

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS

FILED

2016 APR -4 - A 8:00

In the matter of:

Donald W. Morgan and
Morgan Insurance LLC,

Licensees.

OAH Docket No. 07-2015-INS-00002

CORRECTED
ORDER DISMISSING APPEAL
(Default)

HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

Agency: Office of the Ins. Commissioner
Agency No. 15-0171

This is a corrected order in response to a request by the Office of the Insurance Commissioner to modify the notice of appeal rights that appears at the end of this document. There is no difference in content between the Order Dismissing Appeal earlier and the present Corrected Order Dismissing Appeal other than the appeal rights language at the end of this document. The modified appeal language is in italics. It replaces the appeal language in the earlier order that appeared after the address for the Office of Administrative Hearings. The purpose of the change is to affirm that this is a final order and to properly advise the Licensees of their appeal rights.

PREHEARING CONFERENCE

The above-captioned matter was scheduled for an evidentiary hearing in person beginning on March 8, 2016, at 9:30 a.m., at the Office of the Insurance Commissioner, 5000 Capital Blvd., Tumwater WA 98501, pursuant to due and proper notice to all interested parties.

The Licensees named above did not appear for the evidentiary hearing or request a continuance.

The Office of the Insurance Commissioner appeared and was represented by Marcia Stickler, Insurance Enforcement Specialist.

The evidentiary hearing was scheduled to convene at 9:30 a.m. When the Licensees did not appear at 9:30 a.m., the undersigned Administrative Law Judge ("ALJ") waited 45 minutes for the Licensees to appear, until 10:15 a.m., before convening.

The Office of the Insurance Commissioner moved for an order of default dismissing the administrative appeal.

The ALJ reviewed the file and observed that the Order Granting Continuance and Notice of Hearing issued in this matter provided notice to the parties of the date and

time of the evidentiary hearing, along with address at which to appear. The Order Granting Continuance and Notice of Hearing was mailed to the Licensees at the address of record on October 28, 2015. The Order Granting Continuance and Notice of Hearing was not returned to the Office of Administrative Hearings as undelivered. The Order Granting Continuance and Notice of Hearing included a warning that failure to participate in the evidentiary hearing could result in entry of a default order that would cost the Licensees their opportunity to challenge the Office of the Insurance Commissioner's action.

CONCLUSIONS OF LAW

"If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding...the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of the grounds for the order."¹ In this case, the Licensees were properly served with the Order Granting Continuance and Notice of Hearing set to begin on March 8, 2016, and failed to attend and participate. Consequently, the Licensees are in default and the administrative appeal should be dismissed.

ORDER

Now, therefore, it is ORDERED:

The Licensees, Donald W. Morgan and Morgan Insurance LLC, are in default under RCW 34.05.440 and their administrative appeal is hereby DISMISSED.

Signed and issued at Tacoma, Washington, on the date of mailing.



Terry A. Schuh
Administrative Law Judge
Office of Administrative Hearings

APPEAL RIGHTS

Petition to Vacate:

This matter has been dismissed. If you believe that it has been dismissed in error, you may petition to vacate the dismissal.² You must file the petition within seven

¹ RCW 34.05.440(2).

² RCW 34.05.440(3).

(7) days from the date OAH mailed this order.³ It should explain why this order should be vacated.⁴ "File" means served on all other parties and delivered during business hours.⁵ Mail a copy to the other parties at the addresses in the Certificate of Mailing below.

Deliver the Petition to Vacate to the following address:

The Office of Administrative Hearings
949 Market Street, Suite 500
Tacoma, WA 98402

You may appeal this Final Order to Superior Court in Thurston County, in the county or your residence or principal place of business, or in any county where you own property affected by this order.⁶ You must file your petition for judicial review and serve it on (a) the Office of the Insurance Commissioner and (b) the Office of the Attorney General within 30 days of the date of mailing.⁷

CERTIFICATE OF MAILING IS ATTACHED

³ RCW 34.05.440(3).

⁴ RCW 34.05.440; WAC 10-08-110.

⁵ WAC 10-08-110.

⁶ RCW 34.05.514.

⁷ RCW 34.05.542(2); WAC 10-08-110(2)(c).

CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 07-2015-INS-00002

I certify that true copies of this document were served from Tacoma, Washington upon the following as indicated:

Donald W Morgan Morgan Insurance LLC 718 Maple Grove Road Camano Island, WA 98282 Appellant	<input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail
Donald W Morgan Morgan Insurance LLC 5705 95 th Place SW Mukilteo, WA 98275 Appellant	<input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail
Marcia Stickler, Ins Enforcement Specialist Office of the Insurance Commissioner Legal Affairs Division PO Box 40255 Olympia, WA 98504-0255 Tel: (360) 725-7048 Agency Representative	<input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail
Kelly Cairns Office of the Insurance Commissioner PO Box 40255 Olympia, WA 98504-0255 MAILINGS ONLY Agency Contact	<input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail

Date: Thursday, March 31, 2016

OFFICE OF ADMINISTRATIVE HEARINGS

 Dora R Fitzpatrick
 Legal Assistant