shall **CEASE AND DESIST** from the prohibited conduct described in the adjudication.

2. All of the insurance licenses or certificates of qualification of Gerard J. Halloran and GJH Insurance Center, Inc. **ARE REVOKED** for a minimum of five (5) years pursuant to 40 P.S. 310.91 for each of Counts I through IV with these revocations to run **concurrently** with each other. The insurance licenses of Gerard J. Halloran and GJH Insurance Center, Inc. **ARE REVOKED** for a minimum of five years for each of Counts V through XII, with these revocations to run **concurrently** with each other but **consecutively** to the minimum period of revocation for Counts I through IV for a total

minimum period of revocation of **ten (10) years**. Additionally, Gerard J. Halloran and GJH Insurance Center, Inc. are prohibited from applying for a license or certificate of qualification in this Commonwealth for a minimum of ten (10) years. Gerard J. Halloran and GJH Insurance Center, Inc. also are prohibited from applying to renew any license or certificate of qualification previously held in this Commonwealth for a minimum of 10 (10) years.

3. Gerard J. Halloran and GJH Insurance Center, Inc. are jointly and severally liable for a civil penalty and shall pay such civil penalty to the Commonwealth of Pennsylvania within thirty (30) days of this order as follows:

a. Counts I through IV: $5,000.00
b. Counts V through X: $5,000.00
c. Counts XI and XII: $3,500.00

for a total of Thirteen Thousand Five Hundred Dollars ($13,500.00). Payment shall be made by certified check or money order, payable to the Commonwealth of Pennsylvania, directed to: Administrative Assistant, Bureau of Enforcement, 1227 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.

4. Should Michelle Wheeler on behalf of her company doing business as Chad Wheeler Excavating not have been reimbursed yet for premium paid to Gerard J. Halloran or GJH Insurance Center, Inc. without corresponding insurance coverage, Gerard J. Halloran or GJH Insurance Center, Inc. shall be jointly and severally liable to repay such premium as restitution, payable in the time and manner as the civil penalty set forth in paragraph 3.

5. Should either of the respondents ever become licensed at any future date, such respondent's 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 five (5) years from the date of any relicensure.

6. A respondent shall have no right to prior notice of a suspension imposed pursuant to paragraph 5 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.

7. At the hearing described in paragraph 6 of this order, the respondent shall have the burden of establishing that he or it is worthy of an insurance license.

8. In the event that the respondent's licenses are suspended pursuant to paragraph 5 of this order, and the respondent either fails to request a hearing within thirty (30) days or at the hearing fails to establish that the respondent is worthy of a license, the respondent's suspended licenses shall be revoked.

9. This order is effective immediately.

TERESA D. MILLER
Insurance Commissioner