

STATE OF WASHINGTON

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MIKE KREIDLER
STATE INSURANCE COMMISSIONER



FILED

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 9th day of October 2008 at Tumwater, Washington.

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OFFICE OF
INSURANCE COMMISSIONER

HEARINGS UNIT
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Hearings Unit, DIC
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Chief Hearing Officer

Signed: Wendy Galloway

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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:)
) No. D08-0007
ROBERT S. CHRONISTER,)
)
) FINDINGS OF FACTS, CONCLUSIONS
Licensee.) OF LAW, AND FINAL ORDER
)

TO: Robert S. Chronister
3893 Gala Loop
Bellingham, Washington 98226

COPY TO: Mike Kreidler, Insurance Commissioner
Vernon Stoner, Chief Deputy Insurance Commissioner
Carol Sureau, Deputy Commissioner, Legal Affairs Division
Charles D. Brown, Sr. Staff Attorney, Legal Affairs Division
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Pursuant to RCW 34.04.090, 34.04.120, 48.04.010 and WAC 10-08-210, and after notice to all interested parties and persons, the above-entitled matter came on regularly for hearing before the Insurance Commissioner for the state of Washington (Commissioner) on April 28, 2008, in Tumwater, Washington. All persons to be affected by the above-entitled matter were given the right to be present at such hearing during the giving of testimony, and had reasonable opportunity to inspect all documentary evidence. The Commissioner appeared pro se, by and through OIC Staff Attorney Charles Brown. Robert S. Chronister (Licensee) appeared pro se.



NATURE OF PROCEEDING

The purpose of the hearing was to take testimony and evidence and hear argument as to whether the Commissioner's Order Revoking License, No. D08-0007, entered by the Commissioner on January 23, 2008, should be confirmed, set aside or modified. Said Order Revoking License revokes the insurance agent's license of Robert S. Chronister based upon the facts alleged therein. The Licensee requested this hearing to contest this Order Revoking License.

FINDINGS OF FACTS

Having considered the evidence and arguments presented at the hearing, and the documents on file herein, the undersigned presiding officer designated to hear and determine this matter finds as follows:

1. The hearing was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied. Further, it is reasonable that the deadline for entry of this Order was extended, based upon good cause shown as permitted by RCW 34.05.461(8)(a).
2. The Licensee is a resident of Bellingham, Washington, and has been licensed as an insurance agent to sell life and disability insurance in Washington State since approximately December 12, 1994.
3. The Licensee was the subject of a disciplinary action by the Commissioner in 2005. Specifically, the Licensee was fined for engaging in conduct in 2004 that violated RCW 48.30.040, false, deceptive and misleading representations, RCW 40.30.010(1), unfair or deceptive acts or practices, RCW 48.30.090, misrepresentation of terms of insurance, RCW 48.17.010, attempting to place insurance with a company with which the agent had no appointment, and RCW 48.30.210, false or misleading statements or impersonations relative to applications. In lieu of revocation of his license, the Licensee entered into a Stipulation and Order, No. D05-375, on October 13, 2005. Therein, the Licensee agreed that the conduct and violations of law occurred, and agreed that he would *comply with all Washington insurance laws and regulations in the future*. Therein, the Licensee further agreed that *the facts set forth [in said Stipulation and Order] may be considered by the Commissioner in any future administrative action regarding Licensee and that any future violation on the part of Licensee of the statutes and regulations set forth [therein] would result in the permanent revocation of his Washington insurance agent's license*, agreed to attend an additional 7 hours of continuing education in insurance ethics and to pay a \$5,000 fine. [Ex. 2; Testimony of Overholt.]
4. By letter dated March 21, 2005 [Ex. 19], Mutual of Omaha Insurance Company (Mutual of Omaha) terminated Licensee's Mutual of Omaha Agency Producer Contract, cancelled Licensee's appointment and authorization to represent Mutual of Omaha and its

affiliated companies (an appointment he had held since on or about November 12, 1994), and instructed Licensee to return all client and prospect information, materials and supplies that were the property of Mutual of Omaha. Later, by letter dated August 16, 2005 [Ex. 20], Mutual of Omaha advised Licensee that Licensee had held himself out as a Mutual of Omaha agent and had sought to replace a Mutual of Omaha customer's policy in violation of his Agency Producer Contract; by letter dated September 19, 2005 [Ex. 21], Mutual of Omaha advised Licensee of two other customer complaints alleging that Licensee had held himself out as a Mutual of Omaha agent. In both letters, Mutual of Omaha instructed Licensee to stop further misrepresentations regarding Mutual of Omaha and Licensee's ability to represent Mutual of Omaha, and again directed the Licensee to return all proprietary materials to the company.

5. Despite these warnings and instructions from Mutual of Omaha - which did occur before entry of the aforereferenced Stipulation and Order was executed by the Licensee and the Commissioner on October 13, 2005 - the Licensee continued to hold himself out as a Mutual of Omaha agent and to market Mutual of Omaha products and use Mutual of Omaha's sales materials and applications. Specifically, in December 2005, Licensee was soliciting various types of insurance products at a grocery store in Mt. Vernon where senior citizens meet for refreshments. Licensee had a table set up there and was soliciting various types of insurance products to these seniors. There he met Helena Kuiper, an 81 year old resident of Mount Vernon, Washington. Ms. Kuiper had received policy information and an application by mail directly from Mutual of Omaha. [Testimony of Overholt; Testimony of Art Kuiper; Testimony of Helena Kuiper; Ex. 30.] Such a direct company sale would have generated no commission. Licensee falsely stated to Ms. Kuiper, however, that the direct mail application she had received was illegal in Washington and that Licensee was authorized to represent Mutual of Omaha. Licensee then supplied another Mutual of Omaha Medicare Supplement Plan application, completed the application for the consumer's signature, obtained her premium check payable to Mutual of Omaha, and submitted the application and check through Melvin Zimmerman, another insurance agent who was appointed by Mutual of Omaha, in order to hide the Licensee's involvement in the transaction from Mutual of Omaha. [Testimony of Overholt; Testimony of Art Kuiper; Testimony of Helena Kuiper; Testimony of Melvin Zimmerman; Exs. 4-7.] Although Ms. Kuiper's application stated that the agent involved was one Melvin Zimmerman, in fact the Kuipers never met or talked with Mr. Zimmerman; the Kuipers believed that the Licensee was an authorized agent of Mutual of Omaha because he produced the Mutual of Omaha application and handled completion of the application and advised them on its particulars. [Testimony of Art Kuiper; Testimony of Helena Kuiper.]

6. On or about March 14, 2006, Licensee again falsely held himself out as a Mutual of Omaha agent and again sold a Mutual of Omaha Medicare Supplement policy to Washington resident Eleanor Pilon, a then 77 year old resident of Bellingham, Washington. Although Ms. Pilon's application states the insurance agent involved in the transaction as Ross Abbe, who was appointed as an agent with Mutual of Omaha, Mr. Abbe did not take Ms. Pilon's initial application and did not solicit Ms. Pilon. Later, Mr. Abbe contacted Ms. Pilon and visited her, where he confirmed the accuracy of her

application, and later split the commission with the Licensee. [Testimony of Ross Abbe; Ex. 7.]

7. Between November 14, 2005 and March 27, 2007, Licensee made false representations to at least eleven insurance companies in order to obtain appointments, which false representations include, but are not limited to, denying that Licensee had been terminated by an insurer for anything other than lack of production, denying that Licensee had ever been the subject of a consumer complaint or proceeding by an insurance regulator body or organization, and denying that Licensee had ever been disciplined or fined by an insurance department. (Testimony of Overholt; Exs. 11-18 and 22-28.)

8. By his activities found above, the Licensee has demonstrated that he is, and is here deemed to be, incompetent or untrustworthy or a source of injury and loss to the public.

9. Victor E. Overholt, an investigator with the Office of the Insurance Commissioner, appeared as a witness on behalf of the Commissioner. Mr. Overholt presented his testimony in a clear and credible manner and exhibited no apparent biases.

10. Nancy Crawford, First Vice President & Counsel of Mutual of Omaha, appeared as a witness on behalf of the Commissioner by telephone from Omaha, NE. Ms. Crawford presented her testimony in a clear and credible manner and exhibited no apparent biases.

11. Derek Barnes, owner of D & D Insurance Agency in Ferndale, Washington, appeared as a witness on behalf of the Commissioner. Mr. Barnes presented his testimony in a clear and credible manner and exhibited no apparent biases.

12. Pat Kuiper, consumer from Mt. Vernon, Washington, appeared as a witness on behalf of the Commissioner. Mr. Kuiper presented his testimony in a clear and credible manner and exhibited no apparent biases.

13. Helena Kuiper, consumer from Mt. Vernon, Washington, appeared as a witness on behalf of the Commissioner. Ms. Kuiper presented her testimony in a clear and credible manner and exhibited no apparent biases.

14. Melvin Zimmerman, insurance agent from Blaine, Washington, appeared as a witness on behalf of the Commissioner by telephone. Mr. Zimmerman presented his testimony in a clear and credible manner and exhibited no apparent biases.

15. Ross Abbe, insurance agent from Bellingham, Washington, appeared as a witness on behalf of the Commissioner by telephone. Mr. Abbe presented his testimony in a clear and credible manner and exhibited no apparent biases.

16. Robert Stanley Chronister, the Licensee, appeared as the sole witness on his own behalf. Mr. Chronister presented his testimony in a clear and fairly credible manner.

17. Based upon his activities found above, it is reasonable that the insurance agent's license of Robert S. Chronister should be permanently revoked.

CONCLUSIONS OF LAW

1. By knowingly making and disseminating false, deceptive and misleading representations in the conduct of the business of insurance, the Licensee violated RCW 48.30.040.

2. By knowingly making false statements and impersonations in or relative to applications for insurance to an insurer, the Licensee violated RCW 48.30.210.

3. By holding himself out as a Mutual of Omaha agent after his agency had been terminated, the Licensee violated RCW 48.17.010 and RCW 48.17.160.

4. By repeating violations which were the subject of Order No. D05-375, the Licensee violated said Order and is subject to the provision in said Order that "future violations on the part of Licensee of the statutes and regulations set forth in the Stipulated Facts and Law herein will result in the permanent revocation of his Washington insurance license."

5. RCW 48.17.530 provides that *(1) The Commissioner may suspend, revoke, or refuse to issue any license...for any cause specified in any other provision of this code, or for any of the following causes: (b) If the licensee...willfully violates ... any provision of this code or any proper order...or the commissioner. (e) If the licensee...has, with intent to deceive, materially misrepresented the...effect of any insurances contract; or has engaged in...any fraudulent transaction. (h) If the licensee or applicant has shown himself to be, and is so deemed by the commissioner, incompetent, or untrustworthy, or a source of injury and loss to the public.* Based upon the facts found above, the Licensee has shown himself to be, and is so deemed by the Commissioner to be, untrustworthy and a source of injury and loss to the public and not qualified to be an insurance agent in the state of Washington. Accordingly, it is hereby concluded that the Commissioner's Order Revoking License, permanently revoking the insurance agent's license of Robert S. Chronister, should be upheld, pursuant to RCW 48.17.530(1)(b), (e), and (h).

ORDER

Based upon the above Findings of Facts and Conclusions of Law,

IT IS HEREBY ORDERED that the Washington State insurance agent's license of Robert S. Chronister is permanently revoked.

IT IS FURTHER ORDERED that the Licensee shall surrender his Washington insurance agent's license to the Commissioner on or before October 23, 2008.

ENTERED this 9th day of October, 2008, in Tumwater, Washington, pursuant to Title 48 RCW and regulations applicable thereto and Title 34 RCW and regulations applicable thereto.



PATRICIA D. PETERSEN

**Presiding Officer
Chief Hearing 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 in the United States mail. If a party chooses to file a petition in the Superior Court, he or she may, but is not required to, first file a request for reconsideration. For further information or to obtain copies of the applicable statutes, the parties may contact the administrative assistant to the undersigned.