

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON

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OFFICE OF
INSURANCE COMMISSIONER
HEARINGS UNIT

2011 APR 21 P 2:22

Fax: (360) 664-2782

Heather H. Dye
Patricia D. Petersen
Chief Hearing Officer

Paralegal
(360) 725-7002
hearings@oic.wa.gov

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

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of
Kenneth H. Huston,
Applicant.

) **Docket No. 11-0046**
) **NOTICE OF HEARING**
)
)

TO: Kenneth H. Huston
601 W. Maxwell Avenue, Suite 2
Spokane, WA 99201

Gina M. Costello, Esq.
430 W. Indiana
Spokane, WA 99205

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

On December 3, 2010, the Insurance Commissioner (OIC), by decision letter, advised Kenneth H. Huston (Huston) that it would not issue him a Sec. 1033 waiver, which the OIC asserts it must issue prior to the OIC renewing/reinstating his Washington resident insurance producer's license which expired on October 20, 2010. Although the OIC's December 3 decision letter is not entirely clear, from the information contained therein in addition to statements made by the OIC during prehearing conference, Huston has applied to the OIC for a Sec. 1033 waiver but he has not yet filed his application for renewal/reinstatement of this license although he does wish to have his license renewed/reinstated. The OIC argues that it must first issue Huston a Sec. 1033 waiver in order to then be able to renew/reinstated his license. The OIC further states that it cannot issue Huston a Sec. 1033 waiver because to do so it would have to make a finding that Huston is "fully rehabilitated and no longer constitute[s] a threat to insurance consumers." The OIC argues that it cannot make this finding because, the OIC asserts, Huston failed to disclose his prior felony convictions on three separate applications for renewal/reinstatement of his license in the past.



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By letter filed with the OIC on March 4, 2011, Huston demanded an administrative hearing to challenge the OIC's decision. Huston asserts that 1) he disagrees with the OIC's position that it cannot make a finding that he is fully rehabilitated and does not constitute a threat to insurance consumers; and 2) the OIC's decisions herein will be harmful to his present employment situation.

On April 14, 2011, the undersigned held a first prehearing conference in this matter, which included all parties. The OIC was represented by Robin Aronson, Esq., Staff Attorney in her Legal Affairs Division. Mr. Huston was represented by Gina M. Costello, Esq., of Gina M. Costello & Associates in Spokane, WA. The undersigned reviewed procedure to be expected at hearing and answered all questions and concerns of the parties. Of significance, the OIC suggested and Huston agreed, that he should apply for his Washington insurance producer's license and therefore combine the issues in the proceeding so that they would be: 1) Huston will contest the OIC's current decision (set forth in the OIC's December 3, 2010 decision letter) not to issue him the Sec. 1033 waiver he has already requested (which presumably will include the issue of whether a Sec. 1033 waiver is in fact even required in order to renew/reinstate a Washington producer's license to an applicant with Huston's criminal background); and 2) Huston will contest the OIC's denial of his application for renewal/reinstatement of his Washington insurance producer's license. Huston agreed that applying for renewal/reinstatement of his license prior to the hearing date, in order to make the issue of the OIC's denial of his license application ripe so the two issues can be combined in the hearing scheduled herein, is reasonable. Finally, the parties agreed that this hearing should be held on May 18.

Accordingly, **YOU ARE HEREBY NOTIFIED that a hearing will be held commencing on May 18, 2011, at 10:00 a.m. Pacific Standard Time.** The purpose of this hearing, which will include all parties, is to consider Huston's challenge 1) to the OIC's decision not to grant Huston a Sec. 1033 waiver (if one is required to obtain a Washington insurance producer's license); and 2) to the OIC's decision to deny Huston a Washington insurance producer's license (if Huston does choose to apply for reinstatement/renewal of his license prior to the hearing date as contemplated above.

The OIC will appear by and through Andrea Philhower, Staff Attorney in its Legal Affairs Division. Ms. Philhower's address is Office of the Insurance Commissioner, Legal Affairs Division, P.O. Box 40255, Olympia, WA 98504-0255, and her telephone number is (360) 725-7063. Mr. Huston will appear and be represented by Gina M. Costello, Esq. Ms. Costello's address is 430 W. Indiana, Spokane, WA 99205, and her telephone number is (509) 325-3227.

Patricia D. Petersen, Esq., Presiding Officer, who serves as Chief Hearing Officer for the Office of the Insurance Commissioner, has been designated to hear and determine this matter. Her address is Office of Insurance Commissioner, P.O. Box 40255, Olympia, Washington 98504-0255. Her telephone number is (360) 725-7105. All interested individuals and entities who have

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questions or concerns concerning this proceeding should direct them to her assistant, Victoria Estrada, at the same address. Ms. Estrada's telephone number is (360) 725-7263.

The hearing will be held under the authority granted by the Commissioner under Chapter 48.04 RCW. The basic facts relied upon are those set forth above, which are more specifically included in the OIC's above referenced December 3, 2010 letter and in Mr. Huston's above referenced demand for hearing dated March 4, 2011.

The hearing will be governed by the Administrative Procedure Act, Chapter 34.05 RCW, and the model rules of procedure contained in Chapter 10-08 WAC. All parties may be represented at the hearing. They may examine witnesses and fully respond and present evidence and argument on all issues involved.

As required by RCW 34.05.434(2)(i), you are advised that a party who fails to attend or participate in any stage of the proceeding may be held in default in accordance with Chapter 34.05 RCW.

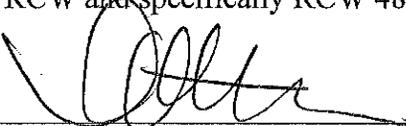
Pursuant to WAC 10-08-040(2) and in accordance with ch. 2.42 RCW, if a limited English speaking or hearing impaired or speech impaired party or witness needs an interpreter, a qualified interpreter will be appointed. There will be no cost to the party or witness therefore, except as may be provided by ch. 2.42 RCW. A Request for Interpreter form is attached to the original of this Notice, with instructions thereon.

This Notice is provided pursuant to RCW 48.04.010 and RCW 34.05.434.

Based upon the above activity,

IT IS HEREBY ORDERED that the adjudicative proceeding in this matter shall commence on May 18, 2011, at 10:00 a.m. Pacific Standard Time in the Office of the Insurance Commissioner, 5000 Capitol Blvd., Tumwater, WA.

ENTERED AT TUMWATER, WASHINGTON, this 21st day of April, 2011, pursuant to Title 48 RCW and specifically RCW 48.04 and Title 34 RCW and regulations applicable thereto.



PATRICIA D. PETERSEN
Presiding Officer

Attachment

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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: Kenneth H. Huston, Gina M. Costello, Esq., Mike Kreidler, Michael G. Watson, John F. Hamje, Esq., Robin Aronson, Esq., and Carol Sureau, Esq.,

DATED this 21st day of April, 2011.


VICTORIA ESTRADA

HEARINGS UNIT
Fax: (360) 664-2782

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

Hearings Unit
Paralegal
(360) 725-7002
Hearings@oic.wa.gov

To request an interpreter, complete and mail this form to:

Chief Hearing Officer
Office of Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255

REQUEST FOR INTERPRETER

I am a party or witness in Matter No. 10-0236, before the Insurance Commissioner. I NEED AN INTERPRETER and request that one be furnished.

Please check the statements that apply to you:

I am a non-English-speaking person. I cannot readily speak or understand the English language. My primary language is _____ (insert your primary language). I need an interpreter who can translate to and from the primary language and English.

I am unable to readily understand or communicate the spoken English language because:

- I am deaf.
- I have an impairment of hearing.
- I have an impairment of speech.

[Please state below or on the reverse side any details which would assist the Commissioner or Presiding Officer in arranging for a suitable interpreter or in providing appropriate mechanical or electronic amplification, viewing, or communication equipment.]

Date: _____

Signed: _____

Please print or type your name: _____

Address: _____

Telephone: _____