



STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS

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2016 APR 11 A 9:41

HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

April 7, 2016

Juan C. Barajas
221 E. 4th Avenue
Kennewick, WA 99336

Drew Stillman
Charles Brown
Office of Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Re: *In the Matter of Juan C. Barajas*
02-2016-INS-00001

Dear Mr. Barajas, Mr. Stillman, and Mr. Brown,

Enclosed is the Initial Order issued in the above-cited case. This initial order does not become a final order until the Insurance Commissioner reviews it. The Insurance Commissioner's Chief Hearing Officer will automatically review the attached Initial Order and issue a final order.

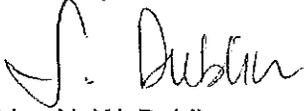
In addition to this automatic review, you may file a Petition for Review of the Initial Order. If you file a Petition for Review, the Chief Hearing Officer will consider your specific objections to the Initial Order and your arguments for a different result. You must file your Petition for Review with the Office of the Insurance Commissioner (OIC) within twenty (20) days of the date of this letter. "File" means to deliver to OIC during regular business hours at the following address:

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

At the time of filing, you must also serve your Petition for Review on all other parties either by personal delivery or by mailing a copy to them; their addresses may be found in the Certificate of Service attached to the back of the Initial Order.

Your Petition for Review must specify all parts of the Initial Order that you dispute, and the evidence that supports your petition. Other parties may file a reply to your Petition for Review within 10 days after service.

Sincerely,

A handwritten signature in cursive script that reads "Lisa N. W. Dublin". The signature is written in black ink and is positioned above the typed name.

Lisa N. W. Dublin
Administrative Law Judge

WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS

FILED

In The Matter Of:

JUAN C. BARAJAS,

APPELLANT.

Docket No. 02-2016-INS-00001

2016 APR 11 A 11:09

INITIAL ORDER

HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

Agency: Insurance Commissioner

Agency No. 16-0007

1. ISSUES

- 1.1. Did Mr. Barajas violate Chapters 48.17 and 48.30 RCW as set out in the Order Revoking License issued January 13, 2016?
- 1.2. If so whether revocation of Mr. Barajas' insurance producer's license is the appropriate penalty?

2. ORDER SUMMARY

- 2.1. Mr. Barajas violated Chapters 48.17 and 48.30 RCW as set out in the Order Revoking License issued January 13, 2016.
- 2.2. Revocation of Mr. Barajas' insurance producer's license is appropriate.

3. HEARING

- 3.1. Hearing Date: March 16, 2016
- 3.2. Administrative Law Judge: Lisa N. W. Dublin
- 3.3. Appellant: Juan C. Barajas
- 3.4. Agency: Office of the Insurance Commissioner ("OIC")
 - 3.4.1. Representative: Attorney Drew Stillman
 - 3.4.2. Witness:
 - 3.4.2.1. Jeff Baughman
- 3.5. Exhibits: Exhibits 1 through 9 were admitted.

4. FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

Jurisdiction

- 4.1. On January 13, 2016, OIC issued an Order Revoking License ("Order") held by Juan Carlos Barajas.
- 4.2. On February 5, 2016, OIC received Mr. Carlos' request for a hearing on the Order.

Mr. Carlos' Insurance Producer License Applications

- 4.3. Mr. Barajas came to the United States from Mexico when he was approximately one year old, and is not yet a U.S. citizen. Mr. Barajas resides in Kennewick, Washington, has obtained a work permit, and is currently working on obtaining his GED. Until obtaining his work permit, Mr. Barajas used a false social security number given him by a friend in order to obtain work. Mr. Barajas is unaware if the number belongs to someone else, or how his friend obtained the number.
- 4.4. After attending an insurance course over a long weekend, on or around September 21, 2011, Mr. Barajas completed a Uniform Application for Individual Producer License/Registration for purposes of obtaining an insurance producer license in the state of Washington. Exs. 7, 1. Box 1 of this application asked for the applicant's social security number. In Box 1, Mr. Barajas entered the false social security number.
- 4.5. Box 16 of the application asked, "Are you a Citizen of the United States?" and directed the applicant to check either the "Yes" or "No" box. In Box 16, Mr. Barajas checked the "Yes" box. Ex. 7.
- 4.6. After completing the application, Mr. Barajas then 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.

Ex. 1, pp. 1-2.

- 4.7. Mr. Barajas knew it was wrong to falsify his application, but wanted to make a living and believed he should have an insurance producer license just like anyone

else. OIC did not verify, or have the means of verifying, the application information Mr. Barajas provided. OIC accepted the information on Mr. Barajas' application as true, and granted him an insurance producer's license.

- 4.8. On November 4, 2012, Mr. Barajas' insurance producer's license expired. Ex. 8. On or around January 10, 2013, Mr. Barajas submitted another application for an insurance producer license. Ex. 2. Mr. Barajas again used a false social security number, stated he was a U.S. citizen, and attested that the information he gave on the application was true and complete. OIC again accepted the information on Mr. Barajas' application as true, and activated his insurance producer's license.
- 4.9. On November 4, 2014, Mr. Barajas' insurance producer's license again expired. Ex. 8. On or around September 22, 2015, Mr. Barajas completed the insurance producer's license application for a third time. Exs. 3, 9. Mr. Barajas yet again used a false social security number, stated he was a U.S. citizen, and attested to the truth and completeness of the information he provided. OIC yet again accepted the information as true, and activated his insurance producer's license.

OIC Investigation

- 4.10. On September 23, 2015, the day after Mr. Barajas applied for his insurance producer license for the third time using false information, Mr. Barajas emailed Monica Solberg of OIC stating he "just received a new social security number," and asking to change the old one for the new one. Ex. 4. Finding this unusual, Ms. Solberg, at the direction of her supervisor Jeff Baughman, sent Mr. Barajas a list of questions, asking (1) Mr. Barajas' country of citizenship, (2) where Mr. Barajas obtained the original social security number on his applications, and (3) an explanation as to why he answered Yes to the question "Are you a US citizen?" on his applications. Ex. 5, p.2. Mr. Barajas responded, stating in relevant part:

My country of citizenship is Mexico. For my original SSN when I turned 18 I started working under that number as a result that number is no good never was issued by the dep Homeland Security, only the one I'm hoping you would help me update.

Please forgive me if I'd answered the question wrong my intention weren't to answer it as yes. I knew I wasent and still ain't a U.S. Citizen.

Ex. 5, p.1.

- 4.11. When questioned further by Mr. Baughman about his initial social security number, Mr. Barajas admitted that he "came to find out later the number was not legal and since then I've been using it for work...." Ex. 6.

License Revocation

- 4.12. On January 13, 2016, OIC issued an Order Revoking License, finding that Mr. Barajas violated RCW 48.30.040, RCW, 48.17.530(1)(a) and RCW 48.17.530(1)(c) by (a) providing a false social security number, (2) falsely answering "yes" on his license application, and (3) certifying under penalty of perjury that the information on his application was true and complete.
- 4.13. On February 5, 2016, OIC received Mr. Barajas' appeal of this Order, apologizing for his actions, and stating they would not happen again, and that he "always abides by the law and that is why [he] needed to make this right."

5. CONCLUSIONS OF LAW

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

Jurisdiction

- 5.1. I have jurisdiction to hear and decide this matter under chapters 48.04 and 34.05 RCW, and Chapters 10-08 and 284-02 WAC.

Mr. Barajas' Misrepresentations

- 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 relative to the business of insurance or relative to any person engaged therein. RCW 48.30.040.
- 5.3. The insurance commissioner may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license for the following causes, among others: (1) providing incorrect, misleading, incomplete, or materially untrue information in the license application, and (2) obtaining or attempting to obtain a license through misrepresentation or fraud. RCW 48.17.530(1)(a),(c).
- 5.4. Mr. Barajas admitted that he knowingly used an apparent social security number that did not belong to him to apply for an insurance producer's license, and to then reactivate his insurance producer's license on two separate occasions. In addition, on three separate occasions, Mr. Barajas admittedly stated on insurance producer applications that he was a U.S. citizen though he is not, and stated that the information he provided on these applications was true and complete though

he knew it was not. Mr. Barajas may have had good intentions in obtaining an insurance producer license by misrepresenting himself on his license applications. He may also have been trying to do the right thing by later providing an accurate work permit number. However, Mr. Barajas' misrepresentations amounted to repeated violations of RCW 48.30.040. These misrepresentations and violations warrant the revocation of Mr. Barajas' insurance producer license under RCW 48.17.530(1).

6. INITIAL ORDER

IT IS HEREBY ORDERED THAT:

- 6.1. The Office of the Insurance Commissioner's Order Revoking License is AFFIRMED.
- 6.2. Mr. Barajas violated RCW 48.30.040 in completing his insurance producer license applications, and his insurance producer license is consequently revoked under RCW 48.17.530(1).

Issued from 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.¹ The Insurance Commissioner's Chief Hearing Officer will automatically review this matter and issue a final order.

Petition for Review:

¹ WAC 284-02-070(2)(c)(i).

In addition to the automatic review, any party may file a Petition for Review.² 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.³ "File" means served on all other parties and delivered during business hours.⁴ 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.⁵ Other parties may file a reply to the Petition within 10 days after the petitioner serves the Petition.⁶

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

² RCW 34.05.464; WAC 10-08-211.

³ WAC 10-08-211.

⁴ WAC 10-08-110.

⁵ WAC 10-08-211(3).

⁶ WAC 10-08-211(4).

CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 02-2016-INS-00001

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

<p>Juan C Barajas 221 E. 4th Avenue Kennewick, WA 99336 Appellant</p>	<p><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</p>
<p>Charles Brown Senior Insurance Enforcement Specialist Insurance Commissioner's Office (OIC) Legal Affairs Division PO Box 40255 Olympia, WA 98504 Agency Representative</p>	<p><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</p>
<p>Office of Insurance Commissioner Chief Hearing Officer Hearing Unit, OIC PO Box 40255 Olympia, WA 98504-0255 Agency Contact DECISION ONLY</p>	<p><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</p>

Date: Thursday, April 07, 2016

OFFICE OF ADMINISTRATIVE HEARINGS


 Dora R Fitzpatrick
 Legal Assistant

