

**STATE OF NORTH DAKOTA**  
**INSURANCE DEPARTMENT**

IN THE MATTER OF:	)	<b>RECOMMENDED</b>
	)	<b>FINDINGS OF FACT,</b>
Cynthia Washington	)	<b>CONCLUSIONS OF LAW,</b>
	)	<b>NOTICE OF DEFAULT AND</b>
	)	<b>PROPOSED DEFAULT ORDER</b>
	)	
	)	<b>OAH File No. 20130505</b>

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TO: Cynthia Washington, 7155 North Presidio Drive, Unit J, Milwaukee, WI 53223-6314,  
and Jeff Ubben, General Counsel for the Insurance Department

A prehearing conference was held on November 27, 2013, to hear oral argument on a Motion in Limine filed by the North Dakota Insurance Department (hereinafter "Department") objecting to Cynthia Washington's appearance by telephone at the review hearing scheduled for this matter on December 2, 2013. After considering the Department's legal arguments presented in its Motion and Brief in Support of Motion in Limine, and oral argument of Cynthia Washington (hereinafter "Washington") and Jeff Ubben presented at the prehearing conference on November 27, 2013, Administrative Law Judge Bonny M. Fetch found the Department's arguments meritorious and granted the Department's Motion in Limine and required Washington to appear in person at the December 2, 2013, hearing.

On December 2, 2013, at 1:30 p.m. an appeal hearing to review the Department's denial of Washington's application for a nonresident insurance producer license was held before Administrative Law Judge Bonny M. Fetch at the Office of Administrative Hearings in Bismarck, North Dakota. Appearing at the hearing on behalf of the Department was Jeff Ubben,

General Counsel for the Department, and Johannes Palsgraaf, Legal Counsel for the Insurance Department. Kelvin Zimmer, Director of Agent Licensing for the Department, was also present at the hearing. Washington failed to appear in person at the hearing.

As such, the following Recommended Findings of Fact, Conclusions of Law, Notice of Default and Default Order are hereby submitted for consideration of Adam Hamm, Commissioner of Insurance.

### **FINDINGS OF FACT**

1. On November 14, 2013, the Office of Administrative Hearings noticed Washington of a hearing to review the denial of Washington's application for a North Dakota nonresident insurance producer license by serving Washington through the U.S. Mail a Notice of Hearing addressed to her known address. This Notice of Hearing set the appeal hearing for December 2, 2013, at the Office of Administrative Hearings in Bismarck, North Dakota.

2. A prehearing conference was held on November 27, 2013, to determine whether Washington should be required to appear at the December 2, 2013, hearing in person. Washington participated in this prehearing conference telephonically. The Department appeared telephonically at this prehearing conference through its General Counsel, Jeff Ubben.

3. On November 27, 2013, after considering the Department's legal arguments presented in its Motion and Brief in Support of Motion in Limine and oral arguments of Washington and Jeff Ubben presented at the prehearing conference, Administrative Law Judge Bonny M. Fetch found the Department's arguments meritorious and granted the Department's Motion in Limine and required Washington to appear in person at the December 2, 2013, hearing.

4. During the prehearing conference on November 27, 2013, Washington acknowledged awareness of the December 2, 2013, hearing date. Washington also acknowledged during the November 27, 2013, prehearing conference the administrative law judge's affirmation that the hearing would continue as scheduled for December 2, 2013.

5. Washington did not appear in person at the December 2, 2013, hearing as ordered by the administrative law judge.

#### **CONCLUSIONS OF LAW**

1. Washington was properly noticed of the December 2, 2013, hearing in accordance with the North Dakota Rules of Civil Procedure.

2. Because of Washington's failure to appear at the December 2, 2013, hearing, Washington is in default under N.D.C.C. § 28-32-30.

#### **NOTICE OF DEFAULT**

Under N.D.C.C. §§ 28-32-30 and 54-57-03(4), the North Dakota Insurance Department is issuing a default order in regard to Cynthia Washington's appeal of the Department's denial of her application for a nonresident insurance producer license. Unless further action is taken by Washington under N.D.C.C. § 28-32-30, this order will be the final determination of this matter.

**PROPOSED DEFAULT ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, the Administrative Law Judge recommends the decision of the North Dakota Insurance Department to deny a nonresident insurance producer license to Cynthia Washington be **AFFIRMED** in its entirety.

Dated at Bismarck, North Dakota, this 11 day of December, 2013.

State of North Dakota  
Insurance Department

  
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Bonny M. Fetch  
Administrative Law Judge  
Office of Administrative Hearings  
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