

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
1511 PONTIAC AVENUE, BLDG. 68, 69  
CRANSTON, RHODE ISLAND 02920**

<b>IN THE MATTER OF:</b>	:	
	:	
<b>EARL O. O'GARRO</b>	:	<b>DBR No. 13IN161</b>
	:	
<b>RESPONDENT.</b>	:	

**DECISION AND ORDER OF REVOCATION**

Hearing Officer: Jenna Algee, Esq.

Hearing Held: January 22, 2014

Appearances:

For the Department of Business Regulation, Insurance Division: Elizabeth Kelleher Dwyer

For Respondents: No appearance by Respondent or counsel.

**I. INTRODUCTION**

This matter commenced with an Order to Show Cause, Notice of Hearing and Appointment of Hearing Officer ("Order") issued to Earl O. O'Garro ("Respondent") on January 10, 2014 by the Director of the Department of Business Regulation ("Department"). Pursuant to R.I. Gen. Laws § 42-6-8, the Director appointed the undersigned as Hearing Officer for the purpose of conducting the hearing and rendering a decision in this matter. The Respondent failed to appear as required by the Order, despite having been properly served by the Department. Therefore, it is recommended that the Respondent be defaulted and an Order of Revocation be issued revoking the Respondent's insurance producer license.

## **II. JURISDICTION**

The Department has jurisdiction over this matter pursuant the Producer Licensing Act, R.I. Gen. Laws § 27-2.4-1 *et seq.*, and R.I. Gen. Laws § 42-14-16, subject to the relevant provisions of the Administrative Procedures Act, 42-35-1 *et seq.*

## **III. FINDINGS OF FACT**

The undersigned Hearing Officer makes the following findings of fact:

1. Respondent is the holder of insurance producer license number 2091314 with property and casualty lines of authority.
2. On January 10, 2014, the Director of the Department issued an Order requiring Respondent to appear before the Department to answer why the Director of the Department should not issue an order suspending or revoking Respondent's insurance producer license and/or issuing whatever penalty is determined to be appropriate pursuant to R.I. Gen. Laws § 42-14-16.
3. In accordance with the Order, a pre-hearing conference was held on January 22, 2014 pursuant to Section 6 of Central Management Regulation 2 *Rules of Procedure for Administrative Hearings* ("CMR 2").
4. The Respondent failed to appear at the Department on that date and failed to otherwise defend the allegations contained in the Order to Show Cause in any manner.
5. It was evidenced by United States Postal Service Track and Confirm printouts that Orders addressed to Respondent's personal address and business address were accepted for delivery by certified mail at the USPS Origin Sort Facility in Warwick, Rhode Island on January 13, 2014.

6. On January 21, 2014, the Order sent to the Respondent's business address was returned to the Department with the notation "not deliverable as addressed."  
Department Exhibit # 2.
7. On January 15, 2014, notice was left at the Respondent's personal address.  
Department Exhibit # 3.
8. The Certification attached to the Order evidences that the Order was also sent to Respondent's personal and business addresses by first class mail postage prepaid.
9. The first class mail was not returned to the Department.
10. Department's Exhibit # 1 shows that the personal and business addresses to which the Orders were sent are those in the licensing record of the Respondent.
11. The facts set forth in the Order, attached hereto as Exhibit A, are incorporated by reference in this Decision and Order of Revocation.

#### **IV. CONCLUSIONS OF LAW**

1. The Department has complied with CMR 2, Section 9(B), which provides:  
  
" [u]nless otherwise ordered or authorized by the Hearing Officer, service under these Rules shall be made upon a Party or upon the Party's attorney, if an appearance has been entered, by first class mail postage prepaid, certified mail or hand delivery to his or her place of business, home address or other address supplied by the Party in the pleadings. Service upon persons who have not yet made an appearance shall be at the last address on file with the Department for any licensee...Service by mail is complete upon mailing."
2. It is presumed that the Respondent received notice of the hearing date. "In Rhode Island, notice sent by regular mail to a person's address of record and usual place of abode creates a presumption of receipt." *Bresette v. State*, 2013 WL 140344.
3. If the addresses on record with the Department are not accurate, the Respondent has violated R.I. Gen. Laws § 27-2.4-9(f), which provides:

“Insurance producers shall inform the insurance commissioner by any means acceptable to the insurance commissioner of a change in legal name or address within thirty (30) days of the change. Failure to timely inform the insurance commissioner of a change in legal name or address may result in a penalty to be determined by the insurance commissioner.”

4. The Respondent has defaulted within the meaning of CMR 2, Section 21, which provides:

“If any Party to a proceeding fails to answer a complaint, plead, appear at a prehearing conference or hearing or otherwise fails to prosecute or defend an action as provided by these Rules, the Hearing Officer may enter a default judgment against the defaulting Party, take such action based on the pleadings and/or other evidence submitted by the nondefaulting Party as the Hearing Officer deems appropriate in his/her sole discretion or take such other action as the Hearing Officer deems appropriate in his/her sole discretion. Challenge to such an order shall be made as a motion for reconsideration per Section 19, above.

5. The Department has complied with the requirements of R.I. Gen. Laws § 42-35-9 regarding notice in contested cases because the Respondent was afforded an opportunity for a hearing after reasonable notice.

6. Based upon the allegations in the Order, the Respondent’s insurance producer license is subject to revocation due to violation of R.I. Gen. Laws § 27-2.4-14(a)(2)(“[v]iolating any insurance laws, or violating any regulation, subpoena or order of the insurance commissioner or of another state's insurance commissioner”), § 27-2.4-14(a)(9)(“[h]aving an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory or administrative action under this section”), and R.I. Gen. Laws § 27-2.4-18(a)(“[a]n insurance producer shall report to the insurance commissioner any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter.”).

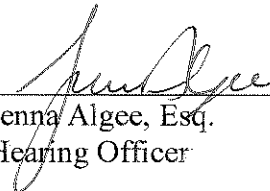
7. Based on the forgoing, it is appropriate for the Director to exercise authority to revoke the insurance producer license as provided by R.I. Gen. Laws § 42-14-16 and R.I. Gen. Laws § 27-2.4-14.

V. **RECOMMENDATION**

THEREFORE, the Hearing Officer recommends that the Director Order that:

1. The Respondent is defaulted for his failure to appear or otherwise defend this administrative enforcement action;
2. Respondent's insurance producer license number 2091314 is revoked; and
3. Respondent is ordered to immediately cease and desist from engaging in any activity in the state of Rhode Island requiring licensure under the Producer Licensing Act, R.I. Gen. Laws § 27-2.4-1 *et seq.*.

DATED: 01/31/14

  
\_\_\_\_\_  
Jenna Algee, 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: 1/31/2014

  
\_\_\_\_\_  
Paul McGreevy  
Director

ENTERED as Administrative Order No. 1704 on the 31<sup>st</sup> day of January, 2014.

**NOTICE OF APPELLATE RIGHTS**

**THIS DECISION AND ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.**

91 7108 2133 3934 3124 0477

*Hartford, CT.*

91 7108 2133 3934 3124 0460

*Marlborough, CT*

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
1511 PONTIAC AVENUE, BLDG. 69-2  
CRANSTON, RHODE ISLAND 02920

EXHIBIT A

IN THE MATTER OF:

EARL O. O'GARRO

:  
:  
:  
:  
:

DBR No. 13IN161

RESPONDENT.

**ORDER TO SHOW CAUSE, NOTICE OF HEARING AND APPOINTMENT OF HEARING OFFICER**

Pursuant to R.I. Gen. Laws §§ 42-14-16, 42-35-9 and 27-2.4-14, the Director of the Department of Business Regulation ("Department") hereby issues this Order to Show Cause, Notice of Hearing and Appointment of Hearing Officer ("Order") to Earl O. O'Garro ("Respondent") requiring Respondent to appear before the Department and to answer why the Director of the Department should not issue an order suspending or revoking Respondent's license and/or issuing whatever penalty is determined to be appropriate pursuant to R.I. Gen. Laws § 42-14-16.

The Director issues this Order for the following reasons:

1. Respondent is the holder of insurance producer license number 2091314 with property and casualty lines of authority. This license was issued on 07/29/2010 and is set to expire on 12/31/2014.

2. Respondent was issued his Rhode Island insurance producer license as a non-resident, pursuant to R.I. Gen. Laws § 27-2.4-10, based on his licensure in his home State of Connecticut.

3. The State of Connecticut revoked Respondent's license on 11/14/2013; the reasons noted were: failure to respond, demonstrated lack of fitness or trustworthiness, misstatement on application, fiduciary violation, failure to remit premiums to insurer, misappropriation of premium, forgery.

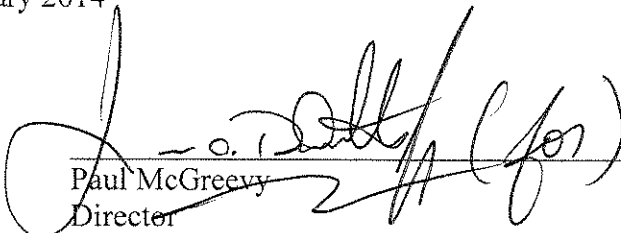
4. The State of Arizona suspended Respondent's license 12/11/2013; the reasons noted are: failure to report within thirty days the final disposition taken in another jurisdiction.

5. As a result of these acts, the Department asserts that Respondent's insurance license should be revoked on the basis of R.I. Gen. Laws § 27-2.4-14(2)(9) and 27-2.4-18(a)(b).

Therefore, the Director orders Respondent to appear before a Hearing Officer at the Department on January 22, 2014 at 10:00 a.m. at the Department's offices located at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 for a hearing pursuant to as to why the Director should not issue an order suspending or revoking Respondent's license as a insurance producer pursuant to R.I. Gen. Laws § 27-2.4-14 and/or issuing whatever penalty is determined to be appropriate pursuant to R.I. Gen. Laws § 42-14-16.

The Director hereby appoints Jenna Algee as Hearing Officer for the purpose of conducting the hearing and rendering a decision in his matter. The proceedings shall be conducted in conformity with R.I. Gen. Laws §§ 42-35-1 *et seq.*

Dated this 10<sup>th</sup> day of January 2014

  
Paul McGreevy  
Director



If you have any questions regarding the subject matter of this Order, please contact Elizabeth Kelleher Dwyer at (401) 462-9615 or [elizabeth.dwyer@dbr.ri.gov](mailto:elizabeth.dwyer@dbr.ri.gov) and reference the case name and number.

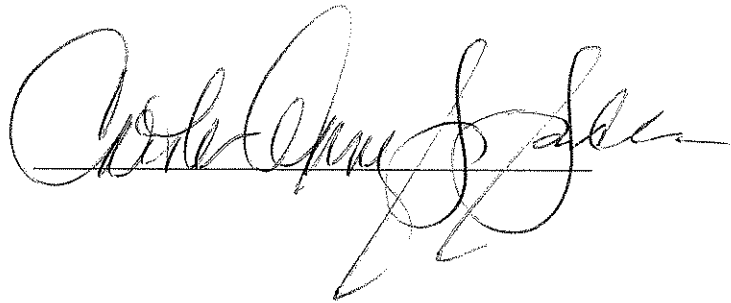
All are welcome at the Rhode Island Department of Business Regulation ("DBR"). If any reasonable accommodation is needed to ensure equal access, service or participation, please contact DBR at 401-462-9551, RI Relay at 7-1-1, or email [directorofficeinquiry@dbr.ri.gov](mailto:directorofficeinquiry@dbr.ri.gov) at least three (3) business days prior to the meeting.

CERTIFICATION

I hereby certify that on this 10<sup>th</sup> day of January 2014 a copy of this Order to Show Cause, Notice of Hearing and Appointment of Hearing Officer was sent by first class mail postage prepaid and certified mail to

Mr. Earl O'Garro  
Hybrid Insurance Group  
30 Lewis St  
Hartford, CT 06103

Mr. Earl O'Garro  
83 Johnson Rd  
Marlborough, CT 06447

A handwritten signature in black ink, appearing to read "Earl O'Garro", written over a horizontal line. The signature is cursive and somewhat stylized.

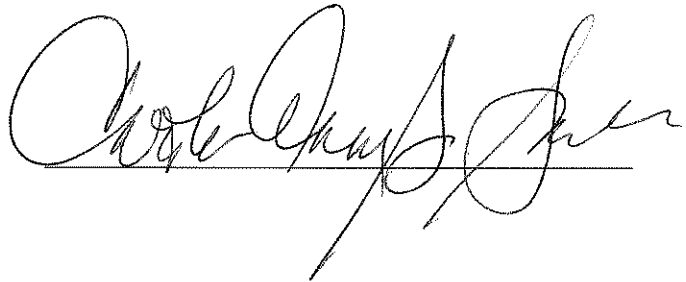
**CERTIFICATION**

I hereby certify that on this 3<sup>rd</sup> day of FEBRUARY ~~January~~ 2014, a true copy of this Decision

and Order was sent by first class mail, postage prepaid to:

Mr. Earl O. O'Garro  
Hybrid Insurance Group  
30 Lewis St.  
Hartford, CT 06103

Mr. Earl O. O'Garro  
83 Johnson Rd  
Marlborough, CT 06447

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