

STATE OF WASHINGTON

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

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FILED

OFFICE OF
INSURANCE COMMISSIONER
HEARINGS UNIT
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2009 JUL -6 A 11:58

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Paralegal Hearing Officer
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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:)

SUNG H. KIM,)
aka CHARLIE SUNGHO KIM,)

Licensee.)

No. D08-0159

AMENDED FINAL FINDINGS OF
FACTS AND CONCLUSIONS OF
LAW AND ORDER ON HEARING

TO: Sung H. Kim
1414 S. 324th Street, B209225
Federal Way, Wa 98003

Corey E. Parker, Esquire
Parker Law, P.S.
701 Fifth Avenue, Suite 4740
Seattle Wa 98104-7035

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

*The sole purpose of this Amended Order is to amend #10 on page 6, below, as indicated.
The balance of the Order remains effective as entered.*

Pursuant to RCW 34.04.090, 34.04.120, 48.04.010 and WAC 10-08-210, and after notice to all interested parties and persons, the above-entitled matter came on regularly for hearing before the Insurance Commissioner for the state of Washington (Commissioner) on February 27, 2009, commencing at 10 a.m. in Tumwater, Washington. All persons to

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Street Address: 5000 Capitol Blvd. • Tumwater, WA 98501



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 OIC appeared pro se, by and through OIC Staff Attorney Charles D. Brown. Sung H. Kim, aka Charlie Sungho Kim, (Licensee) appeared with representation discussed below.

NATURE OF PROCEEDING

The purpose of the hearing was to take testimony and evidence and hear arguments as to whether the Commissioner's Order Revoking License, No. D08-0159, entered October 3, 2008, should be confirmed, set aside or modified. Said Order Revoking License revokes the insurance agent's license of Sung H. Kim, aka Charlie Sungho Kim, (Licensee) based upon the facts alleged therein, generally, alleging that the Licensee assumed the identities of other individuals without their knowledge, obtained credit cards in their names thereby procuring money in their names and converting these funds to his own use. The Licensee demanded this hearing to contest this Order Revoking License.

PROCEDURAL HISTORY

On October 3, 2008, the OIC entered the aforereferenced Order Revoking License against the Licensee, revoking his insurance agent's license effective October 23, 2008. On October 23, 2008, the Licensee filed a written demand for hearing to contest said Order, on the basis that *I would like to explain the circumstances regarding the activities. Also, I'm the head of my household and can't afford to lose my license since I'm only the source (sic) for income right now.*

As the Licensee had been informed in Notice of Receipt of Demand for Hearing served upon him on October 24, 2008, as a courtesy, Wendy Galloway, Paralegal to the undersigned, attempted to schedule a first prehearing conference in this matter at a time convenient for the Licensee. After leaving phone messages at times between October 23 and November 7, she served letters dated November 7 and 14 on the Licensee concerning his lack of response to her attempts to schedule the prehearing conference. Eventually, the first prehearing conference was held on November 24 which included all parties; the Licensee appeared pro se and the OIC appeared pro se by and through Sr. Staff Attorney Charles Brown. During that teleconference, the undersigned advised the Licensee that while often Licensees in his position hire legal counsel to represent them, it is also not uncommon for a Licensee to represent himself. The Licensee advised that he might hire counsel, and at the same time agreed that the hearing should commence on January 7, 2009.

However, by email on January 2, the Licensee requested a continuance of the hearing date because *I'm having some trouble gathering necessary information.* Again, the Licensee advised that he might hire counsel to represent him. Although the Commissioner already had several witnesses scheduled to appear and testify on January 7, he agreed to accommodate the Licensee's request for a continuance, and the Licensee

agreed that the hearing should commence on January 30. Said dates and agreements of the Licensee are as reflected in the record of this prehearing conference and also in Notice of Hearing entered by the undersigned on January 7, 2009. Additionally, during this prehearing conference, the undersigned advised the Licensee that if he was having trouble obtaining necessary information, he should 1) contact Mr. Brown to request information or documentation that he may be seeking; 2) she offered to issue subpoenas to assist him in the process as well; and 3) again advised that he should contact her Paralegal should he have any questions.

However, by email on January 25, the Licensee advised *I'm so sorry but could we reschedule my hearing date? My grandma just passed away so I'm going out of town to attend her funeral and I probably need to stay and take care of family business so I won't be back until the third week of March.* Contact with the Licensee revealed that he was actually already driving to California, apparently assuming that opposing counsel and the undersigned would again accommodate his request for another continuance.

During teleconference held January 26 concerning Licensee's new request for continuance, the OIC expressed concern that this was the Licensee's second request to continue the hearing date; however, largely as the Licensee was already en route to California, the Licensee's request was granted and the Licensee and opposing counsel agreed upon a new hearing date of March 25, all as reflected in the Order of Continuance entered by the undersigned shortly thereafter. Still, the Licensee had retained no counsel.

On March 24, 2009, at 9 a.m., the day before the morning the hearing was scheduled to commence, Wendy Galloway, Paralegal to the undersigned, received a telephone call from Jerry Shultz of Parker Law, P.S. in Seattle. Mr. Shultz advised that the Licensee had just hired Mr. Parker to represent him and that he would need a continuance of the March 25 hearing date because Mr. Parker was not available and had not prepared his case. Ms. Galloway advised Mr. Schultz that 1) Mr. Parker could not rely upon being granted a continuance, as this would be up to the presiding officer and the Licensee had already received two continuances; 2) at any rate, Mr. Parker would have to file a Notice of Appearance in order to even request such a continuance or represent the Licensee in any way; and 3) Ms. Galloway gave Mr. Schultz, the Hearings Unit fax number and email address, along with the telephone number and fax number of Charles Brown, the staff attorney representing the Commissioner, and advised Mr. Schultz to contact Mr. Brown as he had witnesses scheduled to testify at the hearing the next morning.

On March 25 at 10 a.m., the hearing commenced as scheduled. No Notice of Appearance had been received from Mr. Parker or any other individual(s) throughout March 24 or the morning of March 25 up until and after the time for commencement of the hearing. In attendance at the hearing were the Licensee and James Holland, a Vancouver, Washington attorney who informed the undersigned that he was a substitute for Mr. Parker, but was not an attorney in Mr. Parker's law firm. Mr. Holland argued that he and Mr. Parker should be granted a continuance based upon Mr. Parker's unavailability and the fact that they needed more time to prepare their case. The undersigned advised Mr. Holland that 1) still no Notice of Appearance had been received even by Mr. Parker, who was supposedly formally representing the Licensee and had still not filed a Notice of

Appearance; and 2) further, Mr. Holland had appeared at the hearing with no authority to substitute for Mr. Parker. As a courtesy, however, the undersigned delayed commencement of the hearing over 45 minutes to allow Mr. Holland to telephone Mr. Parker in Seattle, to again request that a Notice of Appearance be sent, even giving special permission to file said Notice of Appearance by email, with a hard copy to follow.

Such Notice of Appearance was eventually received by email on March 25, 2009, at 10:44 a.m. Mr. Parker advised the undersigned, using Mr. Holland's cellular telephone put on speakerphone, that he authorized Mr. Holland to substitute for him for the duration of the hearing; both Messrs. Parker and his substitute argued that the hearing should not proceed as scheduled because Mr. Parker was not available and also he needed additional time to prepare his case, even though the hearing had been scheduled and rescheduled for several months, with the last continuance to March 25 having been requested by the Licensee and granted by the undersigned two months prior, as reflected in the Order of Continuance. The Commissioner strongly objected to yet another continuance for the Licensee, arguing that the two continuances already granted to the Licensee had resulted in several months delay, and that he had several witnesses scheduled to appear and testify that very morning. Based upon the record of the proceeding to date and the objections of the Commissioner, the undersigned denied the Licensee's request for yet another continuance and the hearing commenced as scheduled although at least an hour late due to courtesies being extended to the Licensee's attorney and his substitute.

Along with the Notice of Appearance emailed and received 45 minutes after the hearing was to commence on March 25, 2009, was a Motion to Continue. The emailed Motion to Continue was left unsigned (and to date remains unsigned) by Mr. Parker and requested the hearing date of *March 24, 2009* [sic] be continued once again. Further, along with Mr. Parker's Notice of Appearance was a Demand for Discovery, including many references to the United States Constitution, the Washington State Constitution, *Objection to Citation/Complaint; Bill of Particulars; Statements of Defendant and Demand for CrRLJ 3.5 Hearing; Miranda Rights/242 Rights; Search/Seizure Information; Relationship of Prosecuting Authority; demand for Copies of ... video-tapes or tape recordings made of the defendant pursuant to the arrest in this case; Any record of prior criminal conviction known to the prosecution of the defendant ... whom the Prosecuting Attorney intends to call as witnesses at the hearing or trial; A copy of any "911 tapes" or any other tape recordings containing information ... between the officer(s) who detained, arrested and/or transported the defendant on the date of the alleged incident herein, ... during the course of the detention, arrest, transportation, testing and booking or charging of the defendant; pursuant to C-RLJ 6.13 ... the production of an electronic speed measuring device (SMD) expert at motions or trial, ... ; a certified BAC Verifier DataMaster technician and the person(s) who conducted any quality assurance tests ... including the gas chromatography charges ...; disclosure of all expert witnesses the Prosecutor Intends to Offer ... blood or breath ... ; and a Speedy Trial Demand pursuant to CrRLJ 3.3. All such pleadings filed by counsel for the Licensee have little or no relation to an administrative hearing such as this, appear to pertain to certain types of criminal actions, and involve crimes entirely unlike the facts presented in this administrative proceeding.*

FINDINGS OF FACTS

Having considered the evidence and arguments presented at the hearing, and the documents on file herein, the undersigned presiding officer properly 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. This Final Order is entered at this time for good cause shown.

2. The Licensee is an approximately 32 year old man, who is a resident of Federal Way, Washington. Mr. Sung holds insurance agent's license no. 242121 in Washington State with an expiration date of 5/4/2009. It is noted that while the Licensee is of Korean descent, from his appearances during several prehearing teleconferences where he fully represented himself, from his many telephone conversations with Wendy Galloway, Paralegal to the undersigned, and from his written Demand for Hearing and his emails written to Ms. Galloway and opposing counsel, together with the fact that he completed insurance license education and testing, he is well able to both write and speak English. Additionally, in order to assist the Licensee with witnesses he might wish to call to testify on his behalf but who might lack these English language skills, as evidenced on the record during prehearing conference and in the written Notice of Hearing, the undersigned offered the Licensee the services of an interpreter free of charge; however the Licensee made no request for an interpreter.

3. In 2007, Chung Ho Woo (Chung) and Kab Sun Woo (Kab), both then aged 53 years and residents of Edmonds, Washington, went to Pacific Insurance Agency in Federal Way, Washington to obtain new auto insurance. Chong Pak is the President of the agency and the Licensee was an insurance agent working there. In obtaining the auto insurance for Chung and Kab, the Licensee obtained a copy of their credit report to assist them in getting the best insurance rate possible, and then placed their auto insurance. At that time, the Woos also mentioned to the Licensee that they would be traveling to Korea from December 27, 2008 until January 19, 2009. [Testimony of Detective Morrison; Declaration of Woo, OIC Ex. 2; Investigation Report of Morrison, OIC Ex. 1.]

4. In preparation for their trip, on December 26, 2007, Chung and Kab went to the Edmonds post office and stopped their mail service for the time they would be in Korea. On January 19, 2008, after returning from Korea, Chung and Kab went to the Edmonds post office to pick up their mail. They were told that their mail had been forwarded by request to a post office box at 141 S. 324 St., No. B209-225 in Federal Way, WA 98003-8444-99. Neither Chung, nor Kab had given anyone permission to change their mailing address. [Declaration of Chung, OIC Ex. 2; Testimony of Morrison; OIC Ex. 8.]

5. In fact, on or about January 3, 2008, while Chung and Kab were still in Korea and without their knowledge or consent, the Licensee caused to be completed, online, a United State Postal Service "Detail COA Information" authorizing the change of address for Chung and Kab's mail, directing that it be changed to P.O. Box 225, Federal Way Mail Center, 141 S. 324 St. No. B209-225 in Federal Way, WA 98003-8444-99, which is

a private post office box rented by the Licensee and registered under the name of Sung Ho Kim. [Testimony of Morrison; OIC Ex. 1, Morrison Investigation Report; Declaration of Marni S. Minga, OIC Ex. 4.] The Licensee had rented this private post office box since on or before October 2007; other names used to receive mail at this private post office box were Sung Kim, Sung Choe, Charlie Kim, Sungsil Choe and Tong Choe. [Declaration of Minga; OIC Ex. 4.]

6. While Chung and Kab were in Korea, and without their knowledge or consent, the Licensee used the personal information he had obtained while selling them auto insurance to apply for, using Chung's and Kab's names and personal information, 1) two credit cards from Bank of America, upon which \$5,000 and \$3,500 balances were then incurred; and 2) one Discover credit card, upon which \$8,000 balance was incurred. Additionally, apparently, a loan was taken out in the Woos' names as well. [Testimony of Morrison; Morrison Investigation Report, OIC Ex.1; Declaration of Woo, OIC Ex. 1.]

7. In a separate matter, in 2007 the Licensee obtained and utilized personal information of his father-in-law, Tong C. Choe of Woodinville, WA, then aged approx. 71 years. With this information, and without Tong's or his wife's knowledge or consent, the Licensee applied for and received (via listing the Licensee's private post office box as Tong's address) approx. three Bank of America credit cards and a Chase Bank credit card in the name of Tong Choe. The amounts of \$515., \$7564. and \$3,713. were charged on the Bank of America cards and \$3,494. was charged on the Chase Bank card, for a total loss to Tong C. Choe of \$15,286. [Testimony of Morrison; OIC Ex. 1, Investigation Report of Morrison; OIC Ex. 1, Declaration of Choe; OIC Ex. 1, Declaration of Minga; OIC Ex. 4.]

8. Further, in 2007 the Licensee obtained and utilized personal information of his mother-in-law, Sung Sil Choe of Woodinville, Washington, then aged approximately 67 years. With this information, and without Sung Sil's or her husband's knowledge or consent, the Licensee applied for and received (via listing the Licensee's private post office box as Sung Sil's address) two American Express credit cards, a Chase Bank card, a Bank of America card and a Discover Bank card. Thereafter, \$343 was charged to the American Express card, \$10,381 to one Chase Bank card and \$6,919 to the other; \$5,270 to the Bank of America card and \$5,651 to the Discover Bank card, for a total loss to Sung Sil Choe of \$29,564. [Testimony of Morrison; OIC Ex. 1, Investigation Report of Morrison; OIC Ex. 1, Declaration of Choe; OIC Ex. 1, Declaration of Minga; OIC Ex. 4.]

9. By engaging in the conduct described above, the Licensee has demonstrated himself to be incompetent, and not qualified to act as an insurance agent in Washington.

10. The undersigned recognizes recent case law which directs that the proper standard of proof to be applied in administrative cases involving insurance agents' licenses must be the higher "~~preponderance of the evidence~~" "clear and convincing" standard of proof. Accordingly, in considering the evidence presented and making the Findings of Facts set forth herein, she has applied the "~~preponderance of the evidence~~" "clear and convincing" standard.

11. Detective Stephen Morrison appeared as a witness by telephone on behalf of the Commissioner. Steven Morrison has been a detective with the City of Edmonds Police Department for six years. He was the individual who investigated the complaints and facts concerning the Woos, investigated the facts concerning the Choes and authored the Edmonds Police Department's Investigation Report with attached Declarations of Woo, Choe, Minga and others. Detective Morrison presented his testimony in a clear and detailed manner and exhibited no apparent biases.

12. Kenneth Combs, who has been employed by the Office of the Insurance Commissioner as an Examiner of insurance agents and agencies for the past 23 years, appeared as a witness on behalf of the Commissioner. Mr. Combs presented his testimony in a clear and detailed manner and exhibited no apparent biases.

13. Michael R. Huske, who has been employed as Manager in the Agents and Brokers Investigation section of the Office of the Insurance Commissioner for the past ten years, testified as a witness on behalf of the Commissioner. Mr. Huske presented his testimony in a clear and detailed manner and exhibited no apparent biases.

14. No witnesses appeared on behalf of the Licensee. Further, the Licensee refused to testify on his own behalf, pleading the Fifth Amendment of the United States Constitution and asserting that a criminal case may be commenced against him in the future and he would not want his statements as a witness herein to be used against him in that criminal proceeding.

15. It is reasonable that the Commissioner's Order Revoking License, revoking the insurance agent's license of Sung H. Kim, aka Charlie Sungho Kim, be upheld.

CONCLUSIONS OF LAW

1. Based upon a review of all prehearing teleconferences held herein, together with the record of this proceeding and the entire hearing file, it is hereby concluded that the hearing was duly and properly convened, that the Licensee's third request for a continuance was properly denied, and all substantive and procedural requirements under the laws of the state of Washington have been satisfied. Further, the Findings of Facts, Conclusions of Law and Final Order herein are entered at this time pursuant to Title 48 RCW, Title 34 RCW including, for good cause shown, RCW 34.05.461(8), and regulations applicable thereto.

2. Pursuant to the Findings of Facts above relative to his activities concerning both the Woo and Cho matters, it is hereby concluded that the Licensee engaged in fraudulent transactions as contemplated by RCW 48.17.530(1)(e).

3. Pursuant to the Findings of Facts above relative to his activities concerning both the Woo and Cho matters, it is hereby concluded that the Licensee has shown himself to be, and is so deemed by the Commissioner to be, incompetent and untrustworthy and a source of injury and loss to the public and not qualified to act as an insurance agent in the

State of Washington, as contemplated by RCW 48.17.530(1)(h).

4. Based upon the above Conclusions of Law, it is hereby concluded that the Licensee's insurance agent's license should be revoked pursuant to RCW 48.17.530(1)(e) and (h).

5. Based upon the Findings of Facts herein, and Conclusions of Law directly above, it is hereby concluded that the Insurance Commissioner's Order Revoking License, No. D 08-0159 entered against Sung H. Kim, aka Charlie Sungho Kim, on October 3, 2008, should be upheld.

ORDER

On the basis of the foregoing Findings of Facts and Conclusions of Law, to the effect that the Licensee has engaged in fraudulent transactions as contemplated by RCW 48.17.530(1)(e); has shown himself to be and has been deemed by the Commissioner to be incompetent, or untrustworthy, or a source of injury and loss to the public as contemplated by RCW 48.17.530(1)(h); by reason of his conduct has shown himself to be unqualified to act as an insurance agent in the State of Washington as contemplated by RCW 48.17.530(1)(h); and to the effect that it has been concluded that his insurance agent's license should be revoked pursuant to RCW 48.17.530(1)(e) and (h),

IT IS HEREBY ORDERED that the Commissioner's Order Revoking License, No. D08-0159 entered October 3, 2008, is upheld.

IT IS FURTHER ORDERED that the Licensee's insurance agent's license shall be surrendered to the Office of the Insurance Commissioner, P.O. Box 40255, Olympia, Washington 98504-0255 by close of business on Monday, July 6, 2009.

This Order is entered pursuant to RCW 34.05, WAC 10-08-210 and RCW 48.04.010.

This Order is entered at Tumwater, Washington, this 6th day of July, 2009.


PATRICIA D. PETERSEN
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 in the United States mail. If a party chooses to file a petition in the Superior Court, he or she may, but is not required to, first file a request for reconsideration. For further information or to obtain copies of the applicable statutes, the parties may contact the administrative assistant to the undersigned.

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 routine office mailing procedures, to the addresses listed above, a true copy of this document to Sung H. Kim, aka Charlie Sungho Kim, Corey Parker, Mike Kreidler, Mike Watson, Carol Sureau, Charles Brown, and John Hamje.

DATED this 6th day of July, 2009.


WENDY GALLOWAY

STATE OF WASHINGTON

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

Phone: (360) 725-7000



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| In the Matter of: |) | |
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| |) | |

TO: Sung H. Kim
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Parker in Seattle, to again request that a Notice of Appearance be sent, even giving special permission to file said Notice of Appearance by email, with a hard copy to follow.

Such Notice of Appearance was eventually received by email on March 25, 2009, at 10:44 a.m. Mr. Parker advised the undersigned, using Mr. Holland's cellular telephone put on speakerphone, that he authorized Mr. Holland to substitute for him for the duration of the hearing; both Messrs. Parker and his substitute argued that the hearing should not proceed as scheduled because Mr. Parker was not available and also he needed additional time to prepare his case, even though the hearing had been scheduled and rescheduled for several months, with the last continuance to March 25 having been requested by the Licensee and granted by the undersigned two months prior, as reflected in the Order of Continuance. The Commissioner strongly objected to yet another continuance for the Licensee, arguing that the two continuances already granted to the Licensee had resulted in several months delay, and that he had several witnesses scheduled to appear and testify that very morning. Based upon the record of the proceeding to date and the objections of the Commissioner, the undersigned denied the Licensee's request for yet another continuance and the hearing commenced as scheduled although at least an hour late due to courtesies being extended to the Licensee's attorney and his substitute.

Along with the Notice of Appearance emailed and received 45 minutes after the hearing was to commence on March 25, 2009, was a Motion to Continue. The emailed Motion to Continue was left unsigned (and to date remains unsigned) by Mr. Parker and requested the hearing date of *March 24, 2009* [sic] be continued once again. Further, along with Mr. Parker's Notice of Appearance was a Demand for Discovery, including many references to the United States Constitution, the Washington State Constitution, *Objection to Citation/Complaint; Bill of Particulars; Statements of Defendant and Demand for CrRLJ 3.5 Hearing; Miranda Rights/242 Rights; Search/Seizure Information; Relationship of Prosecuting Authority; demand for Copies of ... video-tapes or tape recordings made of the defendant pursuant to the arrest in this case; Any record of prior criminal conviction known to the prosecution of the defendant ... whom the Prosecuting Attorney intends to call as witnesses at the hearing or trial; A copy of any "911 tapes" or any other tape recordings containing information ... between the officer(s) who detained, arrested and/or transported the defendant on the date of the alleged incident herein, ... during the course of the detention, arrest, transportation, testing and booking or charging of the defendant; pursuant to C-RLJ 6.13 ... the production of an electronic speed measuring device (SMD) expert at motions or trial, ... ; a certified BAC Verifier DataMaster technician and the person(s) who conducted any quality assurance tests ... including the gas chromatography charges ...; disclosure of all expert witnesses the Prosecutor Intends to Offer ... blood or breath ... ; and a Speedy Trial Demand pursuant to CrRLJ 3.3. All such pleadings filed by counsel for the Licensee have little or no relation to an administrative hearing such as this, appear to pertain to certain types of criminal actions, and involve crimes entirely unlike the facts presented in this administrative proceeding.*

FINDINGS OF FACTS

Having considered the evidence and arguments presented at the hearing, and the documents on file herein, the undersigned presiding officer properly 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. This Final Order is entered at this time for good cause shown.

2. The Licensee is an approximately 32 year old man, who is a resident of Federal Way, Washington. Mr. Sung holds insurance agent's license no. 242121 in Washington State with an expiration date of 5/4/2009. It is noted that while the Licensee is of Korean descent, from his appearances during several prehearing teleconferences where he fully represented himself, from his many telephone conversations with Wendy Galloway, Paralegal to the undersigned, and from his written Demand for Hearing and his emails written to Ms. Galloway and opposing counsel, together with the fact that he completed insurance license education and testing, he is well able to both write and speak English. Additionally, in order to assist the Licensee with witnesses he might wish to call to testify on his behalf but who might lack these English language skills, as evidenced on the record during prehearing conference and in the written Notice of Hearing, the undersigned offered the Licensee the services of an interpreter free of charge; however the Licensee made no request for an interpreter.

3. In 2007, Chung Ho Woo (Chung) and Kab Sun Woo (Kab), both then aged 53 years and residents of Edmonds, Washington, went to Pacific Insurance Agency in Federal Way, Washington to obtain new auto insurance. Chong Pak is the President of the agency and the Licensee was an insurance agent working there. In obtaining the auto insurance for Chung and Kab, the Licensee obtained a copy of their credit report to assist them in getting the best insurance rate possible, and then placed their auto insurance. At that time, the Woos also mentioned to the Licensee that they would be traveling to Korea from December 27, 2008 until January 19, 2009. [Testimony of Detective Morrison; Declaration of Woo, OIC Ex. 2; Investigation Report of Morrison, OIC Ex. 1.]

4. In preparation for their trip, on December 26, 2007, Chung and Kab went to the Edmonds post office and stopped their mail service for the time they would be in Korea. On January 19, 2008, after returning from Korea, Chung and Kab went to the Edmonds post office to pick up their mail. They were told that their mail had been forwarded by request to a post office box at 141 S. 324 St., No. B209-225 in Federal Way, WA 98003-8444-99. Neither Chung, nor Kab had given anyone permission to change their mailing address. [Declaration of Chung, OIC Ex. 2; Testimony of Morrison; OIC Ex. 8.]

5. In fact, on or about January 3, 2008, while Chung and Kab were still in Korea and without their knowledge or consent, the Licensee caused to be completed, online, a United State Postal Service "Detail COA Information" authorizing the change of address for Chung and Kab's mail, directing that it be changed to P.O. Box 225, Federal Way Mail Center, 141 S. 324 St. No. B209-225 in Federal Way, WA 98003-8444-99, which is

a private post office box rented by the Licensee and registered under the name of Sung Ho Kim. [Testimony of Morrison; OIC Ex. 1, Morrison Investigation Report; Declaration of Marni S. Minga, OIC Ex. 4.] The Licensee had rented this private post office box since on or before October 2007; other names used to receive mail at this private post office box were Sung Kim, Sung Choe, Charlie Kim, Sungsil Choe and Tong Choe. [Declaration of Minga; OIC Ex. 4.]

6. While Chung and Kab were in Korea, and without their knowledge or consent, the Licensee used the personal information he had obtained while selling them auto insurance to apply for, using Chung's and Kab's names and personal information, 1) two credit cards from Bank of America, upon which \$5,000 and \$3,500 balances were then incurred; and 2) one Discover credit card, upon which \$8,000 balance was incurred. Additionally, apparently, a loan was taken out in the Woos' names as well. [Testimony of Morrison; Morrison Investigation Report, OIC Ex.1; Declaration of Woo, OIC Ex. 1.]

7. In a separate matter, in 2007 the Licensee obtained and utilized personal information of his father-in-law, Tong C. Choe of Woodinville, WA, then aged approx. 71 years. With this information, and without Tong's or his wife's knowledge or consent, the Licensee applied for and received (via listing the Licensee's private post office box as Tong's address) approx. three Bank of America credit cards and a Chase Bank credit card in the name of Tong Choe. The amounts of \$515., \$7564. and \$3,713. were charged on the Bank of America cards and \$3,494. was charged on the Chase Bank card, for a total loss to Tong C. Choe of \$15,286. [Testimony of Morrison; OIC Ex. 1, Investigation Report of Morrison; OIC Ex. 1, Declaration of Choe; OIC Ex. 1, Declaration of Minga; OIC Ex. 4.]

8. Further, in 2007 the Licensee obtained and utilized personal information of his mother-in-law, Sung Sil Choe of Woodinville, Washington, then aged approximately 67 years. With this information, and without Sung Sil's or her husband's knowledge or consent, the Licensee applied for and received (via listing the Licensee's private post office box as Sung Sil's address) two American Express credit cards, a Chase Bank card, a Bank of America card and a Discover Bank card. Thereafter, \$343 was charged to the American Express card, \$10,381 to one Chase Bank card and \$6,919 to the other; \$5,270 to the Bank of America card and \$5,651 to the Discover Bank card, for a total loss to Sung Sil Choe of \$29,564. [Testimony of Morrison; OIC Ex. 1, Investigation Report of Morrison; OIC Ex. 1, Declaration of Choe; OIC Ex. 1, Declaration of Minga; OIC Ex. 4.]

9. By engaging in the conduct described above, the Licensee has demonstrated himself to be incompetent, and not qualified to act as an insurance agent in Washington.

10. The undersigned recognizes recent case law which directs that the proper standard of proof to be applied in administrative cases involving insurance agents' licenses must be the higher "preponderance of the evidence" standard of proof. Accordingly, in considering the evidence presented and making the Findings of Facts set forth herein, she has applied the "preponderance of the evidence" standard.

11. Detective Stephen Morrison appeared as a witness by telephone on behalf of the Commissioner. Steven Morrison has been a detective with the City of Edmonds Police Department for six years. He was the individual who investigated the complaints and facts concerning the Woos, investigated the facts concerning the Choes and authored the Edmonds Police Department's Investigation Report with attached Declarations of Woo, Choe, Minga and others. Detective Morrison presented his testimony in a clear and detailed manner and exhibited no apparent biases.

12. Kenneth Combs, who has been employed by the Office of the Insurance Commissioner as an Examiner of insurance agents and agencies for the past 23 years, appeared as a witness on behalf of the Commissioner. Mr. Combs presented his testimony in a clear and detailed manner and exhibited no apparent biases.

13. Michael R. Huske, who has been employed as Manager in the Agents and Brokers Investigation section of the Office of the Insurance Commissioner for the past ten years, testified as a witness on behalf of the Commissioner. Mr. Huske presented his testimony in a clear and detailed manner and exhibited no apparent biases.

14. No witnesses appeared on behalf of the Licensee. Further, the Licensee refused to testify on his own behalf, pleading the Fifth Amendment of the United States Constitution and asserting that a criminal case may be commenced against him in the future and he would not want his statements as a witness herein to be used against him in that criminal proceeding.

15. It is reasonable that the Commissioner's Order Revoking License, revoking the insurance agent's license of Sung H. Kim, aka Charlie Sungho Kim, be upheld.

CONCLUSIONS OF LAW

1. Based upon a review of all prehearing teleconferences held herein, together with the record of this proceeding and the entire hearing file, it is hereby concluded that the hearing was duly and properly convened, that the Licensee's third request for a continuance was properly denied, and all substantive and procedural requirements under the laws of the state of Washington have been satisfied. Further, the Findings of Facts, Conclusions of Law and Final Order herein are entered at this time pursuant to Title 48 RCW, Title 34 RCW including, for good cause shown, RCW 34.05.461(8), and regulations applicable thereto.

2. Pursuant to the Findings of Facts above relative to his activities concerning both the Woo and Cho matters, it is hereby concluded that the Licensee engaged in fraudulent transactions as contemplated by RCW 48.17.530(1)(e).

3. Pursuant to the Findings of Facts above relative to his activities concerning both the Woo and Cho matters, it is hereby concluded that the Licensee has shown himself to be, and is so deemed by the Commissioner to be, incompetent and untrustworthy and a source of injury and loss to the public and not qualified to act as an insurance agent in the State of Washington, as contemplated by RCW 48.17.530(1)(h).

4. Based upon the above Conclusions of Law, it is hereby concluded that the Licensee's insurance agent's license should be revoked pursuant to RCW 48.17.530(1)(e) and (h).

5. Based upon the Findings of Facts herein, and Conclusions of Law directly above, it is hereby concluded that the Insurance Commissioner's Order Revoking License, No. D 08-0159 entered against Sung H. Kim, aka Charlie Sungho Kim, on October 3, 2008, should be upheld.

ORDER

On the basis of the foregoing Findings of Facts and Conclusions of Law, to the effect that the Licensee has engaged in fraudulent transactions as contemplated by RCW 48.17.530(1)(e); has shown himself to be and has been deemed by the Commissioner to be incompetent, or untrustworthy, or a source of injury and loss to the public as contemplated by RCW 48.17.530(1)(h); by reason of his conduct has shown himself to be unqualified to act as an insurance agent in the State of Washington as contemplated by RCW 48.17.530(1)(h); and to the effect that it has been concluded that his insurance agent's license should be revoked pursuant to RCW 48.17.530(1)(e) and (h),

IT IS HEREBY ORDERED that the Commissioner's Order Revoking License, No. D08-0159 entered October 3, 2008, is upheld.

IT IS FURTHER ORDERED that the Licensee's insurance agent's license shall be surrendered to the Office of the Insurance Commissioner, P.O. Box 40255, Olympia, Washington 98504-0255 by close of business on Monday, July 6, 2009.

This Order is entered pursuant to RCW 34.05, WAC 10-08-210 and RCW 48.04.010.

This Order is entered at Tumwater, Washington, this 1st day of July, 2009.



PATRICIA D. PETERSEN
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 in the United States mail. If a party chooses to file a petition in the Superior Court, he or she may, but is not required to, first file a request for reconsideration. For further information or to obtain copies of the applicable statutes, the parties may contact the administrative assistant to the undersigned.

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 routine office mailing procedures, to the addresses listed above, a true copy of this document to Sung H. Kim, aka Charlie Sungho Kim, Corey Parker, Mike Kreidler, Mike Watson, Carol Sureau, Charles Brown, and John Hamje.

DATED this 1st day of July, 2009.


WENDY GALLOWAY