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HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:	Docket No. 15-0238
Elizabeth Azmitia,	**FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER**
Licensee.	

TO: Elizabeth Azmitia
14717 391st Avenue SE
Gold Bar, WA 98251

COPY TO: Mike Kreidler, Insurance Commissioner
James T. Odiorne, J.D., CPA, Chief Deputy Insurance Commissioner
John Hamje, Deputy Commissioner, Consumer Protection Division
AnnaLisa Gellermann, Deputy Commissioner, Legal Affairs Division
Drew Stillman, Insurance Enforcement Specialist, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

BACKGROUND

1. On October 6, 2015, the Office of the Insurance Commissioner ("OIC") issued an Order Revoking License, No. 15-0238 ("Order Revoking"), effective October 23, 2015, revoking Ms. Azmitia's Washington State insurance producer's license.

2. On December 9, 2015, Ms. Azmitia filed a Demand for Hearing ("Demand") with the OIC's Hearings Unit requesting a hearing 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 December 10, 2015, I issued to Ms. Azmitia a Notice of Receipt of Demand for Hearing, acknowledging the OIC's receipt of her Demand. On that same date, I transmitted the Demand and Ms. Azmitia's case to the Office of Administrative Hearings ("OAH"),

and requested that an Administrative Law Judge ("ALJ") from OAH as presiding officer conduct an evidentiary hearing, and issue an initial order in this matter.

4. On January 20, 2016, the OIC issued an Amended Order, No. 15-0238 ("Amended Order"), also effective October 23, 2015, revoking Ms. Azmitia's Washington State insurance producer's license.

5. On February 12, 2016, the OIC issued a Second Amended Order, No. 15-0238 ("Second Amended Order"), also effective October 23, 2015, revoking Ms. Azmitia's Washington State insurance producer's license.

6. On May 24, 2016, ALJ Lisa N.W. Dublin of OAH, acting as Presiding Officer, granted the OIC's Motion for Summary Judgment, and entered an Initial Order on Summary Judgment ("Initial Order") in this matter which contained findings of fact and conclusions of law.

7. ALJ Dublin's Initial Order was transmitted to me, as Reviewing Officer, for review and for entry of Findings of Fact, Conclusions of Law, and Final Order, pursuant to RCW 34.05.464.

8. I have reviewed and considered the record in this matter, including the evidence presented to ALJ Dublin, and have reviewed her Initial Order under the summary judgment standard articulated in WAC 10-08-135, applicable to adjudicative proceedings before the OIC per WAC 284-02-070(2)(a).

FINDINGS OF FACT

I adopt the Findings of Fact in ALJ Dublin's Initial Order.

CONCLUSIONS OF LAW

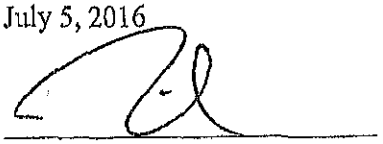
I adopt the Conclusions of Law in ALJ Dublin's Initial Order, as supplemented by the following observation:

Paragraphs 5.3 and 5.5 of the Initial Order address the same legal requirement, namely the duty of a licensee to advise the Commissioner of any change of address within thirty (30) days after a change of address, as stated in RCW 48.17.170(12) and WAC 284-17-005(2). In the interests of avoiding confusion or unnecessary duplication, both paragraphs should be read as one.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, Elizabeth Azmitia's Washington State insurance producer's license is hereby revoked.

July 5, 2016



William G. Pardee
Reviewing Officer

Pursuant to RCW 34.05.461(3), the parties are advised that they may seek reconsideration of this order by filing a request for reconsideration under RCW 34.05.470 with the undersigned within 10 days of the date of service (date of mailing) of this order. Further, the parties are advised that, pursuant to RCW 34.05.514 and 34.05.542, this order may be appealed to Superior Court by, within 30 days after date of service (date of mailing) of this order, 1) filing a petition in the Superior Court, at the petitioner's option, for (a) Thurston County or (b) the county of the petitioner's residence or principal place of business; and 2) delivery of a copy of the petition to the Office of the Insurance Commissioner; and 3) depositing copies of the petition upon all other parties of record and the Office of the Attorney General.

CERTIFICATE OF SERVICE

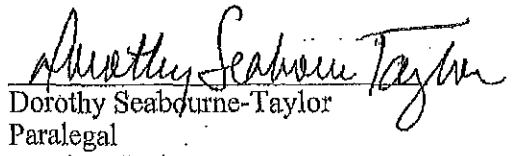
The undersigned certifies under the penalty of perjury under the laws of the state of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action,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

On the date given below I caused to be filed and served the foregoing Findings of Fact, Conclusions of Law and Final Order on the following people at their addresses listed below:

Elizabeth Azmitia
14717 391st Avenue SE
Gold Bar, WA 98251

Mike Kreidler, Insurance Commissioner
James T. Odiorne, J.D., CPA, Chief Deputy Insurance Commissioner
Doug Hamje, Deputy Commissioner, Consumer Protection Division
AnnaLisa Gellermann, Deputy Commissioner, Legal Affairs Division
Drew Stillman, Insurance Enforcement Specialist, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Dated this 5th day of July, 2016, in Tumwater, Washington.



Dorothy Seaborne-Taylor
Paralegal
Hearings Unit

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS

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In The Matter Of: Elizabeth Azmitia, Appellant.	Docket No. 12-2015-INS-00006 **INITIAL ORDER ON MOTION FOR SUMMARY JUDGMENT** Agency: Insurance Commissioner Agency No. 15-0238

1. ISSUES

1.1. Whether any genuine issue of material fact remains regarding the revocation of Appellant Elizabeth Azmitia's insurance producer license by the Office of the Insurance Commissioner (OIC)?

2. ORDER SUMMARY

2.1. No genuine issue of material fact remains regarding the revocation of Elizabeth Azmitia's insurance producer license. The OIC's Order Revoking License is AFFIRMED.

3. SUMMARY JUDGMENT MOTION SUMMARY

3.1. Administrative Law Judge: Lisa N. W. Dublin

3.2. Appellant: Elizabeth Azmitia

3.3. Agency: Office of the Insurance Commissioner

3.3.1. Representative: Drew Stillman

3.4. Documents Considered: I considered the following documents:

Doc. No.	Document Name	Document Date	No. Pages
1	OIC's Motion for Summary Judgment	3/30/2016	6
2	Declaration of Allison Hanson in Support of OIC's Motion for Summary Judgment, and attached exhibits	3/29/2016	13

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3	Declaration of Drew Stillman in Support of OIC's Motion for Summary Judgment	3/29/2016	12

4. FACTS FOR PURPOSE OF SUMMARY JUDGMENT

On a motion for summary judgment, the decision maker only considers those facts for which the parties establish "no genuine issue as to any material fact".[1] "Summary judgment is appropriate only where the undisputed facts entitle the moving party to judgment as a matter of law."[2] Only evidence in the record and inferences from that evidence establish facts. If evidence in the record points to more than one possible finding of fact, then summary judgment may not rest on the moving party's version of that fact.[3] Admissions, stipulations, procedural history, and uncontested declarations and affidavits establish facts for summary judgment. So, the record here supports the following facts for the purposes of summary judgment:

Jurisdiction

4.1. OIC issued an Order Revoking License in this matter on October 6, 2015. The Order Revoking License found that the licensee, Elizabeth Azmitia, falsely informed OIC that she resided in California even though she has resided in Washington since early 2013. OIC also found that it sent Ms. Azmitia multiple requests for information and for an investigative interview, and that Ms. Azmitia failed to respond. Based on those findings, OIC held that Ms. Azmitia violated Chapters 48.17 and 48.30 RCW, and revoked her insurance producer license.

4.2. Ms. Azmitia requested a hearing on December 9, 2015.

4.3. On January 20, 2016, OIC issued an Amended Order Revoking License, which added a finding that Ms. Azmitia failed to apply for a Washington resident insurance producer license within ninety days of establishing legal residence in Washington, in violation of RCW 48.17.175(2). On February 12, 2016, OIC issued a Second Amended Order Revoking License, which added a factual finding from the initial Order Revoking License that was inadvertently omitted from the Amended Order Revoking License.

4.4. Following these changes, Ms. Azmitia continued on with appeal proceedings in this matter.

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[1] WAC 10-08-135. In Superior Court matters, CR 56 governs summary judgment. Where the relevant procedural rules do not conflict with CR 56, it and the cases interpreting it serve as persuasive authority in the management of summary judgment under WAC 10-08-135.

[2] *Verizon NW, Inc. v. Employment Sec. Dep't,* 164 Wn.2d 909, 916 (2008), *citing Alpine Lakes Prot. Soc'y v. Dep't of Natural Res.*, 102 Wn. App. 1, 14 (1999).

[3] *Verizon NW,* 164 Wn.2d 916.

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Summary Judgment

4.5. OIC filed a Motion for Summary Judgment on March 30, 2016, pursuant to the dispositive motion filing deadline set out in the prehearing conference order issued in this case on January 26, 2016. OIC mailed the Motion for Summary Judgment to Ms. Azmitia at her address of record in Gold Bar, Washington, and e-mailed it to her. Ms. Azmitia's response to the dispositive motion was due Friday April 15, 2016. Ms. Azmitia did not file a response on or before Friday April 15, 2016.

4.6. At the status conference held April 18, 2016, I informed Ms. Azmitia that the deadline for her response to OIC's dispositive motion had passed. Ms. Azmitia allegedly had not received the motion by mail or e-mail. To allow her additional time to respond, I continued the response deadline to Friday April 29, 2016, and confirmed Ms. Azmitia's mailing address. Mr. Stillman on behalf of OIC agreed to re-send Ms. Azmitia the summary judgment motion to this confirmed address.

4.7. As of the date of this order, nearly one month after the extended response deadline, Ms. Azmitia has not filed a response to OIC's summary judgment motion.

Undisputed Facts

4.8. On January 11, 2013, Ms. Azmitia registered to vote with the Secretary of State's office. Stillman Decl., Ex. 2, p.1. On her registration record, Ms. Azmitia's address is "14717 391st Ave SE Gold Bar WA 98251." *Id.*

4.9. Approximately one month later, on February 15, 2013, Ms. Azmitia applied for a nonresident Washington insurance producer license. Hanson Decl., Ex. 1, p.2. On her application, Ms. Azmitia gave a post office box in Hollywood, California as her residential address, and an address in Edmonds, Washington as her mailing address. *Id.* Ms. Azmitia attested to the following:

> I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

Id., p.3.

4.10. On December 12, 2014, Ms. Azmitia submitted a renewal application for a nonresident insurance producer license. *Id.*, p.5. On this renewal application, Ms. Azmitia identified an address in San Pedro, California as her residential address, and the 14717 391st Ave SE

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address in Gold Bar, "CA"[4] as her mailing address. *Id.* Ms. Azmitia again attested that "all of the information submitted in this application and attachments is true and complete" and that she was "aware that submitting false information or omitting pertinent or material information...is grounds for license revocation." *Id.*, p.6.

4.11. On January 16, 2015, the Department of Licensing issued Ms. Azmitia a driver's license which identifies her address as 14717 391st Ave SE, Gold Bar, Washington. Hanson Decl., Ex. 3, p.1.

4.12. On June 15, 2015, OIC Senior Investigator Allison Hanson emailed Ms. Azmitia and directed Ms. Azmitia to call her to arrange a meeting. Hanson Decl., Ex. 2, p.1. Ms. Azmitia did not call Ms. Hanson to arrange for a meeting.

4.13. On September 11, 2015, OIC Insurance Enforcement Specialist Drew Stillman wrote to Ms. Azmitia, stating, "It does not appear that this California address is where you reside. Accordingly, the OIC requests that you answer the following questions." Stillman Decl., Ex. 1. Mr. Stillman then asked, "1. What is your current residence address?", "2. How long has that been your residence address?", and "3. What other residence addresses have you held in the last two years?" *Id.* Mr. Stillman advised Ms. Azmitia to e-mail him within fifteen business days with her answers to these questions. *Id.* Ms. Azmitia did not do so.

4.14. On October 6, 2015, OIC issued an order revoking Ms. Azmitia's insurance producer license for, in part, violating Chapters 48.01, 48.17, and 48.30 and applicable regulations relative to properly disclosing her Washington residential address and responding to OIC inquiries.

5. CONCLUSIONS OF LAW

Based upon the undisputed facts above, I make the following conclusions:

Jurisdiction

5.1. I have jurisdiction over the persons and subject matter in this matter under Chapters 48.04 and 34.05 RCW, and Chapters 10-08 and 284-02 WAC.

Laws and Rules for Insurance Producers

5.2. No person shall knowingly make, publish, or disseminate any false, deceptive or misleading representation or advertising in the conduct of the business of insurance, or

[4] "CA" appears to be a scrivener's error, as Ms. Azmitia gave a zip code that corresponds with Gold Bar, Washington.

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relative to the business of insurance or relative to any person engaged therein. RCW 48.30.040.

5.3. Licensees must advise the commissioner of any change of address within thirty days after a change of address. This includes any change in the person's residence, mailing, business or e-mail address. Failure to advise the commissioner of a change of address may subject a licensee to disciplinary action under RCW 48.17.530 and 48.17.560. WAC 284-17-005(2).

5.4. A person licensed as an insurance producer in another state who moves to this state shall make application within ninety days of establishing legal residence to become a resident licensee under RCW 48.17.090. RCW 48.17.175(2).

5.5. Licensees shall inform the commissioner by any means acceptable to the commissioner of a change of address within thirty days of the change. Failure to timely inform the commissioner of a change in legal name or address may result in a penalty under either RCW 48.17.530 or 48.17.560, or both. RCW 48.17.170(12); WAC 284-17-005(2).

5.6. Every insurance producer licensed under Chapter 48.17 RCW shall promptly reply in writing to an inquiry of the commissioner relative to the business of insurance. A timely response is one that is received by the commissioner within fifteen business days from receipt of the inquiry. Failure to make a timely response constitutes a violation of this section. RCW 48.17.475.

5.7. The commissioner may suspend, revoke, or refuse to issue or renew an insurance producer's license for (1) providing incorrect, misleading, incomplete, or materially untrue information in the license application, (2) violating any insurance laws or any rule of the commissioner, or (3) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere. RCW 48.17.530(1)(a),(b), (h).

Ms. Azmitia Provided False Information to OIC, and Failed to Cooperate

5.8. Ms. Azmitia does not dispute that her residential address at all times relevant to this proceeding is the Gold Bar, Washington address, which she used to register to vote and obtain a driver's license. Despite this, Ms. Azmitia chose to report and attest to two different California residential addresses in applying for and renewing her nonresident insurance producer license with OIC. Ms. Azmitia then ignored OIC's request that she respond to written questions regarding her residential address. In failing to provide correct information on her license applications, and timely respond to OIC's questions about her residential address, Ms. Azmitia violated Chapters 48.17 and 48.30 RCW, and is subject to license revocation under RCW 48.17.530(1)(a), (b) and (h).

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6. INITIAL ORDER

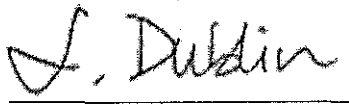
IT IS HEREBY ORDERED THAT:

6.1. OIC's Order Revoking License is AFFIRMED.

6.2. No genuine issue of material fact remains regarding the revocation of Elizabeth Azmitia's insurance producer license.

6.3. Elizabeth Azmitia's insurance producer license is revoked under RCW 48.17.530(1).

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



Lisa N. W. Dublin
Administrative Law Judge
Office of Administrative Hearings

APPEAL RIGHTS

Final Order:

An initial order does not become a final order until the Insurance Commissioner reviews it.[5] 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.[6] 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.[7] "File" means served on all other parties and delivered during business hours.[8] Mail a copy to the other parties at the addresses in the Certificate of Mailing below.

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[5] WAC 284-02-070(2)(c)(i).
[6] RCW 34.05.464; WAC 10-08-211.
[7] WAC 10-08-211.
[8] WAC 10-08-110.

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The Petition for Review must specify all parts of the Initial Order that you dispute and the evidence that supports the Petition.[9] Other parties may file a reply to the Petition within 10 days after the petitioner serves the Petition.[10]

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

Office of Insurance Commissioner
Chief Hearing Officer
Hearings Unit, OIC
PO Box 40255
Olympia, WA 98504-0255

CERTIFICATE OF MAILING IS ATTACHED

[9] WAC 10-08-211(3).
[10] WAC 10-08-211(4).

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CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 12-2015-INS-00006

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

Elizabeth Azmitia 14717 391st Ave SE Gold Bar, WA 98251 ***Appellant***	☒ First Class Mail, Postage Prepaid ☐ Certified Mail, Return Receipt ☐ Hand Delivery via Messenger ☐ Campus Mail ☐ Facsimile ☒ E-mail
Drew Stillman Insurance Enforcement Specialist Legal Affairs Division PO Box 40255 Olympia, WA 98504-0255 ***Agency Representative***	☒ First Class Mail, Postage Prepaid ☐ Certified Mail, Return Receipt ☐ Hand Delivery via Messenger ☐ Campus Mail ☐ Facsimile ☒ E-mail

Date: Tuesday, May 24, 2016

OFFICE OF ADMINISTRATIVE HEARINGS

Dora R Fitzpatrick
Legal Assistant