

STATE OF WASHINGTON

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

Phone: (360) 725-7000



OFFICE OF
INSURANCE COMMISSIONER

FILED

2006 DEC 11 A 11:37

DECLARATION OF MAILING

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery of a true copy of this document to parties listed below
DATED this 11th day of December 2006
at Tumwater, Washington.

Signed: Wendy Galloway

HEARINGS UNIT
Fax: (360) 664-2782

Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer

Patricia D. Petersen
Chief Hearing Officer
(360) 725-7105

Wendy Galloway
Paralegal
Wendyg@OIC.wa.gov.
(360) 725-7002

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:

NORMAN FOSTER,

Licensee.

) DOCKET NO. D06-316

) ORDER TERMINATING

) PROCEEDING

TO: Mr. Norman Foster
Foster Dahl Miller & Associates, Inc.
P.O. Box 816
Ephrata, Washington 98823

AND TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
Carol Sureau, Deputy Commissioner, Legal Affairs Division
Andrea Philhower, Staff Attorney, Legal Affairs Division
John Hamje, Deputy Commissioner, Consumer Protection Division
PO Box 40255
Olympia, WA 98504-0255

On August 14, 2006, insurance agent Norman Foster (Licensee), representing himself and insurance agency Foster Dahl Miller & Associates, Inc. (Licensee Agency), filed a request for hearing with the Insurance Commissioner. The purpose of the request for hearing was to object to oral instructions which the Insurance Commissioner, during the course of an audit of Licensee/Licensee Agency, had given to the Licensee/Licensee Agency. Specifically, the Licensee advises, and the Examiner's Accounting Review

ORDER TERMINATING PROCEEDING

NO. D06-316

Page 2

notes in part, that the OIC's Examiner asserted that Licensee/Licensee Agency charged unwarranted fees to insureds and demanded that refund checks be sent to her office by August 19, 2006, in addressed and stamped envelopes for transmission to the insureds, and that the Licensee/Licensee Agency were to discontinue charging unwarranted fees. For this reason, the Licensee advised that he wished to appeal this order.

By request of the Licensee, the prehearing conference in this matter was delayed, and ultimately a prehearing teleconference was scheduled to commence on November 6, 2006. During said prehearing teleconference, the Insurance Commissioner appeared pro se, by and through Andrea Philhower, Staff Attorney of his Legal Affairs Division, and Mr. Foster also appeared pro se. During said prehearing teleconference, the undersigned advised that the Licensee/Licensee Agency does have the right to hearing at this time pursuant to RCW 48.04.010(1)(b), which provides that *(1) ... The commissioner shall hold a hearing: ... (b) [u]pon written demand for a hearing made by any person aggrieved by any act, threatened act, ... of the commissioner* and advised that the Licensee/Licensee Agency was an aggrieved person as contemplated by RCW 48.04.010(1)(b) and, further, that RCW 48.04.010(1)(b) is not, by its terms, limited to formal written orders of the Insurance Commissioner.

During said prehearing conference, the Insurance Commissioner agreed to make it clear that he is not requiring the Licensee/Licensee Agency to provide refund checks to the Insurance Commissioner by August 19, 2006, and is not requiring the Licensee/Licensee Agency to refund any money in connection with the audit of the Licensee Agency in August, 2006, and advised that the matter is still being investigated. The Licensee/Licensee Agency were further informed by the Insurance Commissioner that, if the OIC determines that any violations of the Insurance Code have occurred, he will be informed promptly, and, if the Insurance Commissioner determines that action must be taken to remedy any violations he will discuss the options available to the Licensee/Licensee Agency and will work with them to come to a mutually agreeable resolution. The Insurance Commissioner further advised that if, during any part of this process, the Licensee/Licensee Agency becomes aggrieved, the Licensee/Licensee Agency would be entitled to a hearing under RCW 48.04.010 if he so chooses. A letter dated November 9, 2006, to that effect was filed by Insurance Commissioner herein, is attached hereto and is by this reference incorporated herein.

Based upon the above activity, to the effect that the Insurance Commissioner is no longer requiring the Licensee/Licensee Agency to refund the subject fees charged by August 19, 2006, or at any date at this time,

ORDER TERMINATING PROCEEDING
NO. D06-316
Page 3

IT IS HEREBY ORDERED that Matter No. D06-316 is now terminated without prejudice. The Licensee/Licensee Agency may renew their request for hearing, if appropriate, in the future.

ENTERED this 11th day of December, 2006, at Tumwater, Washington.

A handwritten signature in black ink, appearing to read 'Patricia D. Petersen', written over a horizontal line.

PATRICIA D. PETERSEN
Chief Hearing Officer



OFFICE OF
INSURANCE COMMISSIONER

FILED

NOV - 9 2006

Hearing Officer JIC
Patricia O. Petersen
Chief Hearing Officer

November 9, 2006

Norman Foster
Foster Dahl Miller and Associates
106 1st Avenue NW
Ephrata, WA 98823

Re: OIC Investigation No. 06-0591
Hearing Officer's File No. D06-316

Dear Mr. Foster:

This letter is in regard to the request that you provide refund checks to Mary Manum of this office by August 19, 2006. This is to inform you in writing that, at this time, OIC is not requiring you to refund any money in connection with the audit of your agency in August, 2006.

As discussed at the pre-hearing conference on November 6, 2006, this matter is still being investigated. OIC hopes to continue working with you in this regard. Chief Investigator Mike Huske will be contacting you in the near future to re-start that process. In the meantime, if you need to contact him, he can be reached at (360)725-7261.

If we determine that any violations of the Insurance Code have occurred, we will inform you promptly. If we determine that action must be taken to remedy any violations, we will discuss the options available to you and work to come to a mutually agreeable resolution. Only if we cannot come to an agreement with you would OIC issue an order requiring you to take action. If, during any part of this process, you are aggrieved by an action by OIC, you are entitled to a hearing under RCW 48.04.010.

Sincerely,

A handwritten signature in cursive script that reads "Andrea L. Philhower".

Andrea L. Philhower
Staff Attorney - Legal Affairs

Cc: Mike Huske
Hearing Officer Patricia Petersen