

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE CENTER, BLDGS. 68-69
1511 PONTIAC AVENUE
CRANSTON, RI 02920**

IN THE MATTER OF:	:	
	:	
JEFFREY DOUGLAS PENTA,	:	DBR No. 12IN104
	:	
RESPONDENT.	:	
	:	

ORDER OF REVOCATION

Hearing Officer: Ellen R. Balasco, Esq.

Hearing Held: January 16, 2013

Appearances:

For the Department of Business Regulation: Elizabeth Kelleher Dwyer, Esq.

For Respondents: No appearance by Respondent or counsel.

I. INTRODUCTION

This matter was assigned to the undersigned Hearing Officer on November 28, 2012, pursuant to an Order to Show Cause, Notice of Hearing and Appointment of Hearing Officer (“Order”) regarding Jeffrey Douglas Penta (“Respondent”) requiring Respondent to appear before the Department and answer why the Director of the Department of Business Regulation (“Department”) should not issue an order imposing administrative sanctions in accordance with R.I. Gen. Laws § 42-14-16.

The filing of Department’s Order was based on information provided to the Department’s Insurance Division from the Respondent’s former employer alleging that the Respondent had misappropriated funds from an insurance premium payment and converted those funds to his own use.

The matter was first assigned for a pre-hearing conference on January 9, 2013. Due to scheduling conflicts, a Notice of New Hearing date of January 16, 2013 was sent to the Respondent by regular mail, and by certified mail, return receipt requested. The Respondent failed to appear at a show cause hearing held at the Department on January 16, 2012, after having been duly served with notice of the hearing in accordance with R.I. Gen. Laws § 42-35-9.

II. JURISDICTION

The Department has jurisdiction over this matter pursuant R.I. Gen. Laws § 7-11-1 *et seq.*, R. I. Gen. Laws § 42-14-1, *et seq.*, and R.I. Gen. Laws § 42-35-1, *et seq.*

III. FINDINGS OF FACT

After hearing the arguments of counsel, and due consideration of the evidence presented by the Insurance Division in this matter, the undersigned Hearing Officer makes the following findings of fact:

1. Respondent has held Rhode Island resident insurance producer license number 2091027 since July 22, 2010. At all times relevant hereto Respondent was a licensed insurance producer in this state.
2. On November 28, 2012 the Insurance Division issued and caused to be served upon Respondent an Order to Show Cause alleging that Respondent had violated various insurance statutes and requiring that he appear at a hearing on January 9, 2013 to answer those allegations.
3. On December 31, 2012, the undersigned Hearing Officer issued and caused to be served upon Respondent a Notice of New Hearing Date, rescheduling the show cause hearing to January 16, 2013.
4. Both the Order to Show Cause and the Notice of New Hearing Date were served upon Respondent by regular mail and by certified mail, return receipt requested, to the last and only known address on file with the Department.

5. The record shows by United States Postal Service Track and Confirm printouts that the Order to Show Cause was delivered to the Respondent on December 3, 2012 at 1:04 p.m., and that the Notice of New Hearing Date was delivered to him on January 4, 2013 at 3:08 p.m.
6. The Respondent failed to appear at the hearing on January 16, 2013, and failed to defend the allegations contained in the Order to Show Cause in any manner.
7. On September 18, 2012, the Insurance Division received a letter from NRT Insurance Agency, Inc. which advised that the company had initiated a formal investigation of allegations that the Respondent had misappropriated funds intended for payment of a policyholder's insurance premium and converted those funds to his own use. The letter stated further that the Respondent had been terminated from his employment at that company by virtue of his failing to return to work after he was notified of the investigation.
8. On September 24, 2012, the Insurance Division forwarded a copy of that letter to the Respondent, along with a request that he provide "a complete written explanation for the allegations . . . within ten (10) business days."
9. The Department presented, Rachel Chester, an Insurance Analyst for the Department, who testified that she attempted to contact the Respondent on November 13, 2012 by calling the work telephone number on file for him, and she was advised that he no longer worked there.
10. The Respondent failed to respond in any manner to the Department's September 24, 2012 letter, the Order to Show Cause which was duly served upon him on December 3, 2012, and the Notice of New Hearing Date which was duly served upon him on January 2, 2013.

11. The Insurance Division has complied with the requirements of R.I. Gen. Laws § 42-35-9 regarding notice in contested cases, and the Respondent was afforded an opportunity for a hearing after reasonable notice.
12. Based on the documentary and testimonial evidence submitted at hearing, and based on Respondent's failure to appear, Respondent is hereby defaulted, and is found to have committed violations of R.I. Gen. Laws §§ 27-2.4-14(a)(2), (7) and (8) and § 27-2.4-19.
13. Based on the provisions set forth in R.I. Gen. Laws § 27-2.4-14, it is in the public interest to immediately and permanently revoke Respondent's insurance producer license.

IV. CONCLUSIONS OF LAW

1. There is sufficient cause under R.I. Gen. Laws to permanently revoke the insurance producer license held by the Respondent pursuant to R.I. Gen. Laws § 42-14-16(a)(1), based on the evidence submitted by the Department at hearing.

2. The Department's ability to impose a civil penalty and/or require other actions for the above violations pursuant to R.I. Gen. Laws § 42-14-16(a)(4) are specifically reserved and may be asserted as deemed necessary and appropriate by the Department after notice and hearing to Respondent.

3. A default judgment against Respondent is appropriate given his failure to appear and/or defend this action pursuant to Section 21 of *Central Management Regulation 2 – Rules of Procedure for Administrative Hearings*.

V. RECOMMENDATION

Based on the above analysis, the Hearing Officer recommends that the Director of the Department Order that:

1. The Respondent is defaulted for his failure to appear and/or defend this administrative enforcement action;
2. Respondent's insurance producers license is permanently revoked.

DATED: 1/28/13



Ellen R. Balasco, Esq.
Hearing Officer

ORDER

I have read the Hearing Officer's Recommendation in this matter, and I hereby take the following action with regard to the Recommendation:

ADOPT

REJECT

MODIFY

Dated: 29/Jan 2013



Paul McGreevy
Director

ENTERED as Administrative Order No. 13-004 on the 29th day of January, 2013.

THIS ORDER OF DISMISSAL CONSTITUTES A FINAL DECISION OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-1 ET SEQ. AS SUCH, THIS DECISION MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW IN SAID COURT.

CERTIFICATION

I hereby certify that on the 27th day of January, 2013, a true copy of this Decision and Final Order was sent by first class mail, postage prepaid to:

Jeffrey Douglas Penta at 44 Judith Lane, Apt. 4, Waltham, MA 02452-7243

and by electronic mail to the following parties at the Department of Business Regulation:

Elizabeth Kelleher Dwyer, Esq., Deputy Chief of Legal Services

Joseph Torti, Deputy Director

A handwritten signature in black ink, appearing to read "Joseph Torti", is written over a horizontal line. The signature is cursive and somewhat stylized.