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STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

In the Matter of)
)
Leo J. Driscoll, Applicant) Hearings Unit Docket No, 16-0002
)
) Applicant's Motion to Amend Paragraphs 16 and 41(e)
) of Applicants Application and Demand for Hearing

Applicant moves that the Presiding Officer enter an Order authorizing applicant to amend paragraph 16 and 41(e) of Applicant's Application and Demand for Hearing filed in these proceedings to hereafter allege as follows:

- a. Paragraph 16 of the Application and Demand for Hearing is amended to allege as follows "16. The submissions made to OIC by MetLife that appear in OIC's state Tracking files #275017, #275018, and/or #275019 disclose that MetLife submitted to OIC the *nationwide* loss experience of Thirty Four Thousand Nine Hundred Ten (34,910) LTC.02, LTC.03, and LTC.04 forms as a group comprised of:
- 8,395 LTC.02 forms issued nationwide (an unspecified fraction of 873 of which were issued in WA);
 - 16,424 LTC.03 forms issued nationwide (an unspecified fraction of 873 of which were issued in WA) ;
 - 10,091 LTC.04 forms issued nationwide (an unspecified fraction of 873 of which were issued in WA)."

- b. Paragraph 41(e) of Applicant's Application and Demand for Hearing is amended to allege as follows:

"(e). In conducting its regulatory review and in making response to the MetLife request for the 22.69% increase in premium rates for the WA policy forms, did the OIC have legally-sufficient factual basis and legal authority to disregard non-compliance with the above-stated provisions of 48.19.030 and section (3) (a) thereof and instead accept and rely on *nationwide* loss ratio experience of Thirty Four Thousand Nine Hundred Ten (34,910) series LTC.02, LTC.03, and LTC.04 policy forms issued nationwide, which includes the combined total of eight hundred seventy three (873) series LTC.02, LTC.03, and LTC.04 policy forms issued in WA?"

BASIS FOR MOTION

During the pre-hearing conference in this matter Applicant Driscoll referenced need to amend paragraph 16 of his application. Driscoll's review of MetLife's submissions to the OIC in the 3 filings MetLife made to the OIC discloses that 873 WA forms were in force as of 12/31/2013, but did not disclose how many of those 873 forms are LTC.02 forms, or LTC.03 forms, or LTC.04 forms. Paragraph 16 of Driscoll's Application errs in alleging otherwise in the three bulleted subsections thereof. Subsequent to the pre-hearing conference, Driscoll recognized that the same error is reiterated in paragraph 41(e) of Driscoll's application and likewise needs to be amended to eliminate that error.

By e-mail dated 2-03-2016, Driscoll furnished Ms. Mandy Weeks (counsel of record for the OIC) with copy of Driscoll's proposed Motion to Amend Paragraphs 16 and 41(e). Attached are true copies of that e-mail together with Ms. Week's e-mail response dated 2-10-2016 which states that Ms. Weeks has no objection to the proposed amendment of paragraph 16 on condition that Driscoll file an amended application and demand for hearing in a single document. That condition seems unduly burdensome, an unnecessary waste of ink and paper, but it is one that applicant will accomplish if the Presiding Officer deems it to be the customary practice .

Driscoll does not fully understand the second paragraph of Ms. Weeks e-mail but tentatively interprets it to say that the order set forth in the NOTICE OF HEARING issued by the Presiding Officer dated January 27, 2016 precludes the amendment of paragraph 41(e) and/or that it is exclusively a matter for the Presiding Officer to decide and determine.

The proposed amendments are necessary to correct Driscoll's inadvertent errors in pleading that identically appear in paragraphs 16 and 41(e). Applicant has not proposed that Ms. Weeks and the OIC agree to the accuracy of the amended allegations of paragraphs 16 and/or paragraph 41(e). In Applicant's view, the 1-27-2016 order of the Presiding Officer does not purport to fully define the issues to be decided in the hearing. The OIC will not be prejudiced the allowance of the motion. The Presiding Officer is requested to approve the motion to amend without prejudice to the rights of the OIC to advance the OIC contentions as to those matters.

A copy of this motion is being served on Ms. Weeks with the request that further response be made if needed. Respectfully submitted February 12, 2016.



Leo J. Driscoll, Applicant

Leo Driscoll

From: "Weeks, Mandy (OIC)" <MandyW@oic.wa.gov>
Date: Wednesday, February 10, 2016 9:32 AM
To: "Leo Driscoll" <oleod1@msn.com>
Subject: RE: Proposed Amendments of Application

Good morning Leo,

I have no objection to the amendment of your complaint at Paragraph 16, if you submit an Amended Demand for Hearing to ensure that there is one document. However, not objecting to the amendment does not mean that I agree that this information is accurate. I am simply allowing you to change your demand for hearing in this paragraph.

At this time, I do not believe that you can request amendment to Paragraph 41 because the Judge Pardee has already issued the Conference Order which stated the issues for trial. So, I cannot agree to Paragraph 41, I believe this to be a judicial request and determination.

Thank you,



Mandy A. Weeks
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mandyw@oic.wa.gov

From: Leo Driscoll [mailto:oleod1@msn.com]
Sent: Wednesday, February 03, 2016 12:09 PM
To: Weeks, Mandy (OIC) <MandyW@oic.wa.gov>
Subject: Proposed Amendments of Application

Good afternoon, Mandy:

During the pre-hearing telephonic conference I mentioned my need to amend paragraph 16 of my application. My review of MetLife's submissions to the OIC in the 3 filings discloses that MetLife disclosed that 873 WA forms were in force as of 12/31/2013. MetLife's submissions did not disclose how many of those 873 WA forms are LTC.02 se forms, or LTC.03 forms, or LTC.04 forms. My paragraph 16 errs in alleging otherwise in the three bulleted subsections thereof, and that same error is reiterated in the indented portions of my paragraph 41(e) allegations.

2/12/2016

Attached find my proposed motion, which remains unfiled. Please advise whether, on behalf of the OIC, you will have any objection to an order of the Presiding Officer which approves the motion. If not, I will sign and file the motion and submit a proposed order to that effect. Thank you, Leo Driscoll