

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS

FILED

2016 MAR 10 A 8:58

In the matter of:

Donald W. Morgan and
Morgan Insurance LLC,

Licensees.

OAH Docket No. 07-2015-INS-00002

HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

ORDER DISMISSING APPEAL
(Default)

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

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

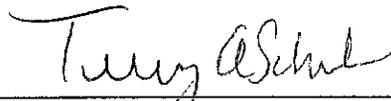
"If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding... the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of the grounds for the order."¹ In this case, the Licensees were properly served 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. Schuch
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 (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.

¹ RCW 34.05.440(2).

² RCW 34.05.440(3).

³ RCW 34.05.440(3).

⁴ RCW 34.05.440; WAC 10-08-110.

⁵ WAC 10-08-110.

Deliver the Petition to Vacate to the following address:
The Office of Administrative Hearings
949 Market Street, Suite 500
Tacoma, WA 98402

Final Order:

An initial order does not become a final order until the Insurance Commissioner reviews it.⁶ The Insurance Commissioner's Chief Hearing Officer will automatically review this matter and issue a final order.

Petition for Review:

In addition to the automatic review, any party may file a Petition for Review.⁷ If you file a Petition for Review, the Chief Hearing Officer will consider your specific objections to the Initial Order and your arguments for a different result.

You must file your Petition for Review with the Office of the Insurance Commissioner (OIC) within twenty (20) days of the date OAH mailed the Initial Order.⁸ "File" means served on all other parties and delivered during business hours.⁹ Mail a copy to the other parties at the addresses in the Certificate of Mailing below.

The Petition for Review must specify all parts of the Initial Order that you dispute and the evidence that supports the Petition.¹⁰ Other parties may file a reply to the Petition within 10 days after the petitioner serves the Petition.¹¹

Deliver the Petition for Review and the Reply to the following address:

Office of Insurance Commissioner
Chief Hearing Officer
Hearings Unit, OIC
PO Box 40255
Olympia, WA 98504-025

CERTIFICATE OF MAILING IS ATTACHED

⁶ WAC 284-02-070(2)(c)(i).

⁷ RCW 34.05.464; WAC 10-08-211.

⁸ WAC 10-08-211.

⁹ WAC 10-08-110.

¹⁰ WAC 10-08-211(3).

¹¹ WAC 10-08-211(4).

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: Tuesday, March 08, 2016

OFFICE OF ADMINISTRATIVE HEARINGS


 Dora R Fitzpatrick
 Legal Assistant