



FILED

OFFICE OF
INSURANCE COMMISSIONER
HEARINGS UNIT

2013 SEP 27 P 12: 24

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

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of)	Docket No. 13-0084
)	
EDMUND C. SCARBOROUGH and)	NOTICE OF HEARING
WALTER W. WOLF,)	
)	
Respondents.)	

TO: Walter W. Wolf
7903 E. Broadway
Spokane Valley, WA 99212

James A. McPhee, Esq.
Workland & Witherspoon PLLC
601 W. Main Avenue, Suite 714
Spokane, WA 99201

Michael Miles, Esq.
Ballard Spahr LLP
100 North City Parkway, Suite 1750
Las Vegas, NV 89106-4617

Timothy J. Parker, Esq.
Carney Badley Spellman, P.S.
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010

COPY TO: Mike Kreidler, Insurance Commissioner
James T. Odiorne, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Alan Michael Singer, Staff Attorney, Legal Affairs Division
AnnaLisa Gellermann, Deputy Commissioner, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

On March 8, 2013, the Washington State Insurance Commissioner (OIC) issued a Notice of Request for Hearing for Imposition of Fines to Edmund C. Scarborough and Walter W. Wolf (collectively, "Respondents"). Said Notice of Request for Hearing proposes that the OIC take



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disciplinary action against the Respondents for alleged violations of the Insurance Code. Specifically, as stated in the Notice of Request for Hearing, the OIC alleges that by being listed and signing their names as individual sureties on a performance bond issued relative to a City of Clarkston, Washington construction project, the Respondents acted as insurers without having a proper Certificate of Authority in violation of RCW 48.05.030(1). Additionally, the OIC alleges that by soliciting and transacting insurance business in this state on behalf of an unauthorized insurer without being licensed as surplus lines brokers, the Respondents violated RCW 48.15.020 and RCW 48.15.070.

On March 27, 2013, the undersigned held a first prehearing conference in this matter, which included all parties. The OIC was represented by Andrea Philhower, Esq., Staff Attorney in the OIC's Legal Affairs Division. Mr. Wolf was represented by his attorney, James A. McPhee, Esq. of Workland & Witherspoon, PLLC, Spokane, Washington. Mr. Scarborough was represented by his attorneys Michael Miles, Esq. of Ballard Spahr, LLP, Las Vegas, Nevada, and Timothy J. Parker, Esq. of Carney Badley Spellman, P.S., Seattle, Washington. The undersigned reviewed procedure to be expected at hearing and answered all questions and concerns of the parties. The parties agreed that this hearing should be held commencing on June 3, 2013.

On May 29, 2013, the parties filed a Joint Motion for Continuance herein, requesting that the hearing scheduled for June 3, 2013 be continued to a later date, citing two reasons for the request: (1) to allow the Insurance Commissioner to review new information received concerning this matter, and (2) to await the ruling of the Idaho Department of Insurance on a motion in a similar action, which ruling may be instructive in this case. The parties' Joint Motion for Continuance was granted. Thereafter, on July 16, 2013, the undersigned held a second prehearing conference with the parties to discuss the status of the case and to schedule a mutually convenient hearing date. Of significance, Mr. Parker advised that Mr. Scarborough was not soliciting or selling bonds in Washington relative to government or private transactions, i.e., those bonds Mr. Scarborough argues are subject to the OIC's jurisdiction, but may be soliciting and/or selling bonds in Washington relative to federal government transactions which Mr. Scarborough argues are outside the OIC's jurisdiction. Based upon this information, all parties including the OIC agreed that the hearing should be held commencing September 16, 2013. Most recently, on August 22, 2013, the parties filed a second Joint Motion for Continuance requesting a continuance of the September 16, 2013 hearing date for an additional 90 days, based upon the request of the OIC for additional time so that its newly substituted counsel, Alan Michael Singer, can properly prepare for hearing. Said August 22, 2013 Joint Motion was orally granted on that date and subsequently the parties agreed that the hearing should be continued to commence on January 22, 2014.

YOU ARE HEREBY NOTIFIED that a hearing will be held commencing on Wednesday, January 22, 2014 at 10:00 a.m. Pacific Time and, if necessary, will continue on January 23, 2014 at 10:00 a.m. Pacific Time. The purpose of this hearing, which will include all parties, is to consider whether the Respondents' alleged activities, set forth in the OIC's Notice of Request for Hearing, constituted violations of the Insurance Code justifying imposition of a fine against the Respondents, or justify some other form of disciplinary action.

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The OIC will appear by and through Alan Michael Singer, Staff Attorney in the OIC's Legal Affairs Division. Mr. Singer's address is Office of the Insurance Commissioner, Legal Affairs Division, P.O. Box 40255, Olympia, WA 98504-0255 and his telephone number is (360) 725-7046. Respondent Wolf will appear and will be represented by his attorney James A. McPhee of Workland & Witherspoon, PLLC. Mr. McPhee's business address is 601 W. Main Avenue, Suite 714, Spokane, WA 99201, and his telephone number is (509) 252-5682. Respondent Scarborough will appear and will be represented by his attorneys Michael Miles of Ballard Spahr, LLP, 100 North City, Parkway, Suite 1750, Las Vegas, NV 89106-4617, and Timothy J. Parker of Carney Badley Spellman, P.S., 701 Fifth Avenue, Suite 3600, Seattle, WA 98104. Mr. Miles telephone number is (702) 868-7514 and Mr. Parker's telephone number is (206) 622-8020.

Patricia D. Petersen, Esq., who serves as Chief Presiding 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 questions or concerns concerning this proceeding should direct them to her Paralegal, Kelly Cairns, at the same address, at kellyc@oic.wa.gov or by telephone to (360) 725-7002.

The hearing will be held under the authority granted by the Insurance Commissioner under Chapter 48.04 RCW. The basic facts relied upon are those specifically set forth in the OIC's Notice of Hearing.

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,

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IT IS HEREBY ORDERED that the adjudicative proceeding in this matter shall commence on January 22, 2014 at 10:00 a.m. Pacific Standard Time, and, if necessary, will continue on January 23, 2014 at 10:00 a.m. Pacific Standard Time.

ENTERED AT TUMWATER, WASHINGTON, this 27th day of September, 2013, pursuant to Title 48 RCW and specifically RCW 48.04 and Title 34 RCW and regulations applicable thereto.



PATRICIA D. PETERSEN
Chief Presiding Officer

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: Walter W. Wolf, James A. McPhee, Esq., Michael Miles, Esq., Timothy J. Parker, Esq., Mike Kreidler, James F. Odiorne, John F. Hanje, Esq., AnnaLisa Gellermann, Esq., and Alan Michael Singer, Esq.

DATED this 27th day of September, 2013.



KELLY A. CAIRNS

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Patricia D. Petersen
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Hearings@oic.wa.gov

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

Chief Presiding 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. 13-0084, 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: _____