

OCT - 1 2015

DEPT OF INSURANCE
BY MS

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

DOHERTY, BRIAN GERARD,

Petitioner.

No. 15A-008-INS

**AMENDED
ORDER DENYING REQUEST
FOR REHEARING**

FINDINGS OF FACT

1. On February 12, 2015, the Department of Insurance ("Department") filed a Notice of Hearing In the Matter of Doherty, Brian Gerard, Docket No. 15A-008-INS ("Docket No. 15A-008-INS") setting a hearing for March 19, 2015.

2. On May 1, 2015, the Department filed an Amended Notice of Hearing in Docket No. 15A-008-INS re-setting the hearing for June 8, 2015.

3. Upon Motion by Mr. Doherty ("Petitioner"), the Office of Administrative Hearings ("OAH") continued Docket No. 15A-008-INS from June 8, 2015 to August 11, 2015.

4. On August 11, 2015, OAH conducted a hearing in Docket No. 15A-008-INS. Petitioner failed to attend.

5. On or about August 31, 2015, the Administrative Law Judge ("ALJ") issued an Administrative Law Judge Decision ("ALJ's Decision"), received by the Director on September 1, 2015. (Exhibit A.)

6. On September 3, 2015, the Assistant Director (acting for the Acting Director) filed an Order adopting the ALJ's Decision and denying Petitioner's application for an Arizona insurance producer license. (Exhibit B without ALJ's Decision attached.)

7. On September 14, 2015, Petitioner timely filed a request with the Department for a rehearing pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09. (Exhibit C.)

...

1 8. On September 24, 2015, the Department filed the Department's Response to
2 Request for Rehearing. (Exhibit D.)

3 **CONCLUSIONS OF LAW**

4 1. Petitioner timely filed his Motion for Rehearing. A.A.C. R20-6-114(A).

5 2. The Department timely filed its Response to Motion for Rehearing. A.A.C.
6 R20-6-115.

7 3. Notice to Petitioner was proper.

8 4. A.A.C. R20-6-114(B) authorizes the Director to grant a rehearing or review
9 only if Petitioner establishes one or more of the following grounds which have materially
10 affected Petitioner's rights:

11 1. Irregularity in the hearing proceedings, or any order or abuse of
12 discretion whereby the party seeking rehearing or review was deprived
of a fair hearing;

13 2. Misconduct by the Director, the hearing officer or any party to the
14 hearing;

15 3. Accident or surprise which could not have been prevented by
16 ordinary prudence;

17 4. Newly discovered material evidence which could not have been
18 discovered with reasonable diligence and produced at the hearing;

19 5. Excessive or insufficient sanctions or penalties imposed;

20 6. Error in the admission or rejection of evidence, or errors of law
21 occurring at the hearing or during the course of the hearing;

22 7. Bias or prejudice of the Director or hearing officer;

23 8. That the order, decision, or findings of fact are not justified by the
24 evidence or are contrary to law.

24 ...
25 ...
26 ...


1 5. The Acting Director has reviewed Petitioner's Motion for Rehearing and the
2 Department's Response to Motion for Rehearing and finds that Petitioner has failed to
3 establish a ground upon which to grant a rehearing or review pursuant to A.A.C. R20-6-
4 114.

5 ORDER

6 IT IS ORDERED:

7 1. Petitioner's request is denied.

8 DATED this 1st day of October, 2015.

9
10 
11 Yvonne R. Hunter, Assistant Director for
Darren T. Ellingson, Acting Director
12 Arizona Department of Insurance
13

14 **COPY** with exhibits of the foregoing delivered electronically
15 this 1st day of October, 2015, to:

16 ALJ Tammy Eigenheer
Office of Administrative Hearings

17 **COPY** with exhibits mailed same date by Regular Mail
18 and Certified Mail, Return Receipt Requested, to:

19 Brian G. Doherty
20 40703 N. Harbour Town Court
Anthem, Arizona 85086-1828
21 Petitioner

22 **COPY** of the foregoing delivered same date (without exhibits) to:

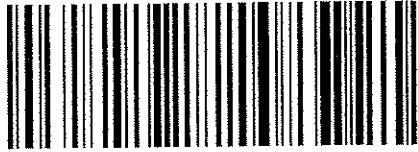
23 Mary Kosinski, Executive Assistant for Regulatory Affairs
Steven Fromholtz, Licensing Supervisor
24 Arizona Department of Insurance
25 2910 North 44th Street, Suite 210
Phoenix, Arizona 85018
26

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COPY sent same date via electronic mail (without exhibits) to:

Liane Kido
Assistant Attorney General
Consumer@azag.gov
Attorney for the Department of Insurance

Maidene Scheiner
Maidene Scheiner



7009 2250 0004 1887 7277

Exhibit A

Docket No. 15A-008-INS

RECEIVED

SEP 01 2015

AZ DEPT. OF INSURANCE
ADMINISTRATIVE SERVICES

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Insurance License
Denial of:

DOHERTY, BRIAN GERARD,
Petitioner.

No. 15A-008-INS

ADMINISTRATIVE
LAW JUDGE DECISION

HEARING: August 11, 2015

APPEARANCES: Petitioner Brian Gerard Doherty did not appear. The Arizona Department of Insurance was represented by Assistant Attorney General Liane Kido.

ADMINISTRATIVE LAW JUDGE: Tammy L. Eigenheer

FINDINGS OF FACT

1. On November 5, 2014, Brian Gerard Doherty submitted an Application for an Individual Insurance License (Application) with the Arizona Department of Insurance (Department) for a life and accident/health insurance producer license.

2. Mr. Doherty answered "No" to Question B in Section VII, Additional Information on the Application. Question B asked: "Have you EVER had any professional, vocational, business [sic] license or certification refused, denied, suspended, revoked or restricted, or a fine imposed by a public authority?"

3. In 1997, Mr. Doherty's license to practice law was suspended by the New Hampshire Bar for a period of two years. As a result, Mr. Doherty received reciprocal two year suspensions in Florida and Massachusetts. He was reinstated in Florida in March 2001.

4. On or about December 22, 2003, Mr. Doherty applied for a Life Insurance Producer license in Arizona. License number 168894 was issued on January 13, 2004, and was last renewed on March 31, 2009. Mr. Doherty did not disclose the New Hampshire bar suspension in his application for and renewal of license number 168894.

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-9826

1 5. On or about February 16, 2012, Mr. Doherty was disbarred by the Florida
2 Supreme Court in Case No. SC10-332 for professional misconduct and ordered to pay
3 costs of \$8,787.80.

4 6. On or about November 16, 2012, the New Hampshire Supreme Court
5 disbarred Mr. Doherty based on the action taken by the Florida Supreme Court.

6 7. On or about July 15, 2013, the Hearing Officer for the Department of
7 Financial Services in Tallahassee, Florida issued a Written Report and
8 Recommendation in Case No. 130776-13-AG recommending a Final Order be entered
9 against Mr. Doherty for failing to timely report his disbarment by the Florida Supreme
10 Court.

11 8. On or about August 2, 2013, the Massachusetts Bar issued to Mr. Doherty
12 an Order of Suspension for an Indefinite Period based on the action taken by the
13 Florida Supreme Court.

14 9. On or about September 30, 2013, the Department of Financial Services of
15 the State of Florida entered a Final Order in Case No. 130776-13-AG, which ordered
16 that all Mr. Doherty's Florida insurance licenses be suspended for a period of 12
17 months from the date of the Final Order and assessing Mr. Doherty a fine of \$500.00.

18 10. In its decision, the Florida Supreme Court noted as aggravating factors
19 that Mr. Doherty had a history of discipline, acted with a selfish motive, refused to
20 acknowledge the wrongful nature of his misconduct, and had substantial experience in
21 the practice of law. The decision also noted that Mr. Doherty had made false
22 statements in applications for errors and omissions insurance policies regarding his
23 disciplinary history.

24 11. On or about January 12, 2015, the Department sent Mr. Doherty written
25 notification that it was denying his Application.

26 12. On or about January 20, 2015, Mr. Doherty timely appealed the
27 Department's denial of the Application, resulting in the instant matter being brought
28 before the Office of Administrative Hearings.

29 **CONCLUSIONS OF LAW**

1 1. Mr. Doherty bears the burden of proof and the standard of proof on all
2 issues is by a preponderance of the evidence. A.A.C. R2-19-119.

3 2. A preponderance of the evidence is "evidence of greater weight or more
4 convincing than the evidence which is offered in opposition to it; that is, evidence which
5 as a whole shows that the fact sought to be proved is more probable than not."
6 BLACK'S LAW DICTIONARY 1182 (6th ed. 1990).

7 3. A.R.S. § 20-295(A) and (F) provide the Director of the Department with
8 the discretion to deny, suspend, or revoke an insurance producer's license, and/or
9 impose a civil penalty, and/or order restitution.

10 4. Mr. Doherty's conduct, as set forth above in the Findings of Fact,
11 constitutes demonstrating incompetence, untrustworthiness, or financial irresponsibility
12 in the conduct of business in this state or elsewhere, within the meaning of A.R.S. § 20-
13 295(A)(8).

14 5. Mr. Doherty's conduct, as set forth above in the Findings of Fact,
15 constitutes having an insurance producer license, or its equivalent, denied, suspended,
16 or revoked in any state, province, district, or territory within the meaning of A.R.S. § 20-
17 295(A)(9).

18 6. Mr. Doherty did not offer any evidence in support of the Application.
19 Under the circumstances presented herein, Mr. Doherty failed to establish that he has
20 the requisite qualifications to hold an insurance producer's license.

21 7. The weight of the evidence of record established that the Department had
22 sufficient grounds to deny the Application pursuant to A.R.S. § 20-295(A)(8) and A.R.S.
23 § 20-295(A)(9).

24 8. Mr. Doherty failed to prove by a preponderance of the evidence that the
25 Department's denial of the Application should be reversed.

26 **ORDER**

27 Based on the above, the determination made by the Department to deny the
28 Application is affirmed.
29
30

Exhibit B

Docket No. 15A-008-INS

STATE OF ARIZONA
FILED

SEP 3 - 2015

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY MS

In the Matter of:

No. 15A-008-INS

DOHERTY, BRIAN GERARD,

ORDER

Petitioner.

On August 31, 2015, the Office of Administrative Hearings, through Administrative Law Judge Tammy L. Eigenheer, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on September 1, 2015, a copy of which is attached and incorporated by this reference. The Acting Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:

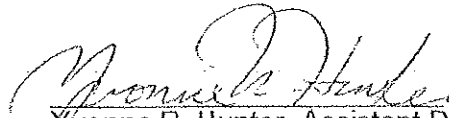
1. The Acting Director adopts the Recommended Findings of Fact and Conclusions of Law.
2. The Acting Director denies Brian Gerard Doherty's application for an Arizona insurance producer license.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Petitioner may request a rehearing with respect to this order by filling a written motion with the Acting Director of the Department of Insurance within 30 days of the date of this Order, setting forth the basis for relief under A.A.C. R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary to request a rehearing before filing an appeal to Superior Court.

1 Petitioner may appeal the final decision of the Acting Director to the Superior Court
2 of Maricopa County for judicial review pursuant to A.R.S. § 20-166. A party filing an appeal
3 must notify the Office of Administrative Hearings of the appeal within ten days after filing
4 the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B).

5 DATED this 2 day of September, 2015.

6
7 
8 Yvonne R. Hunter, Assistant Director
9 Arizona Department of Insurance for
10 Acting Director, Darren Ellingson

11 COPY of the foregoing mailed this
12 3rd day of September, 2015, to:

13 Brian G. Doherty
14 40703 N. Harbour Town Court
15 Anthem, Arizona 85086-1828
16 Petitioner

17 Mary Kosinski, Executive Assistant for Regulatory Affairs
18 Darren Ellingson, Acting Director
19 Yvonne Hunter, Consumer Affairs Assistant Director
20 Catherine O'Neil, Consumer Legal Affairs Officer
21 Steven Fromholtz, Licensing Administrator
22 Barbara Beltran, Business Office
23 Arizona Department of Insurance
24 2910 North 44th Street, Suite 210
25 Phoenix, Arizona 85018

26 Liane Kido
Assistant Attorney General
1275 West Washington Street
Phoenix, Arizona 85007-2926

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007

27 
28 Maidene Scheiner

Exhibit C

Docket No. 15A-008-INS

**STATE OF ARIZONA
ADMINISTRATIVE PROCEEDING**

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SEP 14 2015

ARIZONA DEPARTMENT OF INSURANCE
CONSUMER AFFAIRS DIVISION

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

In Re: **BRIAN GERARD DOHERTY**

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

REQUEST FOR REHEARING PUSUANT TO A.R.S. § 41-1092.09

Brian Doherty received a Notice dated September 2, 2015 that the Acting Director of the Arizona Department of Insurance had denied his license application. This Notice was specifically predicated upon certain findings and rulings contained in an August 31, 2015 Order issued by an Administrative Law Judge. Mr. Doherty wishes to exercise his right to a rehearing of this matter.

Mr. Doherty is entitled to request a rehearing based upon the following, as specified in the Arizona Administrative Code, R20-6-144:

1. Irregularity in the hearing proceedings or any order or abuse of discretion hereby the party seeking rehearing or review was deprived of a fair hearing.

Argument: The hearing went forward without Mr. Doherty's participation, occasioned by his lack of knowledge that a hearing was scheduled. Despite a lengthy record of contesting the actions of the Arizona Insurance Department, no attempt was made to contact him, or to reschedule the hearing. Regardless of his presence or lack thereof, the Order was predicated upon factual and legal deficiencies.

5. Excessive . . . sanctions and penalties imposed.

Argument: Mr. Doherty has been denied the opportunity to work in a career in which he functioned and was highly successful for more than 15 years over matters which, in essence, constitute the inaccurate completion of forms more than 10 years ago. Such a harsh sanction is unjustified.

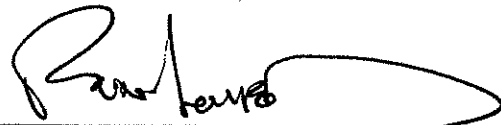
8. That the order and findings of fact are not justified by the evidence or are contrary to law.

Argument: The August 31 Order is largely predicated upon an obvious error, that Mr. Doherty failed to disclose a material matter in his 2014 application. Additionally, Arizona Law, notably § 20-295(A)(9) of the *Arizona Revised Statutes* has specific requirements that have to be proved to deny licensing. The Order is silent on how the Arizona Department of Insurance met its statutory burden.

WHEREFORE, Mr. Doherty prays:

- A. That this matter be scheduled for rehearing; and
- B. For further relief as is deemed just and proper.

**RESPECTFULLY SUBMITTED,
BRIAN GERARD DOHERTY**



Brian Doherty
40703 N Harbour Town Court
Anthem, Arizona 85086-1828
623-551-9070
bdoherty2010@cox.net

Dated: September 9, 2015

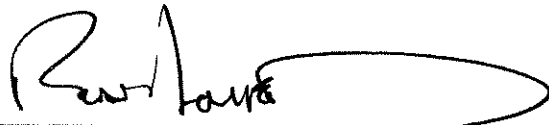
Certificate of Service

I certify that a copy of this pleading was sent this day to:

Yvonne R. Hunter, Acting Director
AZ DEPT. OF INSURANCE
2910 N. 44th Street
Suite 210
Phoenix, AZ 85018

Liane Kido, Esq.
AZ ATTORNEY GENERAL'S OFFICE
1275 W Washington Street
Phoenix, AZ 85007

Dated: September 9, 2015



Brian Doherty

Exhibit D

Docket No. 15A-008-INS

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SEP 24 2015

AZ DEPT. OF INSURANCE
ADMINISTRATIVE SERVICES

1 MARK BRNOVICH
2 Attorney General
3 Firm Bar No. 14000

4 Liane C. Kido
5 Assistant Attorney General
6 State Bar No. #023696
7 1275 West Washington Street
8 Phoenix, Arizona 85007-2926
9 Telephone: (602) 542-8011
10 Facsimile: (602) 542-4377
11 Attorneys for Department of Insurance

12 **BEFORE THE ARIZONA DEPARTMENT OF INSURANCE**

13 **No. 15A-008-INS**

14 In the Matter of:

15 **DOHERTY, BRIAN GERARD,**

16 Petitioner.

17 **DEPARTMENT'S RESPONSE TO
18 REQUEST FOR RE-HEARING**

19 The Arizona Department of Insurance ("Department"), by and through undersigned
20 counsel, hereby responds to Brian Gerard Doherty's ("Doherty") Request for Rehearing.
21 The Department requests that Doherty's request be denied. This Response is supported by
22 the following Memorandum of Points and Authorities.
23

24 DATED this 24th day of September, 2015.

25 MARK BRNOVICH, Attorney General

26 BY: /s/ Liane C. Kido

Liane C. Kido
Assistant Attorney General
Consumer Protection and Advocacy Department
Attorneys for the Department

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. STATEMENT OF THE FACTS**

3 On or about November 5, 2014, Mr. Doherty submitted an application for a resident
4 life and accident/health insurance producer license. In his application, Mr. Doherty
5 disclosed that he had been disbarred in the State of Florida for professional misconduct, with
6 a reciprocal suspension in Massachusetts and New Hampshire as a result of the Florida
7 disbarment. Mr. Doherty also disclosed that the Florida Department of Financial Services
8 (“Florida Department”) had suspended his license for twelve (12) months and imposed a
9 penalty of five hundred dollars (\$500.00) based on his disbarment and his failure to timely
10 report the disbarment to the Florida Department.

11 On January 12, 2015, the Department issued a letter notifying Mr. Doherty that his
12 application had been denied.

13 Mr. Doherty filed a timely appeal of the Department’s decision.

14 On February 12, 2015, a Notice of Hearing was issued. The Office of Administrative
15 Hearings set the matter for hearing on March 19, 2015.

16 On February 16, 2015, Mr. Doherty filed a Motion to Continue the hearing. The
17 Administrative Law Judge (“ALJ”) granted the Motion to Continue and reset the matter for
18 June 1, 2015.

19 On February 26, 2015, the Department filed a Motion to Continue the matter due to a
20 scheduling conflict. The ALJ reset the matter for June 8, 2015.

21 On May 1, 2015, an Amended Notice of Hearing was issued.

22 On May 13, 2015, Mr. Doherty filed a second Motion to Continue the hearing. The
23 ALJ granted the Motion to Continue and reset the matter for August 11, 2015.

24 On August 11, 2015, Mr. Doherty failed to appear for the hearing.

25 In the Recommended decision, the ALJ found that “[t]he weight of the evidence
26 established that the Department had sufficient grounds to deny the Application...” See ¶7,

1 page 3, Administrative Law Judge Decision¹. The ALJ also found that “Mr. Doherty failed
2 to prove by a preponderance of evidence that the Department’s denial of the Application
3 should be reversed.” See ¶8, page 3, Administrative Law Judge Decision.

4 On September 3, 2015, the Director issued an Order (“Order”), *attached* as Exhibit A,
5 in this matter. The Director adopted the Administrative Law Judge Decision and denied Mr.
6 Doherty’s application for an insurance producer’s license.

7 On September 11, 2015, Mr. Doherty submitted his Motion to Strike/Vacate the Order
8 to the Office of Administrative Hearings. The ALJ forwarded the document to the
9 Department, noting that it “consist[s] of an apparent request for rehearing.”

10 On September 14, 2015, the Department received Mr. Doherty’s Motion to
11 Strike/Vacate the Order. The Department agrees with the ALJ’s assessment of the document
12 and will treat Mr. Doherty’s Motion to Strike/Vacate the Order as a Request for Rehearing
13 (“Request for Rehearing”).

14 **II. STATEMENT OF THE ISSUES**

15 Mr. Doherty’s Request for Rehearing is based on what Mr. Doherty characterizes as:

- 16 1. Inaccuracies in the Order’s Findings of Fact;
- 17 2. Misapplication of the law, specifically A.R.S. § 20-295(A)(9); and
- 18 3. Fundamental fairness.

19 **III. ARGUMENT**

20 **A. The Inaccuracy in the Findings of Fact Are Not Material to the Order.**

21 The grounds for granting a rehearing or review are identified in Arizona
22 Administrative Code (“A.A.C.”) R20-6-114(B). In addition, a motion for rehearing or review
23 must specify the grounds upon which the motion is based, and set forth specific facts and law
24 supporting rehearing or review according to A.A.C. R20-6-114(C).

25
26 ¹ The Administrative Law Judge Decision is attached to the Director’s Order as Exhibit A.

1 A.A.C. R20-6-114(B) states:

2 A rehearing or review of the decision may be granted for any one of the
3 following causes that materially affect the moving party's rights:

4 1. Irregularity in the hearing proceedings or any order or abuse of
5 discretion whereby the party seeking rehearing or review was deprived of a fair
6 hearing;

7 2. Misconduct by the Director, the hearing officer, or any party to the
8 hearing;

9 3. Accident or surprise which could not have been prevented by
10 ordinary prudence;

11 4. Newly discovered material evidence which could not have been
12 discovered with reasonable diligence and produced at the hearing;

13 5. Excessive or insufficient sanctions or penalties imposed;

14 6. Error in the admission or rejection of evidence, or errors of law
15 occurring at the hearing or during the course of the hearing;

16 7. Bias or prejudice of the Director or hearing officer;

17 8. That the order, decision, or findings of fact are not supported by the
18 evidence or is contrary to law.

19 As stated above, Mr. Doherty's Motion to Strike/Vacate the Order will be treated as a
20 Request for Rehearing. As such, Mr. Doherty's contention regarding inaccuracies in the
21 Findings of Fact will be treated as an argument regarding irregularities in the order pursuant
22 to A.A.C. R20-6-116(B)(1).

23 Mr. Doherty cites specifically to paragraphs 1 and 2 of the Findings of Fact in the
24 Order. Paragraph 1 of the Findings of Fact states:

25 On November 5, 2014, Brian Gerard Doherty submitted an
26 Application for an Individual License (Application) with the
Arizona Department of Insurance (Department) for a life and
accident/health insurance producer license.

Mr. Doherty does not specify what inaccuracies he feels are contained in paragraph 1
and the Department can ascertain no inaccuracy in paragraph 1.

Paragraph 2 of the Findings of Fact states:

Mr. Doherty answered "No" to Question B in Section VII,
Additional Information on the Application. Question B
asked: "Have you EVER had any professional, vocational,

1 business [sic] license or certification refused, denied,
2 suspended, revoked or restricted, or a fine imposed by any
3 public authority?

4 Mr. Doherty is correct that paragraph 2 misstates the facts. Mr. Doherty answered
5 “Yes” to Question B in Section VII on his 2014 application. See State’s Exhibit 1².

6 However, the record reflects that Mr. Doherty answered “No” to Question B in
7 Section VII on his 2003 Application for an Individual Insurance License, see State’s Exhibit
8 6, despite having had his license to practice law suspended by the New Hampshire Bar in
9 1997 and receiving reciprocal suspension by the Florida and Massachusetts Bars, See ¶3,
10 page 1, Administrative Law Judge Decision, and State’s Exhibits 2, 3 and 4.

11 Further, though the Department presented evidence to support a violation of A.R.S. §
12 20-295(A)(1) which prohibits “providing incorrect, misleading, incomplete or material
13 untrue information in the license application”, the Conclusion of Law and Order were based
14 only upon Mr. Doherty’s violations of A.R.S. §§ 20-295(A)(8) and (A)(9). See ¶7, page 3,
15 Administrative Law Judge Decision. The Conclusions of Law do not reference A.R.S. § 20-
16 295(A)(1).

17 The inaccuracy in paragraph 2 of the Findings of Fact is harmless error.

18 **B. A.R.S. § 20-295(A)(9) Was Not Misapplied to the Facts.**

19 In his Request for Rehearing, Mr. Doherty states “§ 20-295(A)(9) of the Arizona
20 Revised Statutes authorizes the AZ Department to deny (or revoke) insurance licensing to an
21 individual who demonstrates *incompetence, untrustworthiness, or financial irresponsibility*
22 in the conduct of business in Arizona or elsewhere (*emphasis added*).” See Page 3, Request
23 for Rehearing.

24 Though Mr. Doherty cites to A.R.S. § 20-295(A)(9), the language he quotes is from
25 A.R.S. § 20-295(A)(8).

26 ² A copy of the hearing exhibits are attached hereto, collectively, as Exhibit B.

1 This will be treated as an argument that the order, decision, or findings of fact are not
2 justified by the evidence or are contrary to law, pursuant to A.A.C. R20-6-116(B)(8).

3 Mr. Doherty argues, in his Request for Rehearing, that his misconduct did not
4 constitute incompetence, untrustworthiness or financial irresponsibility under A.R.S. § 20-
5 295(A)(8).

6 The record shows that in his Florida disbarment proceedings, Mr. Doherty was found
7 to have “created a clear conflict of interest in that there was a substantial risk that his
8 representation of the client would be limited by his own interests. Doherty acted purposefully
9 to make his personal, pecuniary interests at least as important as those of the client and her
10 estate. He advised his client to select various means of estate planning and wealth
11 management that would earn him a personal financial benefit. Additionally, Doherty
12 participated in a business transaction with his client and failed to disclose his substantial
13 interest in the transaction.” *See State’s Exhibit 2a, pages 14-15.*

14 Further, the Supreme Court of Florida stated, “We believe [Doherty’s] actions amount
15 to egregious misconduct.” *See State’s Exhibit 2a, page 15.*

16 It should also be noted that Mr. Doherty’s client in the Florida disbarment matter was
17 a widowed grandmother who was in poor health at the time of the transactions due to a
18 recent diagnosis of cancer. *See State’s Exhibit 2a, pages 3 and 5.* Mr. Doherty took
19 advantage of an extremely vulnerable individual for his own personal financial gain.

20 The referee who heard the disbarment matter found four aggravating factors in Mr.
21 Doherty’s case: 1. Prior disciplinary history; 2. Mr. Doherty acted with a selfish motive; 3.
22 Mr. Doherty refused to acknowledge the wrongful nature of his misconduct; and 3. Mr.
23 Doherty had substantial experience in the practice of law. *See State’s Exhibit 2a, page 17.*

24 In his prior disciplinary history, Mr. Doherty was found to have accepted a \$10,000
25 retainer “[d]espite the specific rules which required Doherty to disclose his acceptance of the
26 funds and file a motion for court approval... Later, the bankruptcy court ordered Doherty to

1 disgorge the funds. He refused to do so for more than four years after the court's order." *See*
2 State's Exhibit 2a, page 17.

3 The referee in the Florida disbarment proceedings also found that Mr. Doherty had
4 "made false statements in his application for errors and omissions insurance policies,
5 concerning his disciplinary history." *See* State's Exhibit 2a, pages 17-18.

6 There were no mitigating factors in Mr. Doherty's disbarment matter. *See* State's
7 Exhibit 2a, page 18.

8 Mr. Doherty's misconduct which led to his disbarment by the Supreme Court of
9 Florida constitutes incompetence, untrustworthiness, or financial irresponsibility. Mr.
10 Doherty ignored specific rules governing the behavior of attorneys in order to take advantage
11 of a vulnerable client for his personal financial gain, and had previously willfully ignored
12 bankruptcy rules and an order from the bankruptcy court, again for his personal financial
13 gain. Mr. Doherty's repeated violation of rules governing his practice of law demonstrates
14 incompetence and his willingness to put his own financial gain above his duties to his client
15 and the court demonstrate his untrustworthiness.

16 Additionally, Mr. Doherty challenges the Department's reliance on A.R.S. § 20-
17 295(A)(9), which allows the Director to deny a license if the applicant has had an "insurance
18 license, or its equivalent, denied, suspended or revoked in any state, province, district or
19 territory." Mr. Doherty argues that the Department's actions are "premature" because Mr.
20 Doherty is currently in the process of attempting to reinstate his Florida Insurance license.

21 Mr. Doherty's Florida insurance licenses were suspended for twelve (12) months and
22 he was ordered to pay an administrative fine of \$500.00 in a Final Order issued in Case No.
23 130776-13-AG on September 30, 2013. *See* State's Exhibit 5, page 2.

24 Mr. Doherty's Motion to Continue, filed in this matter on February 16, 2015 with the
25 Office of Administrative Hearings, *attached* as Exhibit C, makes it clear that he is currently
26

1 appealing the denial of the reinstatement of his Florida insurance license, not the initial
2 twelve (12) month suspension.

3 Regardless of the outcome of Mr. Doherty's reinstatement process, Mr. Doherty's
4 insurance license was suspended in Florida, which provides grounds for the denial pursuant
5 to A.R.S. § 20-295(A)(9).

6 Further, Mr. Doherty's disbarment in Florida and reciprocal suspensions in
7 Massachusetts and New Hampshire also provide grounds for the denial of his application for
8 licensure. Steven Fromholtz, Producer Licensing Administrator for the Department, testified
9 that the Department considers a law license to be equivalent to an insurance license because
10 they are both professional licenses. 8/11/15 *Hearing Record* at 0:15:55-0:16:10.

11 The record establishes that the denial of Mr. Doherty's application for licensure was
12 justified pursuant to A.R.S. § 20-295(A)(8) and (A)(9), and not contrary to law.

13 **C. The Denial of the Request for Rehearing Would Not Violate Concepts of**
14 **Fundamental Fairness.**

15 In his Request for Rehearing, Mr. Doherty argues that he "has the right to have his
16 matter heard; to place evidence before this tribunal; and to have his credibility evaluated by
17 the Administrative Law Judge." What Mr. Doherty fails to appreciate is that he was
18 provided this opportunity and failed to appear for his hearing.

19 Mr. Doherty provides no good reason why he did not appear.

20 The August 11, 2015 hearing had been continued from its previously scheduled date
21 of June 8, 2015 upon Mr. Doherty's own motion. The Minute Entry – Granting Continuance
22 issued by the Administrative Law Judge was sent to Mr. Doherty's address of record, 40703
23 N. Harbour Town Court, Anthem, AZ 85086.

24 There is no indication that Mr. Doherty did not receive the Minute Entry continuing
25 the hearing to August 11, 2015, nor that he had not received previous Minute Entries or
26 pleadings sent to the same address. Also, if Mr. Doherty had failed to receive the Minute

1 Entry regarding his Motion to Continue, he had every opportunity to contact the Office of
2 Administrative Hearings to follow up on his motion. Mr. Doherty is a former attorney and is
3 well aware of hearing procedures.

4 In his Request for Rehearing, Mr. Doherty states, “[t]hrough error, mistake or
5 inadvertence, the petitioner was unaware that a hearing in the matter was scheduled for
6 August 11, 2015.” Mr. Doherty’s carelessness and failure to appear for his hearing do not
7 provide grounds for rehearing pursuant to A.A.C. R20-6-114, nor does it violate concepts of
8 fundamental fairness to expect a former attorney to appear at a scheduled hearing that was
9 continued upon his own motion.

10 **IV. CONCLUSION**

11 Mr. Doherty has failed to provide any credible grounds upon which a rehearing may
12 be properly granted, pursuant to A.A.C. R20-6-114. A rehearing in this matter is
13 inappropriate, particularly when Mr. Doherty failed to appear at the administrative hearing
14 and offers no viable reason for his failure to appear. Therefore, the Department respectfully
15 requests that Mr. Doherty’s Request for Rehearing be denied.

16 RESPECTFULLY SUBMITTED this 24th day of September, 2015.

17 MARK BRNOVICH, Attorney General

18
19 BY: /s/ Liane C. Kido
20 Liane C. Kido
21 Assistant Attorney General
22 Attorneys for the Department

23 **FILED** via electronic mail this 24th
24 day of September, 2015, with:

25 Darren Ellingson, Acting Director
26 Arizona Department of Insurance

Brian Doherty
bdoherly2010@cox.net
Petitioner

1 **COPY** of the foregoing mailed
2 same date to:

3 Brian Doherty
4 40703 N. Harbour Town Court
5 Anthem, Arizona 85086
6 Petitioner

7 /s/ Teresa Carranza
8 4661077

9

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EXHIBIT - A

STATE OF ARIZONA
FILED

SEP 3 - 2015

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY RLS

In the Matter of:

DOHERTY, BRIAN GERARD,

Petitioner.

No. 15A-008-INS

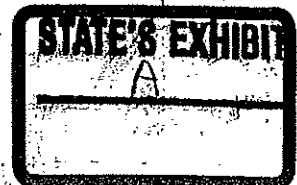
ORDER

On August 31, 2015, the Office of Administrative Hearings, through Administrative Law Judge Tammy L. Eigenheer, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on September 1, 2015, a copy of which is attached and incorporated by this reference. The Acting Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:

1. The Acting Director adopts the Recommended Findings of Fact and Conclusions of Law.
2. The Acting Director denies Brian Gerard Doherty's application for an Arizona insurance producer license.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Petitioner may request a rehearing with respect to this order by filling a written motion with the Acting Director of the Department of Insurance within 30 days of the date of this Order, setting forth the basis for relief under A.A.C. R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary to request a rehearing before filing an appeal to Superior Court.



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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

RECEIVED
SEP 01 2015
AZ DEPT. OF INSURANCE
ADMINISTRATIVE SERVICES

In the Matter of the Insurance License
Denial of:

DOHERTY, BRIAN GERARD,
Petitioner.

No. 15A-008-INS

ADMINISTRATIVE
LAW JUDGE DECISION

HEARING: August 11, 2015

APPEARANCES: Petitioner Brian Gerard Doherty did not appear. The Arizona Department of Insurance was represented by Assistant Attorney General Liane Kido.

ADMINISTRATIVE LAW JUDGE: Tammy L. Eigenheer

FINDINGS OF FACT

1. On November 5, 2014, Brian Gerard Doherty submitted an Application for an Individual Insurance License (Application) with the Arizona Department of Insurance (Department) for a life and accident/health insurance producer license.
2. Mr. Doherty answered "No" to Question B in Section VII, Additional Information on the Application. Question B asked: "Have you EVER had any professional, vocational, business [sic] license or certification refused, denied, suspended, revoked or restricted, or a fine imposed by a public authority?"
3. In 1997, Mr. Doherty's license to practice law was suspended by the New Hampshire Bar for a period of two years. As a result, Mr. Doherty received reciprocal two year suspensions in Florida and Massachusetts. He was reinstated in Florida in March 2001.
4. On or about December 22, 2003, Mr. Doherty applied for a Life Insurance Producer license in Arizona. License number 168894 was issued on January 13, 2004, and was last renewed on March 31, 2009. Mr. Doherty did not disclose the New Hampshire bar suspension in his application for and renewal of license number 168894.

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-9826

1 5. On or about February 16, 2012, Mr. Doherty was disbarred by the Florida
2 Supreme Court in Case No. SC10-332 for professional misconduct and ordered to pay
3 costs of \$8,787.80.

4 6. On or about November 16, 2012, the New Hampshire Supreme Court
5 disbarred Mr. Doherty based on the action taken by the Florida Supreme Court.

6 7. On or about July 15, 2013, the Hearing Officer for the Department of
7 Financial Services in Tallahassee, Florida issued a Written Report and
8 Recommendation in Case No. 130776-13-AG recommending a Final Order be entered
9 against Mr. Doherty for failing to timely report his disbarment by the Florida Supreme
10 Court.

11 8. On or about August 2, 2013, the Massachusetts Bar issued to Mr. Doherty
12 an Order of Suspension for an Indefinite Period based on the action taken by the
13 Florida Supreme Court.

14 9. On or about September 30, 2013, the Department of Financial Services of
15 the State of Florida entered a Final Order in Case No. 130776-13-AG, which ordered
16 that all Mr. Doherty's Florida insurance licenses be suspended for a period of 12
17 months from the date of the Final Order and assessing Mr. Doherty a fine of \$500.00.

18 10. In its decision, the Florida Supreme Court noted as aggravating factors
19 that Mr. Doherty had a history of discipline, acted with a selfish motive, refused to
20 acknowledge the wrongful nature of his misconduct, and had substantial experience in
21 the practice of law. The decision also noted that Mr. Doherty had made false
22 statements in applications for errors and omissions insurance policies regarding his
23 disciplinary history.

24 11. On or about January 12, 2015, the Department sent Mr. Doherty written
25 notification that it was denying his Application.

26 12. On or about January 20, 2015, Mr. Doherty timely appealed the
27 Department's denial of the Application, resulting in the instant matter being brought
28 before the Office of Administrative Hearings.

29 CONCLUSIONS OF LAW

1 1. Mr. Doherty bears the burden of proof and the standard of proof on all
2 issues is by a preponderance of the evidence. A.A.C. R2-19-119.

3 2. A preponderance of the evidence is "evidence of greater weight or more
4 convincing than the evidence which is offered in opposition to it; that is, evidence which
5 as a whole shows that the fact sought to be proved is more probable than not."
6 BLACK'S LAW DICTIONARY 1182 (6th ed. 1990).

7 3. A.R.S. § 20-295(A) and (F) provide the Director of the Department with
8 the discretion to deny, suspend, or revoke an insurance producer's license, and/or
9 impose a civil penalty, and/or order restitution.

10 4. Mr. Doherty's conduct, as set forth above in the Findings of Fact,
11 constitutes demonstrating incompetence, untrustworthiness, or financial irresponsibility
12 in the conduct of business in this state or elsewhere, within the meaning of A.R.S. § 20-
13 295(A)(8).

14 5. Mr. Doherty's conduct, as set forth above in the Findings of Fact,
15 constitutes having an insurance producer license, or its equivalent, denied, suspended,
16 or revoked in any state, province, district, or territory within the meaning of A.R.S. § 20-
17 295(A)(9).

18 6. Mr. Doherty did not offer any evidence in support of the Application.
19 Under the circumstances presented herein, Mr. Doherty failed to establish that he has
20 the requisite qualifications to hold an insurance producer's license.

21 7. The weight of the evidence of record established that the Department had
22 sufficient grounds to deny the Application pursuant to A.R.S. § 20-295(A)(8) and A.R.S.
23 § 20-295(A)(9).

24 8. Mr. Doherty failed to prove by a preponderance of the evidence that the
25 Department's denial of the Application should be reversed.

26 ORDER

27 Based on the above, the determination made by the Department to deny the
28 Application is affirmed.
29
30

EXHIBIT - B

FP

APPLICATION FOR AN INDIVIDUAL INSURANCE LICENSE (FORM L-169)

FOR APPLICATIONS RECEIVED BY THE ARIZONA DEPARTMENT OF INSURANCE ON OR BEFORE 6/30/2014

1. CAREFULLY READ THE ENCLOSED INSTRUCTION PAGES. INCOMPLETE APPLICATIONS WILL BE RETURNED.
2. Complete ALL PAGES of this form and fulfill all requirements shown in the enclosed instructions. Forms are available on the PRODUCERS page of our Internet web site (www.azinsurance.gov).
3. DO NOT use this form to renew a license. See the PRODUCERS page of our web site for instructions on how to renew a license.
4. Send your application materials and payment to:
INSURANCE LICENSING SECTION, 2910 North 44th Street, Suite 210, Phoenix, AZ 85018-7269

SECTION I: BUSINESS INFORMATION

A. (Legal) Last Name (including Jr/Sr/etc if applicable) DOHERTY	B. Full First Name BRIAN	C. Full Middle Name GERARD	
D. Physical Street Address of Place of Business (*may not be a PO or PMB box, must be the address you principally conduct business at) (required) 40703 N. HARBOUR TOWN COURT	City ANTHEM	State AZ	Zip Code 85086
E. Name of Business (if applicable, for mailing purposes):		*If the business is involved in the sale, solicitation, or negotiation of insurance, that business shall be separately licensed.	
F. Mailing Address (optional; P O box permitted) (AS ABOVE)	City	State	Zip Code
G. Business Phone w/ Area Code: 623-551-9070	H. Fax w/ Area Code (optional): 623-551-9074	I. E-mail Address (optional): bdoherdy2010@cox.net	

SECTION II: LINES OF LICENSE AUTHORITY Write an "X" in the box to the left of the line(s) of authority for which you are applying:

<input checked="" type="checkbox"/> Life Insurance Producer	<input type="checkbox"/> Property Producer	<input type="checkbox"/> Adjuster	<input type="checkbox"/> Risk Management Consultant
<input checked="" type="checkbox"/> Accident and Health or Sickness Producer	<input type="checkbox"/> Casually Producer	<input type="checkbox"/> Bail Bond Agent	<input type="checkbox"/> Other limited line (see instructions)
<input type="checkbox"/> Variable Life and Variable Annuity Products Producer	<input type="checkbox"/> Personal Lines Producer	<input type="checkbox"/> Surplus Lines Broker	
CRD # _____	<input type="checkbox"/> Credit Insurance Producer	<input type="checkbox"/> Travel Accident Ticket and Baggage Insurance Producer	<input type="checkbox"/> Mexican Insurance Surplus Lines Broker

Please apply for all lines of authority you wish to obtain. Failure to do so WILL require an additional fee and application to add them at a later date.

SECTION III: PERSONAL INFORMATION

A. Gender <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	B. Date of Birth: MM DD * YYYY		
C. Social Security Number (required by ARS § 25-320(P)): (required)	E. Home Area Code and Phone Number: (required) 602-828-9648		
D. Physical Street Address of Applicant's Home (required *may not be a PO or PMB box) (required) 40703 N. HARBOUR TOWN COURT	City ANTHEM	State AZ	Zip Code 85086

SPACE BELOW IS FOR INSURANCE DEPARTMENT USE ONLY

exam passed on <u> / / </u>	License #: _____	<input checked="" type="checkbox"/> 56 Quad Other (120)	PDB Checked <input type="checkbox"/>
exam passed on <u> / / </u>	TF#: 862344	<input type="checkbox"/> 58 Quad SLB (1000)	L-152 submitted <input type="checkbox"/>
		<input type="checkbox"/> 18 Half SLB (500)	License Tech Initials _____
		<input checked="" type="checkbox"/> 66 Fingerprint (22 X <u> </u>)	



PAY TO THE ORDER OF
ACCOUNT #1000985

NOV 05 2014
8/14/14

STATE TREASURER OF AZ

120000 8

SECTION IV: INSURANCE LICENSE HISTORY Are you presently, or have you ever been, licensed to transact any kind of insurance in this state or elsewhere? Yes No If "Yes," attach a list of the insurance licenses you held and, for each, the license number, the line(s) of insurance on the license, the state or locality that issued the license, the date the license was issued and the license expiration date.

SECTION V: ADDITIONAL INFORMATION Carefully read and respond to each of the following questions. You should provide a "YES" answer even if you believe an incident has been cleared from your record. Willful misrepresentation of any fact required to be disclosed in any application or accompanying statement is a violation of law and a ground to deny your application. **NOTE: ADDITIONAL INFORMATION IS REQUIRED if you respond "YES" to any of the following. Please see paragraph 14 in the instructions.**

For the purposes of this application, "judgment" includes, but is not limited to, having been found guilty by judge or jury or pled guilty or no contest to any charge. You must answer "Yes" even if a conviction was dismissed, expunged, pardoned, appealed, set aside, vacated or reversed, etc. OR even if applicant had civil rights restored, had a plea withdrawn, or was given probation, a suspended sentence, a fine, or successfully completed a diversion program. You must answer "Yes" even if your conviction was initially labeled an undesignated offense.

A. Have you EVER had any professional, vocational, business license or certification refused, denied, suspended, revoked or restricted, OR been issued a consent order, an administrative action OR a fine imposed by any public authority?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
B. Have you EVER withdrawn an application for a license or certification to avoid its denial, or have you EVER surrendered a license or certification to avoid disciplinary action?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
C. Have you EVER been found guilty of, have you had a judgment made against you for, or have you admitted to, any of the following:	
1. A felony (of any kind)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. Obtaining or attempting to obtain any type of license through misrepresentation or fraud?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3. Forging another's name to any document related to an insurance transaction?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4. Withholding, misappropriating, converting or stealing money or property?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5. Committing an insurance unfair trade practice or fraud?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
6. Using fraudulent, coercive or dishonest business practices including forgery with intent to defraud?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7. Conducting business in an incompetent, untrustworthy or financially irresponsible manner?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8. Transacting, or helping someone else transact, insurance without the required license authority?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
D. Is any case currently pending against you in any jurisdiction accusing you of any issue listed in Question C?:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
E. If you are not applying for a bail bond agent license, answer "Not applicable." Otherwise, if you are applying for a bail bond agent license, have you EVER been convicted in any jurisdiction of any crime (felony, open-ended or misdemeanor, etc.) that involved theft OR carrying, illegally using or possessing a deadly weapon or dangerous instrument?:	<input checked="" type="checkbox"/> Not applicable <input type="checkbox"/> Yes <input type="checkbox"/> No

SECTION VI: EMPLOYMENT HISTORY List your employment, insurance and non-insurance, history (and periods of unemployment or education) for the past 5 years. If you need more space, attach and sign a separate sheet with the information.

Employer Name	Position Held	City/State	EMPLOYMENT DATES	
			FROM (mm/yy)	TO (mm/yy)
John Niagara Realty	R.P. Sales Person	Avondale, AZ	10/2011	Present
Doherty P.A.	Life Ins. Sales	NAPLES, FL	03/1998	10/2011

SECTION VII: AUTHORIZATION AND RELEASE By signing and submitting this application, you agree to the following.

- o You authorize the Arizona Department of Insurance ("DEPARTMENT") to conduct a background investigation to determine your fitness for an insurance license. You agree to promptly respond to questions that may arise from the investigation.
- o You authorize and request every person, firm, company, corporation, governmental agency, court, association or institution having control of any documents, records and other information about you to furnish the DEPARTMENT with any such information and you permit the DEPARTMENT, its employees, agents or representatives, and your authorized insurers, to inspect and make copies of such documents, records and other information.
- o You release, discharge and exonerate the DEPARTMENT, its employees, agents and representatives, the State of Arizona, your authorized insurers, and any person furnishing information pursuant to this Authorization and Release from any and all liability that may arise from the investigation made by the DEPARTMENT.
- o You attest that you have read and understand the foregoing. You certify, under penalty of denial, suspension or revocation of the license and under any other penalties that may apply that the answers, statements and information furnished in connection with this license application are true, correct and complete to the best of your knowledge and belief.

Brian Doherty
Printed Name of Applicant

[Signature] 11/3/14
Full Signature of Applicant



THE FLORIDA BAR

651 EAST JEFFERSON STREET
TALLAHASSEE, FL 32399-2300

JOHN F. HARKNESS, JR.
EXECUTIVE DIRECTOR

850/561-5600
WWW.FLORIDABAR.ORG

January 30, 2015

Steven Fromholtz
Licensing Section
Arizona Department of Insurance
2910 North 44th Street, Ste. 210
Phoenix, Arizona 85018

Re: Request for information concerning Brian Gerard Doherty, Bar #642444

Dear Mr. Fromholtz:

This letter is in response to your inquiry regarding Brian Ferard Doherty's disciplinary with The Florida Bar. Mr. Doherty was admitted to practice in Florida on April 6, 1987, and is currently ineligible to practice law in Florida due to the following restrictions.

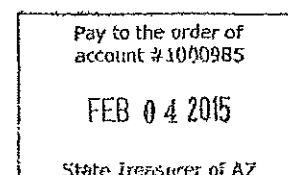
1. Disbarment effective February 16, 2012
2. Delinquency in Disciplinary Costs effective May 1, 2012

The only information about the disciplinary files not available to the public is information about files now pending at the initial staff or grievance committee levels of investigation. Because of these few limitations, no comment will be made in this letter about the existence of such non-public matters. The failure to make any mention should not be viewed as an admission that such exist.

The bar disposes of files that are closed by bar counsel or grievance committee without a finding of probable cause, one year after the date the files were closed. For this reason, no reference to such files will be made in this letter.

The following public files about the referenced member of The Florida Bar resulted in a disciplinary sanction:

<u>File No.</u>	<u>Disposition</u>	<u>Court Order Date</u>
1998-10,912(20B)	2-Year Rehabilitation Suspension	July 2, 1998
2001-10,144(20B)	Reinstated	March 13, 2001
2008-10,419(20A)	Disbarment	March 29, 2012



Steven Fromholtz
January 30, 2015
Page 2

The following public files were opened about the referenced member of The Florida Bar and did not result in a disciplinary sanction:

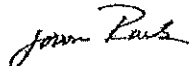
<u>File No.</u>	<u>Disposition</u>	<u>Close Date</u>
	NONE	

The following public files have been opened about the referenced member of The Florida Bar and action has not been concluded.

<u>File No.</u>	<u>Status</u>
	NONE

I trust this information will be of assistance to you. If you have any questions regarding this correspondence, please contact me at (850) 561-5781.

Sincerely,



Jason Rawls
Program Assistant
Legal Division

JR/jt

Supreme Court of Florida

No. SC10-332

THE FLORIDA BAR,
Complainant,

vs.

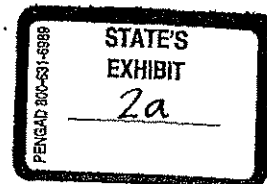
BRIAN GERARD DOHERTY,
Respondent.

[March 29, 2012]

PER CURIAM.

We have for review a referee's report recommending that Respondent Brian Gerard Doherty be found guilty of professional misconduct and disbarred. Doherty has petitioned for review of the report, challenging the referee's recommendations as to guilt, as well as the recommended sanction. We have jurisdiction. See art. V, § 15, Fla. Const.

The disciplinary case against Doherty arises from ethical violations that occurred during Doherty's representation of an elderly client to whom he provided both legal and financial investment services. The referee in this matter recommended that Doherty be found guilty of violating the following Rules



Regulating the Florida Bar: 4-1.7(a)(2) (Conflict of Interest; Current Clients— Representing Adverse Interests) and 4-1.8(a) (Conflict of Interest; Prohibited and Other Transactions – Business Transactions With or Acquiring Interest Adverse to Client), and disbarred. The Court previously entered an order in this case approving the referee's findings of fact, recommendations as to guilt, and recommended sanction, and disbaring Doherty from the practice of law in Florida. See Fla. Bar v. Doherty, No. SC10-332 (Fla. order entered Jan. 17, 2012). This opinion follows.

FACTS

The Florida Bar filed a disciplinary complaint against Respondent Doherty, alleging that he violated several of the Rules Regulating the Florida Bar. A referee was appointed. The referee held evidentiary hearings and has submitted his report for the Court's review, in which he makes the following findings and recommendations.

Doherty was first admitted to practice law in Massachusetts and New Hampshire in 1978. He was admitted to The Florida Bar in 1987 and eventually moved his practice to this state. In addition to his law practice, Doherty has a background as a financial advisor, and he provides financial planning and investment services to clients.

In 1994, Doherty began a professional relationship with the client and her husband. Originally, Doherty was hired only to provide financial services; Doherty was licensed in Florida to sell certain investment products, particularly annuities. Beginning in 2004, however, he also performed legal work for the couple. In June 2006, the client's husband died. Following her husband's death, the client continued to engage Doherty's legal and financial services. Earlier that year, the client was diagnosed with cancer. Accordingly, she asked Doherty to help her make a number of changes to her investments and estate planning documents.

At the time her husband died, the client owned six annuity products. In an effort to simplify her investments, she asked Doherty to reduce the number of annuities she owned from six to three. On July 16, 2006, Doherty submitted applications to purchase three annuities from Conseco Insurance Company (Conseco). The referee found that Doherty would have earned a ten percent commission on the sale had it been completed. However, on July 28, Doherty withdrew the applications. On August 1, 2006, he submitted applications to purchase three annuities from Washington National Insurance Company (Washington National), a subsidiary of Conseco. The referee found that Doherty would have earned a seven percent commission on the Washington National annuities. The referee also found that the client would have received an eight.

percent premium bonus from the purchase of the Washington National annuities, a bonus that would have vested at the time of the sale.

Notably, at the time these transactions took place, Doherty owed Conseco \$86,370.54. The referee found that Doherty's debt had come about due to "charge-backs," meaning that Conseco was attempting to recapture certain commissions it paid to Doherty because his clients (the purchasers of the annuities) had died within a specified period after the annuity was issued. To satisfy the debt, in March 2006 Doherty and Conseco negotiated a settlement agreement. Pursuant to the agreement, Doherty was required to pay Conseco \$10,000 toward the total debt, as well as fifty percent of any commissions he earned selling Conseco products. If Doherty made no commissionable sales within a six-month period, the entire debt would become due in full and payable on demand.

As noted, Doherty would have received a commission on the sale of Conseco or Washington National annuities to the client. In either case, Conseco would apply fifty percent of the commission to reduce Doherty's debt pursuant to the settlement agreement. Moreover, while the Conseco annuities would have been subject to a charge-back, such that Conseco would have sought to recover the commission if the client died within one year of the sale, the Washington National annuities did not have a charge-back provision and Doherty's commission would have fully vested upon consummation of the sale. By this time, it was evident that

the client's health was declining. Indeed, the referee found that Doherty took steps in an attempt to eliminate or reduce the negative consequences that would have resulted if the client died within a year of purchasing the annuities. Ultimately, the client died on August 19, 2006, before any annuity sale could be completed.

In addition to her investments, in the last several weeks of the client's life Doherty worked to revise her estate planning documents. On August 10, 2006, the client executed a new will. Pursuant to this will, the full value of her estate passed to an existing trust (the Restated Trust). This would have included the Washington National annuities, had the sale been accomplished. The client named Doherty as her personal representative. She also executed amendments to the Restated Trust to name Doherty as successor trustee. He was given final and uncontestable authority to determine whether certain estate planning methods the client effectuated were successful.

Doherty also authored two new trusts for the client's estate. The first, a real estate trust, was executed on August 10, 2006. The primary asset in the trust was to be the client's condominium unit. The trust instructed that the unit be sold and the proceeds from the sale used to purchase annuities. Doherty was named the successor trustee for the real estate trust and was granted sole discretion to select the annuities that would be purchased. Significantly, the referee found that Doherty's authority to sell financial products was limited to Conseco or

Washington National annuities. The second trust at issue, an educational trust, was also executed on August 10, 2006. It was established to pay future educational expenses for the client's grandchildren. Doherty was named the successor trustee for the educational trust. However, following the client's death, the beneficiaries of her estate filed a challenge to Doherty's appointments as personal representative and successor trustee. He was eventually removed from those positions.

With respect to each of the transactions at issue, the referee found that Doherty assumed "multiple, concurrent yet discreet [sic], professional roles in behalf of [the client], i.e., estate planner, trustee and successor trustee of a number of trusts, financial products salesperson, personal representative, and attorney."

However, the referee also found that Doherty did not provide the client with any written document to advise her of his multiple and conflicting positions.

Accordingly, the referee recommended that Doherty be found in violation of two bar rules: 4-1.7(a)(2) (a lawyer shall not represent a client if there is a substantial risk that the representation of the client will be materially limited by the lawyer's responsibilities to another client, a former client or a third person, or the lawyer's personal interests) and 4-1.8(a) (a lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client, unless the transaction is fair and reasonable to the client, the client is advised in writing of the desirability of seeking

independent legal counsel, and the client gives informed, written consent to the essential terms of the transaction).

The referee found four factors in aggravation: (1) Doherty has a prior disciplinary history, including a two-year suspension in New Hampshire; (2) he acted with a selfish motive; (3) he refused to acknowledge the wrongful nature of his misconduct; and (4) he had substantial experience in the practice of law. The referee did not find any mitigating factors. In fact, the referee specifically rejected Doherty's arguments that he made a timely good faith effort to rectify the consequences of his misconduct and that he was cooperative during the disciplinary proceedings:

Based on the referee's recommendations of guilt, as well as his findings in aggravation, the referee recommended that Doherty be disbarred. The referee also awarded costs to the Bar.

As noted, Doherty has filed a petition seeking review of the referee's report and recommendations. Doherty does not challenge the referee's recommendation that his conduct violated rule 4-1.7(a)(2). Thus, we approve that recommendation without further discussion. Doherty does argue that the referee's recommendation that he be found guilty of violating rule 4-1.8(a) is not supported. He also challenges the referee's recommended sanction of disbarment.

ANALYSIS

Rule 4-1.8(a). Doherty first challenges the referee's recommendation of guilt with respect to rule 4-1.8(a). To the extent Doherty disputes the referee's findings of fact, the Court's standard of review for evaluating a referee's factual findings is as follows: this Court's review of such matters is limited, and if a referee's findings of fact are supported by competent, substantial evidence in the record, this Court will not reweigh the evidence and substitute its judgment for that of the referee. Fla. Bar v. Frederick, 756 So. 2d 79, 86 (Fla. 2000); see also Fla. Bar v. Jordan, 705 So. 2d 1387, 1390 (Fla. 1998). To the extent he challenges the referee's recommendation as to guilt, the Court has repeatedly stated that the referee's factual findings must be sufficient under the applicable rules to support the recommendations as to guilt. See Fla. Bar v. Shoureas, 913 So. 2d 554, 557-58 (Fla. 2005).

Rule 4-1.8(a) provides as follows:

(a) Business Transactions With or Acquiring Interest Adverse to Client. A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client, except a lien granted by law to secure a lawyer's fee or expenses, unless:

(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner that can be reasonably understood by the client;

(2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and

(3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

The facts clearly demonstrate that Doherty failed to make the specific written disclosures required by subdivisions (a)(1), (a)(2), and (a)(3). However, Doherty raises a threshold issue. That is, he contends that his involvement in the sale of annuities to the client was not a "business transaction" and thus the disclosure requirements were not triggered. We do not agree. We hold that the sale of annuities to a client in the context presented here is a business transaction and Doherty was required to comply with rule 4-1.8(a).

At the outset, Doherty argues that rule 4-1.8(a) requires the referee to find that he engaged in a business transaction with a client and that he acquired a pecuniary interest adverse to his client. This argument is without merit. Rule 4-1.8(a) clearly states that a lawyer "shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client." (Emphasis added.) A plain reading of this language indicates that a lawyer's involvement in a business transaction with a client would itself constitute a violation of the rule unless the lawyer makes the required disclosures. It is not necessary for the referee to also find a violation of the adverse

interest clause. See Fla. Bar v. Herman, 8 So. 3d 1100, 1105 (Fla. 2009) (“[Rule 4-1.8(a)] prohibits two broad categories of conduct: (1) entering into a business transaction with a client; or (2) acquiring an ownership, possessory, security, or other pecuniary interest adverse to a client.”).

Next, Doherty asserts that the sale of an annuity is not the type of “business transaction” that falls within rule 4-1.8(a). He maintains that in brokering the annuities he played no principal role in the transaction—the seller was Washington National and the buyer was the client. Doherty contends that he had no interest in the annuity policy and no ability to affect the client’s rights therein. However, we conclude that rule 4-1.8(a) is not so limited in its scope and application.

Although the language of rule 4-1.8(a) does not identify the types of transactions to which the rule applies, the comment to the rule provides guidance.

The comment states:

A lawyer’s legal skill and training, together with the relationship of trust and confidence between lawyer and client, create the possibility of overreaching when the lawyer participates in a business, property, or financial transaction with a client. The requirements of subdivision (a) must be met even when the transaction is not closely related to the subject matter of the representation. The rule applies to lawyers engaged in the sale of goods or services related to the practice of law. See rule 4-5.7.[¹]

1. Rule Regulating the Florida Bar 4-5.7(a) states, “A lawyer who provides nonlegal services to a recipient that are not distinct from legal services provided to that recipient is subject to the Rules Regulating The Florida Bar with respect to the provision of both legal and nonlegal services.” In subdivision (b), the rule further states that “[a] lawyer who provides nonlegal services to a recipient that are

(Emphasis added.) As the referee observed, the comment suggests that rule 4-1.8(a) encompasses a scope of dealings broader than simply those between a lawyer and his or her client as the principals to the transaction. Indeed, this Court has disciplined lawyers under rule 4-1.8(a) for engaging in a variety of business transactions with their clients. See, e.g., Herman, 8 So. 3d 1100 (finding a violation of rule 4-1.8(a) where the lawyer invested in a company in direct competition with his client's corporation); Fla. Bar v. Ticktin, 14 So. 3d 928 (Fla. 2009) (finding a lawyer in violation of rule 4-1.8(a) where the lawyer took over his client's role as chairman and CEO of the client's corporation); Fla. Bar v. Kramer, 593 So. 2d 1040 (Fla. 1992) (finding a lawyer in violation of rule 4-1.8(a) where the lawyer loaned his client money, secured the loan by instructing the client to execute a deed granting certain property to the lawyer, and failed to disclose the actual nature of the transaction to his client).

We have also considered guidance from the American Bar Association (ABA). The ABA's Model Rule of Professional Conduct 1.8(a) (Conflicts of

distinct from any legal services provided to the recipient is subject to the Rules Regulating The Florida Bar with respect to the nonlegal services if the lawyer knows or reasonably should know that the recipient might believe that the recipient is receiving the protection of a client-lawyer relationship." The comment to the rule explains that in some circumstances "the legal and nonlegal services may be so closely entwined that they cannot be distinguished from each other." In such a case, the comment provides that rule 4-5.7 requires the lawyer to be responsible for "assuring that both the lawyer's conduct and, to the extent required elsewhere in these Rules Regulating The Florida Bar, that of nonlawyer employees comply in all respects with the Rules Regulating the Florida Bar."

Interest: Current Clients: Specific Rules) closely parallels rule 4-1.8(a). Like the Florida rule, Model Rule 1.8 provides that a lawyer shall not enter into a business transaction with a client unless the terms of the transaction are fair and reasonable to the client and are fully disclosed in writing; the client is advised in writing as to the desirability of seeking independent legal counsel; and the client gives his or her informed, written consent. The comment to Model Rule 1.8(a) indicates that the rule "applies to lawyers engaged in the sale of goods or services related to the practice of law, for example, the sale of title insurance or investment services to existing clients of the lawyer's legal practice." (Emphasis added.)

At least one other state has reached the same conclusion that we do here—that a lawyer providing financial planning services to a client is subject to the rule prohibiting a lawyer from engaging in a business transaction with a client unless the lawyer makes the required disclosures in writing. In Stark County Bar Association v. Buttacavoli, 775 N.E.2d 818 (Ohio 2002), the Supreme Court of Ohio sanctioned an attorney who engaged in misconduct similar to that found in this case. In Buttacavoli, as in this case, the lawyer was both a practicing attorney and a financial planner and consultant. Id. at 819. A client, a sixty-five-year-old man, hired Buttacavoli to provide estate planning and financial advice. Buttacavoli prepared a will for the client and advised the client to invest funds in a variable annuity. Id. Although Buttacavoli stood to receive a \$3,491.71 commission from

the sale of the annuity, he did not disclose to the client his own financial interest in the advice he gave. Id. at 819-20: A panel of the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court found that Buttacavoli's conduct violated the Ohio Code of Professional Responsibility DR 5-101(A)(1) (1996) (absent full disclosure and consent, employment shall not be accepted if the exercise of professional judgment will be or reasonably may be affected by the lawyer's financial, business, property, or personal interest) and DR 5-104(A) (absent full disclosure and consent, a lawyer shall not enter into a business transaction with a client if they have differing interests therein and the client expects the lawyer to exercise his professional judgment for the protection of the client). Id. at 820. Specifically, the panel determined:

[T]he legal and financial advice was part of an integrated transaction requiring full disclosure of respondent's financial interest in the investment transactions and informed consent by the clients based upon such full disclosure. Moreover, the panel found that in respondent's role as attorney, his legal advice could reasonably be affected by his financial interest in the investment advice he offered.

Id. The Ohio Supreme Court adopted the panel's recommendation.

Like the respondent in Buttacavoli, Doherty held himself out as a lawyer and a Certified Financial Planner. His professional relationship with the client involved both legal work, including amending her will and executing two trusts on her behalf, and financial services, namely brokering the sale of Conseco and

Washington National annuities. It is clear that Doherty stood to earn a commission from the sale of the annuities had those transactions been completed. It is also clear that he did not disclose his financial interest in the transactions to the client in writing as required by rule 4-1.8(a). Accordingly, we approve the referee's recommendation that Doherty be found guilty of violating rule 4-1.8(a).

Sanction. Doherty next argues that the referee's recommended sanction, disbarment, is too harsh. He urges the Court to disapprove the referee's recommendation and, instead, impose a public reprimand.

In reviewing a referee's recommended discipline, our scope of review is broader than that afforded to the referee's findings of fact because, ultimately, it is our responsibility to order the appropriate sanction. See Fla. Bar v. Anderson, 538 So. 2d 852, 854 (Fla. 1989); see also art. V, § 15, Fla. Const. However, generally speaking this Court will not second-guess the referee's recommended discipline as long as it has a reasonable basis in existing case law and the Florida Standards for Imposing Lawyer Sanctions. See Fla. Bar v. Temmer, 753 So. 2d 555, 558 (Fla. 1999).

The evidence demonstrates that Doherty's conduct created a clear conflict of interest in that there was a substantial risk that his representation of the client would be limited by his own interests. Doherty acted purposefully to make his personal, pecuniary interests at least as important as those of his client and her

estate. He advised his client to select various means of estate planning and wealth management that would earn him a personal financial benefit. Additionally, Doherty participated in a business transaction with his client and failed to disclose his substantial interest in the transaction. We believe his actions amount to egregious misconduct.

The Court has often imposed lengthy suspensions in cases where a lawyer's personal interests created a conflict of interest and in those where a lawyer engaged in a business transaction with a client. See, e.g., Fla. Bar v. Roberto, 59 So. 3d 1101 (Fla. 2011) (suspending the respondent for one year where the evidence showed that the lawyer's personal interests created a conflict of interest); Fla. Bar v. Jaspersen, 625 So. 2d 459 (Fla. 1993) (suspending the respondent for one year where the evidence showed that the respondent, in an effort to cover up his failure to file a bankruptcy petition for his clients that would have prevented the foreclosure of their home, purchased the home from the clients to prevent the foreclosure sale moving forward). When the facts in a case show egregious misconduct, particularly where a lawyer acts with a selfish motive or fails to disclose a substantial financial interest, we have imposed significant terms of suspension. In Florida Bar v. Rodriguez, 959 So. 2d 150 (Fla. 2007), the respondent was a shareholder in a firm hired to represent a group of clients in an action against DuPont Corporation for damages allegedly resulting from the use of

a DuPont product, Benlate. During settlement negotiations, the respondent learned that DuPont would not agree to a settlement unless it included a condition that the respondent's law firm would not pursue any other cases against the company. Id. at 154. After researching the ethical issues involved, respondent's law office determined that this objective could be achieved if DuPont became a client of the firm. Id. Later, DuPont entered into a secret engagement agreement with respondent's firm, in which it agreed to pay the firm \$6,445,000 in exchange for the firm's agreement not to pursue future claims against DuPont and for possible future legal work. Id. at 155. At this point, the respondent became an agent of DuPont, and his allegiance to both DuPont and his Benlate clients created a conflict of interest. Further, the respondent and his firm placed their interests above those of the Benlate clients because, among other reasons, the firm stood to receive a significant amount of money. Id. In fact, the respondent received more than \$4,700,000 from the arrangement. Id. at 156. The respondent also did not disclose the agreement to the trial judge, to his Benlate clients, or in later proceedings held in the case. The Court found the respondent in violation of numerous bar rules, including rule 4-1.7(a), and suspended him for two years.

Here, we have concluded that Doherty engaged in egregious misconduct in that he advised his client to take specific actions that would earn him a financial benefit and failed to disclose this personal interest to the client. Moreover, in

contrast to the facts of Rodriguez, the referee in this case also found four aggravating factors. Most significantly, Doherty has a prior disciplinary history. In 1997, he was suspended from the Bar in New Hampshire for a period of two years. See In re Doherty's Case, 703 A.2d 261 (N.H. 1997).² In the New Hampshire case, Doherty had agreed to represent two clients in a personal bankruptcy action. He accepted a \$10,000 retainer for the representation. Despite the specific rules which required Doherty to disclose his acceptance of the funds and file a motion for court approval, Doherty deposited the money into his general office account without notifying the bankruptcy court and began using the funds for his own purposes. Later, the bankruptcy court ordered Doherty to disgorge the funds. He refused to do so for more than four years after the court's order. The referee in this case found that Doherty's conduct displayed a "disregard for the judicial process."

In addition to his disciplinary history, the referee found that Doherty acted with a selfish motive; he refused to acknowledge the wrongful nature of his misconduct; and he has substantial experience in the practice of law. The referee also considered as aggravation evidence that Doherty made false statements in

2. Doherty also received reciprocal two-year suspensions in Florida and Massachusetts. See Fla. Bar v. Doherty, 718 So. 2d 171 (Fla. 1998) (table). He was reinstated in Florida in March 2001. See Fla. Bar v. Doherty, 786 So. 2d 581 (Fla. 2001) (table).

applications for errors and omissions insurance policies, concerning his disciplinary history. Doherty refused to acknowledge the false statements in his testimony during the evidentiary hearing. The referee found that Doherty's sworn denial reflected poorly on his character.

The referee did not find any mitigating factors. Doherty argues that the referee erred in failing to consider certain facts as mitigation. "Like other factual findings, a referee's findings of mitigation and aggravation carry a presumption of correctness and will be upheld unless clearly erroneous or, without support in the record. A referee's failure to find that an aggravating factor or mitigating factor applies is due the same deference." Fla. Bar v. Germain, 957 So. 2d 613, 621 (Fla. 2007) (citation omitted). The referee's report indicates that he considered Doherty's evidence and testimony but ultimately found that Doherty did not show any circumstances that would mitigate his misconduct. On review before this Court, Doherty has not presented any evidence that would demonstrate that the referee's findings are clearly erroneous.

In sum, considering the serious nature of Doherty's misconduct, his disciplinary history, and the aggravating factors, we conclude that disbarment is the appropriate sanction.

CONCLUSION

Accordingly, Brian Gerard Doherty has been disbarred. The disbarment took effect on February 16, 2012.

Judgment is entered for The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, for recovery of costs from Brian Gerard Doherty in the amount of \$8,787.80, for which sum let execution issue.

It is so ordered.

CANADY, C.J., and PARIENTE, LEWIS, QUINCE, POLSTON, LABARGA,
and PERRY, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE
EFFECTIVE DATE OF THIS DISBARMENT.


Original Proceeding – The Florida Bar

John F. Harkness, Jr., Executive Director, Kenneth Lawrence Marvin, Staff
Counsel, The Florida Bar, Tallahassee, Florida, and Henry Lee Paul and Chardean
Mavis Hill, Bar Counsel, The Florida Bar, Tampa, Florida,

for Complainant

Brian Gerard Doherty, pro se, Anthem, Arizona,

for Respondent

<p>Massachusetts Board of Bar Overseers of the Supreme Judicial Court 99 High Street Boston, Ma. 02110 Attorney Status Report</p>	
<p>Brian Gerard Doherty</p> <p>Anthem AZ 85086-1828</p> <p>Admitted to the bar on 06/06/78 Board of Bar Overseers number: 126960 Current status is Suspended</p>	<p>Full office addresses listed for Active, IHC, and 304 status attorneys only.</p>
<p>Disciplinary History:</p> <ol style="list-style-type: none">1. 4/2/1998 SUSP: Order of Suspension for Definite Term2. 8/2/13 INDSU: Order of Suspension for an Indefinite Period	<p>Data as of 02/03/15</p>

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Bar News - November 16, 2012

Supreme Court Orders

**LD-2012-0010
In the Matter of Brian G. Doherty**

In August 2012, the Attorney Discipline Office filed a certified copy of the January 17, 2012 order and March 29, 2012 opinion of the Supreme Court of Florida, disbaring Attorney Brian G. Doherty. The Supreme Court of Florida determined that Attorney Doherty violated the following Rules Regulating the Florida Bar in his dealings with a client:

1. Rule 4-1.7(a)(2), which prohibits a lawyer from representing a client if there is a substantial risk that the representation of the client will be materially limited by the lawyer's personal interests; and
2. Rule 4-1.8(a), which prohibits a lawyer from entering into a business transaction with a client or knowingly acquiring an ownership, possessory, security, or other pecuniary interest adverse to a client, unless the transaction is fair and reasonable to the client, the client is advised in writing of the desirability of seeking independent legal counsel, and the client gives informed, written consent to the essential terms of the transaction.

The facts relating to Attorney Doherty's misconduct are described in detail in the opinion of the Supreme Court of Florida. In short, the court found that Attorney Doherty assumed multiple, conflicting roles when he provided both legal services and financial services to an elderly client. The court found that while Attorney Doherty provided estate planning advice to a client, he recommended that she make certain financial investments that would have benefitted him financially. The court found that Attorney Doherty failed to advise the client of his conflict of interest.

In discussing the appropriate sanction for this misconduct, the Supreme Court of Florida noted that Attorney Doherty's conduct "created a clear conflict of interest," that he acted purposefully to make his personal, pecuniary interests at least as important as those of his client, and that he failed to disclose his substantial interest in the transactions he recommended. It characterized Attorney Doherty's misconduct as "egregious" and noted that in similar cases the court had imposed lengthy suspensions. The court then discussed a number of aggravating factors, including Attorney Doherty's prior two-year suspension by this court for misconduct. See *In re Doherty's Case*, 142 N.H. 446 (1997). After considering Attorney Doherty's misconduct, his disciplinary history, and the other aggravating factors, the court concluded that disbarment was the appropriate sanction.

New Hampshire Supreme Court Rule 37(12) governs reciprocal discipline. Upon receiving notice that an attorney has been disciplined in another jurisdiction, Rule 37(12)(b) requires the court to provide the attorney and the PCC with an opportunity to demonstrate that the imposition of identical or substantially similar discipline would be unwarranted. Rule 37(12)(d) of the rule then provides for the imposition of reciprocal discipline unless the respondent attorney or the PCC demonstrates, or the court finds, based on the face of the record from which the discipline is predicated, that:

- (1) the procedure followed by the jurisdiction imposing discipline was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;
- (2) the imposition of the same or substantially similar discipline by the court would result in grave injustice; or
- (3) the misconduct established warrants substantially different discipline in New Hampshire.

In this matter, this court issued an order, in accordance with Rule 37(12)(b), giving Attorney Doherty

and the Professional Conduct Committee an opportunity to advise the court if either contended that the imposition of "identical or substantially similar discipline" would be unwarranted. Attorney Doherty filed a pleading arguing that disbarment is unwarranted. The PCC notified the court that it believes that disbarment is warranted.

Having reviewed the order and opinion of the Supreme Court of Florida, the court does not find that any of the conditions set forth in Rule 37(12)(d) have been met. It appears from the order that Attorney Doherty participated fully in the Florida disciplinary proceeding. In light of the seriousness of Attorney Doherty's misconduct and of the aggravating factors that are present, the court does not find that disbarment would result in grave injustice or that his misconduct would warrant substantially different discipline in New Hampshire.

Therefore, the court orders that Attorney Brian G. Doherty be disbarred from the practice of law in New Hampshire. Attorney Doherty is hereby assessed all expenses incurred by the Professional Conduct Committee in the investigation and prosecution of this matter. See Rule 37(19).

Dalianis, C.J., and Hicks, Conboy, Lynn, and Bassett, JJ., concurred.

DATE: October 17, 2012

ATTEST: Eileen Fox, Clerk

Pursuant to Supreme Court Rule 54(3), the Chief Justice designates Supreme Court Associate Justice James P. Bassett to serve as liaison between the supreme court and the administrative council.
October 22, 2012
ATTEST: Eileen Fox, Clerk of Court Supreme Court of New Hampshire

ADM-2002-0149 and ADM-2003-0028
In the Matters of Priscilla (formerly Sharetha) S. Marsicovetere

The court on October 31, 2012, issued the following order:

In February 2003, the respondent, Priscilla S. Marsicovetere, was suspended from the practice of law for failing to pay fees assessed for late filing of her 2002 annual trust accounting certificate. In April 2003, the respondent was suspended from the practice of law for failing to meet MCLE requirements for the reporting year ending June 30, 2002 and failing to pay late fees assessed for noncompliance. The respondent is now in compliance with both the 2002 trust accounting requirements and the MCLE requirements for the reporting year ending June 30, 2002, and the MCLE Board has filed a motion for reinstatement on her behalf. Having reviewed the motion as well as the supplemental information filed by the respondent, the court finds that the respondent has established her continuing competence and learning in the law and her continuing moral character and fitness. Accordingly, the MCLE Board's motion for reinstatement of the respondent is granted on the condition that she pay any outstanding bar dues and court fees.

Dalianis, C.J., and Hicks, Conboy and Lynn, JJ., concurred.
Eileen Fox, Clerk

In accordance with Supreme Court Rule 37(3)(a), the Supreme Court appoints Elaine Holden to serve as a non-attorney member of the Professional Conduct Committee, replacing Gerald A. Daley, who recently resigned from the committee. The court appoints Ms. Holden to serve the remainder of a three-year term expiring on December 31, 2012, and to serve a three-year term commencing on January 21, 2013, and expiring on December 31, 2015.

October 31, 2012
ATTEST: Eileen Fox, Clerk of Court
Supreme Court of New Hampshire



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FILED

SEP 30 2013

Docketed by EL



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

IN THE MATTER OF
BRIAN GERARD DOHERTY

Case No. 130776-13-AG

FINAL ORDER

THIS CAUSE came on for consideration of and for final agency action based upon the Written Report and Recommendation issued by the Hearing Officer, Alan J. Lelfer, on July 15, 2013. A copy is attached to this Final Order as Exhibit A.

Pursuant to Section 120.57(2), Florida Statutes and by agreement of the parties, this case was submitted to and decided by the Hearing Officer based upon written submissions by the parties.

After review of the entire record, including all admitted exhibits, and all memoranda submitted by the parties, and otherwise being appraised fully in all material premises, it appears that the recommended penalty was erroneously calculated. Respondent was a licensed attorney disbarred by the Florida Supreme Court in 2012. The disbarment opinion established that Respondent's actions, the same ones here in question, were willful. See, *The Florida Bar v. Brian Gerard Doherty*, Case No. SC 10-322, Opinion rendered March 29, 2012. "Doherty acted purposefully to make his personal, pecuniary interests at least as important as those of his client and her estate." (e.s.) *Doherty, supra* at pg 14. That finding is conclusive and binding. Accordingly, that subjects the Respondent to the aggravating factor of a willful violation,



as set forth in Rule 69B-231.160 (1) (a), F.A.C., for which a three month additional period of suspension is warranted (See, Rule 69B-231.130), thus bringing the appropriate penalty for a willful violation of Section 626.621(13), Fla. Stat., to a six month suspension. Additionally, the record establishes that the victim was elderly and suffering from a terminal illness at the times in question, and that the potential financial harm to her was great. Those factors bring into consideration Rules 69B-231.160 (1) (c) and (d), F.A.C. In consideration of those factors, an additional six month suspension is warranted.

Accordingly, and for the reasons set forth above, the recommended penalty of a three (3) month suspension increased to a twelve (12) month suspension. The fine remains at five hundred dollars (\$500).

THEREFORE, IT IS HEREBY ORDERED; except as noted above, that the Findings of Fact of the Hearing Officer are adopted in full as the Department's official Findings of Fact, and the Conclusions of Law reached by the Hearing Officer are adopted as the Department's official Conclusions of Law.


IT IS HEREBY FURTHER ORDERED that the Recommendation made by the Hearing Officer is not adopted by the Department. All Florida insurance licenses of Respondent Brian Gerard Doherty are suspended for a period of twelve(12) months, such suspension beginning on the date of this Final Order; and

IT IS HEREBY FURTHER ORDERED that the Respondent, Brian Gerard Doherty, must also pay an administrative fine of FIVE HUNDRED DOLLARS (\$500.00) to the State of Florida within thirty (30) days of the date of this Final Order.

A license, appointment, or eligibility that has been suspended shall not be reinstated except upon the filing and approval of an application for reinstatement. The department shall not approve an application for reinstatement if it finds that the circumstance or circumstances for which the license, appointment, or eligibility was suspended still exist or are likely to recur. In addition, an application for reinstatement is subject to denial and subject to a waiting period prior to approval on the same grounds that apply to applications for licensure pursuant to ss. 626.207, 626.611, 626.621, and 626.8698. During the period of suspension or revocation of a license or appointment, and until the license is reinstated or, if revoked, a new license issued, the former licensee or appointee may not engage in or attempt or profess to engage in any transaction or business for which a license or appointment is required under this code or directly or indirectly own, control, or be employed in any manner by an agent, agency, adjuster, or adjusting firm.

DONE AND ORDERED on this 30 day of September, 2013.





Robert C. Kneip
Chief of Staff

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Final Order is entitled to seek review of this Final Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedure. Review proceedings may be initiated by filing a petition or notice of appeal with Julie Jones, DFS Agency Clerk, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0390, and also filing a copy of same with the appropriate District Court of Appeal, within thirty (30) days of rendition of this Final Order.

Copies furnished to:

Mr. Brian Doherty
40703 N. Harbour Town Court
Anthem, Arizona 85086

James A. Bossart, Esq.
Attorney for the Department
Department of Financial Services
200 East Gaines Street
Tallahassee, FL 32399-0333

Alan J. Leifer, Esq.
Hearing Officer
Department of Financial Services
3700 Lifford Circle
Tallahassee, Florida 32309

IN THE MATTER OF:

Case No: 130776-13-AG

BRIAN GERARD DOHERTY

WRITTEN REPORT AND RECOMMENDATION

This cause came to be heard via written submissions pursuant to the provisions of Section 120.57(2), Florida Statutes. The purpose of the proceeding was to receive evidence and argument relative to the February 25, 2013, two-count Administrative Complaint that was filed by the Florida Department of Financial Services (hereinafter referred to as the "Petitioner" or "Department") against Mr. Brian Gerard Doherty (hereinafter referred to as the "Respondent").

APPEARANCES

Mr. Brian G. Doherty
42129 N. Golf Crest Road
Anthem, Arizona 85086

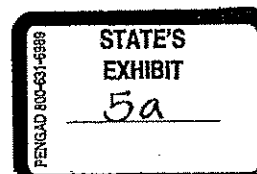
Respondent Pro Se

James A. Bossart, Esquire
Fl. Dept. of Financial Services
200 East Gaines Street
Tallahassee, Florida 32399-0333

Attorney for Petitioner,
Department of Financial Services

BACKGROUND

Mr. Brian Gerard Doherty currently and at all times material to this proceeding holds multiple insurance agent licenses issued by the Florida Department of Financial Services. On February 25, 2013, the Petitioner filed a two-count Administrative Complaint against the Respondent seeking to suspend or revoke the Respondent's insurance agent licenses due to a his disbarment as an attorney by the Florida Supreme Court and his failure to timely notify the Department of his disbarment within thirty (30) days. The Respondent timely filed an Election



of Proceeding Form seeking an formal hearing pursuant to Section 120.57(1), Florida Statutes. Based on the Respondent's April 18, 2013, Response to the Administrative Complaint, the Department concluded there were no disputed issues of material fact and assigned this matter to this Hearing Officer to hold a telephonic informal hearing pursuant to Section 120.57(2), Florida Statutes, that was scheduled for June 26, 2013. On June 18, 2013, the Parties filed a joint Motion to proceed via written submissions that was granted by this Hearing Officer the same day. Both Parties timely submitted proposed exhibits and Proposed Recommended Orders.

EXHIBITS

Both Parties submitted proposed exhibits that are hereby admitted into evidence without objection. The Petitioner introduced three (3) exhibits that are identified as follows:

- Petitioner's Exhibit 1: A nine (9) page printout of the Respondents' Licensee Profile Information as contained within the Department's database, dated June 28, 2013.
- Petitioner's Exhibit 2: A copy of the March 29, 2012, disbarment opinion issued by the Florida Supreme Court in Case Number SC10-332, styled as The Florida Bar vs. Brian Gerard Doherty, and an April 26, 2012, Notice of Correction.
- Petitioner's Exhibit 3: A copy of the January 17, 2012, Court Order issued by the Florida Supreme Court in Case Number SC10-332, styled as The Florida Bar vs. Brian Gerard Doherty, disbarring the Petitioner from the practice of law.

The Respondent introduced eight (8) exhibits that are identified as follows:

- Respondent's Exhibit A: A one (1) page May 29, 2009, letter from the Respondent to the Department enclosing his correspondence to The Florida Bar.
- Respondent's Exhibit B: A sixteen (16) page November 29, 2007, letter from the Respondent to The Florida Bar regarding a consumer complaint that was filed against the Respondent's law license.
- Respondent's Exhibit C: A three (3) page December 19, 2007, letter from the Respondent to The Florida Bar regarding the complaint that was filed against the Respondent's law license.

- Respondent's Exhibit D: A one (1) page August 6, 2012, letter from the Respondent to the Department regarding a proposed Settlement Stipulation for Consent Order.
- Respondent's Exhibit E: A one (1) page August 15, 2012, letter from the Respondent to the Department regarding a proposed Settlement Stipulation for Consent Order.
- Respondent's Exhibit F: A draft Settlement Stipulation for Consent Order prepared by the Department that includes a Five Thousand Dollar (\$5,000.00) administrative penalty along with a one (1) year probation of the Respondent's insurance agent licenses.
- Respondent's Exhibit G: A draft Settlement Stipulation for Consent Order prepared by the Department that includes a Three Thousand Five Hundred Dollar (\$3,500.00) administrative penalty.
- Respondents' Exhibit H: A draft Settlement Stipulation for Consent Order prepared by the Department that includes a Five Hundred Dollar (\$500.00) administrative penalty.

FINDINGS OF FACT

1. The Petitioner is the state agency responsible for licensing insurance agents in the State of Florida, pursuant to the Florida Insurance Code.
2. For all purposes and times relevant to this proceeding, and since April 6, 1992, the Respondent was licensed as a resident Florida insurance agent, holding the following licenses.
 - i. A resident life including variable annuity insurance agent (2-14);
 - ii. A resident life including variable annuity and health insurance agent (2-15);
 - iii. A resident life insurance agent (2-16);
 - iv. A resident life and health insurance agent (2-18); and
 - v. A resident health insurance agent (2-40).

(Petitioner' Exhibit 1.)
3. On January 17, 2012, the Supreme Court of Florida entered an Order of immediate disbarment of the Respondent's Florida license to practice law in Case Number SC10-

332, styled as The Florida Bar vs. Brian Gerard Doherty. (Petitioner's Exhibit 3.) The Supreme Court of Florida subsequently filed a full Court opinion of disbarment in Case Number SC10-332, on March 29, 2012. (Petitioner's Exhibit 2.)

4. On February 25, 2013, the Department filed a two (2) count Administrative Complaint in Case Number 130776-13-AG wherein it was alleged the Respondent's disbarment by the Florida Supreme Court constituted a violation of the Florida Insurance Code, as well as his failure to timely notify the Department of his disbarment. The Respondent timely filed an Election of Proceeding Form seeking an opportunity to contest the Department's Administrative Complaint.

CONCLUSIONS OF LAW

1. The Department of Financial Services has jurisdiction over the subject matter and the parties to this proceeding, pursuant to Chapters 120 and 626, Florida Statutes.
2. Because there are no disputed issues of material fact, this matter is proceeding pursuant to Section 120.57(2), Florida Statutes and principally concerns the issues of determining appropriate penalties under the Florida Insurance Code.
3. Because the Petitioner is seeking to penalize the Respondents' insurance agent license, it has the burden of proving by clear and convincing evidence that the Respondent committed the violations alleged in their Administrative Complaint. Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987); Department of Banking and Finance v. Osborne Stern & Company, 670 So. 2d 932 (Fla. 1996).
4. On January 17, 2012, the Supreme Court of Florida entered an Order of immediate disbarment of the Respondent's Florida license to practice law in Case Number SC10-332, styled as The Florida Bar vs. Brian Gerard Doherty. (Petitioner's Exhibit 3.) The

Supreme Court of Florida subsequently filed a full Court opinion of disbarment in Case Number SC10-332, on March 29, 2012. (Petitioner's Exhibit 2.) The Respondent's disbarment in Case Number SC10-332 constitutes a license revocation by a court of competent jurisdiction.

5. Section 626.621, Florida Statutes provides grounds for the discretionary discipline of Florida licensed insurance agents, is applicable in this matter, and states as follows:

The department may, in its discretion, deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, adjuster, customer representative, service representative, or managing general agent, and it may suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one of more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.611:

* * * *

- (13) Has been the subject of or has had a license, permit, appointment, registration, or other authority to conduct business subject to any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or option exchange, or national securities, commodities, or option association involving a violation of any federal or state securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

Section 626.621, Florida Statutes (2012).

6. The Florida Insurance Code specifically provides certain penalties that are applicable whenever a licensee has a license to conduct business revoked by a court of competent jurisdiction, such as in this case where the Respondent's license to practice law in Florida

was revoked by the Florida Supreme Court. (Petitioner's Exhibit 2 and 3.) Rule 69B-231.090, Florida Administrative Code (2006) is the Department's administrative rule that generally provides delineated penalties for specific violations of Section 626.621, Florida Statutes. However, Rule 69B-231.090 does not specify any penalty when it is found a licensee has violated Section 626.621(13), Florida Statutes. Rule 69B-231.120, Florida Administrative Code (2006), entitled Penalties for violations of other Insurance Code Provisions, is applicable in this matter and states as follows:

If the Licensee is found to have violated a provision of the Insurance Code, the stated penalty, unless otherwise prescribed in these rules or in the code provisions violated, shall be a six (6) months suspension if the violation was willful, or shall be three (3) month suspension if the violation was non-willful.

The Florida Supreme Court's disbarment Order in Case Number SC10-332, found the Respondent guilty of professional misconduct and ethical violations, but did not include any finding his conduct was willful. The appropriate penalty for the Respondent for his violation of Section 626.621(13), Florida Statutes as alleged in the Department's July 25, 2013, Administrative Complaint is a three (3) month suspension.

7. Section 626.536, Florida Statutes (2012), entitled Reporting of administrative actions, requires a licensee to report an administrative action taken against the licensee within thirty (30) days after any final disposition. The evidence in this matter is undisputed and reflects the Respondent failed to timely notify the Department after the final Order by the Florida Supreme Court disbarring the Respondent's license to practice law in Florida. The Respondent stated his failure to timely notify the Department of his disbarment was an unintentional error, a mistake, and inadvertent. Regardless of what the Respondent may argue, the fact remains the Respondent failed to timely notify the Department when

notification was required by the Florida Insurance Code. See Section 626.536, Florida Statutes (2012).

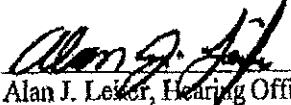
8. Rule 69B-231.110, Florida Administrative Code (2010) entitled Penalties for violations of other specific provisions of the Florida Insurance Code, specifically provides that a violation of Section 626.536, Florida Statutes shall be a minimum Five Hundred Dollar (\$500) for the first violation and a license suspension for a second or subsequent violation. The Record in this case reflects this is the Respondent's first violation of Section 626.536, Florida Statutes, and the appropriate administrative penalty shall be a Five Hundred Dollars (\$500) administrative fine.
9. Rule 69B-231.160, Florida Administrative Code (2006) provides aggravating and mitigating factors that are to be considered in calculating the final penalty assessed by the Department for violations of the Florida Insurance Code. The Department cites the aggravating factors cited by the Florida Supreme Court in Case Number SC10-332 as aggravating factors in this case and argues the administrative penalty herein should be increased. However, other than the Supreme Court Opinion, the Department has not provided any evidence herein of aggravating factors that specifically relate to the business of insurance. In his argument and exhibits, the Respondent strenuously argues he did no wrong with respect to the business of insurance since no transactions were ever consummated, and the principal witness that could testify otherwise has died. The Supreme Court of Florida disbarred the Respondent based solely on professional misconduct as a lawyer that was in violation of the Florida Rules Regulating the Florida Bar, and violation of those Rules are not aggravating factors under the Florida Insurance Code.

10. There were no aggravating or mitigating factors presented by either Party and the total applicable penalty in this matter is the three (3) month suspension of the Respondent's insurance agent licenses based on a violation of Section 626.621(13), Florida Statutes (2012) and Rule 69B-231.120, Florida Administrative Code, plus an administrative penalty of Five Hundred Dollars for failing to timely report the final disposition in Florida Supreme Court Case Number SC10-233 pursuant to Section 626.536, Florida Statutes and Rule 69B-231.110, Florida Administrative Code (2010).
11. The Department has demonstrated by clear and convincing evidence that the Respondent has violated Section 626.621(13), Florida Statutes when he was disbarred by the Florida Supreme Court in Case Number SC10-233, and Section 626.536, Florida Statutes when he failed to timely report his disbarment by the Florida Supreme Court.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby RECOMMENDED that a Final Order be entered finding the Respondent violated Section 626.621(13), Florida Statutes when he was disbarred by the Florida Supreme Court in Case Number SC10-233, and Section 626.536, Florida Statutes when he failed to timely report his disbarment by the Florida Supreme Court, and imposing a three (3) month suspension of the Respondent's Florida insurance agent licenses plus an administrative fine of Five Hundred Dollars (\$500) payable within thirty (30) days after the entry of a final order in this matter.

Respectfully submitted this 15th day of July, 2013:


Alan J. Lester, Hearing Officer
Department of Financial Services
3700 Lifford Circle
Tallahassee, Florida 32309
Phone: (850)668-9820

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Recommended Order has been provided by US Mail to: Mr. Brian G. Doherty at 42129 N. Golf Crest Road, Anthem, Arizona 85086 on this 15th day of July, 2013, and via hand delivery in the interest of judicial economy to James A. Bossart, Esq., Department of Financial Services, Division of Legal Services, 612 Larson Building, Tallahassee, FL 32399-0333.


Alan J. Leifer, Hearing Officer

APPLICATION FOR AN INDIVIDUAL INSURANCE LICENSE (FORM L-169)

1. CAREFULLY READ THE ENCLOSED INSTRUCTION PAGES. INCOMPLETE APPLICATIONS WILL BE RETURNED.
2. Complete ALL PAGES (printed in ink or typed) of this form and fulfill all other requirements shown in the enclosed instructions. Any additionally required forms are available on our Internet web site, at www.id.state.az.us
3. Staple your application form and any required attachments in the upper left corner. If you are required to submit examination results or a letter of certification, attach as the last (back) page.
4. Remove any stubs from your check or money order and staple your payment to the front of this page in the location indicated (immediately below SECTION II).
5. Send your application and payment packet to:
INSURANCE LICENSING SECTION, 2910 North 44th Street, Second Floor, Phoenix, AZ 85018-7256

SECTION I: BUSINESS INFORMATION

A. (Legal) Last Name (including Jr/Sr/etc if applicable) Doherty		B. Full First Name Brian		C. Full Middle Name Gerard	
D. Name of Business (if your place of business is your home, enter "N/A"): N/A		*If your mailing address contains the name of a business and you share commissions with it, that business must be separately licensed.			
E. Physical Street Address of Place of Business (*may not be a P O box) 161 Fox Den Circle		City Naples	State FL	Zip Code 34104	
F. Mailing Address (P.O. box permitted. If blank, Box E address will print on license) 161 Fox Den Circle		City Naples	State FL	Zip Code 34104	
G. Business Area Code & Phone: (239) 262-4332		H. Fax Area Code & Number (optional): (239) 262-7454		I. E-mail Address (optional): bgdoherty@earthlink.net	

SECTION II: LINES OF LICENSE AUTHORITY Write an "X" in the box to the left of the line(s) of authority for which you are applying:

- | | | | |
|---|--|---|---|
| <input checked="" type="checkbox"/> Life Insurance Producer | <input type="checkbox"/> Property Producer | <input type="checkbox"/> Adjuster | <input type="checkbox"/> Property & Casualty Managing General Agent |
| <input type="checkbox"/> Accident and Health or Sickness Producer | <input type="checkbox"/> Casualty Producer | <input type="checkbox"/> Bail Bond Agent | <input type="checkbox"/> Life Managing General Agent |
| <input type="checkbox"/> Variable Life and Variable Annuity Products Producer | <input type="checkbox"/> Personal Lines Producer | <input type="checkbox"/> Surplus Lines Broker | <input type="checkbox"/> Accident and Health or Sickness Managing General Agent |
| <input type="checkbox"/> Credit Insurance Producer | <input type="checkbox"/> Travel Accident Ticket and Baggage Insurance Producer | <input type="checkbox"/> Mexican Insurance Surplus Lines Broker | <input type="checkbox"/> Risk Management Consultant |
- Other limited line for nonresidents (see instructions): _____

{ ← HERE, ALIGN TOP OF CHECK OR MONEY ORDER AND STAPLE ON LEFT SIDE (REMEMBER TO REMOVE ANY STUBS FROM PAYMENT)

SECTION III: PERSONAL INFORMATION

A. Gender <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		B. Date of Birth: MM DD YYYY 12 / 19 72		
C. Place of Birth	City Melrose	State MA	Country USA	
D. Social Security Number (required by A.R.S. § 25-320(K)): [REDACTED]			E. Home Area Code and Phone Number: (239) 262-3883	
F. Physical Street Address of Applicant's Home 161 Fox Den Circle		City Naples	State FL	Zip Code 34104

SPACE BELOW IS FOR INSURANCE DEPARTMENT USE ONLY

exam passed on / /	License # 108894
exam passed on / /	
exam passed on / /	
Kinds Issued: Life	Exp. Date: / /
	Issue Date: / /

238072 6000

PAY TO THE ORDER OF ANY BANK
FOR DEPOSIT ONLY

DEC 22 2003

STATE TREASURER BY ARIZONA
INSURANCE DEPARTMENT



SECTION IV: INSURANCE LICENSE HISTORY Are you presently, or have you ever been, licensed to transact any kind of insurance in this state or elsewhere? Yes No If "Yes," please complete the following information as to each license. If more space is required, complete and attach a separate list.

State	Kinds of Insurance (life, disability, property, casualty, etc.)	Type of License (agent, broker, producer, solicitor, etc.)	DATES HELD	
			FROM (mm/yy)	TO (mm/yy)
FL	Life and Health	Producer	05/92	12/03

SECTION V: EMPLOYMENT HISTORY List your employment history (and periods of unemployment or education) for the past five years and your insurance-related experience during the past ten years. If more space is required, attach and sign a separate sheet containing the information.

Employer Name	Position Held	City/State	EMPLOYMENT DATES	
			FROM (mm/yy)	TO (mm/yy)
Doherty & Assoc.	Financial Planner	Naples, FL	03/98	12/03
IM&R	Financial Planner	Naples, FL	04/96	03/98
American Express	Financial Planner	Ft. Myers, FL	05/92	04/96

SECTION VI: INTENDED USE OF LICENSE List the purpose(s) for which the insurance license shall be used. If more space is required, attach and sign a separate sheet containing the information.

- I intend to sell, solicit or negotiate insurance policies to individuals, businesses or organizations, and will not use nor do I intend to use the license principally for the purpose of procuring insurance that covers:
- myself;
 - a member of my family or my relatives to the second degree;
 - my property or insurable interests;
 - the property or insurable interests of my relatives to the second degree, my employer or my employees, or a firm or corporation in which I own a substantial interest or of which I am an employee.
- I intend to adjust, investigate or negotiate settlements of claims arising under insurance contracts.
- Other:

SECTION VII: ADDITIONAL INFORMATION Carefully read and respond to each of the following questions. You should provide a "YES" answer even if you believe an incident has been cleared from your record. Willful misrepresentation of any fact required to be disclosed in any application or accompanying statement is a violation of law and a ground to deny your application.

NOTE: ADDITIONAL INFORMATION IS REQUIRED if you respond "YES" to any of the following. Please see the instructions.

<p>A. Have you EVER been convicted of a felony? For the purposes of this application, "convicted" includes, but is not limited to, having been found guilty by judge or jury or pled guilty or no contest to any felony charge. A "No" response is incorrect if applicant has had any conviction dismissed, expunged, pardoned, appealed, set aside or reversed, or had its civil rights restored, had a plea withdrawn or has been given probation, a suspended sentence or a fine, or successfully completed a diversion program.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>B. Have you EVER had any professional, vocational, business license or certification refused, denied, suspended, revoked or restricted, or a fine imposed by any public authority?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>C. Have you EVER withdrawn any application or surrendered any license to avoid any disciplinary action or the denial of a license?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>D. Have you EVER had any judgment, order or other determination made against you in any civil, administrative, judicial or quasi-judicial proceeding of any kind in any jurisdiction, including any criminal conviction, based on any of the following:</p>	
<p>1. Obtaining or attempting to obtain any type of license through misrepresentation or fraud?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>2. Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>3. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>4. Committing any insurance unfair trade practice or fraud?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>5. Using fraudulent, coercive or dishonest practices in the conduct of business?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>6. Demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>7. Forging another's name to any document related to an insurance transaction?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>8. Aiding or assisting any person in the unauthorized transaction of insurance business?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>9. Violating A.R.S. § 41-624(B) or (C), the prohibition of sharing commissions with anyone other than the contractor or a person that has performed actual services for the contractor in connection with a bid involving the sale of insurance to the State?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>10. Violating A.R.S. §§ 6-1410, 6-1412 or 6-1413, which establish requirements that relate to premium finance transactions?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>11. For any other cause arising out of an insurance transaction?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>E. Are any civil, administrative, judicial or quasi-judicial proceedings of any kind, including any criminal proceedings, in which an indictment, criminal complaint or information has been issued naming you as defendant, currently pending against you in any jurisdiction based on any of the following:</p>	
<p>1. Obtaining or attempting to obtain any type of license through misrepresentation or fraud?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>2. Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>3. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>4. Committing any insurance unfair trade practice or fraud?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>5. Using fraudulent, coercive or dishonest practices in the conduct of business?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>6. Demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>7. Forging another's name to any document related to an insurance transaction?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>8. Aiding or assisting any person in the unauthorized transaction of insurance business?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>9. Violating A.R.S. § 41-624(B) or (C), the prohibition of sharing commissions with anyone other than the contractor or a person that has performed actual services for the contractor in connection with a bid involving the sale of insurance to the State?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>10. Violating A.R.S. §§ 6-1410, 6-1412 or 6-1413, which establish requirements that relate to premium finance transactions?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>11. For any other cause arising out of an insurance transaction?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>F. If you are an applicant for a bail bond agent license, have you EVER been convicted of theft OR any crime involving carrying or possession of a deadly weapon or dangerous instrument?</p>	<input checked="" type="checkbox"/> Not applicable <input type="checkbox"/> Yes <input type="checkbox"/> No

SECTION VIII: AUTHORIZATION AND RELEASE Read the following and, if you agree, sign this page. This page must be signed for you to be eligible for an insurance license.

I understand that pursuant to A.R.S. § 20-291, application for and acceptance of a nonresident license constitutes an irrevocable appointment of the Director of insurance as attorney of the licensee for the acceptance of service of process issued in this state in any action or proceeding against the licensee arising out of such licensing or out of transactions under the license. Process service on the director on behalf of a nonresident licensee constitutes service on the licensee as though the licensee were personally served with process in this state.

Having filed this application, I hereby consent to having an investigation made of my moral character, professional reputation and fitness for an insurance license. I agree to give any further information that may be required in reference to my past record.

I also authorize and request every person, firm, company, corporation, governmental agency, court, association or institution having control of any documents, records and other information pertaining to me to furnish the Arizona Department of Insurance with any such information including documents, records, insurance department files including charges or complaints filed against me, formal or informal, pending or closed, or any other pertinent data, and to permit the Arizona Department of Insurance, or any of its agents or representatives or my authorized insurers to inspect and make copies of such documents, records and other information.

I release, discharge, and exonerate the Arizona Department of Insurance, its agents and representatives, the State of Arizona, my authorized insurers, and any person furnishing information pursuant to this Authorization and Release from and all liability which may arise from the investigation made by the Arizona Department of Insurance.

I certify that if issued a license, I shall not use the license principally for procuring insurance that covers

- myself,
- members of my family or my relatives to the second degree,
- my property or insurable interests,
- the property or insurable interests of my relatives to the second degree, my employer or my employees,
- a firm or corporation in which I own a substantial interest or the employees of that firm or corporation,
- property or insurable interests of my relatives to the second degree, my employer or my employees,
- property or insurable interests of a firm or corporation in which I own a substantial interest or the employees of that firm or corporation, or
- property or insurable interests for which I, my relatives to the second degree, my employer, or my firm or corporation is the bailee, trustee or receiver.

I hereby attest that I have read and that I understand the foregoing. I certify, under penalty of denial, suspension or revocation of the license or under any other penalties that may apply, that the answers, statements and information furnished in connection with this license application are true, correct and complete to the best of my knowledge and belief.



Full Signature of Applicant
(include FULL first, middle and last names)

Brian G. Doherty

12/17/03



STATE OF FLORIDA

TOM GALLAGHER
CHIEF FINANCIAL OFFICER

DEPARTMENT OF FINANCIAL SERVICES

the Capitol, Tallahassee, Florida 32399-0300

LETTER OF CERTIFICATION

10/23/2003

STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
BUREAU OF AGENT AND AGENCY LICENSING
TALLAHASSEE, FL. 32399-0300

RE: LICENSE NUMBER A069815

DOHERTY, BRIAN G
161 FOX DEN CIR
NAPLES

FL 33942-4972

THE ABOVE-NAMED HAS QUALIFIED FOR THE FOLLOWING LINES OF INSURANCE:

1. LINE: LIFE AND VARIABLE ANNUITY
LIC DATE: 04/06/1992; METHOD: WRITTEN EXAMINATION.
2. LINE: LIFE, HEALTH AND VARIABLE ANNUITY
LIC DATE: 04/06/1992; METHOD: WRITTEN EXAMINATION.
3. LINE: LIFE
LIC DATE: 04/06/1992; METHOD: WRITTEN EXAMINATION.
4. LINE: LIFE AND HEALTH
LIC DATE: 04/06/1992; METHOD: WRITTEN EXAMINATION.
5. LINE: HEALTH
LIC DATE: 04/06/1992; METHOD: WRITTEN EXAMINATION.

NO EXAMINATION IS REQUIRED FOR AN INDIVIDUAL WITH A CLU DESIGNATION.

OUR FILES DO NOT REFLECT ANY INFORMATION THAT WOULD PRECLUDE ISSUANCE OF AN APPOINTMENT FOR THIS INDIVIDUAL.

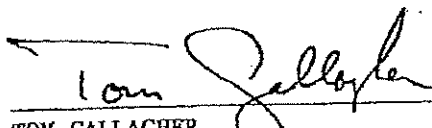
THE ABOVE-NAMED INDIVIDUAL IS CURRENTLY APPOINTED FOR THE FOLLOWING LINES OF INSURANCE:

1. LINE: LIFE
2. LINE: LIFE AND HEALTH

END OF LETTER. NOTHING SHALL APPEAR BELOW THIS LINE EXCEPT FOR STATE SEAL AND CHIEF FINANCIAL OFFICER TESTIMONIAL AND SIGNATURE.

IN TESTIMONY WHEREOF, I, TOM GALLAGHER, CHIEF FINANCIAL OFFICER,
HEREBY SET MY HAND AT TALLAHASSEE, FLORIDA
THIS 23RD DAY OF OCTOBER, 2003.




TOM GALLAGHER
CHIEF FINANCIAL OFFICER

STATE OF ARIZONA



DEPARTMENT OF INSURANCE

INSURANCE LICENSURE

This is to certify that the following named herein to transfer the bond of insurance in the State of Arizona do hereby...

ISSEU... 6/13/2005

BRANDS... POLYMER... 100% POLYMER...



Department of Insurance
State of Arizona
Administrative Services Division
Telephone: (602) 364-4457
Fax Number: (602) 364-4460

JANICE K. BREWER
Governor

2910 North 44th Street, Ste 210
Phoenix, Arizona 85018-7269
Web site: www.azinsurance.gov

GERMAINE L. MARKS
Director

January 12, 2015

CERTIFIED MAIL
7013 1710 0001 6978 4131

Brian Gerard Doherty
40703 N Harbour Town Ct
Anthem, AZ 85086

RE: Insurance License Application

Dear Mr. Doherty:

Pursuant to Arizona Revised Statutes §§ 20-295(A)(2), (8) and (9) without limitation, your application for an insurance license is hereby denied. Please note that the foregoing is not intended to serve as an exhaustive listing of the grounds on which to deny the license application. It is based on the information you provided and otherwise made available to us at this time. You have the right to appeal this decision. If you exercise your right to appeal (described below), after receiving your appeal, we will issue a Notice of Hearing in accordance with Title 41, Arizona Revised Statutes, that states the legal grounds for the denial based on our investigation and consultation with counsel.

NOTICE OF APPEAL RIGHTS

The decision in this letter is an appealable agency action. ARS §41-1092. You have the right to ask for a hearing on this determination by filing a request for hearing within 30 days after you receive this notice. If we receive your request for hearing after the 30-day period, we will not accept it unless you can show that you had good cause to file it late.

Your request for hearing must include the following:

- the party appealing our decision;
- the party's address;
- the decision you are appealing or contesting; and
- a concise statement of the reason(s) for the hearing



The Office of Administrative Hearings will hold your hearing within 60 days after we receive your request unless: 1) a party can show good cause to advance or delay the hearing; or 2) the parties agree to advance or delay the hearing. We will send you a "Notice of Hearing" at

least 30 days before the hearing, which will tell you the date, time and location of the hearing as well as the issues that the hearing will address and/or resolve.

If you request a hearing, you may also request an "informal settlement conference": by filing a written request with us. You may request an informal settlement conference at any time but **not later than 20 days** before the scheduled hearing. We will hold the conference at our office within 15 days after we receive your written request. We will have a person with the authority to act on behalf of the Department present. If we do not settle the case, please note that you waive all objections to our representative participating in the final administrative decision of your matter.

You **MUST** address your hearing request or informal settlement conference request to:

**ATTN: STEVEN FROMHOLTZ
NOTICE OF APPEAL
INSURANCE LICENSING SECTION
2910 N. 44TH ST., Ste 210
PHOENIX, AZ 85018-7269**

Sincerely,



Steven Fromholtz
Producer Licensing Administrator

Brian Doherty
40703 N. Harbour Town Court
Anthem, Arizona 85086-1828
623-551-9070 (Tel) • 623-551-9074 (Fax) • 602-828-9640 (Cell) •
bdoherty2010@cox.net

January 16, 2015

ARIZONA DEPARTMENT OF INSURANCE
Attention: Steven Fromholtz
2910 North 44th Street
Suite 210
Phoenix, AZ 85018-7269

Re: Brian Doherty - Insurance Licensing

Dear Mr. Fromholtz:

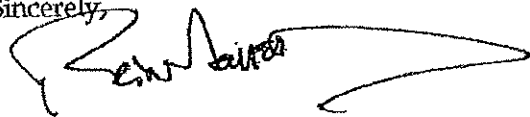
I have received and reviewed your letter dated January 12, which operates as a denial of my recent request to gain insurance licensing in the State of Arizona. Please find enclosed two requests with regard to the department's action.

Permit me to suggest that the department's decision is unwarranted. An examination of the record of my application, as well as my history while the holder on a non-resident basis of the licenses for which I have applied, would indicate that denial is fundamentally unfair, and may be legally indefensible. Of course, I was suspended by the State of Florida's Department of Insurance (basis for denial pursuant to A.R.S. § 20-295(A)(9)), but that state's subsequent issuance of a Letter of Clearance should establish that I complied with all terms of the suspension order and that my Florida insurance licensing eligibility has been reestablished. While the matter resulting in having my right to practice law is involved, it was never even alleged, much less established, that I engaged in fraud, dishonest practices, was incompetent, untrustworthy or financially irresponsible, activities which would justify denial pursuant to A.R.S. § 20-295(A)(8). I also have never intentionally violated any provision of Title 20 of the Arizona Revised Statutes, therefore denial pursuant to

A.R.S. § 20-295(A)(2) is also not justified. A.R.S. § 41-1092.03 (2) requires the notice supporting an adverse action taken by an appealable agency to identify with reasonable particularity the nature of any alleged violation, including the conduct or activity constituting the alleged violation. Your January 12 letter makes not a single reference to any matter supporting the department's denial of my request for licensing, which would appear to be contrary to Arizona Law.

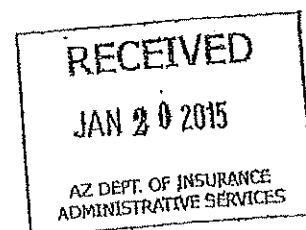
The enclosed pleadings indicate the course of conduct which I believe is appropriate. I thank you for your kind and immediate attention to this correspondence.

Sincerely,



Brian Doherty

BD/b
Enclosures



STATE OF ARIZONA
ADMINISTRATIVE PROCEEDING

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

In Re: BRIAN GERARD DOHERTY

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

PETITION:

TO RECONSIDER DENIAL OF INSURANCE LICENSING APPLICATION
or, in the alternative,
REQUEST FOR AN INFORMAL SETTLEMENT CONFERENCE
PUSUANT TO A.R.S. § 41-1092.06

A. Reconsideration

1. The above captioned individual recently sought a license from the Arizona Department of Insurance to sell Life and Health Insurance, and in a letter dated January 12, 2015, he was notified by the Arizona Department of Insurance of the denied of his application.

2. The action referenced above was communicated in a writing that is deficient as a matter of law and must be reconsidered.

3. A.R.S. § 41-1092.03 (2) requires the notice supporting an adverse action identify with reasonable particularity the nature of any alleged violation, including the conduct or activity constituting the alleged violation. The department's January 12, 2015 letter does not contain a single reference to any conduct or activity that would justify the department's denial of a request for an insurance licensing.

4. Mr. Doherty has not been notified of what specific conduct or activity it is alleged he has violated.

5. Accordingly, the department's action in denying insurance licensing to Mr. Doherty is defective on its face and must be stricken.

6. Mr. Doherty is entitled to be licensed as an Arizona Life and Health insurance producer in accordance with his recent application.

WHEREFORE, Mr. Doherty prays:

- A.) That the department's January 15, 2015 letter be rescinded and;
- B.) That Mr. Doherty immediately be approved for licensing in pursuant to his recent application.

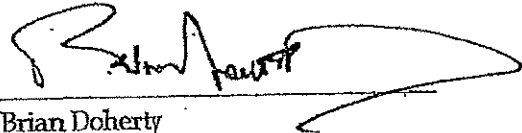
**B. Request for an Informal Settlement Conference
Pursuant to A.R.S. § 41-1092.06**

1. Mr. Doherty has recently received notification of adverse action taken against him by an appealable agency.
2. A provision of Arizona Law allows him to request the Arizona Department of Insurance to hold an informal settlement conference to address matters pertaining thereto.

WHEREFORE, Mr. Doherty prays:

- A. That an informal settlement conference [ursuant to A.R.S. § 41-1092.06 be scheduled as soon as possible; and
- B. For further relief as is deemed just and proper.

**RESPECTFULLY SUBMITTED,
BRIAN GERARD DOHERTY**



Brian Doherty
40703 N Harbour Town Court
Anthem, Arizona 85086-1828
623-551-9070
bdoherty2010@cox.net

Dated: January 16, 2015

STATE OF ARIZONA
ADMINISTRATIVE PROCEEDING

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

In Re: BRIAN GERARD DOHERTY

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

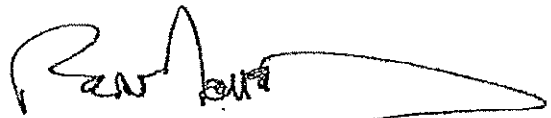
REQUEST FOR APPEAL PUSUANT TO A.R.S. § 41-1092.03(B)

1. The Appellant sought a license from the Arizona Department of Insurance to sell Life and Health Insurance.
2. In a letter dated January 12, 2015, sent via certified mail and received by the Appellant on January 15, 2015, Arizona Department of Insurance informed the Appellant that his application for licensure was denied.
3. The action referenced in said January 12, 2015 letter is that of an appealable agency under Arizona Law.
4. The Appellant wishes to appeal the decision of the Arizona Department of Insurance denying his application.

WHEREFORE, the Appellant prays:

- A. That this matter be scheduled for a hearing; and
- B. For further relief as is deemed just and proper.

RESPECTFULLY SUBMITTED,
BRIAN GERARD DOHERTY



Dated: January 16, 2015

Brian Doherty
40703 N Harbour Town Court
Anthem, Arizona 85086-1828
623-551-9070
bdoherty2010@cox.net

EXHIBIT - C

STATE OF ARIZONA
DEPRATMENT OF INSURANCE

PAD/CPA
FEB 19 2015
RECEIVED

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

In Re: The Matter of the Application for
Insurance License of:

BRIAN GERARD DOHERTY,

Docket No. 15A-008-INS
ALJ Tammy Eigenheer

Petitioner

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

MOTION FOR CONTINUANCE

NOW COMES the petitioner in the above captioned matter to recite:

1. He had continuously held a Health and Life License issued by the State of Florida beginning in 1992, which was suspended in September, 2013. The petitioner faithfully complied with all the terms and conditions of said suspension as of September 30, 2014.
2. In December of 2014, he received a Letter of Clearance from the State of Florida indicating he was eligible for insurance licensing by the State of Florida.
3. In a notice dated January 29, 2015, the State of Florida notified the petitioner it would not reinstate his Florida Insurance License A069815, despite his successful completion of the terms of the suspension and its issuance of a Letter of Clearance.
4. The petitioner is requesting that the State of Florida clarify its position in regard to the petitioner's Florida licensing, which may require an administrative hearing in Florida.
5. Until the petitioner's Florida insurance status is clarified, he feels it is premature to actively pursue insurance licensing in the State of Arizona.



WHEREFORE, Mr. Doherty prays:

- A.) That the hearing on the status of the petitioner's Arizona licensing scheduled for March 19, 2015, be continued indefinitely; and
- B.) For any further relief the Administrative Law Judge deems appropriate.

**RESPECTFULLY SUBMITTED,
BRIAN GERARD DOHERTY**

Dated: February 16, 2015

Brian Doherty
40703 N Harbour Town Court
Anthem, Arizona 85086-1828
623-551-9070
bdoherty2010@cox.net

Certificate of Service

I, Brian Gerard Doherty, hereby certify that a copy of this pleading was sent this day via first class United States mail, postage prepaid, to:

Darren Ellington, Deputy Director
ARIZONA DEPARTMENT of INSURANCE
2910 North 44th Street, Suite 210
Phoenix, AZ 85018

Liane Kido, Esq.
OFFICE of the ATTORNEY GENERAL
1275 West Washington Street
Phoenix, AZ 85007-2926

Dated: February 16, 2015

Brian Doherty