

FILED

2014 SEP 26 A 10:44

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of

EDMUND C. SCARBOROUGH,

Respondent.

) **Docket No. 13-0084**

) **REVISED NOTICE OF HEARING**

TO: Edmund C. Scarborough
6850 CR 540 East
Haines City, FL 33845

COPY TO: Mike Kreidler, Insurance Commissioner
James T. Odiorne, J.D., CPA, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Charles Brown, Sr. Insurance Enforcement Specialist, Legal Affairs Division
AnnaLisa Gellermann, Deputy Commissioner, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Timothy J. Parker, Esq.
Carney Badley Spellman, P.S.
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010

Ross Mabery, Esq.
3400 W. Kennedy Blvd.
Tampa FL 33609

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

On March 8, 2013, the Washington State Insurance Commissioner ("OIC") issued a Notice of Request for Hearing for Imposition of Fines ("Notice") to Edmund C. Scarborough and Walter W. Wolf ("Respondents"). Said Notice proposes that the OIC take disciplinary action against the Respondents for alleged violations of the Insurance Code, including that 1) by being listed and signing as individual sureties on a performance bond issued relative to a City of Clarkston, Washington construction project, the Respondents acted as insurers without having a proper Certificate of Authority in violation of RCW 48.05.030(1), and 2) by soliciting and transacting insurance business in this state on behalf of an unauthorized insurer without being licensed as surplus lines brokers, the Respondents violated RCW 48.15.020 and RCW 48.15.070.

On April 16, 2014, Chief Presiding Officer Patricia D. Petersen entered an Order Denying Scarborough's Motion for Summary Judgment and Granting OIC's Cross-Motion for Summary Judgment ("Summary Judgment Order"), determining that Respondent Scarborough engaged in the unauthorized business of insurance by selling and issuing individual surety bonds without having a Certificate of Authority or being licensed as a surplus lines broker and therefore is subject to the imposition of fines. The Summary Judgment Order did not, however, address the amount of fines to be imposed, nor did it rule as to Respondent Wolf's alleged activities.

On September 9, 2014, the OIC filed a Withdrawal of Hearing Request as to Walter Wolf, Motion & Order of Dismissal as to Walter Wolf. I signed the Order dismissing the action against Respondent Wolf on that same day.

On September 25, 2014, this matter came on for telephonic prehearing conference. Mr. Brown represented the OIC. Mr. Scarborough appeared pro se, but his Florida bankruptcy attorney, Ross Mabery, participated in the call.

Mr. Scarborough stated that he is seeking to re-retain Timothy Parker, who previously represented him in this matter, but withdrew effective September 16, 2014. Mr. Mabery confirmed such expectation and stated that the bankruptcy court is not likely to act until mid-October on Mr. Scarborough's request that such Mr. Parker's representation be funded from the bankruptcy estate. To permit Mr. Scarborough the opportunity to be represented, if such is possible without significant delay, I believe a brief continuance of the evidentiary hearing is appropriate. Except for possible minimal adjustment to accommodate Mr. Parker's calendar if necessary, no further continuance should be expected.

YOU ARE HEREBY NOTIFIED that a hearing will be held at the Office of the Insurance Commissioner, 5000 Capitol Blvd., Tumwater, WA, beginning on November 13, 2014, at 10:00 AM, Pacific Daylight Time. The hearing is expected to conclude by November 14, 2014, but will continue until terminated. The purpose of the hearing is to consider the amount of the fine to be imposed on Respondent Scarborough.

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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 and may examine witnesses, respond, and present evidence and argument on all relevant issues.


A party who fails to attend or participate in the hearing or another stage of this proceeding may be held in default in accordance with Chapter 34.05 RCW. *See*, RCW 34.05.434(2)(i). Mr. Scarborough and other interested persons may participate and present testimony by telephone.

Judge George Finkle (Ret.), Presiding Officer, has been designated by the Insurance Commissioner to hear and determine this matter. The hearing will be held under the authority granted by the Insurance Commissioner under Chapter 48.04 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 for an interpreter, except as may be provided by Ch. 2.42 RCW. A Request for Interpreter form, with instructions, is attached to the original of this Notice.

All case related documents and correspondence shall be directed to the Hearings Unit, Office of Insurance Commissioner, P.O. Box 40255, Olympia, Washington 98504-0255. All interested individuals and entities who have questions or concerns concerning this proceeding should direct them to the Hearings Unit paralegal, Kelly Cairns, at the same address. Ms. Cairns' telephone number is (360) 725-7002.

Dated: September 25, 2014



JUDGE GEORGE FINKLE (Ret.)
Presiding Officer

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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: Edmund C. Scarborough, Ross Mabery, Esq., Timothy J. Parker, Esq., Mike Kreidler, James T. Odiorne, J.D., CPA, John F. Hamje, Esq., Charles Brown, Esq., and AnnaLisa Gellermann, Esq.,

DATED this 26th day of September, 2014.


KELLY A. CAIRNS

OFFICE OF INSURANCE COMMISSIONER
HEARINGS UNIT
Fax: (360) 664-2782

To request an interpreter, complete and mail this form to:

Presiding Officer
Hearings Unit
Office of Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255

REQUEST FOR INTERPRETER

I am a party or witness in Matter No. 13-0084 before the Insurance Commissioner. I NEED AN INTERPRETER and request that one be furnished.

Please check the statements that apply to you:

I am a non-English-speaking person. I cannot readily speak or understand the English language. My primary language is _____ (insert your primary language). I need an interpreter who can translate to and from the primary language and English.

I am unable to readily understand or communicate the spoken English language because:

- I am deaf.
- I have an impairment of hearing.
- I have an impairment of speech.

[Please state below or on the reverse side any details which would assist the Commissioner or Presiding Officer in arranging for a suitable interpreter or in providing appropriate mechanical or electronic amplification, viewing, or communication equipment.]

Date: _____

Signed: _____

Please print or type your name: _____

Address: _____

Telephone: _____