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2 THE STATE OF WASHINGTON
3 OFFICE OF THE INSURANCE COMMISSIONER

FILED

2016 SEP 12 A 8:02

4 In the Matter of
5 Michael R. Marinelli
6 And
7 Insurance Appraisal Services,
8 Respondents,

ORDER NO. 16-0155

**Objection to Order to Cease and
Desist Notice of Intent to Impose
Fine**

HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

And

Demand for Hearing

9 **COME NOW** Michael R. Marinelli ("Marinelli") and Insurance Appraisal
10 Services ("IAS"), by and through their undersigned counsel, and hereby file their
11 Objection to the Insurance Commissioner's Order to Cease and Notice of Intent to
12 Impose a Fine ("Order") and also file their Demand for Hearing in the above referenced
13 matter.

14 Marinelli and IAS are aggrieved by Washington State Insurance Commissioner
15 Mike Kreidler's Order in that Insurance Commissioner Mike Kreidler and his designee,
16 Insurance Enforcement Specialist Drew Stillman, have wrongly accused both Marinelli
17 and IAS of conducting business as an insurance adjuster without a license. The
18 Insurance Commissioner and his designee know and have reason to know that neither
19 Marinelli nor IAS conduct business as an insurance adjuster, but, rather, that Marinelli
20 and IAS conduct business only as damage appraisers but do not engage in the business
21 of adjusting insurance claims. Despite their knowledge of the facts that Marinelli and
22 IAS do not conduct business as an insurance adjuster, Insurance Commissioner Mike
23 Kreidler and his designee Drew Stillman nevertheless have totally disregarded these
24 facts and issued the Insurance Commissioner's Order against both Marinelli and IAS.

Objection to Order and
Demand for Hearing - 1

— KREGER BEEGHLY, PLLC —

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1 The Insurance Commissioner's total disregard of the facts regarding the business of
2 Marinelli and IAS and his issuance of his Order have harmed Marinelli and IAS in their
3 business and reputation. Only a rescission of Insurance Commissioner Mike Kreidler's
4 Order can begin to bring some measure of relief to the harm done to Marinelli and IAS
5 by Insurance Commissioner Mike Kreidler and his designee.

6 Marinelli and IAS are further aggrieved and harmed by the acts of Insurance
7 Commissioner Mike Kreidler that occurred after the Insurance Commissioner had
8 issued his Order, which acts have caused significant damage and harm to both
9 Marinelli and IAS. Within days of the Insurance Commissioner having issued his
10 Order against Marinelli and IAS, Insurance Commissioner Mike Kreidler published his
11 News Release under the headline: "Kreidler orders unlicensed Seattle-area adjuster to
12 cease work, pay fine." In his press release, Mike Kreidler wrongly asserts that
13 Marinelli and IAS are acting as insurance adjusters. Mike Kreidler's public statement
14 regarding Marinelli and IAS is false, misleading, and contrary to the facts that
15 Insurance Commissioner Mike Kreidler knew or should have known regarding the true
16 and actual work of Marinelli and IAS at the time Mike Kreidler issued his press release.
17 Within hours of Mike Kreidler having published his false and misleading press release
18 alleging Marinelli and IAS were acting as unlicensed claims adjusters, Commissioner
19 Kreidler's press release was picked up by the NAIC News Wire, the official news
20 publication of the National Association of Insurance Commissioners. The NAIC News
21 Wire repeated Insurance Commissioner Mike Kreidler's misleading and false press
22 release and published Mike Kreidler's press release in a nation-wide publication
23 broadcast available to and, without doubt, read by countless readers, including other
24 state regulators, local and national business representatives, and the public in virtually

1 every state. Because of Insurance Commissioner Mike Kreidler's wrongful,
2 misleading, and inaccurate public statements, which were eventually published
3 nationally, the damage done to the business and reputation of both Marinelli and IAS is
4 significant and ongoing. Marinelli and IAS have been damaged in their business, in
5 their relationships with current business clients, in their opportunities for future
6 business, and in their personal and professional reputation. As a result, Marinelli and
7 IAS will seek damages from Insurance Commissioner Mike Kreidler, personally and in
8 his capacity as Insurance Commissioner, against any and all designees of Insurance
9 Commissioner Mike Kreidler who knowingly and willfully participated in their
10 wrongful actions against Marinelli and IAS, and against the Office of the Insurance
11 Commissioner in an amount to be presented at the hearing on this matter.

12 In conjunction with their Demand for Hearing, Marinelli and IAS hereby
13 request that the hearing on this matter be conducted before, and a final decision
14 rendered by, an independent administrative law judge appointed by the Chief
15 Administrative Law Judge of the Washington Office of Administrative Hearings. After
16 Insurance Commissioner Mike Kreidler issued his public press release falsely accusing
17 Marinelli and IAS of conducting business as unlicensed insurance adjusters,
18 Commissioner Kreidler's Chief Deputy, James Odiorne, refused to allow a meeting
19 between the Insurance Commissioner and a representative of Marinelli and IAS. The
20 rationale given for refusing the meeting was that it would be improper *ex parte* contact
21 with the "ultimate decision maker in the Marinelli case." However, this adherence to
22 judicial decorum apparently did not stop the ultimate decision maker, Insurance
23 Commissioner Mike Kreidler, from issuing his public statement and denunciation of
24 Marinelli and IAS in the Insurance Commissioner's his press release. As the "ultimate

1 decision maker” in this matter, Commissioner Kreidler occupies the same role as that
2 of a judge or other judicial officer. As such, Commissioner Kreidler is duty-bound to
3 conduct himself in an unbiased, impartial, and non-prejudicial manner regarding any
4 issue in this matter. The code of conduct for judicial officers prohibits a judicial officer
5 from making any public statement that would reasonably be expected to affect the
6 outcome or fairness of a pending matter. Insurance Commissioner Mike Kreidler knew
7 that his Order constituted a pending matter and that he was the ultimate decision maker
8 in the case. Nevertheless, Commissioner Kreidler issued his wrong and misleading
9 national public press release about Marinelli and IAS that could reasonably be expected
10 to affect the outcome of this matter all the while the case was pending. This is a clear
11 violation of judicial ethics and judicial conduct and is unbecoming of the “ultimate
12 decision maker” in this case. Thus, Insurance Commissioner Mike Kreidler has
13 publicly demonstrated that he cannot be fair, impartial, or unbiased in this matter, and,
14 accordingly, he is disqualified from acting as the ultimate decision maker in this case.
15 And, by virtue of the fact that the Insurance Commissioner acts through and is
16 represented by individuals designated by Mike Kreidler himself, all other individuals
17 whom Insurance Commissioner Mike Kreidler designates, appoints, or delegates to
18 perform similar functions, such as hearing officer or decision maker are likewise
19 disqualified. Therefore, the only means available to Marinelli and IAS that may
20 reasonable assure that they will have a fair and impartial hearing in this matter, and that
21 will ensure that their federal and state constitutional due process rights are protected, is
22 by an administrative hearing conducted in the Office of Administrative Hearings and
23 by a final decision rendered by an independent administrative law judge appointed by
24 the Chief Administrative Law Judge of the State of Washington.

Objection to Order and
Demand for Hearing - 4

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CERTIFICATE OF SERVICE

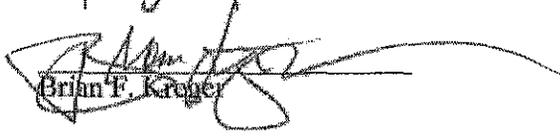
I, Brian F. Kreger, under penalty of perjury under the laws of the State of Washington do hereby declare and certify that I served and caused to be delivered by United States Postal Delivery and by Electronic Mail Delivery the foregoing Objection to Order to Cease and Desist and Notice of Intent to Impose a Fine and Demand for Hearing on the following parties or persons at the last known addresses given below:

TO:
Mike Kreidler
Insurance Commissioner
Office of the Insurance Commissioner
P.O. Box 40255
Olympia, Washington 98504-0255
and to: MikeK@OIC.WA.GOV

TO:
Drew Stillman
Insurance Enforcement Specialist
Office of the Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255
and to: DrewSt@OIC.WA.GOV

TO:
Hearings Unit
ATTN: Dorothy Seabourne-Taylor
Office of the Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255
DorothyS@oic.wa.gov

Executed on this 12th day of September, 2016 in Seattle, WA.


Brian F. Kreger

**STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER**

In the Matter of

MICHAEL R. MARINELLI

and

INSURANCE APPRAISAL SERVICES,

Respondents.

Order No. 16-0155

ORDER TO CEASE AND
DESIST AND NOTICE OF
INTENT TO IMPOSE A FINE

This Order to Cease and Desist and Notice of Intent to Impose a Fine ("Order") is entered into by the Insurance Commissioner of the state of Washington ("Insurance Commissioner"), acting pursuant to the authority set forth in RCW 48.02.060, RCW 48.02.080, and RCW 48.17.063. This Order is a public record and will be disseminated pursuant to Title 48 RCW and the Insurance Commissioner's policies and procedures.

ORDER BASIS

1. Michael R. Marinelli aka Rob Marinelli ("Marinelli") owns and operates Insurance Appraisal Services aka Cal-Mar Enterprises, Inc. ("IAS") in the greater Seattle area. Since 1995, IAS and Marinelli (collectively "Respondents") have appraised automobile property damage. More specifically, Respondents inspect cars and prepare damage estimates based on visible damage. Respondents completed approximately 1,295 damage estimates in 2014 and 1,205 damage estimates in 2015. The Insurance Commissioner has not granted Marinelli or IAS any license.

2. The IAS Claims Group is a group of 12 independently owned offices operating under the IAS brand. Three IAS offices are located in Washington. Some of the offices have licensed public adjusters on staff, but the Washington offices do not. All of the offices share the same website, which advertises services that only some of the offices are able to perform.

ORDER TO CEASE AND DESIST AND
LEVYING A FINE
ORDER NO. 16-0155

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Office of Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Examples of advertised services include: diminished value claims, property claims, appraisal clause umpire, and arbitrations. A consumer only learns whether a particular office performs a specific service after contacting the office.

3. In December 2015, an insurer retained Respondents to inspect a vehicle in order to determine if there were any defects and, if defects existed, to prepare a damage estimate and attempt to reach agreement with the vehicle owner on the scope of necessary repairs.

4. Respondents' actions described herein violate the Insurance Code, namely the requirement to be properly licensed under RCW 48.17.060. These violations justify the issuance of a cease and desist order and the assessment of a civil penalty of not more than \$25,000 for each violation, in accordance with RCW 48.17.063(4)(a). Upon failure to pay a civil penalty when due, the Attorney General may bring a civil action on behalf of the Commissioner to recover the unpaid penalty.

ORDER TO CEASE AND DESIST

In accordance with RCW 48.02.080(3)(a) and RCW 48.17.063(4)(a)(i), and based upon the above Order Basis, the Insurance Commissioner orders the above-named Respondents, and their officers, directors, trustees, employees, agents, and affiliates to immediately cease and desist from:

- Acting or holding out as an adjuster in Washington without an adjuster license issued by the Insurance Commissioner or otherwise being authorized as an adjuster under the Insurance Code. This means that Respondents may not, without an appropriate license or authorization, work for compensation as an independent contractor or as an employee of an independent contractor, or for fee or commission, by investigating or reporting to their principal relative to claims arising under insurance contracts, on behalf solely of either the insurer or the insured; and
- Seeking, pursuing, and obtaining any adjuster business in Washington without an adjuster license issued by the Insurance Commissioner or otherwise being authorized as an adjuster under the Insurance Code.

This Order to Cease and Desist is effective immediately, and will remain in effect subject to the further order of the Insurance Commissioner and Respondents' right to demand a hearing, as set forth below. Any violation of the terms of this Order to Cease and Desist by Respondents or their officers, directors, trustees, employees, agents, and affiliates will render the violator(s)

subject to the full penalties authorized by RCW 48.02.080, 48.17.063, and other applicable sections of the Insurance Code of the state of Washington.

NOTICE OF INTENT TO IMPOSE A FINE

In accordance with RCW 48.17.063(4)(a)(iii) and based upon the above Order Basis, the Insurance Commissioner intends to order that Respondents, Michael R. Marinelli and Insurance Appraisal Services, must jointly and severally pay a fine in the amount of \$5,000.00 (Five Thousand Dollars). If Respondents do not demand a hearing, as set forth below, the Insurance Commissioner will enter a Final Order Imposing a Fine, which must then be paid by Respondents in accordance with such Final Order.

NOTICE OF OPPORTUNITY FOR HEARING

Respondents have the right to demand a hearing in accordance with RCW 48.04.010, WAC 284-02-070, and WAC 10-08-110. This Order is also subject to the provisions of Chapter 34.05 RCW. A respondent has 90 days from the receipt of this Order to demand a hearing. If the Insurance Commissioner does not receive a hearing demand from a respondent within 90 days from the date the respondent received this Order, the respondent's right to a hearing is conclusively deemed to have been waived.

ENTERED at Tumwater, Washington, this 17th day of June, 2016.



MIKE KREIDLER
Insurance Commissioner

By and through his designee



Drew Stillman
Insurance Enforcement Specialist
Legal Affairs Division

ORDER TO CEASE AND DESIST AND
LEVYING A FINE
ORDER NO. 16-0155

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Office of Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

CERTIFICATE OF MAILING

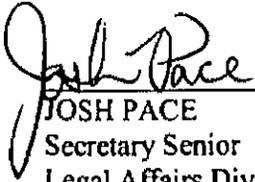
The undersigned certifies under the penalty of perjury under the laws of the state of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action,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

On the date given below I caused to be served the foregoing Order to Cease and Desist and Notice of Intent to Impose a Fine on the following individual(s) by email and by depositing in the U.S. mail via state Consolidated Mail Service with proper postage affixed to:

VIA US MAIL

Rob Marinelli and Insurance Appraisal Services (IAS)
PO Box 2033
Bellevue, WA 98009

Dated this 17th day of June, 2016, in Tumwater, Washington.



JOSH PACE
Secretary Senior
Legal Affairs Division