

## **Final Agency Action Regarding Class I Administrative Fine for \$500 – Lori Gavitt**

In preparation for taking Final Agency Action, Evan Frayman, Esq. will provide the Board with an overview of the appeal process and the Board's role in that process.

The Board is asked to review the attached: Notice of Class 1 Administrative Fine; Request for Hearing; Notice of Hearing; Findings of Fact, Conclusions of Law and Recommendations of Hearing Officer; Notice of Service of Hearing Officers Recommended Order and Notice of Right to File Written Exceptions (which includes notice of Board Meeting for Final Agency Action). A notice of the meeting at which the Board will take Final Agency Action was mailed to Ms. Gavitt.

The Hearing Officer upheld staff's imposition of the Class 1 Administrative Fine in the amount of \$500 for violating the supervision requirements. Ms. Gavitt did not file Written Exceptions, and therefore, a transcript from the hearing was not ordered.

The Advisory Committee members may participate in the discussion based on the record but only Board Members may participate in taking Action based on the records submitted and the contents of the Findings of Fact and Recommendations of the Hearing Officer.

Evan Frayman, Esq., will be present to advise the Board of procedures and legal issues related to the Board's Final Agency Action.

### **Board Action:**

- Board may approve or modify the Recommended Order as the Final Agency Action of the PCLB, to wit:
- The Board may accept, reject or modify findings of fact. However, the Board may reject or modify findings of fact only after a review of the entire record, provided that such rejection or modification is based upon and the order states with particularity that the findings of fact were not based upon competent,

substantial evidence or that the proceedings on which the findings were based did not comply with the essential requirements of the law.

- The Board may accept, reject, or modify conclusions of law if the conclusion is based upon laws over which it has substantive jurisdiction, provided the Board states with particularity its reasons for rejecting or modifying such conclusion of law and makes a finding that its conclusion of law is as reasonable as or more reasonable than that of the hearing officer.

- The Board may accept the recommended penalty. However, if the Board chooses to increase or decrease the penalty, it must do so only after review of the entire record and the Final Agency Action must state with particularity its reasons therefore by citing to the record in justifying the action.