



OFFICE OF
INSURANCE COMMISSIONER

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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of)
)
Ability Insurance Company,)
)
An Authorized Insurer.)
)

Docket No. 11-0088 and 11-0089

NOTICE OF HEARING

TO: Ability Insurance Company
1515 South 75th Street
Omaha, Nebraska 68124-1655

Christopher H. Howard, Esq.
Virginia R. Nicholson, Esq.
Schwabe, Williamson & Wyatt P.C.
Attorneys at Law
U.S. Bank Center
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Alan Michael Singer, Staff Attorney, Legal Affairs Division
Carol Sureau, Deputy Commissioner, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

On April 27, 2011, the Insurance Commissioner (OIC) issued an Order to Cease and Desist, No. 11-0088, against Ability Insurance Company and their affiliates (Ability) requiring that they immediately cease and desist from what the OIC alleges are violations of the Insurance Code by not allowing reinstatement of their long term care policies within five months after the lapse date set forth in the WAC 284-54-253 notice when the insured provides proof of their cognitive impairment or loss of functional capacity. In addition, on April 27, 2011, the OIC issued an Order Suspending License No. 11-0089, suspending the Washington Certificate of Authority of Ability Insurance Company (Ability) for six months pursuant to terms specified therein. In response, on May 4, 2011 Ability filed its Request for Hearing to contest both Orders, asserting

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that Ability is not required to provide reinstatement in the situation presented by the OIC in its Orders for reasons specified therein.

Accordingly, on May 11, 2011, the undersigned held a first prehearing conference which included all parties. The OIC was represented by Alan Michael Singer, Esq., Staff Attorney in his Legal Affairs Division. Ability was presented by Christopher H. Howard, Esq. and Virginia R. Nicholson, Esq. of Schwabe, Williamson & Wyatt P.C. of Seattle. The undersigned reviewed procedure to be expected at hearing and answered all questions and concerns of the parties. Of note, the undersigned advised that while the Order Suspending Certificate of Authority herein was automatically stayed pursuant to RCW 48.04.020, the Order to Cease and Desist was not. Thereafter, Ability filed its Motion for Discretionary Stay of the Order to Cease and Desist and after consideration of written argument submitted by both parties, on June 14 the undersigned entered her Order Denying Motion for Discretionary Stay. Therefore said Order to Cease and Desist became effective as of April 27, and shall remain in effect until entry of the Final Order on Hearing herein.

On June 9, 2011, the undersigned held a second prehearing conference which included all parties. During said prehearing conference the parties agreed that the hearing herein should take place on August 3 and 4, 2011, commencing at 10 a.m. in person.

Accordingly, **YOU ARE HEREBY NOTIFIED that a hearing will be held commencing on August 3, 2011 at 10:00 a.m. Pacific Standard Time and, if necessary, shall continue commencing at 10:00 a.m. Pacific Standard Time on August 4, 2011.** The purpose of this hearing, which will include all parties, is to consider Ability's challenge to the OIC's Order to Cease and Desist and the OIC's Order Suspending Certificate of Authority.

The OIC will appear by and through Alan Michael Singer, Staff Attorney in his Legal Affairs Division. Mr. Singer's address is Office of the Insurance Commissioner, Legal Affairs Division, P.O. Box 40255, Olympia, WA 98504-0255 and his telephone number is (360) 725-725-7046. Ability will appear and will be represented by Christopher H. Howard, Esq. and Virginia R. Nicholson, Esq. Mr. Howard's and Ms. Nicholson's address is Schwabe, Williamson & Wyatt P.C., US Bank Centre, 1420 5th Avenue, Suite 3400, Seattle, WA 98101-4010.

Patricia D. Petersen, Esq., Presiding Officer, who serves as Chief Hearing Officer for the Office of the Insurance Commissioner, has been designated to hear and determine this matter. Her address is Office of Insurance Commissioner, P.O. Box 40255, Olympia, Washington 98504-0255. Her telephone number is (360) 725-7105. All interested individuals and entities who have questions or concerns concerning this proceeding should direct them to her assistant, Shellie Savage, at the same address. Ms. Savage's telephone number is (360) 725-7085.

The hearing will be held under the authority granted by the Commissioner under Chapter 48.04 RCW. The basic facts relied upon are those set forth above, which are more specifically included in the OIC's above referenced Order to Cease and Desist and Order Suspending Certificate of Authority and in Ability's above referenced Demand for Hearing.

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The hearing will be governed by the Administrative Procedure Act, Chapter 34.05 RCW, and the model rules of procedure contained in Chapter 10-08 WAC. All parties may be represented at the hearing. They may examine witnesses and fully respond and present evidence and argument on all issues involved.

As required by RCW 34.05.434(2)(i), you are advised that a party who fails to attend or participate in any stage of the proceeding may be held in default in accordance with Chapter 34.05 RCW.

Pursuant to WAC 10-08-040(2) and in accordance with ch. 2.42 RCW, if a limited English speaking or hearing impaired or speech impaired party or witness needs an interpreter, a qualified interpreter will be appointed. There will be no cost to the party or witness therefore, except as may be provided by ch. 2.42 RCW. A Request for Interpreter form is attached to the original of this Notice, with instructions thereon.

This Notice is provided pursuant to RCW 48.04.010 and RCW 34.05.434.

Based upon the above activity,

IT IS HEREBY ORDERED that the adjudicative proceeding in this matter shall commence on August 3, 2011, at 10:00 a.m. Pacific Standard Time in the Office of the Insurance Commissioner, 5000 Capitol Blvd., Tumwater, WA and shall continue commencing on August 4, 2011 at 10:00 a.m. Pacific Standard Time, at the same location, if necessary.

ENTERED AT TUMWATER, WASHINGTON, this 21st day of June, 2011, pursuant to Title 48 RCW and specifically RCW 48.04 and Title 34 RCW and regulations applicable thereto.



PATRICIA D. PETERSEN
Presiding Officer

Attachment

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 above identified individuals at their addresses listed above.

DATED this 21st day of June, 2011.



SHELLIE SAVAGE