

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

In the Matter of the Insurance  
Producer's License of Eleasar Fraga

**FINDINGS OF FACT,  
CONCLUSIONS, AND  
RECOMMENDATION**

The above-entitled matter came on for a hearing before Administrative Law Judge Kathleen D. Sheehy on January 19, 2007, at 9:30 a.m. at the Office of Administrative Hearings in Minneapolis, Minnesota. The OAH record closed at the conclusion of the hearing.

Michael J. Tostengard, Assistant Attorney General, 1200 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of the Department of Commerce (Department).

Eleasar Fraga, 609 North Monroe Street, Streator, IL 61364 (Respondent), did not appear.

**STATEMENT OF ISSUES**

1. Did the Respondent fail to fully respond to the Department's requests for information, in violation of Minn. Stat. § 45.027, subs. 1a and 2 (2006)?
2. Did the Respondent violate the insurance laws of other states, and was the Respondent disciplined for those violations in other states, in violation of Minn. Stat. § 60K.43, subs. 1(2) and (9)?
3. Did the Respondent fail to report within 30 days the disciplinary actions taken in other states, in violation of Minn. Stat. § 60K.54, subd. 1?

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

**FINDINGS OF FACT**

1. On December 20, 2006, the Department served by U.S. mail the Notice of and Order for Hearing, Order to Show Cause, Order for Summary Suspension, and

Statement of Charges (Notice and Order for Hearing) in this matter on Eleasar Fraga, 609 North Monroe Street, Streator, IL 61364.<sup>[1]</sup>

2. The Notice and Order for Hearing scheduled a hearing to take place at 9:30 a.m. on January 19, 2007.

3. The Notice and Order for Hearing contained the following language: Respondent's failure to appear at the contested case hearing and/or prehearing conference may result in a finding that the Respondent is in default, that the Department's allegations contained in the Statement of Charges may be accepted as true, and its proposed action may be upheld.<sup>[2]</sup>

4. The Respondent did not file a notice of appearance or make any request for a continuance or any other relief. The Respondent failed to appear at the hearing on January 19, 2007.

5. Because the Respondent failed to appear at the hearing in this matter, the Respondent is in default.

6. Pursuant to Minn. Stat. § 60K.43, subd. 2, and Minn. R. 1400.6000, the allegations contained in the Notice of Hearing 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 Administrative Law Judge and the Commissioner of Commerce have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 45.027, and 60K.43, subd. 2.

2. The Notice and Order for Hearing was proper, and the Department has complied with all relevant procedural legal requirements.

3. The Respondent, having made no appearance at the hearing, and not requesting any continuance or relief, is in default. Pursuant to Minn. Stat. § 60K.43, subd. 2, and Minn. R. 1400.6000, the allegations contained in the Notice and Order for Hearing are hereby taken as true.

4. The Respondent failed to respond fully to the Department's request for information about his criminal record or history, in violation of Minn. Stat. § 45.027, subd. 1a (2006).

5. The Respondent is licensed as an insurance producer in Minnesota. Respondent violated the insurance laws of other states and was subjected to discipline in those states, in violation of Minn. Stat. § 60K.43, subds. 1(2) and (9).

6. The Respondent failed to report within 30 days the disciplinary actions against his licenses in Pennsylvania, California, Kentucky, and Virginia, in violation of Minn. Stat. § 60K.54, subd. 1.

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

### **RECOMMENDATION**

IT IS HEREBY RECOMMENDED that the Commissioner of Commerce discipline, censure, and/or impose an appropriate civil penalty against the Respondent.

Dated: January 23, 2007

s/Kathleen D. Sheehy  
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KATHLEEN D. SHEEHY  
Administrative Law Judge

Reported: Default (no tape recordings).

### **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 the office of Kevin Murphy, Deputy Commissioner of Commerce, 85 Seventh Place East, Suite 500, St. Paul, Minnesota 55101-2198, to ascertain the procedure for filing exceptions or presenting argument. Pursuant to 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.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

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- [\[1\]](#) Affidavit of Service by First Class Mail (December 20, 2006).
- [\[2\]](#) Notice and Order for Hearing at 4.