

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF COMMERCE

In the Matter of the Insurance Agent
License of Jason Eastman
License No. 34215

FINDINGS OF FACT
CONCLUSIONS, AND
RECOMMENDATION

The above-entitled matter came on for hearing before Administrative Law Judge Barbara L. Neilson on February 12, 1999, at 9:30 a.m. at the Department of Commerce offices in St. Paul, Minnesota. Gregory Gisvold, Assistant Attorney General, NCL Tower, Suite 1200, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of the Department of Commerce ("the Department"). There was no appearance by or on behalf of the Respondent, Jason Eastman, Route 1, Aitkin, Minnesota 56341. The record closed on February 19, 1999, upon receipt of a letter from counsel verifying service of the Notice of and Order for Hearing.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact David Doth, Commissioner, 133 East Seventh Street, St. Paul, Minnesota 55101, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this case is whether the Respondent has engaged in conduct which warrants the imposition of discipline against his insurance agent license or civil penalties pursuant to Minn. Stat. §§ 45.027, subds. 6-7, and 60K.11, subd. 1. Specifically, it must be determined whether the Respondent deposited money received from two insurance clients for insurance policies into his personal account and failed to send either the intended premium payment or an application for a policy to the insurance company and, if so, whether he thereby (1) engaged in an act or practice

which demonstrates him to be untrustworthy, financially irresponsible, or otherwise incompetent or unqualified to act as an insurance agent, in violation of Minn. Stat. § 60K.11, subd. 1(iii); (2) engaged in a fraudulent, coercive, deceptive, and dishonest practice, in violation of Minn. Stat. § 60K.11, subd. 1(x); and/or (3) improperly withheld and converted to his own use money belonging to a policyholder or other person, in violation of Minn. Stat. § 60K.11, subd. 1(xi). In addition, it must further be determined whether the Respondent failed to comply with requests for information from the Department, in violation of Minn. Stat. § 45.027, subd. 1a.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Notice of and Order for Hearing and Order to Show Cause in this matter was served upon the Respondent by certified first class U.S. mail on December 23, 1998, at Route 1, Aitkin, Minnesota 56341. The certified mail was returned to the office of counsel for the Department. The Notice of and Order for Hearing was thereafter served on the Respondent a second time by serving the Commissioner on February 8, 1999, pursuant to Minn. Stat. § 45.028, subd. 2. Notice of this filing was again sent to the Respondent by certified mail.

2. The Notice of and Order for Hearing and Order to Show Cause served on the Respondents contained the following informational notice:

If Respondent fails to attend or otherwise appear at any hearing or settlement conference or the hearing in this matter or fails to comply with any interlocutory order of the judge after having been served with a copy of this Order, Respondent shall be deemed in default and the allegations or issues set forth herein may be deemed proved and Respondent's insurance agent license may be revoked or suspended, Respondent may be censured and/or a civil penalty may be imposed against Respondent without further proceedings.

(Emphasis in original.)

3. The Respondent did not file any Notice of Appearance with the Administrative Law Judge or make any request for a continuance or any other relief. The Respondent did not appear at the hearing scheduled for February 17, 1999, or have an appearance made on his behalf. He also did not contact the Administrative Law Judge between February 17, 1999, and the date on which this Report was issued.

4. Because the Respondent failed to appear at the hearing in this matter, he is in default. Pursuant to Minn. R. 1400.6000 (1997), the allegations contained in the Notice of and Order for Hearing and Order to Show Cause are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Minnesota Department of Commerce and the Administrative Law Judge have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 45.027, and 60K.11, subd. 2.

2. The Department has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The Respondent, having made no appearance at the hearing, and not requesting any continuance or relief, is in default. Pursuant to Minn. Stat. § 1400.6000, the allegations contained in the Notice of and Order for Hearing and Notice of Pre-hearing Conference are hereby taken as true.

4. The Respondent has violated Minn. Stat. §§ 45.027, subd. 1a, and 60K.11, subd. 1(iii), (x), and (xi). The Respondent is subject to discipline and/or civil penalties pursuant to Minn. Stat. §§ 45.027, subds. 6 and 7, and 60K.11, subd. 1.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED that the Commissioner of Commerce take disciplinary action against the Respondent's insurance agent license and impose an appropriate civil penalty.

Dated this 1st day of March, 1999

BARBARA L. NEILSON
Administrative Law Judge

Reported: Default.

NOTICE OF AGENCY DECISION

Under Minn. Stat. § 14.62, subd. 1, the Agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.