



OFFICE OF
INSURANCE COMMISSIONER

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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:)	
)	No. 09-0153
STEFAN E. JOHANSSON)	
)	FINDINGS OF FACTS,
)	CONCLUSIONS OF LAW AND
Licensee.)	ORDER ON HEARING (DEFAULT)
_____)	

TO: Stefan E. Johannsson
1302 180th Street Court East
Spanaway, WA 98387

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
Carol Sureau, Esq., Deputy Commissioner, Legal Affairs Division
Charles D. Brown, Esq., Senior 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 34.05.434, 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 Office of Insurance Commissioner for the state of Washington commencing at 9:00 a.m., on May 3, 2010. 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 Insurance Commissioner appeared pro se, by and through Charles D. Brown, Esq., Senior Staff Attorney in his Legal Affairs Division. Stefan E. Johannsson failed to appear, however, as detailed below.

NATURE OF PROCEEDING

The purpose of the hearing was to take testimony and evidence and hear argument as to whether the Insurance Commissioner's Order Revoking License, No. 09-0153, entered by the Insurance Commissioner on December 11, 2009, should be confirmed, set aside or modified. Said Order Revoking License revokes the insurance agent's license of Stefan E. Johannsson, based upon the facts alleged therein. Stefan E. Johannsson requested this hearing to contest the 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.

2. On December 11, 2009, the Insurance Commissioner ("OIC") entered an Order Revoking License, No. 09-0153 ("Order"), revoking the insurance agent's license of Stefan E. Johannsson ("Licensee"). On March 10, 2010, the Licensee filed his Demand for Hearing to contest the subject Order. In said Demand for Hearing, which was dated March 8, 2010, the Licensee stated that he obtained the Order from the OIC's website, and that he never received a copy of the Order via U.S. Mail.

3. In response to the Licensee's Demand for Hearing, on March 16, 2010, the undersigned mailed a Notice of Receipt of Demand for Hearing, which detailed the hearing procedures to be followed and advised that the Hearings Unit would contact the parties to schedule a first prehearing conference in this matter. On April 1, Nicole Kelly, Paralegal to the undersigned, contacted the parties and on April 8 the first prehearing conference was held. Said first prehearing conference included all parties. The OIC was represented by Charles D. Brown, Esq., Senior Staff Attorney in the OIC Legal Affairs Division and Stefan E. Johannsson represented himself. During this first prehearing conference, hearing procedures were discussed and the parties agreed that the hearing should commence on May 7. On April 9, when it was discovered that a primary witness for both parties was unavailable on May 7, Ms. Kelly contacted the parties both Mr. Brown and the Licensee again; both Mr. Brown and the Licensee agreed that the hearing should be rescheduled to May 3. Pursuant thereto, on April 26 a Notice of Hearing was entered by the undersigned and served on both parties, scheduling the hearing to commence on May 3. [Ex. 1.] Said Notice of Hearing further advised the parties:

As required by RCW 34.05.434(2)(I), you are advised that a party who fails to attend or participate in the hearing or other stage of the adjudicative proceeding may be held in default in accordance with ch. 34.05 RCW. [Ex. 1.]

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5. On May 3, 2010, the Licensee failed to appear at the hearing scheduled in the Notice of Hearing as found above. Ms. Kelly attempted to contact the Licensee by telephone at 9:15 a.m., to no avail. During this time, the undersigned also confirmed with the OIC that no communication of any kind had been received from the Licensee by the OIC or the undersigned. Having received no communication from the Licensee, at 9:25 a.m. the hearing commenced in the Licensee's absence. The Licensee was, therefore, held in default and the OIC presented its case in full.

6. After the hearing, the Licensee telephoned Ms. Kelly, advising her that he recalled that he had agreed on the telephone with Ms. Kelly that the hearing should be rescheduled from May 7 to May 3 to accommodate one witness, but that he had failed to change the date on his calendar from May 7 to May 3. The Licensee advised Ms. Kelly that he did not recall receiving the subsequent April 26 Notice of Hearing which reflected the May 3 hearing date. Ms. Kelly confirmed the address on file to be correct, confirmed she mailed the Notice of Hearing to that address and noted that no mail was returned as undeliverable.

7. On May 14, 2010, the Licensee sent a written request to Mr. Brown, with a copy to the undersigned, requesting the opportunity to participate in a new hearing in this matter, stating that he had incorrectly noted that the hearing was to take place on May 7 instead of May 3. Mr. Brown subsequently advised the undersigned, through Ms. Kelly, that he had received and considered the Licensee's request, and he believed nothing in the Licensee's request provided sufficient grounds upon which to grant a new hearing.

8. The Licensee was previously a resident of Virginia. During that time, he held a resident insurance agent's license in the state of Virginia and a non-resident insurance agent's license in Washington. Subsequently, the Licensee moved to Washington State and on October 15, 2009, he cancelled his Washington non-resident insurance agent's license and was issued a Washington resident insurance agent's (producer's) license. At that time, the Licensee still owed a previous amount due of \$104.25 for his Washington non-resident insurance agent's license for 2009; the reason for this amount owing was that on November 12, 2008, the Licensee submitted his check for this amount but it was not honored by his bank. [Testimony of OIC Investigator Cheryl Penn; Ex. 2.] The Licensee's payment for his Washington resident insurance agent's (producer's) license for 2009, however, was paid in full. Therefore, there is no issue regarding the Licensee's valid payment of his 2009 Washington resident insurance agent's (producer's) license. The sole issue herein is the Licensee's nonpayment of his 2009 Washington non-resident insurance agent's license of \$104.25.

9. After November 12, 2008, when the OIC discovered that the Licensee's check for his 2009 Washington non-resident insurance agent's license had been returned unpaid, on December 4, 2008, the OIC sent a certified letter to the Licensee notifying him that this check had been dishonored and he still owed the OIC this \$104.25. The OIC's letter advised the Licensee that he had 15 days to replace the check. This letter was returned undeliverable by the U.S. Postal Service on January 6, 2009. [Testimony of Cheryl Penn; Ex. 3-4.]

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11. On August 12, 2009, September 14, 2009, and October 14, 2009, Ms. Penn mailed letters to the Licensee, bearing these same dates, requesting that the Licensee replace his aforementioned check which had been dishonored. The October 14 letter was sent via certified mail and was signed for on October 20. [Testimony of Cheryl Penn; Ex. 5.]

12. In her letter dated October 14, 2009, Ms. Penn acknowledged the Licensee's attempt to contact her via phone on September 25 and his subsequent failures to respond to her return calls on September 28 and October 1, in violation of RCW 48.17.475. [Testimony of Cheryl Penn; Ex. 5.]

13. In her letter dated August 12, 2009, Ms. Penn provided an initial due date of September 9 for the Licensee to provide her with another check in payment of his 2009 non-resident license fee, and subsequently extended this deadline to October 12 and November 4. [Testimony of Cheryl Penn; Ex. 5]. In response, on November 16, the Licensee wrote Ms. Penn via email that he would pay "within the next couple of days." The Licensee again emailed on November 23, notifying Ms. Penn that he would pay by Wednesday, November 25. On November 30, the Licensee emailed Ms. Penn again, agreeing to pay by the next day. Each time, Ms. Penn granted additional extensions to the Licensee via email. On November 30, Ms. Penn notified the Licensee via email that if his payment was not received by 4:00 p.m. on December 1, his resident license would be revoked. The Licensee has still never replaced the referenced check for his 2009 Washington non-resident insurance agent license which was dishonored as set forth above. [Testimony of Cheryl Penn; Ex. 1]

14. Cheryl Penn, an Investigator with the Office of the Insurance Commissioner, appeared as a witness on behalf of the OIC. Ms. Penn presented her testimony in a detailed and credible manner and exhibited no apparent biases.

15. As set forth above, the Licensee failed to appear at the hearing herein and no representatives appeared as a witness on his behalf.

16. Based upon the above Findings of Facts, the Commissioner's Order Revoking License, No. 09-0153, revoking the resident insurance agent's (producer's) license of Stefan E. Johannsson, should be modified to impose a suspension of six months instead of revocation of his license, on condition that the Licensee pay the \$104.25 at issue herein which represents the amount still owing to the OIC for his 2009 Washington non-resident insurance agent's license.

CONCLUSIONS OF LAW

1. RCW 34.05.440(2) provides that, if a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of the grounds for the order. This requirement includes the responsibility of an appellant, such as the Licensee, to appear at the hearing and to present evidence in support of the appeal. Based upon the facts set forth above, to the effect that the Licensee failed to appear, without good cause, it was appropriate that

the hearing proceed without him and this Final Order (Default) be entered.

2. As required by RCW 34.05.434(2)(i), the Licensee was notified of his responsibility to appear at hearing, and the consequences of not so appearing, in the Notice of Hearing herein entered by the undersigned on April 26, 2010, and properly served upon the Licensee on that date. The Licensee has failed to appear, as required by RCW 34.05.440(2), and, further, has not provided adequate grounds for relief. Therefore, as set forth in RCW 34.05.440(2), it is proper to enter a Default Order in this proceeding.

3. As set forth in the Findings of Facts above, in his conduct of failing to respond timely to inquiries by the Commissioner, the Licensee has violated RCW 48.17.475.

4. Based upon the above Findings of Facts and Conclusions of Law, the OIC's Order Revoking License, revoking the resident insurance agent's license of Stefan E. Johannsson should be modified to impose a suspension of six months beginning on October 20, 2010, instead of revocation of his resident insurance agent's license, on the condition that the Licensee pay the aforementioned \$104.25 amount still owing to the OIC for the Licensee's 2009 Washington non-resident insurance agent's license by October 20, 2010. If said funds are not received by the OIC by October 20, 2010, the Licensee's Washington resident insurance agent's (producer's) license will be automatically revoked without further notice of action of the OIC.

ORDER

On the basis of the foregoing Findings of Facts and Conclusions of Law, to the effect that the Licensee has by his actions demonstrated failure to timely respond to inquiries by the Commissioner as contemplated by RCW 48.17.475, and to the effect that it has been found that the Insurance Commissioner's Order Revoking License entered against Stefan E. Johannsson, No. 09-0153, should be modified to impose a suspension of his Washington resident insurance agent's (producer's) license for six months beginning October 20, 2010 instead of a revocation of this license, on the condition that the Licensee pay the funds owing to the OIC for his 2009 Washington non-resident insurance agent's (producer's) license by October 20, 2010,

IT IS HEREBY ORDERED that the Insurance Commissioner's Order Revoking License, No. 09-0153 to the effect that the Washington insurance agent's (producer's) license of Stefan E. Johannsson is revoked, is modified to impose a suspension of six months beginning on October 20, 2010, instead of revocation of his license.

IT IS FURTHER ORDERED that this modification of the Insurance Commissioner's Order Revoking License is conditioned upon the OIC receiving full payment for the past due amount of \$104.25, representing payment due for the Licensee's 2009 Washington non-resident insurance agent's license, by October 20, 2010.

IT IS FURTHERED ORDERED that should the Insurance Commissioner not receive the aforementioned \$104.25 past due by October 20, 2010, then his current Washington resident

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insurance agent's (producer's) license is revoked automatically and without further notice or action required of the OIC.

IT IS FURTHER ORDERED that the Licensee shall surrender his Washington resident insurance agent's (producer's) license to the Insurance Commissioner on or before October 20, 2010.

This Order is entered pursuant to RCW 34.05, WAC 10-08-210, Title 48 RCW and regulations applicable thereto.

This Order is entered at Tumwater, Washington, this 30th day of September, 2010.



PATRICIA D. PETERSEN
PRESIDING OFFICER

Request for Vacation of Default Order: You may request that this Order be vacated by filing a written motion to that effect within seven days of service of this Order. See RCW 34.05.440(3).

Further, pursuant to RCW 34.05.461(3), the parties are advised that, even if a Request for Vacation of Default Order is not filed, 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.

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 through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: Stefan E. Johannsson, Mike Kreidler, Michael G. Watson, Carol Sureau, Esq., Charles D. Brown, Esq., and John F. Hamje..

DATED this 30th day of September, 2010.


NICOLE KELLY