

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

STATE OF OKLAHOMA, *ex rel.*
KIM HOLLAND, Insurance Commissioner,

Petitioner,

vs.

INTERCONTINENTAL MARINE
SERVICE CORPORATION, a licensed
service warranty company operating
in Oklahoma #A090

Respondent.

Case No. 09-0332-DIS

FILED

MAY 11 2009

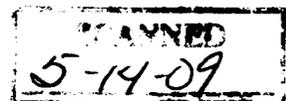
INSURANCE COMMISSIONER
OKLAHOMA

ADMINISTRATIVE ORDER

ON THE 29th day of April, 2009, the above numbered and entitled cause came on for hearing pursuant to 36 O.S. § 6601 *et seq.* and 75 O.S. § 308a *et seq.* Sandra G. LaVenue appears on behalf of Kim Holland, Insurance Commissioner for the State of Oklahoma, and Respondent Intercontinental Marine Service Corporation fails to appear. The Court announced that it was aware that Respondent had made an informal request to Petitioner's counsel to appear at the hearing by phone. The Court denied the request and Respondent was found in default.

JURISDICTION

1. The Oklahoma Insurance Commissioner has jurisdiction of this cause pursuant to the provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 *et seq.*
2. The Respondent is a licensed service warranty company in the State of Oklahoma holding Certificate of Authority #A090.



3. The Insurance Commissioner has jurisdiction over the subject matter raised in this dispute and may suspend a service warranty license pursuant to the provisions of 36 O.S. § 6610.

ALLEGATIONS OF FACT

1. That on or about March 12, 2009, Petitioner, through her attorney, caused to be mailed a *Notice of Statutory Violation and Notice of Hearing* to Respondent at its last known address of record.

1. The *Notice of Statutory Violation and Notice of Hearing* contained statements of jurisdiction, allegations of fact, alleged violations of law and an order setting the proceedings for hearing on April 29, 2009, at 9:30 a.m. at the office of the Insurance Commissioner, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

3. The *Notice of Statutory Violation and Notice of Hearing* was mailed to Respondent via certified mail, return receipt requested, item number 7006 0810 0002 6164 1655. Don Clark signed the PS Form 3811 on behalf of the Respondent on March 20, 2009. Return of service was returned to Petitioner on March 24, 2009.

4. That the Insurance Commissioner appointed Leamon Freeman to hear the case as the independent Hearing Examiner and he entered these findings and conclusions.

5. The Hearing was recorded electronically by employees of the Oklahoma Insurance Department. Neither party requested a full stenographic record of the proceedings.

5. Respondent failed to appear when the matter was called.

6 Petitioner's counsel informed the Court that she had contacted Respondent on April 28, 2009, to confirm Respondent's appearance at the scheduled hearing at which time Respondent indicated that they would not be appearing but wished to do so by telephone. Petitioner's counsel informed Respondent's counsel that she would convey the request to the Hearing Examiner at the hearing and he would rule upon the request at the hearing.

7. The Hearing Examiner denied Respondent's request and due to Respondent's failure to appear, Respondent was found in default. As a result, the Allegations of Fact in the March 12, 2009, *Notice of Statutory Violation and Notice of Hearing* are deemed to be true and correct. They are as follows:

A. Respondent is a Service Warranty Company operating in Oklahoma pursuant to Certificate of Authority #A090.

B. A Conditional Administrative Order was filed on November 6, 2008, in 08-1654-DIS and received by Respondent on November 10, 2008, stating that Respondent violated the provisions of 36 O.S. § 6615(D) and assessed a fine in the amount of \$5,000.00.

C. Respondent did not request a hearing and the Conditional Administrative Order became a Final Order on December 6, 2008, which is a lawful order of the Commissioner pursuant to the provisions of 75 O.S. § 311.

D. As of the date of this Order, Respondent has not paid the assessed fine in the amount of \$5,000.00.

E. As of the date of this filing, Respondent has failed to pay the Anti-Fraud Revolving Fund Fee as required by 36 O.S. § 362, in the amount of \$750.00.

8. Respondent's actions in failing to pay the above referenced administrative fine in 08-1654-DIS and failure to pay the Anti-Fraud Revolving Fund Fee is a violation of 36 O.S. §§ 6610(A); 6610(B)(3) and 362.

CONCLUSIONS OF LAW

1. Respondent violated a lawful order of the Commissioner by failing to pay the administrative fine ordered in 08-1654-DIS within sixty (60) days after the judgment became a final order pursuant to the provisions of 36 O.S. § 6610(A) and (B)(3).

2. Respondent has violated 36 O.S. § 362 by failing to pay the \$750.00 annual Anti-Fraud Revolving Fund Fee due July 31, 2008.

ORDER

IT IS THEREFORE ORDERED that Respondent is found in **DEFAULT** and that the Certificate of Authority of Intercontinental Marine Service Corporation #A090 is hereby **SUSPENDED**, effective immediately.

IT IS FURTHER ORDERED that Respondent is hereby fined in the amount of **Five Thousand and No/100 Dollars (\$5,000.00)** in the above referenced matter.

IT IS FURTHER ORDERED that Respondent may not withdraw from the State of Oklahoma until all service warranty contracts are either expired or no longer in effect and that all claims and/or refunds are paid and no liabilities exist on these contracts

IT IS FURTHER ORDERED that the Respondent pay the fine assessed in 08-1654-DIS in the amount of \$5,000.00.

IT IS FURTHER ORDERED that the Respondent pay the Anti-Fraud Revolving Fund Fee as required by 36 O.S. § 362, in the amount of **Seven Hundred and Fifty and No/100 Dollars (\$750.00)**.

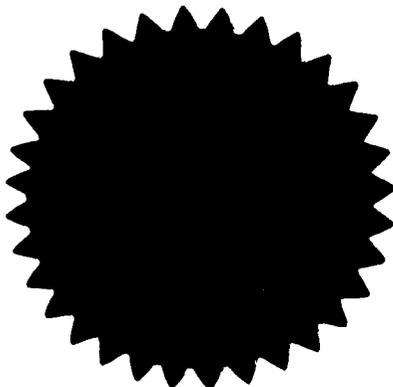
IT IS FURTHER ORDERED that the Respondent pay court costs in the amount of **One Hundred and Fifty and No/100 Dollars (\$150.00)**.

IT IS FURTHER ORDERED that Respondent's deposit with the Oklahoma

Insurance Department may not be withdrawn until all obligations to the Oklahoma Insurance Department currently due and owing and all obligations which may become due and owing are paid in full.

IT IS FURTHER ORDERED that this Order is effective immediately and shall continue in force and effect until further order of the Insurance Commissioner.

Witnessed my hand and signature this 11 day of May 2009.



LEAMON FREEMAN
Hearing Examiner
P.O. Box 53408
Oklahoma City, OK 73152-3408

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Administrative Order was mailed certified, return receipt requested on this 14th day of May, 2009 to:

Clyde Tenberg 7006 0810 0002 4163 8310
Intercontinental Marine Service Corporation
9115 Harris Corners Parkway, Suite 100
Charlotte, NC 28269

and that a copy was delivered to:

Dwight DeJear
Financial Division



SANDRA LaVENUE