

FILED

BEFORE THE STATE OF WASHINGTON  
OFFICE OF INSURANCE COMMISSIONER

2015 JAN 15 P 1:24

In the Matter of )

GHOLAMREZA NIKZAD and )  
WOOD FINANCIAL SERVICES )  
COMPANY, )

Licensees. )  
\_\_\_\_\_ )

**Docket No. 13-0222**

**ORDER REMANDING FOR  
FURTHER PROCEEDINGS**

**TO:** Gholamreza Nikzad  
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**COPY TO:** Mike Kreidler, Insurance Commissioner  
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### NATURE OF PROCEEDING

1. On July 23, 2013, the Office of the Washington State Insurance Commissioner ("OIC") entered an Order Revoking License, No. 13-0222, ("Order Revoking"), revoking the Washington entity insurance producer's license of Wood Financial Services Company ("Wood") and the Washington insurance producer's license of Gholamreza Nikzad ("Nikzad"), effective August 12, 2013.
2. On August 8, 2013, Wood and Nikzad ("Wood/Nikzad" or "Licensees") filed a Demand for Hearing before an administrative law judge ("ALJ") in the Office of Administrative Hearings ("OAH") to contest the Order Revoking. The Order Revoking was thereby automatically stayed pending entry of Findings of Fact, Conclusions of Law, and Final Order.
3. On September 24, 2014, ALJ Lisa N.W. Dublin, acting as Presiding Officer, conducted an evidentiary hearing on Wood/Nikzad's Demand for Hearing. On November 24, 2014, Judge Dublin entered Findings of Fact, Conclusions of Law, and Initial Order.
4. Judge Dublin's Findings of Fact, Conclusions of Law, and Initial Order were transmitted to me, as Reviewing Officer, for review and for entry of Findings of Fact, Conclusions of Law, and Final Order. *See*, RCW 34.05.464.
5. On December 12, 2014, Wood/Nikzad filed Licensees' Petition for Review. On December 17, 2014, the OIC filed OIC Staff Response to Licensees' Petition for Review. On January 6, 2015, Wood/Nikzad filed Licensees' Reply to OIC Staff's Response to Licensees' Petition for Review.
6. I have reviewed the record, including the evidence presented to ALJ Steven C. Smith and Judge Dublin, Wood/Nikzad's Petition for Review, the OIC's Response, and Wood/Nikzad's Reply. I have given due regard to Judge Dublin's opportunity to observe the witnesses. *See*, RCW 34.05.464(4).

### DISCUSSION

1. Judge Smith's Notice of Hearing; and, Order Following Prehearing Conference of December 18, 2013, at Para. 3.2, defined the Issues for the Evidentiary Hearing: "3.2.1 Issue One: Did Licensees violate Washington law as stated in the Washington OIC's *Order Revoking License* issued against Licensees Gholamreza Nikzad And Wood Financial Services Company on or about July 23, 2013? 3.2.2 Issue Two: If Issue One is decided against one or both Licensees, what is the appropriate remedy or penalty (sanction) under Washington law? 3.2.3 The hearing in this matter will be limited to this issue/these issues, unless the issues are modified at a later prehearing conference."

2. Neither OIC nor Wood/Nikzad objected to Judge Smith's statement of issues, and the issues were not modified at a later prehearing conference. Paragraph 3.2 therefore defined the issues.
3. Judge Smith excluded evidence of events after July 23, 2013, the date of OIC's Order revoking Wood/Nikzad's producer licenses, and Judge Dublin confirmed Judge Smith's ruling. I believe, however, that such evidence was relevant to both issues defined in Paragraph 3.2.

4. *Issue One: Did Licensees violate Washington law as stated in the Order Revoking?*

Post-July 23, 2013, evidence was relevant to whether OIC waived or was estopped from asserting the compliance deadlines set forth in Judge Petersen's Final Order. The OIC conducted a limited follow-up examination on October 28, 2013, to determine if Wood/Nikzad had complied with the Final Order, and OIC's written report, dated October 29, 2013, references documents reviewed in the examination from a period after July 23, 2013 -- September 1, 2013, through September 30, 2013. If the OIC waived or is estopped from asserting strict compliance deadlines, did Wood/Nikzad comply with Judge Petersen's Final Order within a delayed deadline?

5. *Issue Two: If Issue One is decided against one or both Licensees, what is the appropriate remedy or penalty?*

Assuming Wood/Nikzad were found to have violated Judge Petersen's Final Order, evidence in mitigation should have been considered. Judge Smith's December 18, 2013, Order appeared to contemplate that if, e.g., Wood/Nikzad complied tardily with Judge Petersen's Final Order, a lesser remedy or penalty than revocation might be appropriate. In any case, Wood/Nikzad should have been permitted to testify in support of a lesser remedy or penalty, even if their testimony proved unpersuasive.

6. Wood/Nikzad preserved the issues now before me by making known to the ALJs the substance of the evidence that they would have offered, if permitted. *See*, ER 103(a)(2) (Offer of Proof). Although offers of proof in question and answer form are not required, permitting Wood/Nikzad to use this form at the evidentiary hearing might have made the present remand unnecessary.
7. This matter should be remanded to OAH for further proceedings in which the Presiding Officer admits and considers post-July 23, 2013, evidence, then enters Findings of Fact, Conclusions of Law, and Initial Order on Remand, in light of the record as a whole (i.e., the record including both post-July 23, 2013, evidence and the testimony and other evidence previously received). *See*, RCW 34.05.464(6).
8. I do not by this Order intend to suggest what, if any, impact post-July 23, 2013, evidence should have on the Presiding Officer's Findings of Fact, Conclusions of Law, and Initial

ORDER REMANDING FOR FURTHER PROCEEDINGS

13-0222

Page - 4

Order on Remand.

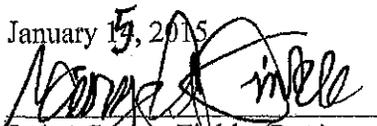
9. The OIC Hearings Unit, by memorandum filed September 24, 2013, requested that OAH expedite this matter: "Please hold hearing as soon as possible. OIC's Order Revoking License IS STAYED pending the outcome of the final decision. Regarding date of entry of Initial Order, please note that both parties and the public have an interest in having this matter concluded as soon as possible." (Emphasis in original.)
10. After four hearings before two ALJs, Findings of Fact, Conclusions of Law, and Initial Order were entered 14 months after the OIC's request to expedite. Such delay is troubling, given the interest of the parties and the public in prompt resolution.

ORDER

Pursuant to RCW 34.05.464(6):

1. This matter is remanded to OAH for further proceedings consistent with this Order.
2. Instructions to Presiding Officer: Upon remand, the Presiding Officer shall admit evidence, including oral testimony, as to post-July 23, 2013, events. The Presiding Officer shall then promptly enter Findings of Fact, Conclusions of Law, and Initial Order on Remand, considering the record as a whole (including testimony and other evidence previously received).
3. The automatic stay remains in effect pending entry of the Findings of Fact, Conclusions of Law, and Final Order.

January 15, 2015

  
Judge George Finkle (Ret.)  
Reviewing 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: Gholamreza Nikzad, Wood Financial Services Company, James Sohermer, Mike Kreidler, James T. Odiorne, John F. Hamje, AnnaLisa Gellermann, and Charles Brown.

DATED this 15<sup>th</sup> day of January, 2015.

  
KELLY A. CAIRNS