

RECEIVED
INSURANCE DEPARTMENT

2019 MAR 12 AM 11:04

ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
MICHAEL GEORGE SCHWIRIAN	:	63 P.S. §§ 856(1), (3), (5) and (6)
335 Baillies Run Road	:	
Creighton, PA 15030	:	
	:	
	:	
	:	
	:	
Respondent.	:	Docket No. CO18 -12-018

CONSENT ORDER

AND NOW, this 12th day of March, 2019, 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 Michael George Schwirian, and maintains his address at 335 Baillies Run Road, Creighton, PA 15030.
- (b) Respondent is, and at all times relevant hereto has been, a licensed Motor Vehicle Physical Damage Appraiser.
- (c) Respondent was arrested and charged by Shaler Police Department (Allegheny County, PA) on August 8, 2010 with Aggravated Assault, a felony, Terrorist Threats and Resisting Arrest or Other Law Enforcement, both misdemeanors.
- (d) Respondent's original charges were withdrawn and was charged with two (2) summary counts of Disorderly Conduct on March 24, 2011.
- (e) Respondent failed to report his criminal charges on his June 30, 2011 license renewal.

- (f) Respondent was charged by Shaler Police Department on April 3, 2016 with Simple assault, a misdemeanor.
- (g) Respondent's charge was withdrawn on June 16, 2016.
- (h) Respondent was arrested and charged by Shaler Police Department on February 15, 2018 with Rape, Involuntary Deviate Sexual Intercourse, Sexual Assault, Corruption of Minors, Unlawful Contact with Minor and Incest, all felonies, and Endangering Welfare of Children, a misdemeanor, from an incident that took place within his residence.
- (i) Respondent moved from his residential address in April 2018 to 335 Baillies Run Road, Creighton, PA 15030.
- (j) Respondent did not report his pending felony or misdemeanor charges nor his change of address on his June 2018 license renewal.
- (k) Respondent entered a guilty plea on October 9, 2018 in the Court of Common Pleas of Allegheny County to Sexual Assault, a felony.

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 P.S. § 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(j) violate 63 P.S. § 856(1).
- (d) 63 P.S. § 856(3), states the Commissioner may deny initial issuance of, suspend, revoke or refuse to renew any appraiser's license if the licensee obtained his license through willful misrepresentation or fraud.
- (e) Respondent's activities described above in paragraphs 3(d) and 3(j) violate 63 P.S. § 856(3).

- (f) 63 P.S. § 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.

- (g) Respondent's activities described above in paragraph 3(k) violate 63 P.S. § 856(5).

- (h) 63 P.S. § 856(6), states the Commissioner may deny initial issuance of, suspend, revoke or refuse to renew any appraiser's license if the licensee has shown himself to be incompetent, untrustworthy, or a source of injury and loss to the public.

- (i) Respondent's activities described above in paragraphs 3(c) through 3(k) violate 63 P.S. § 856(6).

- (j) Respondent's violations of 63 P.S. §§ 856(1), (3), (5) and (6) are punishable by the following, under 63 P.S. § 856:
 - (i) The commissioner may suspend or revoke any appraiser's license for any of the following causes:
 - (1) If the license 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) All licenses of Respondent to do the business of insurance are hereby revoked.
- (c) If Respondent should ever become licensed in the future, his 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 issuance of such licenses.

- (d) 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.
- (e) At the hearing referred to in paragraph 5(d) of this Order, Respondent shall have the burden of demonstrating that he is worthy of an insurance license.
- (f) In the event Respondent's licenses are suspended pursuant to paragraph 5(c) 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 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, 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 a duly authorized delegee 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 delegee.

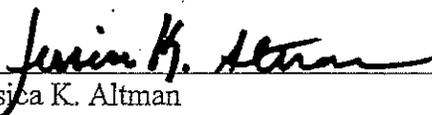
BY: Source R Schin POA
MICHAEL GEORGE SCHWIRIAN, Respondent

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

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The
Administrative Code of 1929

AND NOW, this 28th day of March, 2018, Christopher R. Monahan,
Deputy Insurance Commissioner, is hereby designated as the Commissioner's duly
authorized representative for purposes of entering in and executing Consent Orders. This
delegation of authority shall continue in effect until otherwise terminated by a later Order
of the Insurance Commissioner.



Jessica K. Altman
Insurance Commissioner

