

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

AND JUSTICE FOR ALL, INC., d/b/a     )  
LEGAL CLUB OF AMERICA,             )  
  )  
      Petitioner,                     )  
  )  
vs.                                     )     Case No. 02-1785F  
  )  
DEPARTMENT OF INSURANCE,         )  
  )  
      Respondent.                    )  
\_\_\_\_\_                              )

FINAL ORDER

This cause came before the undersigned on Petitioner's Motion for Attorney's Fees filed May 1, 2002.

APPEARANCES

For Petitioner:    Marci A. Rubin, Esquire  
                          Legal Club of America  
                          1601 North Harrison Parkway  
                          Suite 200, Building A  
                          Sunrise, Florida 33323

For Respondent:    Bob Prentiss, Esquire  
                          Division of Legal Services  
                          612 Larson Building  
                          200 East Gaines Street  
                          Tallahassee, Florida 32399

STATEMENT OF THE ISSUE

The issue presented is whether Petitioner is entitled to be reimbursed for its attorney's fees incurred in the underlying proceeding.

FINDINGS OF FACT

1. On December 31, 1997, Respondent Department of Insurance issued its Notice of Intent to Issue Cease and Desist Order, alleging that Petitioner And Justice for All, Inc., d/b/a Legal Club of America, was engaged in the legal expense insurance business without being properly licensed, and Petitioner requested an evidentiary hearing regarding that Notice of Intent. That cause was thereafter transferred to the Division of Administrative Hearings and assigned DOAH Case No. 98-0442.

2. Prior to the scheduled evidentiary hearing, the parties stipulated that there remained no genuine issues of material fact and that the controversy could be resolved based upon an agreed record, a joint pre-hearing stipulation, and proposed recommended orders. After the submission of those documents, a Recommended Order was entered on February 3, 2000, finding that Petitioner was not selling legal expense insurance and, therefore, was not subject to regulation by the Department.

3. On May 2, 2000, the Department entered its Final Order modifying portions of the Recommended Order and finding that Petitioner was selling legal expense insurance and was subject to regulation by the Department.

4. Petitioner appealed that Final Order. On September 26, 2001, the District Court of Appeal of Florida, First District,

filed its Opinion finding that the Department improperly rejected the holdings in the Recommended Order, reversing the Department's Final Order, and remanding the cause for entry of an order consistent with its Opinion.

5. On January 11, 2002, the Department entered its Amended Final Order determining that Petitioner was not selling legal expense insurance and was not subject to regulation by the Department.

6. On May 1, 2002, Petitioner filed its Motion for Attorney's Fees in this cause seeking an award for fees incurred in the underlying proceeding in the amount of \$7,500, pursuant to Section 120.595(3), Florida Statutes. On May 14, 2002, the Department filed its Response to Motion for Attorney's Fees, alleging that the Department does not dispute the factual or legal basis for Petitioner's Motion and further alleging that the Department has no objection to the Motion being granted.

#### CONCLUSIONS OF LAW

7. The Division of Administrative Hearings has jurisdiction over the parties hereto and the subject matter hereof. Sections 120.569 and 120.57(1), Florida Statutes.

8. The amount of attorney's fees sought by Petitioner appears to be reasonable.

It is, therefore,

ORDERED that:

1. Petitioner's Motion for Attorney's Fees is granted.
2. Respondent Department of Insurance is hereby ordered to pay Petitioner And Justice for All, Inc., d/b/a Legal Club of America, the amount of \$7,500 in attorney's fees.

DONE AND ORDERED this 20th day of May, 2002, in Tallahassee, Leon County, Florida.

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LINDA M. RIGOT  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675 SUNCOM 278-9675  
Fax Filing (850) 921-6847  
[www.doah.state.fl.us](http://www.doah.state.fl.us)

Filed with the Clerk of the  
Division of Administrative Hearings  
this 20th day of May, 2002.

COPIES FURNISHED:

Honorable Tom Gallagher  
State Treasurer/Insurance Commissioner  
Department of Insurance  
The Capitol, Plaza Level 02  
Tallahassee, Florida 32399-0300

Mark Casteel, General Counsel  
Department of Insurance  
The Capitol, Lower Level 26  
Tallahassee, Florida 32399-0300

Marci A. Rubin, Esquire  
Legal Club of America  
1601 North Harrison Parkway  
Suite 200, Building A  
Sunrise, Florida 33323

Bob Prentiss, Esquire  
Division of Legal Services  
612 Larson Building  
200 East Gaines Street  
Tallahassee, Florida 32399-0333

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a notice of appeal with the Clerk of the Division of Administrative Hearings and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The notice of appeal must be filed within 30 days of rendition of the order to be reviewed.