

STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT

In re: Richard Morrison
Docket No. 08-073-EP

ORDER ON LIMITED MOTION FOR REHEARING AND MOTION TO STAY

Background

A hearing on the Respondent's Motion to Stay and Limited Motion for Rehearing was held at the New Hampshire Insurance Department ("Department") offices at 21 South Fruit St., Suite 14, Concord, NH at 9:00 AM on Wednesday, January 27, 2010. At the hearing the Respondent was provided with the opportunity to provide testimony in support of his pending motions, and the Department was afforded opportunity to object to the Respondent's pending motions. The Respondent was represented by Arnold Rosenblatt, Esq. The Respondent was in attendance but did not testify. The Department was represented by Richard McCaffrey, Esq., Compliance and Enforcement Counsel.

At the hearing Attorney Rosenblatt withdrew the Respondent's Assented to Motion to Stay. Consequently, the Respondent's Motion to Stay is moot and this Order will not address that issue.

With respect to the Respondent's Limited Motion for Rehearing, this license revocation action resulted in an Order by the Hearings Officer assessing, inter alia, a fine of \$20,000 for various violations of the insurance laws and Department rules.

Discussion and Conclusion

The Respondent alleges that as a result of the Order revoking his New Hampshire insurance producer license he has experienced a loss of income. The Respondent does not

allege that he has no income. He does not allege that he has no assets or the value of those assets, if liquidated in whole or in part, is insufficient to pay the ordered fine. The Respondent provided no documentary evidence at the hearing on this Motion of his current financial condition, and testimony by Attorney Rosenblatt stated only that the Respondent has suffered a reduction in income due to the license revocation Order, and due to the provisions of a non-compete agreement with his former employer, MetLife Insurance Company.

Attorney McCaffrey stated on the record that it was not the Department's intent to have the fine in this matter serve a punitive purpose. Attorney McCaffrey also stated that the Respondent knew any violation would have a serious impact on his ability to make a living, and that Attorney McCaffrey's assent to a reduced fine was because the Department's main regulatory goal of revoking the Respondent's license for the serious misconduct had been met. Attorney McCaffrey stated he believed the fine could be substantially reduced and still meet the Department's regulatory goal.

Although the Department has assented to a reduction in the assessed fine, the violations the Respondent was found to have engaged in are serious and are not merely technical violations of law. The failure of the Respondent to provide any proof of his inability to pay the fine assessed in the original Order in this matter leaves doubt in the mind of the Hearings Officer of his ability to pay a fine. Although the Department states that the fine in this matter should be substantially reduced, the Department asserts that a fine remains appropriate in this matter.

THEREFORE, it is hereby ordered that the penalty assessed in the January 5, 2010 Order in this matter be reduced by one half, to \$10,000.00 (ten thousand dollars), payable in full no later than February 15, 2010. Alternatively, the Respondent may elect to pay

the fine in four equal installments of \$2,500.00 (two thousand five hundred dollars) over the next 12 months, with a \$2,500.00 payment due on each of the following dates: March 1, 2010, June 1, 2010, September 1, 2010, and December 1, 2010. Should the Respondent elect this four payments option, he shall notify the Hearings Officer and Attorney McCaffrey in writing of his decision no later than February 15, 2010, and shall send all such payments to the attention of Attorney McCaffrey to be received by him no later than the dates specified above. Should the Respondent not provide a written election to the Department by February 15, 2010, the \$10,000.00 fine enumerated above shall be paid in full by February 15, 2010. All such payments shall be made by bank check or money order. Should the payments be received later than the specified dates enumerated above, the fine shall immediately revert to that set forth in the final order in this matter, and the full \$20,000.00 fine set forth in the final order shall become due and payable immediately upon default of any such payment.

SO ORDERED.



Kathleen L. Belanger
Hearings Officer

Dated: 2/4/10