
BEFORE THE UTAH INSURANCE COMMISSIONER

UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

MARK SWALLOW,

Respondent.

**ORDER OF DEFAULT AND
DISMISSAL WITH PREJUDICE**

Docket No. 2022-4407

Donald H. Hansen
Administrative Law Judge/Presiding Officer

This matter came before the undersigned on August 23, 2022, at 10:00 a.m., for a scheduled telephonic prehearing conference. Helen Frohlich, Assistant Attorney General, appeared for the Utah Insurance Department (hereafter “the Department”). Also appearing as a witness for the Department was Connie Nowland. Mark Swallow (hereafter “Respondent”) failed to appear and participate in the scheduled prehearing conference.

PROCEDURAL BACKGROUND

Respondent filed a timely hearing request in writing to challenge the Department’s revocation of his non-resident producer individual license. A prehearing conference was then scheduled and duly noticed to the parties.

JURISDICTION

The undersigned is duly appointed to serve as presiding officer in the above-entitled matter, and has jurisdiction pursuant to Utah Code §§ 63G-4-201 through 203 and Utah Admin. Code R590-160.

FINDINGS OF FACT

1. Respondent holds a license issued by the Department as a non-resident individual producer insurance licensee. His license number is 787413.
2. On July 6, 2022, the Department issued a notice of agency action revoking Respondent's license, and sent a Notice of Agency Action and Order to Respondent at Respondent's email address of record.
3. On July 20, 2022, Respondent timely filed a request for a hearing to challenge the Department's revocation of his license.
4. On July 21, 2022, Respondent was sent via email a request from the Department for his available dates and times to participate in a prehearing conference.
5. Respondent failed to respond to the Department's request for available dates.
6. Accordingly, on August 3, 2022, having received no further communication from Respondent, the Department issued an Order of Conversion to Formal Adjudication and Notice of Telephone Prehearing Conference. The notice scheduled the prehearing conference for August 23, 2022, at 10:00 a.m. by telephone, and provided instructions for joining the conference call at the scheduled time.
7. At the scheduled time, Respondent failed to call in for the telephonic prehearing conference as instructed in the notice.
8. During the prehearing conference, the Department and Presiding Officer allowed an additional 10 minutes after the scheduled beginning time in case Respondent was delayed in calling in.
9. Hearing nothing from Respondent, and with no objection by the Department, the

Presiding Officer adjourned the prehearing conference at 10:11 a.m.

CONCLUSIONS OF LAW

10. Utah Code § 63G-4-209 authorizes the presiding officer to enter an order of default against a party on several grounds,
11. Utah Code Subsection 63G-4-209 (1)(a) provides: "The presiding officer may enter an order of default against a party if: (a) a party in an informal adjudicative proceeding fails to participate in the adjudicative proceeding."
12. Respondent failed to participate in the scheduled prehearing conference, and had not made a request to reschedule the conference.
13. Respondent abandoned his appeal and request for hearing.
14. Utah Code Subsection 63G-4-209(4)(b) authorizes an order of default and dismissal: "In an adjudicative proceeding that has no parties other than the agency and the party in default, the presiding officer shall, after issuing the order of default, dismiss the proceeding."

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and for good cause shown, the undersigned hereby enters the following Order:

1. Respondent's Request for Hearing is in **DEFAULT**.
2. Respondent's Request for Hearing is **DISMISSED** with prejudice.
3. The Department's Order dated July 6, 2022, revoking Respondent's Utah nonresident insurance producer license No. 787413 is hereby **AFFIRMED**.

DATED this 23rd day of August, 2022.

JONATHAN T. PIKE
UTAH INSURANCE COMMISSIONER

/s/ Donald H. Hansen
Donald H. Hansen
Administrative Law Judge/Presiding Officer
Utah Insurance Department
4315 South 2700 West, Suite 2300
Taylorsville, UT 84129
801-957-9321
Email: uidadmncases@utah.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a true and correct copy of the foregoing

Order of Default and Dismissal with Prejudice was emailed to:

Mark Swallow

████████████████████

Helen Frohlich
Assistant Attorney General

████████████████

DATED this 23rd day of August, 2022.

/s/ Jeanine Couser _____
Jeanine Couser
Utah Insurance Department
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