

In The Matter of

FILED

Nathan J. Bochsler

2012 AUG 27 A 9:45

Licensee.

No. 12-0023

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Patricia D. Petersen
Chief Hearing Officer

Motion to Strike OIC Exhibit's 10 & 11, all other exhibits or mention to Policy #s 964462748 or 964484405, and anything else outside the scope of the Original Order Revoking License in Administrative Hearing August 28, 2011 at 10am.

According to my detailed notes at our pre-hearing conference on Friday, May 25, 2012 at 10am, Administrative Law Judge Patricia D. Petersen specifically stated that the scope of the administrative hearing would be limited to reasons stated in Order Revoking License (Order No. 12-00023, NPN 8306772, WAOIC 233844) (see Order attached in email). Said order states reasons the order is based on the following:

2. Between February and April 2010, Nathan J. Bochsler falsified documents and/or directed the falsification of documents in connections with the sale of an automobile insurance policy to consumers, while employed as an insurance producer with Allstate Insurance Company. Nathan J. Bochsler submitted an application for an automobile insurance policy in which he used his own personal consumer credit report and identified himself as being both the owner of the vehicle(s) to be insured and the individual requesting to be the named insured policyholder, in an effort to manipulate the premium rate for two consumers. Nathan J. Bochsler thereafter submitted a second application for an automobile insurance policy in which he used the personal consumer credit report of an employee in the insurance agency and identified the employee as being both the owner of the vehicle(s) to be insured and the individual requesting to be the named insured policy holder, in further effort to manipulate the premium rate for the same two consumers. Following approval of the second application, Nathan J. Bochsler transferred the policy into the name of the consumer(s).

There are no more reasons mentioned in their order dated January 31, 2012. They wrote the order in somewhat broad language so as not to specifically state policy numbers, etc. They had the ability to write it as broadly as they liked. No matter how broadly the reasons are read, they cannot be possibly read broadly enough to include the information related to exhibits 10 & 11 or the policies therein. I am the person, appearing Pro Se, whom offered to set a date to exchange exhibits prior to the hearing. If I had not taken the precaution of requesting this exchange, I could very well have been saddled with responding to these issues at the hearing with little to no time to respond adequately. The Commissioner, now just a week before the hearing, is trying to expand the scope of the hearing and

investigation beyond what they already stipulated in said order and in said investigation. They had an entire year to do so and they waited until the last week. This is unfair when they know the procedural requirements as laid down by Judge Petersen at said pre-hearing conference over three months, on May 25, 2012 as well as many other hearings the Commissioner has been a party to. Despite having ample opportunity to do so, at no time between now and the prehearing conference three months ago, have they filed a motion to expand scope of their original order. Furthermore, they have had nearly an entire year with which they have had the information pertaining to Exhibits 10 & 11 clearly laid out and stated for their review in my response to their allegations dated September 12, 2011 (see my response in email attached). A year with this information is adequate opportunity to review and disclose any intention to either have included the info pertaining to these Exhibits in their original order revoking my license or expanded that order through an amendment anytime between now and then. However, again they waited until a week prior to the hearing. I provided my entire file, which I may add, went beyond their scope of their initial investigation asking for documents on August 10, 2011 for the customers for the dates covering February 2010 through May 5, 2010. (see attached OIC letter and Dale and Edward's files attached).

Why did they fail to mention these Exhibits or the policies they are referencing in the order revoking my license or write their order in a way to broadly include these exhibits when they clearly knew about these policies five months before entering the order? This goes to the validity of their said order if they want to provide additional reasons that were provided to them plainly five months before they filed an order to revoke my license. It makes me ask whether they thoroughly read through my labor intensive and comprehensive response detailing everything they asked, including Exhibits 10&11. If they had thoroughly evaluated the claim they made for revoking my license, why did they not include reference to exhibits that they now feel, less than a week before the hearing, aids their case to revoke my license? It makes me question whether I had a fair review of my actions in the first place. How can this information be relevant if they did not include it in their original order or an amendment to such order? I am only offering hypotheses for why they would fail to include this in the original order. The only reason they have said exhibits was because I voluntarily provided them for fear of not being entirely transparent and fulfilling their request because of fear that some documents pertain to dates overlapping those dates that they inquired about in original investigation letter for February through May 5, 2011 (see OIC letter in email attached). These exhibits pertain to policies written in June 2011, which is beyond their original dates of discovery in the first place. I could have attempted to not provide those documents, but it was not reasonable in that I only had a couple weeks to provide hundreds of pages after going through numerous files. I provided all of the documents requested and then some in a chronological fashion after painstakingly going through countless records to do so. They have been aware of this ability to amend the order and aware of the information they are now seeking to spring upon me a week before the hearing.

In addition, this tactic goes to the appearance of fairness doctrine that all administrative hearings must adhere to. Under the appearance of fairness doctrine, proceedings before a quasi-judicial tribunal are valid only if a reasonably prudent and disinterested observer would conclude that all parties obtained a fair, impartial, and neutral hearing. *Swift v. Island Cy.*, 87 Wn.2d 348, 361, 552 P.2d 175

(1976). Although this doctrine originated in the land use area, see *Smith v. Skagit Cy.*, 75 Wn.2d 715, 453 P.2d 832 (1969), it has been extended to other types of quasi-judicial administrative proceedings, see *Chicago, [***23] M., St. P. & Pac. R.R. v. State Human Rights Comm'n*, 87 Wn.2d 802, 557 P.2d 307 (1976). It can easily be argued that this would destroy all appearance of fairness in this proceeding to include information that they have been privy for almost a year and only now they are bringing it to yours and my attention. In order for this hearing to appear as fair, I would need adequate time to prepare for these new accusations. I also do not have time for this hearing to be continued at a later date. They have doubled the accusations they made in the order revoking license and a week is not adequate time to respond through this motion and therefore defend or explain all of intricacies behind these actions. Also, my hearing exhibits and witness testimony and declarations I had to spend months preparing and producing do not address these newfound accusations. I cannot reiterate enough, as well, that I have been more than accommodating to Judge Petersen and the Commissioner throughout this process. I have responded to the investigation always in a timely manner throughout the past year that it initiated last August 10, 2011. I have sent numerous emails to Ms. Cairns, Judge Petersen's assistant in an attempt to be as straight forward as possible and meet all requirements of an administrative hearing to be fair and forthright to the Judge and the Commissioner. I would like to reiterate that I provided documents beyond the scope of the Commissioner's investigation in an attempt to be entirely transparent in this matter and for fear that there may be something I unintentionally I could have left out of my discovery production. Because of my thoroughness, my production of documents and story matches Allstate's investigative report. I also detailed all of these documents in an easy to read and follow response to allegations. These exhibits I wish stricken from the hearing next Tuesday, contain no information or documents that were not privy to the Commissioner a year ago, September 2011, when I provided them with my files.

Because they have had ample time to bring these newly found accusations to me, the Judge's, and the public's attention, it does not meet the appearance of fairness doctrine or the Judge's preordained rules about discovery made at the pre-hearing conference on May 25, 2011. In addition, if they felt these new accusations and documents were relevant, they should have included it in the original order or amended the order at any point within the past year. For the aforementioned reasons, the exhibits and any reference therein should be stricken from the hearing and the hearing should not be continued. Furthermore, they must be limited to the scope of accusations stated in order revoking license referenced herein. I strongly urge that this motion be granted because it is not adequate that this be determined on Monday or Tuesday at hearing because that leaves no time to adjust my preparation. They are trying to do in the last week, what they have had an entire year to perform. I have also made it clear that a motion for continuance is not acceptable in this instance because by the time this hearing is determined, allowing for the three months for the Judge's decision, it will have been two years since Allstate initiated this investigation and over a year and a half since I will have used my license for insurance. It's been three months since we had the prehearing conference and two months since Allstate motion for protective order was withdrawn. I told Judge Petersen at the prehearing conference of my desire to come to as quick as reasonably possible resolution to this matter because it has taken up so much of my life. I have waited patiently for each step along the way.



Nathan J. Bochler

Appearing Pro Se

8/27/12

Dated