STATE OF WASHINGTON

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

OLYMPIA OFFICE:
INSURANCE BUILDING
P.O. BOX 40258
OLYMPIA, WA 98504-0258
Phone: (360) 725-7000

FILED

2014 JUN 26 A 10: 0

OFFICE OF
INSURANCE COMMISSIONER

IN THE MATTER OF PAUL D. GENEST, FORMER LICENSEE.	ORDER NO. 14-0102 MOTION IN LIMINE

Comes Now the Office of the Insurance Commissioner (OIC) and makes a motion concerning limiting evidence to be presented in the hearing requested by Paul D. Genest based on the recent denial of a producer license or reinstatement thereof after his producer license was revoked, effective December 7, 2013.

Paul D. Genest ("Genest") was a licensed producer of life, disability, and property and casualty insurance residing in Mount Vernon. He was first licensed in 2002. The Commissioner asserts that any evidence directly or indirectly concerning the revocation and the underlying facts and circumstances surrounding the revocation and/or the termination of Mr. Genest's agency agreement with American Family Insurance are clearly inadmissible as they are res judicata. Only facts and evidence of events occurring after November 19, 2013, should be considered at any further hearing. The administrative tribunal has inherent authority to so limit evidence at hearing. The OIC requests that the Judge order that no direct or indirect evidence may be presented at the hearing that bears on the propriety of the revocation of Mr. Genest's license in 2013, or otherwise challenges such revocation or the facts and allegations underlying such revocation.

PROCEDURAL HISTORY

On November 19, 2013, the Office of the Insurance Commissioner issued Order

Revoking License, No. 13-0313, to Mr. Genest (Exhibit 1). The revocation was based on a thorough investigation of the facts surrounding the termination of Mr. Genest's agency agreement with American Family Insurance and its associated companies. The Commissioner concluded that the evidence showed that Mr. Genest violated RCW 48.17.480 by diverting or misappropriating $6,505.82 in premium monies and violated RCW 48.17.600 by commingling premium monies received in his fiduciary capacity with other business funds. As a result, RCW 48.17.530(1) states that the Commissioner may revoke, suspend, or place on probation an insurance producer's license and/or may levy a fine in accordance with RCW 48.17.560 for any of the following causes:(b) Violating any insurance laws, or violating any rule, subpoena, or order of the Commissioner; (d) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business; and (h) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere. The Order clearly and specifically informed Mr. Genest of his right to a hearing on the merits of the allegations made by American Family Insurance and the Commissioner's Order. (See Exhibit 1, page 3). Mr. Genest had 90 days after the date of the Order, which is the day it was mailed to him, November 19, 2013, to submit his demand for a hearing.

Mr. Genest requested a hearing on the revocation by email dated March 3, 2014, 103 days after the date the Order was mailed. Chief Presiding Officer Petersen rejected his demand as untimely and he was deemed to have waived his right to a hearing on the revocation (Exhibit 2).

On March 24, 2014, Mr. Genest asked the OIC Licensing Division to permit him to reinstate his license. By email dated March 25, 2014, OIC Licensing Compliance Supervisor

Cheryl Penn denied Mr. Genest a new or reinstated license, based on Mr. Genest's having had his license revoked earlier for violation of insurance laws under RCW 48.17.530(1)(b). (Exhibit 3).

Mr. Genest demanded a hearing on the denial through counsel on May 8, 2014. (Exhibit 4). While Mr. Genest does not explicitly come out and ask to litigate the allegations of the Order Revoking License, Mr. Genest's counsel alluded to the circumstances of Mr. Genest's waiver of the first hearing opportunity in his demand for hearing. Mr. Genest later reconsidered, but too late for a hearing on the revocation.

The Order Revoking License is final, and evidence concerning Mr. Genest's knowledge of his hearing rights back then, or any other circumstances surrounding or underpinning the revocation, should be excluded.

LEGAL AUTHORITY

It has long been held that a pretrial motion to exclude evidence is proper. *State v. Smith*, 189 Wash. 422, 65 P.2d 1075 (1937). See also *Fenimore v. Drake Construction Co.*, 87 Wn.2d 85, 549 P.2d 483 (1976).

Meder v. CCME Corporation, 7 Wn. App. 801; 502 P.2d 1252 (1972) sets out the basic principles of res judicata:

> . . . no question should be submitted for decision twice and yet no party should be prevented from litigating any question which has not been, which could not have been, and which should not have been litigated during the prior action.
>
> . . . .
>
> Courts in their concern to eliminate duplicitous litigation and yet allow a party to litigate on a matter which would not have been properly included in the previous action often refer to this doctrine of repose as res judicata, meaning a thing decided, or as

a prohibition against splitting causes of action. Thus, in *Sanwick v. Puget Sound Title Ins. Co.,* 70 Wn.2d 438, 441, 423 P.2d 624, 38 A.L.R.3d 315 (1967), we find:

> This court from early years has dismissed a subsequent action on the basis that the relief sought could have and should have been determined in a prior action. The theory on which dismissal is granted is variously referred to as res judicata or splitting causes of action. *Currier v. Perry,* 181 Wash. 565, 44 P.2d 184 (1935); *Sayward v. Thayer,* 9 Wash. 22, 36 Pac. 966, 38 Pac. 137 (1894).
>
> . . .
>
> . . . As early as *Sayward v. Thayer,* 9 Wash. 22, 36 Pac. 966, 38 Pac. 137, it was stated:
>
>> "The general doctrine is that the plea of *res judicata* applies, except in special cases, not only to points upon which the court was actually required by the parties to form an opinion and pronounce a judgment, but to every point which properly belonged to the subject of litigation, and which the parties, exercising reasonable diligence, might have brought forward at the time."
>>
>> . . .
>>
>> "The matter in controversy here was included within the matter in controversy there. It either was, or else could have been, adjudicated in the former action. That judgment, therefore, became *res judicata* of the issues and matters here presented."

See also Bradley v. State, 73 Wn.2d 914, 442 P.2d 1009 (1968). If a matter has been litigated or there has been an opportunity to litigate on the matter in a former action, the party-plaintiff should not be permitted to relitigate that issue. *Walsh v. Wolff,* 32 Wn.2d 285, 201 P.2d 215 (1949); *Kiecker v. Pacific Indem. Co.,* 5 Wn. App. 871, 491 P.2d 244 (1971); 46 Am. Jur. 2d *Judgments* § 395 (1969).

> The requirement of the concurrence of identity in four respects in order that a prior judgment be res judicata as to matters raised in a subsequent action has been stated often. Under this line of authority, each cause must be examined to see whether, in

> comparing the prior to the present action, there is an identity of: (1) subject matter, (2) cause of action, (3) persons and parties, and (4) the quality of the persons for or against whom the claim is made. *Bordeaux v. Ingersoll Rand Co., supra; Carroll v. Bastian,* 66 Wn.2d 546, 403 P.2d 896 (1965); *Symington v. Hudson,* 40 Wn.2d 331, 243 P.2d 484 (1952); *Burke Motor Co. v. Lillie,* 39 Wn.2d 918, 239 P.2d 854 (1952); *Walsh v. Wolff, supra; Johnson v. National Bank of Commerce,* 152 Wash. 47, 277 P. 79 (1929); *Northern Pac. Ry. v. Snohomish County,* 101 Wash. 686, 172 P. 878 (1918); *Lilygren v. Rogers,* 1 Wn. App. 6, 459 P.2d 44 (1969).
>
> In discussing the comparison of a present and prior case, *Symington v. Hudson, supra* at 338, said:
>
>> We have here the same subject-matter, the same parties, and the same quality of persons. The causes of action in the two actions to quiet title were the same: the determination of the superior title to the property based upon facts, all of which were in existence at the time of the first judgment, and which were, or could have been, litigated therein. The judgment in the first action operated upon every claim which properly belonged to the subject of the litigation. *Sayward v. Thayer,* 9 Wash. 22, 36 Pac. 966, 38 Pac. 137. . . . The law requires that there shall be an end to litigation, and where a party has had a full and fair opportunity to make all of the defenses at his command, and he elects not to disclose his claim, . . . the doctrine of *res judicata* applies and he cannot later assert it. *Youngquist v. Thomas,* 196 Wash. 444, 83 P.2d 337. The judgment was conclusive upon the issue of the paramount title and of everything that might have been urged for or against such title.

Res judicata was considered by an administrative body as a bar to litigation of claims that were, or should have been, brought in a former action in *Juniper Beach Water District, et al. v. Pollution Control Board,* PCHB No. 11-176c, 2012 WA ENV LEXIS 15 (May 16, 2012). The Board stated:

> The doctrine of res judicata is intended to "avoid repetitive litigation, conserve judicial resources, and prevent the moral force

> of court judgments from being undermined." *Hyatt v. Dept. of Labor and Industries*, 132 Wn. App. 387, 394, 132 P.3d 148 (2006), *rev. denied* 159 Wn.2d 1004 (2007). The Board has applied the doctrine of res judicata in the administrative context and has recognized that it precludes parties from litigating claims that were, or should have been, litigated in a former action. *Burton Water Co. v. Ecology,* PCHB No. 07-100 (Order on Summary Judgment, March 3, 2008) p. 9. The court has established four elements that must be met before reaching a conclusion that an action is barred by the doctrine of res judicata. *Rains v. State,* 100 Wn.2d 660, 663, 674 P.2d 165 (1983). These elements are identity of: (1) subject matter; (2) cause of action; (3) persons and parties; and (4) the quality of the persons for or against whom the claim is made.

The PCHB further stated:

> Here, Respondents contend that the Farm Bureau, Camano, and WWA are barred by the doctrine of res judicata from bringing this appeal. They argue that the subject matter and cause of action are the same as in *Farm Bureau 1*. The only difference between the facts of the prior action and the current appeal is that HPA 3 has a later expiration date, which was required because of the condition the Corps placed on the levee removal. There is no dispute that Farm Bureau, Camano, and WWA were parties in *Farm Bureau 1*. Finally, Respondents argue, even if the Farm Bureau, Camano, and WWA raise new issues, this does not matter for purposes of res judicata. Res judicata applies to what might, or should, have been litigated, as well as to what was actually litigated, if all part of the same claim or cause of action. *Norris v. Norris,* 95 Wn.2d 124, 130, 622 P.2d 816 (1980). Any new issues raised now could have been litigated in *Farm Bureau 1*.
>
> The Farm Bureau, Camano, and WWA respond only that while the "words on the pages" of HPA 2 and 3 are the same, the testimony from the *Farm Bureau 1* hearing indicates that WDFW's interpretation of the project is inconsistent with the language of the permit itself. Appellants' Response Brief, p. 10.
>
> The Board is not persuaded by the Appellants' argument. It is clear the Farm Bureau, Camano and WWA are not arguing that there has been a substantive change from HPA 2 to HPA 3, but rather they simply do not agree with WDFW's interpretation of HPA 2, and now the identical HPA 3. This is not a new argument based on changes to HPA 3. It is another attempt to challenge HPA 2. These

same Appellants already made their challenge to HPA 2 at the Board and lost during *Farm Bureau 1*. The Board concludes that all of the elements of res judicata are met, and that the Farm Bureau, Camano, and WWA's appeals of HPA 3 are therefore barred by res judicata.

Mr. Genest could have litigated the propriety of revocation after the Order Revoking License was issued. He declined to do so.

The Order Revoking License is a final order and res judicata attached. In light of the above history and precedent, the Commissioner requests an Order limiting testimony and evidence at a hearing on denial of Mr. Genest's new application for a license or reinstatement of his previous license to evidence arising at least 90 days after November 19, 2013.

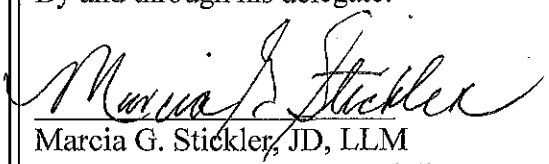
PROPOSED EXHIBITS

Exhibit 1	Order Revoking License, No. 13-0313, dated November 19, 2013, effective December 7, 2013 (4 pages).
Exhibit 2	Denial of Request for Hearing from Chief Presiding Officer Patricia Petersen dated March 4, 2014 (2 pages).
Exhibit 3	Denial of License from Cheryl Penn to Mr. Genest dated March 25, 2014 (1 page).
Exhibit 4	Letter to Hearing Officer Patricia Petersen from Brian Kreger, Counsel for Mr. Genest (2 pages).

ENTERED AT TUMWATER, WASHINGTON, this 26th day of June, 2014.

MIKE KREIDLER
Insurance Commissioner

By and through his delegate:



Marcia G. Stickler, JD, LLM
Insurance Enforcement Specialist
Legal Affairs Division

CERTIFICATE OF MAILING

The undersigned certifies under the penalty of perjury under the laws of the state of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing Motion in Limine on the following individuals via Hand Delivery, US Mail and e-mail at the below indicated addresses:

VIA HAND DELIVERY AND EMAIL TO:

OIC Hearings Unit
Attn: George Finkle, Presiding Hearings Officer
5000 Capitol Blvd
Tumwater, WA 98501
GFinkle@JDRLLC.com
Forbes@JDRLLC.com

VIA US MAIL AND EMAIL TO:

Brian F. Kreger, Esq.
Kreger Beeghly, PLLC
999 Third Avenue, Suite 3000
Seattle, WA 98104-4088
bk@kregerbeeghly.com

SIGNED this 26th day of June, 2014, at Tumwater, Washington.

Renee Molnes

Renee Molnes
Legal Affairs Division

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON

Phone: (360) 725-7000
www.insurance.wa.gov

OFFICE OF
INSURANCE COMMISSIONER

In The Matter of PAUL D. GENEST, Licensee.	NO. 13-0313 NPN 1623460 WAOIC 189140 ORDER REVOKING LICENSE

To: Paul D. Genest
1327 Cleveland Avenue, Suite A
Mt. Vernon, Washington 98273

Paul D. Genest
23665 Old Day Creek Rd
Sedro Woolley, Washington 98284

PAULGENESTAGENCY@GMAIL.COM

IT IS ORDERED AND YOU ARE HEREBY NOTIFIED that your Washington State insurance producer license is **REVOKED**, effective **December 7, 2013**, pursuant to RCW 48.17.530 and RCW 48.17.540(2).

THIS ORDER IS BASED ON THE FOLLOWING:

Paul D. Genest ("Genest") is a licensed producer of life, disability, and property and casualty insurance residing in Mount Vernon. He was first licensed in 2002.

By letter dated January 13, 2012, the Office of the Insurance Commissioner ("OIC") was notified by American Family Insurance ("AMFAM") that Genest's appointment had been terminated for cause effective January 6, 2012. The basis alleged by AMFAM was misappropriation of premium funds.

Genest responded to the allegations in a letter dated February 22, 2012. He claimed his contract with AMFAM was terminated at his request, not a termination for cause, which is the complete opposite of the report from AMFAM. Genest also claimed in his letter that money put into the trust account can only be withdrawn by AMFAM. In an interview conducted by phone on March 1, 2012, Teresa Clementz, Agency Field Support Specialist for AMFAM refuted both statements. Ms. Clements stated that Mr. Genest was notified verbally of the termination of his Agency Agreement by Michael Dixon, Area Sales Manager on January 6, 2012. This was followed up by a letter to Genest from Dixon on the same day. She stated the producer is responsible for control

EXHIBIT 1 PAGE 1

of the trust account to make deposits and withdrawals, and promptly pay the money collected to insurers or insureds.

Documents received from American Family concerning consumer John Whitney, owner of ReMax Valley Homes, show that he wrote a check for $2,286.00 for errors and omissions insurance that was made out to AMFAM on December 31, 2010 and submitted to Genest. It was deposited on January 3, 2011 to Genest's business account. Mr. Whitney never received a policy from AMFAM, and the premium was never paid by Genest to AMFAM.

Ramo Construction purchased a Cornhuskers Casualty commercial general liability and property insurance policy from Genest. It paid him a $3924.82 down payment by company check #20279 dated July 19, 2010 payable to American Family Brokerage. The $9,674.44 balance of the policy premium was financed through Royal Premium Finance.

About three months later, on October 1, 2010, Genest made the $3,924.82 payment to AMFAM for the Ramo Construction Company policy with a debit/credit card belonging to Patricia G. Darnell. A search of public databases reveals that Patricia G. Darnell is also known as Patricia Gayle Genest, age approximately 70, most likely the mother of Paul Genest, which was confirmed by witness Donna Bridgman, Customer Service Representative, who worked in Genest's office and who made the daily bank deposits.

There were five other consumers whose premiums were diverted as well. The total premium amounts diverted/missing for those five consumers totaled $2,581.00.

APPLICABLE LAW:

By diverting or misappropriating $6,505.82 in premium monies, Genest violated RCW 48.17.480.

By commingling premium monies received in his fiduciary capacity with other business funds, Genest violated RCW 48.17.600.

RCW 48.17.530(1) states that the Commissioner may revoke, suspend, or place on probation an insurance producer's license and/or may levy a fine in accordance with RCW 48.17.560 for any of the following causes:

> (b) Violating any insurance laws, or violating any rule, subpoena, or order of the Commissioner;
>
> (d) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business;

(h) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere;

IT IS FURTHER ORDERED that, if you have not already done so, you return your insurance producer license certificate to the Commissioner on or before the effective date of the revocation of your license, as required by RCW 48.17.530(4). Return your license to: Licensing Manager, Office of the Insurance Commissioner, P. O. Box 40257, Olympia, WA 98504-0257.

ENTERED AT TUMWATER, WASHINGTON, this 19th day of November, 2013.

MIKE KREIDLER
Insurance Commissioner

By

Marcia G. Stickler, JD, LLM
Staff Attorney
Legal Affairs Division

NOTICE OF YOUR RIGHT TO A HEARING

If you are aggrieved by this Order, RCW 48.04.010 permits you to demand a hearing. Pursuant to that statute and others: You must demand a hearing, in writing, within 90 days after the date of this Order, which is the day it was mailed to you, or you will waive your right to a hearing. Your demand for a hearing must specify the reasons why you think this Order should be changed. Upon receipt of your demand for hearing, you will be contacted by an assistant of the Chief Hearing Officer to schedule a teleconference with you and the Insurance Commissioner's Office to discuss the hearing and the procedures to be followed.

Please send any demand for hearing to:

Office of the Insurance Commissioner
Attention: Patricia D. Petersen, Chief Hearing Officer
Hearings Unit
P.O. Box 40255
Olympia, WA 98504-0255

EXHIBIT 1 PAGE 3

CERTIFICATE OF MAILING

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing ORDER REVOKING LICENSE on the following individual via US Mail and email.

Paul D. Genest
1327 Cleveland Avenue, Suite A
Mt. Vernon, Washington 98273

Paul D. Genest
23665 Old Day Creek Rd
Sedro Woolley, Washington 98284

PAULGENESTAGENCY@GMAIL.COM

SIGNED this 19th day of November, 2013, at Tumwater, Washington.

Christine Tribe
Christine Tribe

EXHIBIT 1 PAGE 4

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON

Phone (360) 725-7000
www.insurance.wa.gov

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OIC HEARINGS UNIT
PATRICIA D. PETERSEN
CHIEF PRESIDING OFFICER

OFFICE OF
INSURANCE COMMISSIONER

HEARINGS UNIT
Fax: (360) 664-2782

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

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

March 4, 2014

Paul D. Genest
23665 Old Day Creek Road
Sedro Woolley, WA 98284

RE: In the Matter of Paul D. Genest; Order Revoking License No. 13-0313

Dear Mr. Genest:

This letter is in response to your request for hearing in the above referenced matter, which you emailed to my Hearings Unit on March 3, 2014. I have reviewed both your request for hearing and the Insurance Commissioner's Order Revoking License ("Order").

As shown on the Insurance Commissioner's signature line, this Order was dated and signed by the Insurance Commissioner's staff attorney Marcia G. Stickler on November 19, 2013, and was also mailed to you on November 19, 2013 (per the Certificate of Mailing on page 4 of the Order).

The third page of the Order contains the following notice:

> *NOTICE OF YOUR RIGHT TO A HEARING*
>
> *If you are aggrieved by this Order, RCW 48.04.010 permits you to demand a hearing. Pursuant to that statute and others: You must demand a hearing, in writing, within 90 days after the date of this Order, which is the day it was mailed to you* [which is clearly stated in the Certificate of Mailing on page 4 of your Order to be November 19, 2013] *or you will waive your right to a hearing. Your demand for a hearing must specify briefly the reasons why you think this Order should be changed. Upon receipt of your demand for hearing, you will be*

> *contacted by an assistant of the Chief Hearing Officer to schedule a teleconference with you and the Insurance Commissioner's Office to discuss the hearing and the procedures to be followed.* [Emphasis added.]

As cited in the notice provided you in the Order Revoking License you received, RCW 48.04.010(3) requires that an individual must file his or her appeal of an order of the Insurance Commissioner, such as this one, within 90 days of the date of the order. This statute also provides that if an individual files an appeal outside this 90 day window then they lose their right to appeal. Unfortunately, as shown by the date of your email you submitted your request for hearing on March 3, 2014, which is 103 days after the date of the Order, and for this reason you have waived your right to appeal the Order.

In addition, under the terms of RCW 48.04.020(1), had you filed your appeal before December 7, 2013 (the date the Order states is the effective date of your revocation), the revocation would have been stayed and your license would have remained in effect until the outcome of your appeal of the Order. Because your appeal was not filed until March 3, 2014, the Order was not stayed and therefore your license has been revoked beginning December 7, 2013 and has remained revoked since then.

Unfortunately, therefore, pursuant to the requirements of RCW 48.04.010(3) and 48.04.020(1) cited above, your Washington producer's license has been revoked since December 7, 2013 and you no longer have a right to challenge the Order Revoking License. Finally, although you may have thought that this was not required because you thought you were timely filing an appeal, pursuant to RCW 48.17.530(4) and the wording on page 3 of the Order your Washington producer's license certificate should have been returned to the Commissioner on or before December 7, 2013. Please return your Washington producer's license certificate to the Commissioner promptly.

Very truly yours,

Patricia D. Petersen
Chief Presiding Officer

Encls. --Copy of Genest Request for Hearing
--Copy of Order Revoking License

cc: Marcia G. Stickler, Staff Attorney, Legal Affairs Division

Stickler, Marcia (OIC)

From: Penn, Cheryl (OIC)
Sent: Tuesday, March 25, 2014 9:11 AM
To: 'pdgenest@gmail.com'
Subject: License Application Denial

Mr. Genest:

This email is to inform you that your application for an insurance license is denied. The denial is based upon the revocation of your insurance license effective December 12, 2013 per Order No. 13-0313. That order cited violations of RCW 48.17.480 and RCW 48.17.600. RCW 48.17.530 (1) (b) gives the Insurance Commissioner the authority to deny an application if the applicant has violated any insurance laws or rules.

You have the right to demand a hearing to contest this decision. During this hearing, you can present your argument that the decision should not have been entered for legal and/or factual reasons and/or to explain the circumstances surrounding the activities which are the subject of this decision. You may be represented by an attorney if you wish, although it is not required. In many hearings before this agency parties do choose to represent themselves without an attorney. Your Demand for Hearing must be made within 90 days after the date of this decision, which is the date of this email, or your Demand will be invalid and this decision will stand.

Your Demand for Hearing should be sent to Hearing Unit, Office of the Insurance Commissioner, P.O. Box 40255, Olympia, WA, 98504-0255, and must briefly state how you are harmed by this decision and why you disagree with it. You will then be notified both by telephone and in writing of the time and place of your hearing. If you have questions concerning filing a Demand for Hearing or the hearing process, please telephone the Hearings Unit, at 360-725-7002.

Cheryl Penn, ACP
Licensing Compliance Supervisor
Consumer Protection Division
Washington State Office of the Insurance Commissioner
360.725.7153 | cherylp@oic.wa.gov | www.insurance.wa.gov
P.O. Box 40257, Olympia, WA 98504-0257 / fax 360.586.2019
•wainsurance.blogspot.com •Twitter: @WAinsuranceblog •Facebook.com/WSOIC

Protecting Insurance Consumers
(Insurance Consumer Hotline 1.800.562.6900)

EXHIBIT 3 PAGE 1

KREGER BEEGHLY, PLLC
ATTORNEYS

May 8, 2014 **Sent via Electronic Delivery and U.S. Postal Service**

Ms. Patricia Petersen
Hearing Officer
Office of Insurance Commissioner
State of Washington
5000 Capitol Blvd.
Tumwater, WA 98501

Mailing Address:
P.O. Box 40257
Olympia, WA 98504-0257

RE: Paul D. Genest
Demand for Hearing

Dear Ms. Petersen:

Our firm represents Mr. Paul D. Genest. Pursuant to RCW 48.04.010, we herewith submit this Demand for Hearing on behalf of Mr. Genest and request that this matter be docketed for Hearing at your earliest convenience.

Mr. Genest is aggrieved by acts of the Insurance Commissioner and the Office of Insurance Commissioner ("OIC") or by the OIC's failure to act that has resulted in harm to Mr. Genest.

Prior to December 12, 2013, Mr. Genest held a valid and active insurance producer license issued by the Washington Office of Insurance Commissioner. On or about November 19, 2013, the OIC issued its Order Revoking License ("Order") against Mr. Genest. The OIC's Order contained allegations of violations of law committed by Mr. Genest which, although without testimonial or evidentiary proof, formed the basis for the OIC to revoke Mr. Genest's producer license effective as of December 12, 2013.

No hearing was requested or conducted by the OIC on its Order. The OIC did not present or offer any proof of the allegations contained in the OIC's Order, and Mr. Genest's attempts to explain certain factual matters to representatives of the OIC were ignored by the OIC. Mr. Genest was not represented at the time the OIC issued its Order. Mr. Genest was not aware of his rights under the laws of the State of Washington and was not familiar with the proceedings in the OIC for challenging the allegations in the OIC's Order. Because of this, and by his own admission, Mr. Genest did not timely file a request for hearing to contest the OIC's Order.

EXHIBIT 4 PAGE 1

999 Third Ave. Suite 3000 • Seattle, WA 98104-4088 • www.kregerbeeghly.com

After being informed that a hearing was not available to him to contest the OIC's Order, Mr. Genest contacted representatives of the OIC seeking advice and instruction regarding re-applying for a new insurance producer license. In reliance on information provided by representatives of the OIC, Mr. Genest enrolled in producer pre-licensing education courses as a requisite for applying with the OIC for a producer license. Mr. Genest passed all the pre-licensing education courses and submitted the necessary education certification, application forms, and filing fees to the OIC in accordance with the advice provided by representatives of the OIC.

Unfortunately, and to Mr. Genest's detriment, the OIC reversed its advice to Mr. Genest and told him that the OIC would not accept his application for a new insurance producer license. Rather, the OIC advised Mr. Genest to submit a request to the OIC for a reinstatement of his (former) insurance producer license. Mr. Genest complied with this instruction and submitted such a request for reinstatement on March 24, 2014. On March 25, 2014, a representative of the OIC informed Mr. Genest by e-mail that his application for a producer license was denied. In that e-mail communication, the OIC's representative informed Mr. Genest that he could demand a hearing to contest the OIC's decision.

Mr. Genest relied in good faith on the advice and instruction of representatives of the OIC regarding the measures he had to comply with in order to seek either a new producer license or a reinstatement of his (former) insurance producer license. Mr. Genest has been harmed by the acts of the OIC and is aggrieved of the OIC's failure to act favorably on his good faith efforts to comply with the requirements established by the OIC for securing his insurance producer license.

Mr. Genest seeks relief from the acts and failings of the OIC and, accordingly, files his Demand for Hearing to contest the harmful and detrimental decisions of the OIC and its representatives.

Sincerely,

Brian F. Kreger

C. Paul D. Genest
File

EXHIBIT 4 PAGE 2