



OFFICE OF
INSURANCE COMMISSIONER

FILED

2009 FEB -3 A 10: 38

Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer

<p>In the Matter of</p> <p>HELZBERG'S DIAMOND SHOPS, INC., a Washington State Service Contract Provider</p> <hr/>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>08-0103</p> <p>STIPULATION AND ORDER</p>
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STIPULATION

Pursuant to RCW 34.05.060 and WAC 10.08.230(2)(b), **the Office of Insurance Commissioner** ("OIC"), by and through its undersigned counsel, Andrea Philhower, and **Helzberg's Diamond Shops, Inc.**, by and through their undersigned representatives, hereby stipulate and agree to resolve this matter as follows:

1. Helzberg's Diamond Shops, Inc. ("Helzberg's" or "the Company"), is an authorized service contract provider registered to do business in the State of Washington. On June 9, 2008, the Office of the Insurance Commissioner ("OIC") notified Helzberg's of its intent to suspend Helzberg's registration as a Service Contract Provider. OIC alleged two bases for this proposed action; the first was that Helzberg's failed to demonstrate that it meets the indemnification requirements for service contract providers required under RCW 48.110.050(2). That statute required Helzberg's to maintain a bond representing 45% of gross consideration less paid claims. As of December 31, 2007, based upon the gross consideration and paid claims reported to OIC, the bond amount was required to be at least \$328,900. However, the bond amount was \$220,000. The second basis for the Notice of Intent to Suspend Helzberg's Registration was that Helzberg's failed to meet the solvency



requirements by submitting its audited financial statement or other acceptable financial report as required under RCW 48.110.030(2)(c) and 48.110.030(1)(e).

2. Helzberg's timely requested a hearing on this matter.

3. In order to resolve the pending proceeding and avoid further costs and expenses in connection with future hearings and appeals, the parties have agreed to fully settle this matter as follows:

3.a. Helzberg's agrees to pay a fine for its past violation of RCW 48.110.050(2) in the amount of \$5,000.

3.b. In order to comply with its indemnification requirements, Helzberg's has submitted a new bond in the increased amount of \$350,000, which OIC acknowledges is sufficient indemnification under Section (2)(b)(i) and (ii)(A) of that statute.

3.c. Helzberg's and OIC have agreed that Helzberg's may satisfy the requirements of RCW 48.110.050(2) by submitting a parental guarantee under section (2)(c) of that statute using the form which is attached hereto as Attachment A. Attachment A is hereby incorporated into this Stipulation by reference as though fully set forth here. OIC acknowledges that Helzberg's is not required to both maintain a bond and submit a parental guarantee. The Company need only maintain the bond unless and until the signed guarantee is accepted by OIC.

3.d. In order to comply with the solvency requirements set forth in RCW 48.110.030(2)(c), the parties have agreed that Helzberg's will submit, and OIC will accept, the following:

- For the year 2007, the Company's controller-certified financial statement as of 12/31/2007;
- For the years 2008 forward: The Company's reviewed financial statements,

which are reviewed by an outside accounting firm, as “other financial reports acceptable to the commissioner” under the statute. Helzberg’s agrees to submit the reviewed financials by June first of each year beginning in 2009.

- The annual report required under 48.110.040(1) will continue to be due by March 1st of each year. OIC understands that this annual report may be prepared using preliminary or trial balance information, and that the reviewed financial statement submitted under RCW 48.110.050 may include nonmaterial differences.
- Per RCW 48.110.050 (2)(c), should Helzberg’s submit a parental guarantee to assure the faithful performance of its service contract obligations, then the audited financial statements of Helzberg’s parent company, Berkshire Hathaway, must also be filed. OIC acknowledges that Berkshire Hathaway’s form 10K filed with the U.S. Securities and Exchange Commission contains such an audited statement and that a copy of that 10K will satisfy this requirement. Because this form is not due to the SEC until February 28 of each year, Helzberg’s will provide it after this date, but in no case later than June 1st of each year.

4. The parties understand and agree that this Stipulation and agreed Order are intended to fully resolve the issues arising out of the OIC’s Notice of Intent to Suspend Registration of Helzberg’s Diamond Shops, Inc. dated June 9, 2008 and Helzberg’s Demand for Hearing. Helzberg’s acknowledges that the OIC retains unfettered authority to enforce this Stipulation and agreed Order and that this settlement does not provide or afford any immunity for violations not relating to the underlying matters, conduct or facts of this proceeding. The OIC acknowledges

that this settlement resolves all alleged violations relating to the underlying matters, conduct or facts of this proceeding.

5. Nothing contained in this settlement shall prevent Helzberg's from asserting any rights it may have arising out of subsequent conduct or Orders of the Commissioner.

6. Nothing contained in this settlement shall prevent OIC from asserting any rights it may have arising out of subsequent conduct of Helzberg's, or Orders of the Commissioner.

7. The parties agree that the subjoined Order may be entered forthwith and without further notice.

DATED this 2nd day of ~~January~~^{February}, 2009.

MIKE KREIDLER, INSURANCE COMMISSIONER

By Andrea L. Philhower
Andrea L. Philhower
OIC Staff Attorney, Legal Affairs

DATED this 28 day of January, 2009.

HELZBERG'S DIAMOND SHOPS, INC.

BY: Michele M. Swarts
(Print Name)

BY: Michele M Swart
(Signature)

TITLE: DVP - Controller

ORDER

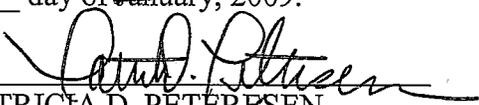
This matter having come on before the undersigned Chief Hearing Officer of the State of Washington Office of the Insurance Commissioner pursuant to the foregoing Stipulation, and the

Chief Hearing Officer having reviewed said Stipulation and deeming herself fully advised in the premises, NOW THEREFORE,

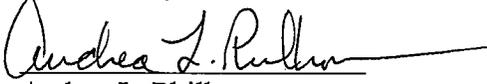
IT IS HEREBY ORDERED pursuant to RCW 35.05.461 and the foregoing Stipulation as follows:

1. The parties shall comply with the terms and conditions of the foregoing Stipulation.
2. The Chief Hearing Officer of the Office of the Insurance Commissioner has continuing authority to enforce this Stipulation and Order and to resolve disputes arising from it.
3. OIC Docket Number 08-0103 is hereby closed and dismissed as settled.

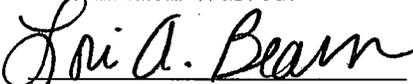
SIGNED AND ENTERED THIS 3rd day of ^{February} ~~January~~, 2009.


PATRICIA D. PETERESEN
Chief Hearing Officer
Office of Insurance Commissioner

Presented by:


Andrea L. Philhower
OIC Staff Attorney, Legal Affairs

Approved for Entry/Notice of
Presentation Waived:


Lori A. Beam
Seigfreid, Bingham, Levy, Selzer & Gee
Counsel for Helzberg's Diamond Shops, Inc.

DECLARATION OF MAILING

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery of a true copy of this document to Lori Beam, Andrea Philhower, OIC Company Supervisor
DATED this 3rd day of February, 2009
at Tumwater, Washington.

Signed: 

ATTACHMENT A

Dear State of Washington:

Helzberg's Diamond Shops, Inc. ("Helzberg's") is an indirect wholly-owned subsidiary of Berkshire Hathaway, Inc. ("Berkshire"). Berkshire's net worth exceeds \$500 million and it is subject to periodic reporting requirements of the Securities Exchange Act of 1934. Berkshire agrees to guarantee all obligations of Helzberg's Diamonds relating to the operation of service contracts issued in your state under Chapter 48.110 RCW during such time as Berkshire maintains a controlling ownership interest in Helzberg's.

This guarantee is irrevocable as long as there is in force, in Washington, any contract or any obligation arising from Helzberg's service contracts issued while Berkshire controlled Helzberg's.

Pursuant to RCW 48.110.050(2)(c)(ii), Berkshire Hathaway agrees to notify OIC at least 30 days in advance of any material change in controlling ownership in Helzberg's.

OIC may be contacted at:

Insurance 5000 Building
P.O. Box 40255
Olympia, WA 98504-0255
Attention: Company Supervision Division

Berkshire may be contacted at :

Berkshire Hathaway Inc.
1440 Kiewit Plaza
Omaha, NE 68131

Sincerely,

Berkshire Hathaway, Inc.

By: _____

Marc D. Hamburg
Vice President