

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

FILED

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In the Matter of:

Karla Deane,

Applicant.

Docket No. 16-0165

NOTICE OF HEARING

HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

TO: Karla Deane
11919 60th Street NE
Lake Stevens, WA 98258

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

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

Ms. Deane has a filed a demand for hearing contesting the Office of Insurance Commissioner's ("OIC's") June 15, 2016, denial of her application for a license to be an insurance producer in Washington State. The OIC's denial was based upon her felony conviction in 2012 for 2nd degree Trafficking in Stolen Property. Ms. Deane alleges the underlying felony is based on her pawning a camera her boyfriend asked her to, instead of him, because he did not have a valid driver's license needed for the transaction. Ms. Deane claims that she had no knowledge that her boyfriend had stolen the camera from his sister. Ms. Deane claims she works in an insurance agency and would like to advance, and this is preventing her from doing so. She also notes that she was only twenty-two when felony occurred, and is now more mature at twenty-eight.

Federal law, specifically 10 U.S.C. § 1033(e), places restrictions on those convicted of a felony involving dishonesty or a breach of trust from participating in the business of insurance, and states:

(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce

or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

(Emphasis added).¹

While Ms. Deane applied for a resident insurance producer's license as required by RCW 48.17.090(1), and this application was denied per RCW 48.17.530(1)(f), this does not relieve her of the duty to comply with 10 U.S.C. § 1033(e), and formally request written consent from the Washington State Insurance Commissioner to engage or participate in the business of insurance in this state, a legal requirement independent of RCW 48.17.090. The felony Ms. Deane was previously convicted of involves an element of dishonesty or breach of trust, the linchpin of 10 U.S.C. § 1033(e).

While the OIC may consider some of the same factors under both the federal and state statutes identified above (see *In the Matter of Bruce D. Mulligan*, Findings of Fact, Conclusions of Law, and Final Order, Docket No. 15-0015, and *In the Matter of Joseph P. Burgman*, Findings of Fact, Conclusions of Law, and Final Order, Docket No. 15-0035, both available under heading of last name of party at <https://www.insurance.wa.gov/laws-rules/administrative-hearings/judicial-proceedings/>), even if the OIC's denial of Ms. Deane's application for an insurance producer's license is reversed, Ms. Deane still must ask the Commissioner for written consent to engage in the business of insurance under federal law. Ms. Deane has not done this yet. However, the sole issue before the OIC's Hearings Unit at this time is the OIC's denial of an insurance producer license under state law.

On July 12, 2016, the undersigned held a first prehearing conference. Darryl Colman, Insurance Enforcement Specialist of the OIC's Legal Affairs Division, appeared on behalf of the OIC. Ms. Deane appeared pro se.

¹ 10 U.S.C. § 1033(f)(1) defines the term "business of insurance" as:

- (A) the writing of insurance, or
- (B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

After considering the views of the Parties, I enter the following Order:

YOU ARE HEREBY NOTIFIED that an evidentiary hearing will be held at the Office of the Insurance Commissioner, 5000 Capitol Blvd., Tumwater, WA, beginning Thursday, August 25, 2016, at 10:00 a.m., Pacific Time. The hearing is expected to conclude on the same day, but will continue until terminated. The purpose of the hearing is to consider whether the OIC lawfully denied Ms. Deane's application for an insurance producer license.

By August 18, 2016, the parties shall exchange copies of witness and exhibit lists, briefs and any other documents they expect to offer into evidence at the evidentiary hearing. Any witness and exhibit lists, briefs and documents so provided should also be provided to the Hearings Unit at the address below.

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).

William Pardee, 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 284-02-070(1)(c), accommodation will be made for persons needing assistance due to difficulty with language or disability. Further, 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 Accommodation 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, Dorothy Seabourne-Taylor, at the same address. Ms. Seabourne-Taylor's telephone number is (360) 725-7002.

Dated: July 18, 2016



WILLIAM PARDEE
Presiding Officer

CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the state of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be filed and served the foregoing Notice of Hearing on the following people at their addresses listed below:

Karla Deane
11919 60th Street NE
Lake Stevens, WA 98258

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

Dated this 18th day of July, 2016, in Tumwater, Washington.


Dorothy Seabourne-Taylor
Paralegal
Hearings Unit

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 ACCOMMODATION FOR LANGUAGE OR DISABILITY

I am a party in Matter No. 16-0165 before the Insurance Commissioner.

I request accommodation for the following disability (insert your disability):

I request an interpreter for myself or a witness who will be testifying at the evidentiary hearing.

Please check the statements that apply:

I am a non-English-speaking person and 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 accommodation for your disability, an interpreter or in providing appropriate mechanical or electronic amplification, viewing, or communication equipment.]

Date: _____ Signed: _____

Please print or type your name: _____

Address: _____

Telephone: _____