

**Council of the District of Columbia**

**Committee on Business, Consumer and Regulatory Affairs**

**Councilmember Vincent B. Orange, Chair**

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**Agency Performance Oversight Hearing**

**February 19, 2014**

**Testimony of**

**Chester A. McPherson, Interim Commissioner**

**Department of Insurance, Securities and Banking**

## **Introduction and Overview**

Chairman Orange, members of the Committee and staff. I am Chester McPherson, the interim commissioner of the Department of Insurance, Securities and Banking. I appreciate the opportunity to testify today.

The department regulates insurance, securities, banking and other financial services. Our mission is to protect consumers from unfair and abusive practices, and to provide an equitable business arena for the entities we regulate in the District.

The department has four bureaus supervising our market operations in insurance, banking, securities and risk finance. In addition, we have divisions overseeing market compliance, enforcement and consumer protection, market examinations, agency management and communications. During this testimony, I will share fiscal year 2013 highlights starting with insurance.

## **Insurance Bureau**

More than 1,300 insurance companies are licensed to operate in the District. Fourteen of these companies are incorporated in the District. While the majority of the companies are property and casualty insurers; the majority of the insurance premium written in the District is for health insurance coverage. Altogether, these companies generate almost \$95 million in taxes and fees for the District's General Fund.

The insurance bureau licenses insurance professionals, such as insurance brokers. At fiscal year-end 2013, there were 68,852 licensed individual insurance brokers and sales people, including 1,202 who are District residents. The bureau also licensed 5,201 insurance agencies, including 129 based in the District.

Several important issues were managed by the insurance bureau in fiscal year 2013. The two primary efforts were the continued implementation of health care reform in the District; and the rehabilitation of DC Chartered Health Plan.

As mentioned in previous testimony, the department has had a significant role in the District's implementation of the federal health care reform law, the Patient Protection and Affordable Care Act of 2010, known as the "ACA."

Notably, the department performs all functions related to plan management for the District's new health insurance marketplace, known as DC Health Link. Our work includes the review and certification of qualified health plans, and ongoing monitoring for market compliance. We are also responsible for resolving complaints from carriers and residents with regard to plan offerings on DC Health Link. In fact, our staff reviews and approves all health insurance policy form and rate filings offered in the District, including those sold on DC Health Link.

In advance of the Oct 1, 2013 open enrollment period, the department approved rates for the approximately 300 plans being offered on DC Health Link. This spring, the department will commence the process for reviewing and approving plans and rates for the upcoming Oct 1, 2014 open enrollment period for the January 1, 2015 plan year.

Next, I want to update the committee on the status of DC Chartered Health Plan. In October 2012, the department obtained an order of rehabilitation for the company. Chartered provided Medicaid benefit services to approximately 110,000 District residents and employed about 160 people. As a part of the rehabilitation, certain Chartered assets were sold to AmeriHealth Mercy Family of Cos., a large health-care/Medicaid company headquartered in Philadelphia. That transaction closed in April of 2013. On May 1, 2013, AmeriHealth was awarded a new five-year Medicaid contract with the city and assumed responsibility for Chartered's membership and operations and employed nearly all of its former employees. The rehabilitation of Chartered is ongoing; however, the department met a very important goal: to ensure that the more than 100,000 District residents continued to get health care. The court filings and documentation related to Chartered's rehabilitation can be found on our website.

Before I discuss the activities of our banking bureau, I want to talk briefly about our captive insurance program. The District continues to

be one of the premier jurisdictions for captive insurance companies in the nation. The department expects the captive industry to grow as companies increasingly seek alternatives to the traditional insurance market. Our department is well-positioned to charter new captive insurance companies as this trend continues. There are 114 active captive insurance companies domiciled in the District.

### **Banking**

Next, I will discuss the activities of our banking bureau. The banking bureau regulates District of Columbia-chartered banks and non-depositories such as mortgage companies and consumer finance companies. Two local commercial banks, Bank of Georgetown and Industrial Bank, are chartered in the District. Two national banks, City First Bank of D.C. and the National Capital Bank of Washington, are also domiciled here.

The banking bureau also licenses and supervises nearly 3,500 financial services professionals operating in the District, including mortgage lenders and brokers; mortgage loan originators; check cashers;

money transmitters; consumer sales finance companies, and money lenders.

Our efforts in economic development and small business support are also worth noting to the committee today. Last year, the banking bureau expanded to include the D.C. Collateral Support Program which supports lending to local small businesses. It is part of the U.S. Treasury's State Small Business Credit Initiative which allocated \$13.2 million for District businesses. The program increases lending opportunities for small businesses by providing cash collateral to lenders to support loans made to those businesses. To date, the program has enrolled and provided collateral support for four of the 21 applications with a total loan value of \$5.1 million. Twelve financial institutions in the local D.C. area are participating in the program.

A brief update on the department's foreclosure prevention efforts. Last year, we reported on our participation with some states in a national investigation into "robo-signing" and other questionable mortgage-servicing practices. The group reached a historic national settlement and

\$4.4 million of the settlement was allocated to D.C. I am pleased to report that all of these funds are going directly to foreclosure and housing-related support for residents. The support includes legal assistance for homeowners facing foreclosure; a D.C. hotline for distressed homeowners; and housing counseling and foreclosure mediation services. Also, this past fiscal year, the Council passed legislation that made the D.C. Foreclosure Mediation Program permanent. Since the program's inception in May 2011, 81 percent of mediations prevented foreclosures because lenders and homeowners agreed to loan modifications, repayment plans, reinstatements, short sales and other alternatives. In fiscal year 2013, 95 percent of mediations prevented foreclosure.

Fiscal year 2013 was also the first full year that the "Bank on DC" program operated under the auspices of the banking bureau. It was previously a program within the Office of the Deputy Mayor for Planning and Economic Development. Bank on DC is a collaborative effort between the District, financial institutions and non-profits to



provide access to affordable financial services and financial education to unbanked and under-banked households. The program has opened a total of 5,157 accounts since April 2010 – saving residents more than four million dollars in check cashing fees. The program has reached approximately 400,000 District residents via television ads, traditional and social media and grassroots efforts. In the 2013 fiscal year alone, Bank on DC opened 788 accounts, saving residents \$630,400 in check cashing fees. Additionally, the Mayor named Bank on DC the best host site for the 2013 Summer Youth Employment Program in recognition of its innovative peer learning project where students taught each other about financial literacy issues.

### **Securities Bureau**

Now I'd like to discuss the activities of our securities bureau. The securities bureau licenses and monitors investment advisers and their representatives, and broker-dealers and their agents, and reviews certain public securities offerings in the District, independently or in conjunction with the federal Securities and Exchange Commission.

In fiscal year 2013, the securities bureau licensed nearly 130,000 securities professionals and nearly 2,900 firms. The bureau also processed 61 registrations of securities offerings and more than 23,000 notice filings for mutual funds.

As a result of the Dodd-Frank Act, twenty-nine investment firms formerly regulated by the Securities and Exchange Commission are now under the department's jurisdiction, including six that are based in the District.

I also want to share with the committee that the District is now one of few jurisdictions to require applicants for investment-adviser-representative licenses to submit their fingerprints for a background check. This represents another layer of investor protection for our residents.

Additionally, the department is reviewing the way it regulates securities offerings consistent with the goals of the federal Jumpstart Our Business Startups Act, known as the JOBS Act. The act permits "crowd funding" – that is, obtaining funding in small amounts from

large numbers of investors – and liberalizes other federal requirements on small public companies. The goals of our forthcoming regulations in this area are twofold: one, to support local business development in a safe and sound manner; and two, to ensure we are protecting local investors.

### **Enforcement & Consumer Protection**

Our enforcement division conducts fraud detection, investigation and prosecution using administrative, civil and criminal referral enforcement actions against those that would defraud District residents.

In fiscal year 2013, 386 referrals and/or complaints were addressed by the division's investigators. During this period, the courts ordered \$6.5 million in restitution and forfeitures for victims of financial fraud committed in the District. Perpetrators got jail time, probation, fines and community service.

Last September, the department was recognized by the U.S. Attorney's Office for our role in investigating a multi-million dollar mortgage fraud scheme. The scheme was discovered by our

department's investigators and involved "straw buyers" obtaining mortgages through false loan applications, forged documents and fraudulent settlements. The investigation culminated in the prosecution of five people who were collectively sentenced to 140 months incarceration and ordered to pay restitution and forfeit a total of \$10.8 million. This is just one example of our joint efforts with local and federal agencies to stop financial fraud in the District.

This division also worked closely with DC Health Link to ensure a prompt response to any suspected fraud on the city's new health insurance marketplace. The commissioner serves as an ex-officio board member of the District's Health Benefit Exchange Authority, the parent of DC Health Link.

Our department also addresses consumer complaints regarding insurance and financial services companies operating in the District. More than eighty percent of the complaints we receive involve insurance related issues, followed by banking and other financial services. As we

did in fiscal year 2012, in fiscal year 2013, the department resolved almost all complaints within 45 days.

### **Community Outreach**

Before concluding, I would like to brief the committee on the department's outreach and financial education efforts. We provided financial literacy and consumer protection information to 2,317 residents in fiscal year 2013, and have already reached 1,100 residents thus far in fiscal year 2014. Our efforts in this area have become more targeted based on feedback from the public. In particular, we have focused on educating our city's seniors who unfortunately are often a target for fraud. The department led 25 senior-focused events reaching 850 District seniors last fiscal year. Additionally, our staff is frequently asked to provide presentations on financial services and insurance topics throughout the community. The department continues to use a combination of digital and in-person means to provide fraud prevention and financial education.

## **Conclusion**

This concludes my summary of the department's work and program growth over the past year. I believe we are well-positioned to meet our regulatory responsibilities, protect consumers and support the District's economic development goals. Thank you again, Chairman Orange and members of the Committee. I'd be happy to answer your questions.