

RECEIVED

By Admin Hearings, Ins Dept at 8:47 am, Jul 21, 2021

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:

JAMES ALBERT MINETOLA JR.
16018 BEACON HILL DRIVE
HOLLAND, PA 18966

VIOLATIONS:

63 P.S. §§ 1602.2(a)(5), 1606(a)(4)
and (13)

Applicant.

Docket No. CO21-07-004

CONSENT ORDER

AND NOW, this 21st day of July, 2021, this Order is
hereby issued by the Insurance Department of Commonwealth of Pennsylvania pursuant
to the statutes cited above and in disposition of the matter captioned above.

1. Applicant 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. Applicant 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) Applicant is James Albert Minetola, Jr. and maintains a record of his address with the Pennsylvania Insurance Department as 16018 Beacon Hill Drive, Holland, Pennsylvania 18966.
- (b) Applicant does not currently possess a Resident Public Adjuster license.
- (c) Applicant, on October 27, 2005, was convicted of Stalking, a Misdemeanor, in the Criminal Court of Bucks County, Pennsylvania and was sentenced to five (5) years of probation.
- (d) Applicant, on April 3, 2008, was convicted of Stalking, a Felony, and Harassment, a Misdemeanor, in the Criminal Courts of Bucks County Pennsylvania and was sentenced to not less than one (1) year and not more than five (5) years imprisonment, and five (5) years of probation.
- (e) Applicant, on June 8, 2008, entered into a Consent Order with the Pennsylvania Insurance Department, revoking his public adjuster license for the violations identified in finding 3(d).

- (f) Applicant electronically initiated an application for a Resident Public Adjuster license on April 21, 2021, wherein, he disclosed his criminal history and administrative action.

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) Applicant is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) 63 P.S. § 1602.2(a)(5) provides that the Department shall issue a license to an applicant who possess the general fitness, competence and reliability sufficient to satisfy the Department that the applicant is worthy of licensure.
- (c) Applicant's activities in paragraphs 3(c) through 3(e) violate 63 P.S. § 1602.2(a)(5) and reflect on his general fitness, competence and reliability to transact business as a public adjuster.
- (d) 63 P.S. § 1606(a)(4) prohibits a conviction by any court of or a plea of nolo contendere to a felony under the laws of this Commonwealth, any other state, the United States or any territory or foreign country.

- (e) Applicant's activities described in paragraph 3(d) violate 63 P.S. § 1606(a)(4).
- (f) 63 P.S. § 1606(a)(13) prohibits a public adjuster from demonstrating incompetence or untrustworthiness to transact the business of a public adjuster.
- (g) Applicant's activities described in paragraphs 3(c) through 3(e) violate 63 P.S. § 1606(a)(13).
- (h) Applicant's violations of 63 P.S. §§ 1602.2(a)(5), 1606(a)(4) and (13) are punishable by the following, under 63 P.S. § 1606:
 - (i) suspension, revocation or refusal to issue the license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
 - (iii) an order to cease and desist; and
 - (iv) any other conditions as the Commissioner deems appropriate.

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, and as a condition of licensure, the Insurance Department orders and Applicant consents to the following:

- (a) Applicant shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Applicant'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 confirmed complaint against Applicant 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.
- (c) Applicant 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 Applicant 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 Applicant's written request.
- (d) At the hearing referred to in paragraph 5(c) of this Order, Applicant shall have the burden of demonstrating that he is worthy of a license.
- (e) In the event Applicant's licenses are suspended pursuant to paragraph 5(b) above, and Applicant either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that he is worthy of a license, Applicant'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 provisions 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 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, Applicant 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. Applicant 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 a duly authorized delegate is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or duly authorized delegate.

BY: James Albert Minetola Jr.
JAMES ALBERT MINETOLA JR., Applicant

Christopher R. Monahan
COMMONWEALTH OF PENNSYLVANIA
By: CHRISTOPHER R. MONAHAN
Deputy Insurance Commissioner