



OFFICE OF  
INSURANCE COMMISSIONER  
HEARINGS UNIT

2013 JUN 22 11:55 AM

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BEFORE THE STATE OF WASHINGTON  
OFFICE OF INSURANCE COMMISSIONER

In the Matter of

**KERRY LYNNE HAUF,**

Licensee.

) **Docket No. 12-0150**

)  
) **FINDINGS OF FACT,**  
) **CONCLUSIONS OF LAW,**  
) **AND FINAL ORDER**

**TO:** Kerry Lynne Hauf  
529 E. Frisbie Way  
Rockford, WA 99030

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

Pursuant to RCW 34.05.434, 34.05.461, 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 Washington State Insurance Commissioner commencing at 10:00 a.m. on September 12, 2012, by telephone pursuant to RCW 34.05.449(3) and there being no objection by the OIC. 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 Insurance Commissioner appeared pro se, by and through Andrea Philhower, Esq., Staff Attorney in his Legal Affairs Division. Kerry Lynne Hauf appeared pro se.



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**NATURE OF PROCEEDING**

The purpose of the hearing was to take testimony and evidence and hear arguments as to whether the Insurance Commissioner's ("OIC") action imposing a \$500 fine upon Kerry Lynne Hauf ("Licensee"), Order No. 12-0150, should be confirmed, set aside or modified. The OIC's action imposing a \$500 fine is based on the OIC's allegations that the Licensee failed to respond to numerous attempts by the OIC to communicate with her in its efforts to obtain a replacement fingerprint card, and therefore (1) violated RCW 48.17.090 by not providing a legible fingerprint card for the purposes of a background check; and (2) violated RCW 48.17.475 for each of the three times she failed to respond to the OIC's letters requesting a replacement fingerprint card. On June 7, 2012, the Licensee filed a Demand for Hearing to Contest the OIC's action. It should be noted that originally the OIC had issued an Order Revoking License, No. 12-0150, against the Licensee based upon these allegations, but by letter dated July 12, 2012 the OIC decided to reduce the penalty it was seeking by its offer to rescind the Order Revoking License and to instead impose a \$500 fine upon the Licensee. Accordingly, in an effort to document this change of penalty, with its July 12, 2012 letter the OIC included a Proposed Consent Order rescinding the Order Revoking License and instead imposing a \$500 fine and requiring the Licensee to file a replacement fingerprint card. The Licensee refused this offer and therefore this matter proceeded to hearing, with the OIC's request that the issue at hearing be imposition of the \$500 fine and not the Order Revoking License.

**FINDINGS OF FACT**

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; Title 34 RCW; and regulations pursuant thereto.
2. Kerry Lynne Hauf ("Licensee") is an approximately 54 year old individual who is a resident of Rockford, WA. On December 23, 2011 the Licensee filed her application for a Washington resident insurance producer's license ("Application"). [Ex. 1.] She has been steadily employed for many years in the medical services area in Spokane, WA.
3. In her Application, the Licensee certified that she has never been convicted of a crime, had a judgment withheld or deferred, and has never been charged with committing a crime, never been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration and has never been a party to any lawsuit or proceeding

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involving allegations of fraud, misappropriation or conversion of funds, misrepresentation or breach of fiduciary duty or any other legal actions which might relate to her ability to act as an insurance producer. [Ex. 1.] However, as with all Applications for Washington insurance producer's licenses, the OIC required the Licensee to submit a fingerprint card with her Application so that the Washington State Patrol could conduct a criminal search on her.

4. In response to her Application, on December 30, 2011 the OIC issued the Licensee a Washington resident producer's license [Ex. 4] and proceeded to await the results of the routine criminal search.

5. On January 25, 2012 the Washington State Patrol informed the OIC that the Licensee's fingerprint card was unable to be read and so that criminal search could not be performed. [Testimony of Janet Sutherland; Ex. 2.] Accordingly, per the regular protocol of the OIC in this situation, on February 3, 2012 the OIC sent an email to the Licensee at the email address she had provided in her Application [Testimony of Sutherland; Ex. 3] advising the Licensee that her fingerprint card been rejected because the impression was blotchy and was not able to be read. In that email, the OIC further instructed the Licensee to submit a replacement fingerprint card within 30 days, and advised the Licensee that failure to submit the replacement fingerprint card within 30 days would subject her to disciplinary action which could include revocation of her license. [Testimony of Sutherland; Ex. 3.] The Licensee failed to respond to this email. [Testimony of Sutherland.] Although the Licensee states that she is not sure if she received this February 3, 2012 email, she does not believe she did. [Testimony of Licensee.] However the evidence shows that the email was properly sent to the email address the Licensee provided to the OIC with her Application. [Testimony of Sutherland; Ex. 1, Application.]

6. On March 12, 2012, per its regular protocol, the OIC mailed a second letter, entitled Second Request, to the Licensee [Testimony of Jose Mendoza; Ex. 5, Second Request letter dated March 12, 2012] advising the Licensee that her fingerprint card had been rejected, that the OIC had sent her correspondence on February 3, 2012 and received no response from her, and instructing her to submit a replacement fingerprint card by April 12, 2012. The letter further advised that when the Licensee failed to respond to the OIC's February 3, 2012 email she violated RCW 48.17.475 and that an Order of Revocation, revoking her license, might be issued against her should she not provide the replacement fingerprint card by April 12, 2012. [Testimony of Mendoza; Ex. 5.] The Licensee failed to respond to the OIC's March 12, 2012 request. The Licensee admits that she did receive this letter and "totally forgot about it." [Testimony of Licensee.]

7. On April 17, 2012, the OIC then sent a Certified Letter to the Licensee, entitled Final Request, and including the words Failure to Respond, Impending Administrative Action in its subject line. [Testimony of Mendoza; Ex. 6, Final Request letter dated April 17, 2012.] On April 20, 2012 this letter was delivered to the address the Licensee provided in her Application. [Ex. 7, USPS Confirmation of Delivery statement.] In said letter, the OIC advised the Licensee that on February 3, 2012 and March 12, 2012 the OIC had sent her correspondence requesting

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her to submit a replacement fingerprint card within 30 days and on both occasions the Licensee had failed to respond. The OIC again advised the Licensee that her failure to respond each time constituted violations of RCW 48.17.475 and that a replacement fingerprint card must be submitted and received in the OIC's office no later than May 17, 2012 or her insurance license would be revoked. While the Licensee admits she received this letter [Testimony of Licensee] she also admits she failed to respond to it. [Testimony of Licensee.]

8. Because the Licensee had failed to respond to the OIC's first three letters to her, on May 21, 2012, the OIC entered an Order Revoking License against her. [Testimony of Cheryl Penn; Ex. 8, Order of Revocation.] In response, on June 7, 2012 the Licensee filed a Demand for Hearing with the undersigned dated May 25, 2012, basing her appeal on her statement that in the past 8 months prior to May 25, 2012 (which is roughly the time that the OIC's Second Request was mailed to the Licensee) her 80 year old father had a traumatic brain injury requiring surgery and rehabilitation, her brother-in-law was diagnosed with cancer, her mother was diagnosed with breast cancer, her husband was diagnosed with cancer, her father had a heart attack and had open heart surgery, her 7 month old granddaughter was diagnosed with cancer, her brother-in-law passed away and her aunt and uncle passed away. She further advised that she did not have time to take off for a hearing or work for Primerica selling life insurance but that she did not want to lose her license as she may use it some day. [Ex. 9, Demand for Hearing dated May 25, 2012 and filed June 7, 2012.]

9. In a further attempt to contact the Licensee, the OIC sent her an email on June 12, 2012 advising her that the OIC had been attempting to reach her by telephone to discuss another option rather than going to hearing over the revocation of her license; the email provided the specific OIC telephone number and email to which she should reply. [Testimony of Penn; Ex. 11.]

10. In yet a further attempt to contact the Licensee, the OIC mailed her a letter dated June 19, 2012. [Testimony of Penn; Ex. 10.] In this letter, the OIC advised the Licensee that the OIC had been unsuccessful in its attempts to reach her either by telephone or in written correspondence, and that the OIC attempts were made to discuss alternative settlement options pertaining to the OIC's May 21, 2012 Order Revoking License issued against her. The letter further advised the Licensee that if she was willing to sign a Consent Order acknowledging her failure to respond to the OIC's inquiries, and pay a \$500 fine, the Order of Revocation would be rescinded. The Licensee was further asked to respond one way or the other no later than July 12, 2012 either via email or telephonically (numbers provided). [Testimony of Penn; Ex. 10.]

11. Finally, on June 22, 2012 the Licensee sent an email to the OIC. In this email, the Licensee stated that she *never was ...given an explanation as to how to rectify the problem. I absolutely refuse to pay \$500 for something that was of no fault of my own but the fault of the company you chose to represent you and do the finger print card. If you want to let me know how to go about getting a new one I would be happy to try to do that.* [Testimony of Penn; Ex. 11, Licensee's June 22, 2012 email to OIC.]

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12. Once again, on July 13, 2012 the OIC sent another email to the Licensee once again offering to rescind the Order of Revocation to a fine of \$500 upon receipt of the replacement fingerprint card and payment of the \$500 fine, and specifically advising the Licensee that she should get her replacement fingerprint card immediately regardless of the status of the hearing. [Ex. 12, OIC July 13, 2012 email to Licensee.] The Licensee replied later that day that she was not available the week proposed for the hearing, that *in the past 7 months I have had three family deaths, two major car accidents involving family members, my 7 month old granddaughter had a kidney removed due to a malignant tumor, two other family members with surgery, and personally had a dislocated shoulder*, further stated that *I kept meaning to contact you but the timing never worked out and frankly I just kept forgetting ....* [Ex. 12, Licensee's July 13, 2012 email to OIC.] The Licensee also failed to obtain her replacement card as the OIC had instructed her to do.

13. On July 19, 2012, the undersigned held a prehearing conference which included the Licensee and Ms. Phillhower representing the OIC. During said prehearing conference the Licensee advised that it was a hardship for her to come to Olympia for her hearing, and the undersigned granted her the right for both parties to appear by telephone pursuant to RCW 34.05.449; the grant of right for the Licensee to appear by telephone was made, in part, because at the same time the Licensee promised to submit her replacement fingerprint card to the OIC by a specific date shortly after the July 19, 2012 teleconference. Subsequently, however, the Licensee failed to submit her replacement fingerprint card by the date she promised during prehearing conference.

14. In spite of her promise during prehearing conference to submit her replacement fingerprint card on a date very shortly after July 19, 2012, the Licensee failed to submit her replacement fingerprint card until August 6, 2012.

15. On August 30, 2012, when the OIC advised the Licensee that the hearing was still scheduled unless the Licensee was willing to pay the fine which would result in rescission of the Order of Revocation, the Licensee responded *No, I am not willing to pay the fine. I have explained the extenuating circumstances that were the cause of my not getting the fingerprint card re-done in a timely manner....* And in response to the OIC's statement that then the hearing was still scheduled the Licensee replied *What ever [sic], I would think that in view of ALL the circumstances you could just get the background check done however you are doing it and that would be the end of it. I do not understand why it has to go through all this still...* to which the OIC replied *All it would have taken to prevent things from getting to this point was for you to pick up the phone or send an email to Joe Mendoza requesting an extension or explaining the situation. You did not do so until after the order of revocation was issued. ... you have expressed an unwillingness to pay a fine for your violation of the statute – that is the reason we have "to go through all this".* [Testimony of Penn; Ex. 12, August 30, 2012 emails between OIC and Licensee.]

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16. The Licensee failed to respond to three written inquiries of the OIC. While the Licensee's explanation was that she was in turmoil in her private life, still she did not respond until after the OIC had issued its Order Revoking License against her, when she did promptly respond by filing her Demand. Her statements as to the specific reasons she could not respond earlier may be true, however the entirety of these statements are not credible as her specifics of the various tragedies changed from her first listing to her next listing (e.g., at the very least, she added two major car accidents and a dislocated shoulder to her first list of deaths, tragic health events and diseases). Further, while the OIC gave the Licensee more than enough help to allow her to rectify her situation far short of proceeding to hearing, but the Licensee would simply never allow herself to admit her violations without insisting she should be completely excused for them, and for failing to recognize the significant amount of government resources that have been expended in handling this matter due to her lack of cooperation even after filing her Demand for Hearing. Finally, even after the Licensee promised during prehearing conference to submit her replacement fingerprint card by a specific date very shortly after the July 19, 2012 prehearing conference, the Licensee still failed to comply. The Licensee's position and arguments are simply disingenuous.

17. Janet Sutherland, Licensing and Education Technician in the OIC's Licensing and Education Division, appeared as a witness called by the OIC. Ms. Sutherland presented her testimony, by telephone, in a detailed and credible manner and presented no apparent biases.

18. Jose Mendoza, Program Analyst 3 in the OIC's Licensing and Education Division, appeared as a witness called by the OIC. Mr. Mendoza presented his testimony, by telephone, in a detailed and credible manner and presented no apparent biases.

19. Cheryl Penn, Compliance Analyst with the OIC's Licensing and Education Division, appeared as a witness called by the OIC. Ms. Penn presented her testimony, by telephone, in a detailed and credible manner and presented no apparent biases.

20. Jeff Baughman, Licensing and Education Program Manager with the OIC, appeared as a witness called by the OIC. Mr. Baughman presented his testimony, by telephone, in a detailed and credible manner and presented no apparent biases.

21. Kerry Lynne Hauf, the Licensee, appeared by telephone as the sole witness on her own behalf. Ms. Hauf presented her testimony in a somewhat detailed and credible manner, however she consistently failed to recognize her responsibility to comply with reasonable government regulations, and reminders, presented arguments which were not reasonable or entirely credible as to why she should be completely excused for her violations, and indeed exhibited hostility toward the applicable rules and process required to obtain her license.

22. Based upon the above Findings of Facts, it is reasonable that the OIC's imposition of a \$500 fine for the Licensee's actions herein be upheld, and the Findings of Facts, Conclusions of Law and Order herein should be taken into consideration should the OIC conduct any

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disciplinary action against the Licensee in the future. Further, should the \$500 fine not be properly received by the OIC, in full, within 30 days of the date of this Order, it is reasonable that the OIC's Order Revoking License, No. 12-0150, revoking the insurance producer's license of this Licensee, be automatically upheld, and the Licensee's Washington resident producer's license should be revoked as of that due date, without further right of appeal. Should said \$500 fine be properly received by the OIC within 30 days of the date of this Order, it is reasonable that the OIC's Order Revoking License be automatically rescinded as of the date of receipt of that \$500 fine without the need of further action.

**CONCLUSIONS OF LAW**

Based upon the above Findings of Facts, it is hereby concluded:

1. The adjudicative proceeding herein 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; Title 34 RCW including, for good cause shown, RCW 34.05.458(8); and regulations pursuant thereto.
2. In failing to respond to the OIC's February 3, March 12, and April 17, 2012 written correspondence advising her that she needed to submit a replacement fingerprint card within a certain number of days specified therein, the Licensee violated RCW 48.17.475 on three occasions.
3. In failing to submit her replacement fingerprint card by the date promised during prehearing conference, the Licensee violated RCW 48.17.475 on a fourth occasion.
4. Based upon the above Findings of Facts and Conclusions of Law, the OIC's imposition of a \$500 fine against the Licensee should be upheld, to be paid in full within 30 days of the date of this Order as set forth below. Should said \$500 fine not be properly received by the OIC in strict compliance with the Order herein, then the OIC's Order Revoking License, No. 12-0150, should be upheld automatically without further right of appeal. Should said \$500 fine be properly received by the OIC within 30 days of the date of this Order, it is reasonable that the OIC's Order Revoking License be automatically rescinded as of the date of receipt of that \$500 fine without the need of further action.

**ORDER**

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

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**IT IS HEREBY ORDERED** that the Washington State Insurance Commissioner's action imposing a \$500 fine upon the Licensee is upheld. The conditions of payment and receipt of said fine shall be strictly construed.

**IT IS FURTHER ORDERED** that said \$500 fine shall be properly received, in full, by the Office of the Insurance Commissioner, by mail or hand delivery to P.O. Box 40255, Olympia, WA 98504-0255 or 5000 Capitol Blvd., Tumwater, WA 98501, by the end of the 30<sup>th</sup> day following the date of this Order. If said fine is not properly received by that date, in strict compliance with this Order, then the OIC's Order Revoking License, No. 12-0150, is automatically upheld and the Licensee's Washington resident insurance producer's license is automatically revoked as of that due date without further right of appeal. Should said fine be properly received by that date then the OIC's Order Revoking License is automatically rescinded as of the date of receipt of that \$500 fine without the need of further action.

**IT IS FURTHER ORDERED** that the Findings of Facts and Conclusions of Law and Order herein should be considered should the OIC conduct any disciplinary action involving the Licensee in the future.

**ENTERED AT TUMWATER, WASHINGTON**, this 22<sup>nd</sup> day of January, 2013, pursuant to Title 48 RCW and specifically RCW 48.04 and Title 34 RCW and regulations applicable thereto.

  
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PATRICIA D. PETERSEN  
Chief 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.

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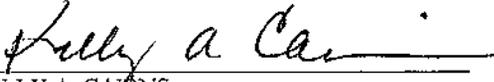
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Declaration of Mailing

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: Kerry Lynne Hauf, Mike Kreidler, Michael G. Watson, John F. Hamje, Esq., Jeff Baughman, Andrea Philhower, Esq., and Carol Surcau, Esq.,

DATED this 23<sup>rd</sup> day of January, 2013.

  
KELLY A. CAIRNS