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OFFICE OF  
INSURANCE COMMISSIONER

2012 MAY 31 A 11:45

HEARINGS UNIT  
Fax: (360) 664-2782

Hearings Unit, OIC  
Patricia D. Petersen  
Chief Hearing Officer

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

Kelly A. Cairns  
Paralegal  
(360) 725-7002  
KellyC@oic.wa.gov

**PLEASE RETURN STAMPED COPY TO CONFIRM RECEIPT.**

**TO:** Office of Administrative Hearings

**FROM:** Patricia D. Petersen, Chief Hearing Officer  
Office of the Insurance Commissioner

**MATTER:** In the Matter of Soundpath Health, Inc., No. 12-0154

**AGENCY REQUEST:** Please enter Initial Order in this matter and return original file and recording of proceeding to the undersigned. Please send copies of all interim orders to the OIC Hearings Unit as they are entered.

**TIME PERIOD REQUESTED:** Please note that this Demand for Hearing concerns an insurance company (a health care service contractor) which the Insurance Commissioner (OIC) believes lacks sufficient capitalization to be able to continue to conduct its normal insurance business in Washington; therefore, because it appears that the OIC's Orders are stayed pending entry of Initial and Final Orders, **as in other cases like this one, time is of the essence in these types of cases, in seeing that a hearing is conducted and an Initial Order is entered soon** (see Stay of Orders below). Specifically, from the OIC's April 26 email letter to Soundpath Health Inc.'s (Soundpath) attorney Timothy Parker, it appears that the OIC reviewed Soundpath's financial statements and conducted a financial examination of Soundpath, and issued preliminary findings that Soundpath used an accounting method in its financial statements (the reinsurance accounting method) which the OIC alleges is not allowed by statute. Further, it appears that the OIC's preliminary findings also conclude that had Soundpath used what OIC asserts is the statutorily-required accounting method (the deposit accounting method) the results would show that Soundpath would not have the level of capitalization required by statute to be able to continue to conduct its business. For this reason, as indicated in the OIC's April 26 email letter, the OIC is requiring that Soundpath amend its financial statements using what the OIC asserts is the proper accounting method; file a 2012 business plan with quarterly projections and financial statements; and discontinue accepting new enrollees in

its health plan. From its Demand for Hearing, it appears that Soundpath is appealing all of these decisions of the OIC.

**STAY OF OIC's ORDERS IN THIS MATTER:** Please also note that the OIC's April 3, 2012 letter to Soundpath includes numerous detailed orders concerning this situation, including the OIC's order to stop writing any new business effective April 5, 2012. Further, the OIC's April 26 email letter reiterates some of these orders (although with less specificity as they are detailed in the OIC's April 3 letter), specifically 1) the OIC has required Soundpath to amend its financial statements, including the filing of amended deposit calculations, by May 18, 2012; and 2) to increase its required capital deposits reflected by those calculations to cure the alleged deficiencies no later than May 18, 2012. Pursuant to RCW 48.04.020, if a Demand for Hearing is filed prior to the effective date of an OIC order, it is automatically stayed. This decision is normally clear and made here before a file is transmitted to OAH, however, in this case there might be a decision to make, i.e., it may be that the OIC will argue that some of the OIC's orders bear an effective date of May 18 and because Soundpath did not file its Demand for Hearing until May 18 then under RCW 48.04 there is no automatic stay of those OIC orders. If the OIC makes no viable argument, however, then the OIC's orders included in its April 3 letter and April 26 email letter are automatically stayed under RCW 48.04 until entry of both your Initial Order and the Hearings Unit's Final Order. For this reason, as in other cases like this one, time is of the essence in proceeding promptly to hearing and entry of an Initial Order.

**OTHER INFORMATION:** 1) The OIC always requires insurance agents and brokers involved in disciplinary matters to appear in person, because demeanor is important. 2) If any non-agent, non-broker entity (or its attorney) appears by telephone upon approval by the ALJ, the OIC requires both parties (or their attorneys) to appear by telephone, so that one party/attorney is not alone with the ALJ. 3) Hearings are virtually always held in Olympia. Should OAH believe there is reason to hold a proceeding elsewhere, please discuss this with the OIC Hearings Unit prior to scheduling.

**COUNSEL REPRESENTING COMMISSIONER:** Commissioner appearing pro se through:

Charles Brown, OIC Staff Attorney  
Office of the Insurance Commissioner, Legal Affairs Division  
P.O. Box 40255  
Olympia, Washington 98504-0255  
360-725-7063

**COUNSEL REPRESENTING AGGRIEVED PARTY:**

Timothy J. Parker, Attorney At Law  
Carney Badley Spellman  
701 Fifth Avenue, Suite 3600  
Seattle, WA 98104-7010  
(206)622-8020

**ANTICIPATED OAH PREHEARING ACTIVITY:** OAH will appoint an administrative law judge (ALJ) to hear this matter and enter an Initial Findings of Facts, Conclusions of Law and Order. This initial decision and the entire hearing file, including the recording of the proceeding, will then be returned to the OIC Hearings Unit for review and entry of final Findings of Facts, Conclusions of Law and Order. Should a case be settled prior to hearing before the OAH ALJ, please review the settlement documents and, if you enter an initial Order Terminating Proceeding, the OIC Chief Hearing Officer will review and enter the Final Order Terminating Proceeding once you have returned the hearing file to the OIC Hearings Unit.

**OTHER:**

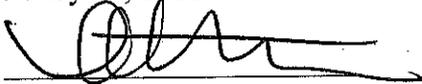
Documents included in transmission:

1. A Demand for Hearing dated May 18, 2012, filed by Timothy J. Parker on behalf of Soundpath Health, Inc., with (1) attached Exhibits A-D (March 16, 2012 letter to Mr. Zachary Smulski from Mike Mulcahy of Canada Life Reinsurance; OIC letter to Soundpath dated April 3, 2012; OIC letter to Soundpath dated April 5, 2012; OIC email letter to Soundpath dated April 26, 2012); and (2) memo of transmittal dated May 21, 2012 from Deputy Commissioner Jim Odiorne to Patricia Petersen, Chief Hearing Officer
2. Notice of Receipt of Demand for Hearing dated May 29, 2012

Agency Contact: Chief Hearing Officer Patricia D. Petersen  
Office of Insurance Commissioner  
P.O. Box 40255  
Olympia, Wa 97504-0255  
(306) 725-7105

Billing Contact: Same.

Date: May 31, 2012

By: 

Patricia D. Petersen  
Chief Hearing Officer