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BEFORE THE OFFICE OF THE INSURANCE COMMISSIONER

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In the Matter of

ROBERT P. SORRELL,

Licensee

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Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer
Order No. 12-0241

OIC HEARING MEMORANDUM

FACTS

1. Robert P. Sorrell ("Sorrell" or "the Licensee") was licensed as an insurance producer in Washington on July 5, 1995. He resides in Bremerton and is 76 years of age. Sorrell is the sole owner of Delta Pacific Services, Inc., an insurance agency in Seabeck. Sorrell currently has five appointments and no affiliations. Although Sorrell did affiliate with Delta Pacific Services, Inc. in July 2009, the affiliation was cancelled in April 2011. Sorrell let his license expire on February 10, 2011. Sixty days later, when Sorrell did not attempt to reinstate, the OIC cancelled the license as well as the appointments and affiliations as provided for in WAC 284-17-490(2). While Sorrell did reinstate his license immediately, he did not file an affiliation notice with the OIC and never has since (Exhibit 6).

2. On March 12, 2012, the OIC received a complaint against Sorrell from one of his longtime clients, Jim Grant ("Grant"), along with documentation relating to the complaint (Exhibit 1). The OIC investigator obtained the sworn declaration of Grant as well as his supporting documentation (Exhibit 2).

3. The investigation revealed that Grant runs Northway Aviation of Washington, Inc. ("Northway"), a flight school with a fleet of eleven aircraft. Northway has been a client of Sorrell for over 10 years. Delta Pacific Services was the producer of Northway's commercial insurance policies, which were brokered through Phoenix Aviation Managers for insurer Old Republic Insurance Company.

4. Northway paid its regularly scheduled insurance premium payment of \$5013.41 for insurance policy AVC 001343-11 to Delta Pacific Services on the following dates: on December 5, 2011 for the November 2011 premium, on December 31, 2011 for the December 2011 premium, and on February 3, 2012 for the January 2012 premium (Exhibit 1, pp. 3-10). The checks were deposited into the bank account of Delta Pacific Services. The Northway payment made on December 5, 2012 shows it was deposited into the bank account for Delta Pacific Services on December 7, 2011, the December 31, 2011 payment was deposited on January 4,

2012, and the February 3, 2012 payment was deposited on February 7, 2012.

5. Grant received a notice dated January 13, 2012 from Phoenix Aviation Managers stating that his commercial insurance policy AVC 001343-11 with Old Republic Insurance Company would be cancelled effective January 25, 2012 for non-payment of premium (Exhibit 1, pg.14). Grant contacted Sorrell and was told by Sorrell that it was nothing more than "a glitch" in the system and the payments had been made, so Grant should disregard the notice (Exhibit 2).

6. Grant, knowing that Northway's commercial insurance policy was due for renewal on March 3, 2012, and still concerned about the previous cancellation notice, made attempts to contact Sorrell in February 2012. When he couldn't contact Sorrell on March 1, 2012, he decided to contact Phoenix Aviation Managers directly to review his policy. Grant learned during the contact that Northway Aviation's commercial insurance policy, AVC 001343-11 had already been cancelled on January 26, 2012, for non-payment of premiums. The aircraft fleet had been operating without commercial insurance from January 25, 2012 to March 1, 2012. (See Exhibit 2). On March 1, 2012 Grant immediately grounded all planes associated with his business until he was able to bind a new insurance policy through Insurance Broker Regal Aviation and resume operations on March 2, 2012 (Exhibit 1, pp.15-20).

7. The December 5th payment was not received by Phoenix Aviation Managers until January 19, 2012, the December 31st payment was not received until February 27, 2012, and the February 3rd payment was not received until February 28, 2012 (See Exhibit 2, pg. 2). Phoenix Aviation Managers documented that Sorrell did eventually make all the insurance premium payments to bring the Northway Aviation account current, but the insurance policy had already been cancelled (Exhibit 3).

8. Grant suffered a significant financial setback as a result of Sorrell's negligence in forwarding premium to Phoenix Aviation Managers on Grant's behalf (See Exhibit 2, pg. 2 and Exhibit 1, pg. 18). Not only did he pay premium for insurance that had already been cancelled, but he lost his \$7,500 security deposit and a \$6,000 renewal credit with Phoenix Aviation Managers because of the cancellation (Exhibit 2, pg. 2). Grant has not received any refunds from Sorrell (Exhibit 2, pg.2).

9. During the course of the investigation, the OIC again noticed that Sorrell never affiliated himself with Delta Pacific Services after his license was cancelled in 2011, so his agency has been transacting insurance business since April 14, 2011 without an affiliated individual licensee. In his Request for Hearing (See Exhibit 5), Sorrell says he "did not know that they [the two previous affiliations] were not renewed until" the Order Suspending License and Levying a Fine was received. Sorrell ought to have known that the affiliations themselves were cancelled, and would not have automatically been "renewed" when there was no existing license.

10. On August 27, 2012, the OIC issued an Order Suspending License and Levying a Fine. The Order imposed a fine of \$1,000 for the failure to affiliate, and suspended Sorrell's license for thirty days, effective September 15, 2012 (Exhibit 4). Sorrell requested a hearing on the matter on or about September 11, 2012, so the suspension is stayed pending the outcome of the hearing (Exhibit 5).

ARGUMENT AND AUTHORITY

I. Grounds for Fine and Suspension

RCW 48.17.530(1)(h) permits the Commissioner to revoke, suspend, place a license on probation, or impose a civil penalty upon a producer for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere.

RCW 48.17.530(1)(d) states that the Commissioner may revoke, suspend, place a license on probation, or impose a civil penalty upon a producer for improperly withholding, misappropriating or converting any monies received in the course of doing insurance business.

RCW 48.17.480 (2) and (3) require that all premium monies must be accounted for and paid to the party entitled to the funds promptly.

RCW 48.17.530 (1)(b) states that the Commissioner may place on probation, suspend, revoke a producer's license for violating any law or rule of the Commissioner.

RCW 48.17.560 allows the Commissioner to impose a fine in lieu of or in addition to a suspension or revocation in an amount up to \$1,000 per offense.

WAC 284-17-473 states that individual licensees that represent a business entity or act on its behalf must be affiliated with the licensed business entity. A business entity must have at least one affiliated individual licensee in order to transact insurance business. Each business entity must provide the commissioner with the names of all individual licensees authorized to represent the business entity and act on its behalf by electronic submission and pay the applicable fees.

II. Argument

A fine of \$1,000 is appropriate for Sorrell for his failure to affiliate with Delta Pacific Services, Inc. He knew of the requirement of affiliation because he had affiliated with Delta

Pacific back in 2009. He cancelled the affiliation on April 11, 2011.

Sorrell runs Delta Pacific Services, Inc. alone. He has no trained backup person to take over if he is unable to tend to business. His wife is not even trained to forward premium from customers to insurers. Apparently, this is what happened here.

Although the OIC has no documentation, even Grant is clear that indeed the reason for the withholding and untimely forwarding of Northway's insurance premiums was because when Sorrell became incapacitated, everything ceased, except for Mrs. Sorrell dutifully depositing checks into the premium trust account and forwarding them to Phoenix Aviation Managers late, if at all. She wasn't even knowledgeable enough to know that some portion of those monies were promptly due to other entities.

It appears that Sorrell suffered a life threatening illness that required he undergo a "cardiac bypass procedure and the partial removal of his colon" in December 2011, according to his wife. Sorrell then began a two-month hospital stay during which none of his insurance business was attended to. He also needed in-home care for an extended period of time after his release from the hospital, during which he really did not work or see that things were under control at the agency. That's why Grant's premiums made it to Phoenix Aviation Managers late and his policy was cancelled. Grant had become increasingly worried about his policy around the March 1, 2012 renewal time, and Sorrell wouldn't return his phone calls. He only found out about the cancellation when he himself called Phoenix Aviation Managers. Later, Sorrell did try to rectify the delayed premium payment issues upon his release from the hospital by forwarding all monies owed for premiums to Phoenix Aviation Managers, but Northway's policy had already been cancelled.

Sorrell's lack of a business continuity plan for his one-man shop, especially at an advanced age and in poor health is inexcusable and put Grant, and presumably other clients, at risk. Grant is still out thousands of dollars as a result. And, as Grant points out in his declaration, because of Sorrell, Grant inadvertently ran afoul of Federal Aviation Administration requirements for continuous coverage that could have handed him legal problems with the government. Eleven aircraft flew without insurance for over a month because Sorrell didn't have a plan.

Sorrell has not accepted responsibility or expressed remorse for the losses Grant suffered because of him. While everyone would wish good health on Sorrell, his complete abdication of his responsibilities by failure to have even the semblance of a backup plan is incompetent and negligent. He has given no explanation or convincing defense for his inaction. Apparently, he feels that since he did not ask for the heart attack, the havoc it created in conjunction with having no contingency plan at 76 years of age, is not his problem. The Commissioner thinks it should

have been his problem, and is now asking for a suspension to make that point clear. The Commissioner respectfully requests that the Order imposing a fine and suspension be upheld.

III. Exhibits to be Presented

- Exhibit 1 Complaint form from Jim Grant and accompanying documentation (20 pgs.)
- Exhibit 2 Declaration of Jim Grant dated April 8, 2012 (2 pgs.)
- Exhibit 3 Emails between Sorrell and Phoenix Aviation Managers dated March 6, 2012 and April 12, 2012 (2 pgs.)
- Exhibit 4 Order Suspending License and Levying a Fine dated August 27, 2012 (4 pgs.)
- Exhibit 5 Sorrell's request for hearing dated September 7, 2012 (1 pg.)
- Exhibit 6 OIC Licensing Records for Robert P. Sorrell (3 pgs.)

Respectfully Submitted this _____ day of _____, 2012.

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