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INSURANCE COMMISSIONER

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BEFORE THE STATE OF WASHINGTON  
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:	)	
	)	No. 10-0229
CALVIN E. ROOKS,	)	
	)	FINDINGS OF FACTS
	)	CONCLUSIONS OF LAW AND
	)	FINAL ORDER ON HEARING
Licensee.	)	
_____	)	

**TO:** Calvin E. Rooks  
209 N. 87<sup>th</sup> Street  
Seattle, WA 98103

**COPY TO:** Mike Kreidler, Insurance Commissioner  
Michael G. Watson, Chief Deputy Insurance Commissioner  
Carol Sureau, Esq., Deputy Commissioner, Legal Affairs Division  
Andrea Philhower, Esq., Staff Attorney, Legal Affairs Division  
John F. Hamje, Deputy Commissioner, Consumer Protection Division  
Jeff Baughman, Licensing & Education Manager  
Office of the Insurance Commissioner  
PO Box 40255  
Olympia, WA 98504-0255

Pursuant to RCW 34.05.434, 48.05.461, 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 Office of Insurance Commissioner for the state of Washington commencing at 10:00 a.m., on February 18, 2011. 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

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Insurance Commissioner appeared pro se, by and through Andrea L. Philhower, Staff Attorney in her Legal Affairs Division. Calvin E. Rooks appeared pro se.

**NATURE OF PROCEEDING**

The purpose of the hearing was to take testimony and evidence and hear arguments as to whether the Insurance Commissioner's decision, entered by letter dated November 18, 2010, should be confirmed, set aside or modified. Said letter reflected the Insurance Commissioner's decision to deny Calvin E. Rooks' application for a Washington insurance producer's license based upon the fact that Mr. Rooks' criminal record includes three felonies, Statutory Rape-1 and Indecent Liberties, and also includes an arrest, charge and sentencing for Assault/Indecent Liberties, which are Misdemeanors. Mr. Rooks requested this hearing to contest the Insurance Commissioner's November 18 decision.

**FINDINGS OF FACTS**

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. This Order is entered pursuant to Title 48 RCW and specifically RCW 48.04; and Title 34 RCW; and regulations pursuant thereto.

2. On November 18, 2010, the Insurance Commissioner ("OIC") transmitted a letter by email to Calvin E. Rooks (Applicant) advising him that the OIC had made the decision to deny his application for a Washington insurance producer's license. On November 29, the Applicant filed his Demand for Hearing, by email letter, to contest the OIC's decision. Accordingly, undersigned mailed the Applicant a Notice of Receipt of Request for Hearing to the Applicant which detailed the hearing procedures to be followed and on December 17 the undersigned held a prehearing conference, which included all parties and the undersigned. The OIC was represented by Andrea L. Philhower, Staff Attorney in the OIC Legal Affairs Division, and the Applicant represented himself. During said first prehearing conference, the undersigned outlined procedure to be expected at hearing, and answered all questions and concerns of the parties. At that time, the parties agreed that the hearing should commence on January 18, 2011, and it was later continued at the request of the Applicant to February 18, 2011.

3. The Applicant is a 59 year old individual who has been a resident of the state of Washington for many years, if not all of his life. He is a 1994 graduate of the University of Washington with a Bachelor of Science degree in psychology. The Applicant worked in the real estate business in Renton and then Vashon Island from 1975 until 1987 when he was arrested, convicted of three felonies and incarcerated for three years (below).  
[Testimony of Applicant.]

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4. On January 24, 1987, the Applicant was arrested and on July 27, 1987 was convicted in King County Superior Court of a total of three Felonies: Statutory Rape-1, a Class A Felony, and was also convicted of Indecent Liberties, a Class B Felony. [Testimony of Applicant; Ex. 4, Statement of Applicant; Ex. 2, King County Superior Court Record; Ex. 3, Washington State Patrol Criminal History Report.] The Applicant served approximately 3 years in jail for these felonies. The victim was the Applicant's young biological daughter. The Applicant states that this daughter never felt like she was abused. [Testimony of Applicant.] In addition to incarceration, the court imposed a restraining order on the Applicant requiring that he have no contact with this daughter or his other two biological children until each turned 18 years old. He has had little contact with them in the past 9 to 11 years since each turned 18 years old. [Testimony of Applicant.]

5. In addition, on January 13, 2009, the Applicant was arrested and charged in Seattle Municipal Court with two counts of Assault/Domestic Violence, which are Misdemeanors. [Testimony of Applicant; Ex. 7, Municipal Court of Seattle Court Record.] On January 14, 2009, the Court entered a No Contact Order against him, requiring that he have no contact, either through electronic means or coming within 500 feet of, with two named individuals, his stepdaughter now aged 24 years and his stepson now aged 29 years. The confrontation included the Applicant throwing a plate at his stepdaughter and shoving her against a wall, with the stepdaughter somehow receiving a cut on her face. [Testimony of Applicant.] The Applicant reached an agreement with the prosecutor whereby if he 1) completed anger control treatment; 2) reported any address change to the court in writing within 24 hours of the change; 3) performed sixteen hours of community service; 4) had no additional criminal law violations; 5) complied with the No Contact Order; 6) did not inflict corporal punishment on minors; and 7) served probation successfully, for two years, then the counts of Assault/Domestic Violence would be dismissed. [Ex. 7, Municipal Court of Seattle Court Record; Testimony of Applicant.] The Applicant completed these requirements and the counts against him were dismissed with prejudice on January 10, 2011. [Ex. 7; Testimony of Applicant.]

6. The Applicant worked in the construction and maintenance business from approximately 1991 to 1999. In this business, the Applicant charged his clients, and received from his clients, funds representing sales taxes. In 2010, the Applicant failed to pay \$1,341.23 to the state when due, and on August 19, 2010 was the recipient of an official notification from the Washington State Department of Revenue that the Department will begin collection proceedings by filing a tax warrant with the Clerk of the Superior Court unless the total amount due was paid by August 30, 2010. [Ex. 6; Statement of Applicant and letter to Applicant from WA State Department of Revenue.]

7. At some time during the years from 1975 to 1987, for approximately three months the Applicant was licensed as a Washington insurance producer for life and disability insurance. While he did sell some Medicare supplement policies and had no complaints filed against him relative to his conduct in the business of insurance, he found that this business was not lucrative and so he let this license expire and as detailed above he went into the real estate business. [Testimony of Applicant.]

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8. By the above activities concerning his criminal conviction on three felony counts of Statutory Rape - 1 and Indecent Liberties, together with his recent arrest and sentencing on two counts of Assault/Domestic Violence with a two year No Contact Order, the Applicant has demonstrated that he is incompetent and untrustworthy in this state.

9. Jeff Baughman, OIC Licensing Manager, testified on behalf of the OIC. Mr. Baughman presented his testimony in a clear and credible manner and exhibited no apparent biases.

10. Stephen R. Horswill appeared as a witness on behalf of the Applicant. Mr. Horswill has been a long term client of the Applicant in the Applicant's construction business, who has also become a friend of the Applicant. While Mr. Horswill's testimony was relevant, it was limited in scope and did not address many of the pertinent facts found above. Mr. Horswill did present his testimony in a clear and credible manner and exhibited no apparent biases. He also helped the Applicant focus his attention and testimony on the facts and issues at hand and occasionally helped him to calm down.

11. Calvin E. Rooks, the Applicant, appeared as a witness on his own behalf. Mr. Rooks was quite volatile and his testimony lacked credibility. Unfortunately, in spite of the serious convictions and criminal activity in which he was involved, detailed above, he accepted nearly none of the responsibility for his actions, identifying a myriad of excuses, reasons, other people and "the system" as the causes of his crimes. The Applicant also minimized these crimes against his family. Relative to his felony rape and indecent liberties convictions, the Applicant stated "My daughter never thought she was abused." [Testimony of Applicant] and stated that "It was a forced confession. I said I did it but I did not. I was guilty of the lesser offense of indecent liberties. It was a family situation with my oldest daughter only, ...." [Ex. 4, Statement of Applicant.] Relative to his arrest and sentencing for Assault/Domestic Violence misdemeanors, the Applicant stated that the cause was his daughter's problems unrelated to him, presented himself as the good influence, and further only reluctantly admitted to pushing her as well as throwing a plate. [Testimony of Applicant; Ex. 5, Statement of Applicant.] Further, Mr. Rooks presented caring letters from his 24 year old stepdaughter addressed to the King County Municipal Court and bearing dates of both October 29, 2010 and February 17, 2011 (two versions) concluding one with "I thought I was being under attack but really it was not true, simply things were thrown angrily in the air. There was no serious damage just a little emotional stress." [Ex. 8, typewritten] and advising she was not thinking clearly when she called the police. [Ex. 8, typed] and assuming responsibility by stating she had other problems. [Ex. 8, handwritten.] She concludes one letter with "I do not fear for my safety at all before or after this incident." [Ex. 8, typed.] The letter from Mr. Rooks' wife states that he is a good supportive husband and stepfather who she believes has healed from his past. [Ex. 9.] However, lacking the ability to observe their demeanor, and the opportunity for OIC counsel to cross examine them, little weight was given to these letters.

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12. Based on the above criminal activities resulting in the criminal actions against him, the Applicant has demonstrated that he is incompetent and untrustworthy. It is reasonable that the OIC should deny the Applicant's application for a Washington insurance producer's license. Therefore, the OIC's denial of the Applicant's application for a Washington insurance producer's license should be upheld.

**CONCLUSIONS OF LAW**

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 Order is entered pursuant to Title 48 RCW, Title 34 RCW and regulations applicable thereto.

2. Pursuant to RCW 48.17.530(1)(f), the OIC may refuse to issue an insurance producer's license if the Applicant has been convicted of a felony. Pursuant to the above Findings of Fact, in 1987 the Applicant was convicted of a total of three felonies: Statutory Rape – 1, a Class A Felony, and Indecent Liberties, a Class B Felony, served three years in jail for these crimes and was subject to a Restraining Order protecting all three of his biological children until each turned 18 years old. Therefore, the Applicant has been convicted of felonies as contemplated by RCW 48.17.530(1)(f) and it was reasonable that the OIC denied the Applicant his Washington insurance producer's license on this basis.

3. Pursuant to RCW 48.17.530(1)(h), the OIC may refuse to issue an insurance producer's license if the applicant has used dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere. In addition to the above felony convictions, as found above, in 2009 the Applicant was arrested and charged with two Assault/Domestic Violence Misdemeanors, served two years of probation, was subject to a No Contact Order for two years, was required to complete anger management treatment and many other conditions. Even though he completed these conditions and the two misdemeanors were dismissed per the original Court Order, in conducting the activities which resulted in his being arrested and charged with the misdemeanors, the Applicant has demonstrated that he is incompetent and untrustworthy in this state as contemplated by RCW 48.17.530(1)(h).

4. Based upon the above Findings of Fact and Conclusions of Law, it is reasonable to conclude that the Insurance Commissioner's November 18, 2010 decision denying the application of Calvin E. Rooks for a Washington insurance producer's license should be upheld.

**ORDER**

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

**IT IS HEREBY ORDERED** that the Insurance Commissioner's November 18, 2010, decision denying the application of Calvin E. Rooks for a Washington insurance producer's license is upheld.

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This Order is entered at Tumwater, Washington, this 13<sup>th</sup> day of May, 2011, pursuant to Title 48 RCW, RCW 34.05, and regulations applicable thereto.



**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 normal office mailing custom, a true copy of this document to the following people at their addresses listed above: Calvin E. Rooks, Mike Kreidler, Michael G. Watson, Carol Sureau, Esq., Andrea L. Philhower, Esq., John F. Hamje, and Jeff Baughman.

DATED this 13<sup>th</sup> day of May, 2011.

  
Victoria Estrada