

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON

Phone: (360) 725-7000
www.insurance.wa.gov



FILED

OFFICE OF
INSURANCE COMMISSIONER
HEARINGS UNIT

2012 08 17 10:06

Fax: (360) 664-2782

Patricia D. Petersen
Chief Hearing Officer
(360) 725-7105

Kelly A. Cairns
Paralegal
(360) 725-7002
KellyC@oic.wa.gov

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of)	Docket No. 12-0035
)	
WALLS INSURANCE AND SECURITIES)	FINDINGS OF FACT,
SCHOOL and M. SCOTT REILLY,)	CONCLUSIONS OF LAW,
)	AND FINAL ORDER
Insurance Education Provider.)	

TO: M. Scott Reilly
Walls Insurance and Securities School
555 116th Avenue NE, Suite 125
Bellevue, WA 98004

James Miller, Esq.
Kennedy Schuck & Miller, PLLC
1520 140th Ave. NE, Suite 200
Bellevue, WA 98005

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Marcia Stickler, Staff Attorney, Legal Affairs Division
Carol Sureau, Deputy Commissioner, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Pursuant to RCW 34.05.434, 34.05.461, 48.04.010 and WAC 10-08-210, and after notice to all interested parties and persons the first hearing day of the above-entitled matter came on regularly for hearing before the Washington State Insurance Commissioner commencing at 10:00 a.m. on



FINDINGS OF FACT, CONCLUSIONS OF LAW
AND FINAL ORDER

12-0035

Page - 2

May 11, 2012. The second and final day of hearing was held, by telephone at the request of M. Scott Reilly and the Walls School, on June 14, 2012. All persons to be affected by the above-entitled matter were given the right to be present at such hearing during the giving of testimony, and had reasonable opportunity to inspect all documentary evidence. The Insurance Commissioner appeared by and through Marcia Stickler, Esq., Staff Attorney in his Legal Affairs Division. M. Scott Reilly appeared pro se, representing himself and Walls Insurance and Securities School during the first day of the proceeding. Both Mr. Reilly and Walls Insurance and Securities School were represented by their attorney, James Miller, Esq. of Kennedy Schuck Miller of Bellevue, Washington, during the second day.

NATURE OF PROCEEDING

The purpose of the hearing was to take testimony and evidence and hear arguments as to whether disciplinary action should be taken against M. Scott Reilly and against Walls Insurance and Securities School, based primarily on the Commissioner's allegation that M. Scott Reilly and Walls Insurance and Securities School failed to timely submit rosters for the continuing insurance education courses it provides, despite numerous notices and reminders, and thereby violated WAC 284-17-272(1)(h). The Insurance Commissioner offered a proposed Consent Order Levying a Fine, No. 12-0035 to M. Scott Reilly and Walls Insurance and Securities School, proposing imposition of a fine against them in the amount of \$8,475.00 (with a conditional suspension of \$6,475.00 of the fine) for their alleged actions. On March 6, 2012, M. Scott Reilly and Walls Insurance and Securities School filed a Demand for Hearing, rejecting the proposed Consent Order.

FINDINGS OF FACT

Having considered the evidence and arguments presented at the hearing, and the documents on file herein, the undersigned presiding officer designated to hear and determine this matter finds as follows:

1. The hearing was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied.
2. M. Scott Reilly ("Reilly") is an individual who is a resident of Washington. Since 1989, Reilly has held an insurance producer's license, WAOIC No. 69695, issued to him by the Washington State Insurance Commissioner ("OIC") authorizing him to solicit and sell life, disability, property and casualty insurance in Washington. Prior to 1989, in the 1970's, Reilly was licensed as an insurance producer by the OIC as well. During the time he was previously licensed Reilly had no disciplinary actions taken by the OIC against him. [Testimony of Reilly.] Further, since he became licensed again in 1989 Reilly has never been the subject of a disciplinary action by the OIC. [Testimony of Reilly.]

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND FINAL ORDER

12-0035

Page - 3

3. Reilly owns Walls Insurance and Securities School ("Walls School"). Walls School is an insurance education provider licensed by the OIC. Insurance education providers are required to be approved by the OIC. If approved, an insurance education provider is authorized to teach prospective, new and continuing insurance producers, and others, various subjects involving the business of insurance for purposes of meeting the OIC's insurance producer licensing requirements. Toward that end, each insurance education provider is required to maintain a Course Attendee Roster consisting of sign-in and sign-out registers for each lecture (classroom) course, and a purchase-and-complete roster for each self-study course. Each insurance education provider is required to electronically submit the roster for each course to the OIC within 10 days after completion of each course presentation.

4. Over time, when Course Attendee Rosters ("Rosters") were not timely received from the Walls School, the OIC has sent numerous notices and reminders of this requirement to both the Walls School and Reilly. [Testimony of Joseph Mendoza, Insurance Analyst, Licensing and Education Division, Office of Insurance Commissioner; Testimony of Reilly.] Further, the OIC provided significant personal assistance to the Walls School and Reilly regarding how to operate their computer system(s) so that they would be able to timely submit their Rosters. [Testimony of Mendoza; Testimony of Pamela J. Reilly, wife of Reilly who performed computer and other tasks for the Walls School concerning filing of the Rosters and obtained personal assistance from the OIC.]

5. In spite of numerous notices and reminders sent by the OIC to the Walls School and Reilly, still during the period of time between January 2011 and October 2011 the Walls School and Reilly submitted 113 tardy Course Attendee Rosters to the OIC.

6. The Walls School and Reilly admit to the OIC's allegations that they submitted the subject 113 tardy Rosters as set forth in the subject Consent Order Levying a Fine. [Testimony of Reilly.] They argue that the OIC's action against them should either be set aside or reduced, however, because 1) they argue that the OIC has taken more harsh disciplinary action against them than against other insurance education providers in Washington state. In fact, to the extent that this argument is even correct or relevant, it is noted this number of tardy Rosters is nearly the highest number of tardy Rosters of all insurance education providers in Washington state during the period at issue herein. [Testimony of Mendoza; Ex. 7.] Next, the Walls School and Reilly present other reasons why the OIC's action against them should either be set aside or reduced, namely 2) that Reilly's wife's father was ill during the time that they submitted 84 of these 113 tardy Rosters; 3) that their office assistant had had an auto accident and was taking pain killers during this period so was unable to file the tardy Rosters (even though Reilly's wife was primarily responsible for making these computer filings during all or most of this period); 4) that in spite of the fact that they admit that the OIC provided them with substantial personal assistance in learning how to file timely Rosters, they still were unable to do so and they "just missed" the OIC's instructions that e.g., Google Chrome could not be used. [Testimony of Reilly; Testimony of Pamela J. Reilly; Testimony of Mendoza.] However, it is here found that none of these reasons, either separately or combined, serve to adequately support a finding that

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND FINAL ORDER

12-0035

Page - 4

the OIC's disciplinary action against them should be reduced.

7. Joe Mendoza, who is in charge of prelicensing and licensing of continuing education providers for the OIC, testified as a witness on behalf of the OIC, and on the second day of the hearing was called back to present rebuttal testimony. Mr. Mendoza presented his testimony in a detailed and credible manner and exhibited no apparent biases.

8. M. Scott Reilly, the Licensee and the owner of Licensee Walls Insurance and Securities School, appeared as a witness on behalf of himself and the Walls School. Mr. Reilly presented his testimony in a somewhat detailed manner although he was not aware of all relevant facts, instead deferring at times to his wife. He also appeared to be fairly defensive, seemed to be offended that the OIC would take action against him and the Walls School for the subject activities, attempted to minimize their seriousness, and appeared unduly critical of the OIC for taking action against him and the Walls School even in light of evidence that he and the Walls School were among the top few individuals and entities engaged in violating the statutes and regulations identified herein. He also focused a significant amount of his testimony on presenting the above discussed reasons why his and the Wall School's activities should not warrant any, or so much, disciplinary action from the OIC.

9. Pamela J. Reilly, Reilly's wife and an individual who worked in Reilly's and the Walls School's insurance education provider business, appeared as a witness on behalf of Reilly and the Walls School. Ms. Reilly presented her testimony in a fairly detailed and credible manner although she focused a significant amount of her testimony on presenting the above discussed reasons why Reilly's and the Wall School's activities should not warrant any, or so much, disciplinary action from the OIC.

10. Based upon the above Findings, it is reasonable that, as set forth in the Consent Order Levying a Fine which was offered by the OIC to the Walls School and Reilly and became the basis for their Demand for Hearing, a fine of \$8,475 should be imposed upon the Walls School and Reilly, of which amount the sum of \$6,475 is suspended on the condition that the Walls School and Reilly fully comply with the provisions of the Insurance Code and regulations concerning the timely filing of Rosters for the period of two years following the date of the Order herein.

CONCLUSIONS OF LAW

Based upon the above Findings of Facts, it is hereby concluded:

1. The adjudicative proceeding herein was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied. This Order is entered pursuant to Title 48 RCW and specifically RCW 48.04; Title 34 RCW; and regulations pursuant thereto.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND FINAL ORDER

12-0035

Page - 5

2. By submitting tardy Course Attendee Rosters to the OIC, the Walls School and Reilly violated WAC 284-17-272(1)(h).

3. WAC 284-17-304 provides that the OIC may suspend or revoke a continuing insurance education provider's approval if the provider or any of its employees involved in continuing insurance education is found to have violated any provisions of Title 48 RCW or Chapter 284 WAC.

4. Pursuant to RCW 48.17.560, after a hearing or upon stipulation by the licensee or insurance education provider, and in addition to or in lieu of suspension, revocation, or refusal to renew any such license or insurance education provider approval, the OIC may levy upon the licensee or insurance education provider a fine of not more than \$1,000 per violation of the Insurance Code. Based upon RCW 48.17.560, the OIC offered the subject Consent Order Levying a Fine to Reilly and the Walls School proposing imposition of a fine for the activities set forth therein which was within the amount permitted under that statute. Upon properly filing their Demand for Hearing Reilly and the Walls School rejected said Consent Order and, as concluded above, a hearing was properly held.

5. Based upon the above Findings of Facts and Conclusions of Law, it is hereby concluded that it is reasonable that the OIC should, as set forth in the OIC's proposed Consent Order Levying a Fine, impose a fine of \$8,475 upon Reilly and the Walls School, with \$6,475 suspended on the conditions that 1) within thirty days of the entry of the Order herein Reilly and the Walls School pay \$2,000 with responsibility for payment being joint and several; and 2) Reilly and the Walls School commit no further violations of WAC 284-17-272(1)(h) for a period of two years from the date of the Order herein.

ORDER

On the basis of the foregoing Findings of Facts and Conclusions of Law,

IT IS HEREBY ORDERED that a fine of \$8,475 shall be imposed upon Reilly and the Walls School, with \$6,475 suspended on the following conditions:

- 1) that within thirty days of entry of this Order Reilly and the Walls School shall pay \$2,000 to the Washington State Insurance Commissioner, with responsibility for payment of the fine being joint and several; and
- 2) that Reilly and the Walls School, either jointly or severally, shall commit no further violations of WAC 284-17-272(1)(h) for a period of two years from the date of this Order; and

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND FINAL ORDER

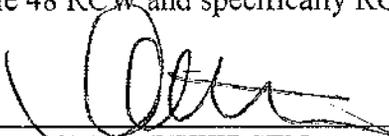
12-0035

Page - 6

- 3) that failure to comply with WAC 284-17-272(1)(h) may constitute grounds for further penalties which may be imposed in direct response to further violations, in addition to the imposition of the suspended portion of this fine.

IT IS FURTHER ORDERED that Rcilly's and the Walls School's failure to timely pay the \$2,000 nonsuspended portion of the fine imposed herein shall constitute grounds for revocation of the Walls School's approval status as an insurance education provider, and shall result in the recovery of both the suspended and unsuspended amount of the fine imposed herein through a civil action brought on behalf of the Washington State Insurance Commissioner by the Attorney General of the State of Washington.

ENTERED AT TUMWATER, WASHINGTON, this 17th day of August, 2012, pursuant to Title 48 RCW and specifically RCW 48.04 and Title 34 RCW and regulations applicable thereto.



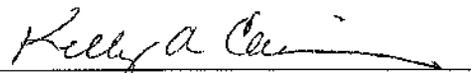
PATRICIA D. PETERSEN
Chief Presiding Officer

Pursuant to RCW 34.05.461(3), the parties are advised that they may seek reconsideration of this order by filing a request for reconsideration under RCW 34.05.470 with the undersigned within 10 days of the date of service (date of mailing) of this order. Further, the parties are advised that, pursuant to RCW 34.05.514 and 34.05.542, this order may be appealed to Superior Court by, within 30 days after date of service (date of mailing) of this order, 1) filing a petition in the Superior Court, at the petitioner's option, for (a) Thurston County or (b) the county of the petitioner's residence or principal place of business; and 2) delivery of a copy of the petition to the Office of the Insurance Commissioner; and 3) depositing copies of the petition upon all other parties of record and the Office of the Attorney General.

Declaration of Mailing

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: M. Scott Rcilly, James Miller, Esq., Mike Kreidler, Michael G. Watson, John F. Hamje, Esq., Marcia Stickler, Esq., and Carol Sureau, Esq.,

DATED this 17th day of August, 2012.



KELLY A. CAIRNS