

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS

FILED

In The Matter Of:

Emily Hawkins and Emily Wang Hawkins
Insurance Agency,

Appellants.

Docket No. 02-2017-INS-00008

2017 MAY 23 A 9:15

**INITIAL ORDER ON SUMMARY JUDGMENT
MOTION**

OFFICE OF
INSURANCE COMMISSIONER

Agency: Office of the Insurance Commissioner
Agency No. 16-0263

1. ISSUES

1.1. Did Emily Hawkins violate RCW 48.17.530(1), as well as RCW 48.30.210 and RCW 48.17.475, as set out in the Order Revoking Licenses issued November 2, 2016, as amended by the Amended Order Revoking Licenses issued March 10, 2017?

1.2. If so, what is the appropriate penalty?

2. ORDER SUMMARY

2.1. Yes. Emily Hawkins and the Emily Wang Hawkins Insurance Agency violated RCW 48.17.530(1), RCW 48.30.210 and 48.17.475 as set out in the Order Revoking Licenses issued November 2, 2016, as amended by the Amended Order Revoking Licenses issued March 10, 2017.

2.2. The insurance producer licenses of Emily Hawkins and Emily Wang Hawkins Insurance Agency, which licenses expired prior to the November 2, 2016 revocation order, shall not be renewed. In addition, under RCW 48.17.560, a civil penalty in the amount of \$1,500.00 is assessed Ms. Hawkins, which is due no later than 30 days from the date of entry of the final order by the Office of the Insurance Commissioner.

3. DOCUMENTS CONSIDERED

3.1. I considered the following documents:

Doc. No.	Document Name	Document Date	No. Pages
1	Order Revoking Licenses	11/2/2016	10

2	Request for Hearing	1/30/2017	2
3	Amended Order Revoking Licenses	3/10/2017	11
3	Motion for Summary Judgment with attachment (Ex. 2)	4/3/2017	24
4	Declaration of Timothy Rood in Support of Motion for Summary Judgment with Attachment	3/30/17	75
5	Declaration of Harvey Churchill in Support of Motion for Summary Judgment with Attachment	3/30/17	26
6	Response Opposing Motion for Summary Judgment with Attachments	4/17/17	28
7	OIC's Reply to Emily Hawkins' Response to Motion for Summary Judgment	4/21/17	13

4. FACTS FOR PURPOSE OF SUMMARY JUDGMENT

On a motion for summary judgment, the decision maker only considers those facts for which the parties establish "no genuine issue as to any material fact".¹ "Summary judgment is appropriate only where the undisputed facts entitle the moving party to judgment as a matter of law."² Only evidence in the record and inferences from that evidence establish facts. If evidence in the record points to more than one possible finding of fact, then summary judgment may not rest on the moving party's version of that fact.³ Admissions, stipulations, procedural history, and uncontested declarations and affidavits establish facts for summary judgment. So, the record here supports the following facts for the purposes of summary judgment:

Jurisdiction

- 4.1. The Office of the Insurance Commissioner ("OIC") issued an Order Revoking Licenses in this matter on November 2, 2016. The Order Revoking Licenses alleged that Appellants

¹ WAC 10-08-135. In Superior Court matters, CR 56 governs summary judgment. Where the relevant procedural rules do not conflict with CR 56, it and the cases interpreting it serve as persuasive authority in the management of summary judgment under WAC 10-08-135.

² *Verizon NW, Inc. v. Employment Sec. Dep't*, 164 Wn.2d 909, 916 (2008), citing *Alpine Lakes Prot. Soc'y v. Dep't of Natural Res.*, 102 Wn. App. 1, 14 (1999).

³ *Verizon NW*, 164 Wn.2d 916.

Emily Hawkins and Emily Wang Hawkins Insurance Agency violated RCW 48.17.530(1), 48.30.210, and 48.17.475, and were thus subject to license revocation. On March 10, 2017, OIC amended its Order Revoking Licenses, again alleging Appellants' violation of RCW 48.17.530(1), 48.30.210, and 48.17.475. Based on those allegations, OIC ordered the revocation of Appellants' insurance producer licenses.

4.2. On January 30, 2017, OIC received Appellants' request for hearing.

Summary Judgment

4.3. OIC filed a Motion for Summary Judgment on April 3, 2017.

4.4. Appellants filed a response on April 17, 2017.

4.5. OIC filed a reply on April 21, 2017.

Emily Hawkins

4.6. Emily Hawkins was a licensed insurance producer in Washington whose license expired September 6, 2015. OIC Ex. 2, p.1. Ms. Hawkins was licensed to sell life, disability, and property/casualty insurance among other insurance products. *Id.*, p.2.

4.7. Ms. Hawkins was the Designated Responsible Licensed Person (DRLP) of the Emily Wang Hawkins Insurance Agency ("agency"), which was a licensed insurance producer from September 20, 2012 to September 20, 2016. *Id.*, p.4. Ms. Hawkins and the agency were appointed representatives of State Farm insurance. *Id.*

State Farm Investigation

4.8. Based on a State Farm agent's allegations of questionable sales practices including forgery at the agency, State Farm commenced an audit and investigation of the agency in 2014. State Farm interviewed Ms. Hawkins, her employees, and former employees, and reviewed agency programs including email and instant messaging. During the investigation, among other improper activity, Ms. Hawkins admitted to the following:

- Unlicensed sales activity by agency employees as directed by Ms. Hawkins;
- Fraudulent completion of mandatory compliance training by Ms. Hawkins and agency employees for the purpose of maintaining former employee Tucker Minor's alias; and

- Inappropriate sale and bundling of auto insurance policies with life, health or renters insurance policies without appropriate explanation of coverage and benefits.

Rood Decl., Ex. 1, pp. 1-2.

- 4.9. Agency records showed, and Ms. Hawkins confirmed, that unlicensed employees Robin McCallie and Kaitlin Kirby sold insurance policies and received commissions for these sales from the agency. Rood Decl, Ex. 1, pp. 60-61. State Farm records also showed, and Ms. Hawkins confirmed, that three training courses were completed in the name of Tucker Minor after his job separation in January 2014. Rood Decl., Ex. 1, pp. 5-6. Ms. Hawkins and former employee Robin McCallie admitted that Ms. McCallie completed these trainings at Ms. Hawkins' direction. Rood Decl., Ex. 1, pp. 1, 9, 16, 35.
- 4.10. Regarding bundling, Ms. Hawkins bundled, and trained her employees to bundle, health, life, and renters policies along with auto policies, making it appear that this coverage was associated with the auto policy. Rood Decl., Ex. 1, p.3, 4, 7-8, 13, 23, 62-63; Churchill Decl, Ex. 3, pp. 11, 14, 18-19.
- 4.11. Ms. Hawkins provided State Farm with a sworn statement, stating in part the following:
- I will no longer use login from another person;
 - I will no longer sell products in "bundles" and clearly explain to insured what they are purchasing.
 - I will not take [State Farm] training for another person.

These are just some of the few items I am no longer able to do as they are blatant violations and will not help me be the agent I want to be.

Rood Decl., Ex. 1, p. 70.

- 4.12. Following the investigation, State Farm terminated its agency agreement with Ms. Hawkins, and submitted its investigatory findings and materials to OIC under RCW 48.17.595.
- 4.13. In February 2016, OIC commenced its own investigation of Ms. Hawkins and the agency. See Churchill Decl., p.2. In late July 2016, Ms. Hawkins declined Investigator Churchill's request to interview her, stating she was no longer in the insurance industry and would not provide any further information. Investigator Churchill (a) reviewed State Farm's

investigatory report and materials, (b) interviewed Ms. Hawkins' former employees, and (c) interviewed Washington consumers who had purchased life insurance from the agency. Based on Investigator Churchill's findings, OIC issued an order on November 2, 2016 revoking the insurance producer licenses of Ms. Hawkins and the agency, even though Ms. Hawkins' and the agency's insurance producer licenses had already expired.

4.14. The bases for these revocations include Hawkins:

- directing, approving and compensating employees for the unlicensed sale of life and health insurance policies, in violation of RCW 48.17.530(1)(b), (e), (g), (h), and (l), as well as RCW 48.30.210;
- taking, and directing employees to take and certify, training for a team member who no longer worked at the agency, in violation of RCW 48.17.530(1)(b), (e), (g), (h), and (j), as well as RCW 48.30.210;
- bundling auto policies with life, hospital indemnity, or renters policies without properly explaining costs, coverage and benefits in violation of RCW 48.17.530(1)(b), (e), (g), and (h), as well as RCW 48.30.210; and
- refusing to respond to an inquiry of the Insurance Commissioner in violation of RCW 48.17.475.

4.15. In her response to OIC's summary judgment motion, Ms. Hawkins denies bundling and selling insurance policies without proper disclosures. This denial is not credible for the following reasons in addition to her previous admissions to the contrary. Hawkins alleges in her response that "Harris, a former employee of Agency, declares Hawkins never inappropriately increased sales by "bundling" without a proper explanation of cost, coverage, and benefits. See Hawkins Ex. 1." Response, p. 6. However, Mr. Harris' unsworn statement attached to the response as Exhibit 1 says nothing of the sort. Hawkins further alleges in her response that former employee, Patrick Hughes, "declares he never witnessed Hawkins ever mislead any client to purchase any product that they were not aware of the costs, coverage and benefits. See Hawkins Ex. 2." However, Mr. Hughes does not state that he witnessed or was otherwise privy to every transaction performed by Ms. Hawkins.

4.16. Ms. Hawkins does not dispute the other bases set out above in Paragraph 4.11 for OIC's revocation of hers and her agency's insurance producer licenses. Regarding her refusal to speak further with Mr. Churchill, Ms. Hawkins attempts to justify this by referencing previous cooperation with the State Farm investigation. Response, p.10.

5. CONCLUSIONS OF LAW

Based upon the facts above, I make the following conclusions:

Jurisdiction

- 5.1. I have jurisdiction over the persons and subject matter in this case under Chapters 48.04 and 34.05 RCW, and Chapters 10-08 and 284-02 WAC.

Washington Law Governing Insurance Producers

- 5.2. The commissioner may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license, or may levy a civil penalty in accordance with RCW 48.17.560, or any combination of actions for (b) violating any insurance laws, (e) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance; (g) admitting or being found to have committed any insurance unfair trade practice or fraud, (h) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere, (j) forging another's name to an application for insurance or to any document related to an insurance transaction, and (l) knowingly accepting insurance business from a person who is required to be licensed under this title and is not so licensed. RCW 48.17.530(1)(b),(e),(g),(h),(j), and (l).
- 5.3. After hearing, and in addition to or in lieu of the suspension, revocation, or refusal to renew any such license or insurance education provider approval, the commissioner may levy a fine upon the licensee. (1) For each offense the fine shall be an amount not more than one thousand dollars. (2) The order levying such fine shall specify that the fine shall be fully paid not less than fifteen nor more than thirty days from the date of the order. (3) Upon failure to pay any such fine when due, the commissioner shall revoke the licenses of the licensee or the approval(s) of the insurance education provider, if not already revoked. The fine shall be recovered in a civil action brought on behalf of the commissioner by the attorney general. Any fine so collected shall be paid by the commissioner to the state treasurer for the account of the general fund. RCW 48.17.560.
- 5.4. A person who knowingly makes a false or misleading statement or impersonation, or who willfully fails to reveal a material fact, in or relative to an application for insurance to an insurer, is guilty of a gross misdemeanor, and the license of any such person may be revoked. RCW 48.30.210.
- 5.5. Every insurance producer, title insurance agent, adjuster, or other person licensed under this chapter shall promptly reply in writing to an inquiry of the commissioner relative to

the business of insurance. A timely response is one that is received by the commissioner within fifteen business days from receipt of the inquiry. Failure to make a timely response constitutes a violation of this section. RCW 48.17.475.

- 5.6. By holding out unlicensed employees as licensed insurance producers for purposes of selling insurance products, Ms. Hawkins and the agency violated RCW 48.17.530(1)(b), (g), (h), and (l), and RCW 48.30.210, justifying nonrenewal of Ms. Hawkins' license and a civil penalty. Such unlicensed sales practices operated as a fraud on customers who were entitled to purchase, and most likely believed they were purchasing, insurance products from licensed insurance producers. Such dishonesty, fraud, and demonstrated untrustworthiness warrants nonrenewal of Ms. Hawkins' and her agency's insurance producer licenses, and the assessment of a civil penalty of \$500.00 under RCW 48.17.560, as does the agency's knowing acceptance of such insurance business from unlicensed insurance producers.
- 5.7. By taking, and directing others in the agency to take, insurance training in the name of a former employee, Ms. Hawkins and the agency violated RCW 48.17.530(1)(b), (g), and (h), and RCW 48.30.210, justifying nonrenewal of Ms. Hawkins' and the agency's licenses as well as a civil penalty in the amount of \$500.00 under RCW 48.17.560. Such demonstrated fraudulent, dishonest behavior was intentionally done to skirt training requirements and amplify sales, and consequently has no place in the insurance industry.
- 5.8. By bundling policies and selling them as one auto insurance policy to consumers without explaining what consumers were actually purchasing, Ms. Hawkins violated RCW 48.17.530(1)(b),(e),(g), and (h), and RCW 48.30.210, justifying nonrenewal of their licenses and a civil penalty. Telling consumers that other life and health insurance coverage came part and parcel with their auto insurance policy was not only fraudulent and dishonest, but misrepresented the terms of the auto insurance contract. These intentional, fraudulent misrepresentations warrant nonrenewal of Ms. Hawkins' insurance producer's license under RCW 48.17.530(1) and RCW 48.30.210. Ms. Hawkins' direction to employees, as DLRP of the agency, to sell insurance in this manner warrants revocation of the agency's insurance producer's license. *Id.* A civil penalty in the amount of \$500.00 under RCW 48.17.560 is also warranted.
- 5.9. In late July 2016, while still the DLRP of the agency, which was actively licensed as an insurance producer in Washington, Ms. Hawkins refused to communicate further with Investigator Churchill of OIC. This refusal amounts to a violation of RCW 48.17.475, warranting nonrenewal of both hers and the agency's insurance producer licenses.

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6. INITIAL ORDER

IT IS HEREBY ORDERED THAT:

- 6.1. The Office of the Insurance Commissioner's Amended Order Revoking Licenses is MODIFIED.
- 6.2. Emily Hawkins and Emily Wang Hawkins Insurance Agency violated RCW 48.17.530(1), RCW 48.30.210, and RCW 48.17.475 as set out in the Order Revoking Licenses issued November 2, 2016, as amended by the Amended Order Revoking Licenses issued March 10, 2017.
- 6.3. Insurance producer licenses of Appellants Emily Hawkins and Emily Wang Hawkins Insurance Agency are hereby subject to nonrenewal of their insurance producer licenses under RCW 48.17.530.
- 6.4. Ms. Hawkins shall pay a civil penalty under RCW 48.17.560 in the total amount of \$1,500.00, which is due no later than 30 days from the date of entry of the final order by the Office of the Insurance Commissioner.

Signed at Tacoma, Washington, on the date of mailing.



Lisa N. W. Dublin
Administrative Law Judge
Office of Administrative Hearings

APPEAL RIGHTS

FINAL ORDER:

An initial order does not become a final order until the Insurance Commissioner reviews it.⁴ The Insurance Commissioner's Chief Hearing Officer will automatically review this matter and issue a final order.

⁴ WAC 284-02-070(2)(c)(i).

PETITION FOR REVIEW:

In addition to the automatic review, any party may file a Petition for Review.⁵ If you file a Petition for Review, the Chief Hearing Officer will consider your specific objections to the Initial Order and your arguments for a different result.

You must file your Petition for Review with the Office of the Insurance Commissioner (OIC) within twenty (20) days of the date OAH mailed the Initial Order.⁶ "File" means served on all other parties and delivered during business hours.⁷ Mail a copy to the other parties at the addresses in the Certificate of Mailing below.

The Petition for Review must specify all parts of the Initial Order that you dispute and the evidence that supports the Petition.⁸ Other parties may file a reply to the Petition within 10 days after the petitioner serves the Petition.⁹

Deliver the Petition for Review and Reply to the following address:

Office of Insurance Commissioner
Chief Hearing Officer
Hearings Unit, OIC
PO Box 40255
Olympia, WA 98504-0255

CERTIFICATE OF MAILING IS ATTACHED

⁵ RCW 34.05.464; WAC 10-08-211.

⁶ WAC 10-08-211.

⁷ WAC 10-08-110.

⁸ WAC 10-08-211(3).

⁹ WAC 10-08-211(4).

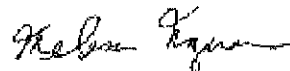
CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 02-2017-INS-00008

I certify that true copies of this document were served from Tacoma, Washington via Consolidated Mail Services upon the following as indicated:

Emily Hawkins Emily Wang Hawkins Insurance Agency 1900 Westlake Avenue N., #8B Seattle, WA 98109 Appellant	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail
David O David O Defense 2211 Elliott Avenue, Suite 200 Seattle, WA 98121 Appellant Representative	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail
Mandy Weeks-Green Insurance Enforcement Specialist OIC Legal Affairs Division MS 40255 P.O. Box 40255 Olympia, WA 98504 Agency Representative	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail
Dorothy Seabourne-Taylor Hearings Unit Paralegal, OIC MS 40255 P.O. Box 40255 Olympia, WA 98504 Agency Contact	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail
Chief Hearing Officer Hearings Unit, OIC PO Box 40255 Olympia, WA 98504-0255 Agency Contact	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail

Date: Monday, May 22, 2017

OFFICE OF ADMINISTRATIVE HEARINGS



Melesa Noguera
 Legal Assistant 2