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STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON

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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of: CHW GROUP, INC., doing business as CHOICE HOME WARRANTY and www.ChoiceHomeWarranty.com, VICTOR MANDALAWI, JAMES MOSS, DAVID BAILEY, STEVEN SAFDEIH, MICHAEL GUTHOLC, Unauthorized Individuals and Entities, Respondents	No. 10-0199 ORDER ON RESPONDENTS' MOTION FOR DISCRETIONARY STAY

TO: Darren Oved
Oved & Oved LLP
Attorneys and Counselors at Law
101 Avenue of the Americas, 15th Floor
New York, NY 10013-1991

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
Carol Sureau, Esq. Deputy Commissioner, Legal Affairs Division
Alan M. Singer, Esq. Staff Attorney, Legal Affairs Division
James T. Odiorne, CPA, JD, Deputy Commissioner, Company Supervision Div.
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

On November 1, 2010, the Insurance Commissioner ("Commissioner") received a letter from Darren Oved, Esq., in the matter of CHW Group, Inc., Victor Mandalawi, James Moss, David Bailey, Steven Safdeih, and Michael Gutholc, Respondents, which letter shall be considered a

Demand for Hearing. The purpose of said Demand for Hearing is to contest the Commissioner's Order to Cease and Desist, No. 10-0199, dated October 21. 2010.

On Monday, November 15, 2010, the undersigned held a first prehearing teleconference in this matter. Mr. Darren Oved, Esq., of Oved & Oved LLP, in New York, New York, appeared on behalf of Respondents. The Commissioner appeared pro se, by and through Mr. Alan M. Singer, Esq., Staff Attorney in the Commissioner's Legal Affairs Division. During said prehearing conference, the undersigned reviewed administrative procedure to be expected at hearing, citing Title 48 RCW, relevant sections of which are set forth in the Order to Cease and Desist, and 34 RCW, the Administrative Procedures Act and addressed all questions and concerns of the parties. By agreement of the parties, a hearing was scheduled to commence at 10:00 a.m. on either January 10, 2011.

During said first prehearing conference, Respondents were advised that RCW 48.04.020(1) does not provide for an automatic stay of the Commissioner's subject Order to Cease and Desist, which was by its terms made effective immediately. The undersigned advised, however, that pursuant to RCW 48.04.020(2), the undersigned would consider a motion for discretionary stay pending the outcome of the hearing. Upon Respondents' request for oral argument on its motion for a discretionary stay, the parties agreed to a schedule for submission of written briefs and agreed that oral argument on Respondents' motion should be held on November 30.

Accordingly, on November 22, 2010, Respondents filed their letter brief in support of their Motion for Discretionary Stay and on November 29 the Commissioner filed his brief in opposition to Respondents' Motion for Discretionary Stay, and on November 30 the parties presented oral argument before the undersigned, by telephone, on this Motion.

Based upon the arguments of the parties both in briefs and during oral argument on Respondents' Motion for Discretionary Stay, and upon RCW 48.04.020, the undersigned has determined that there is insufficient evidence to support a discretionary stay herein, for the reasons stated in the Commissioner's brief. Of particular significance, the Order to Cease and Desist by its terms became effective upon entry on October 21, 2010. While Respondents allege that they have ceased solicitation and sale of the subject product in Washington as ordered (presumably in complete compliance with Order Nos. A through D in the Order to Cease and Desist), said Order also requires that Respondents *shall mail a copy of this order to each Washington resident to whom Respondents have sold a home warranty service contract, and that Respondents report to the OIC all premiums collected or charged for policies they sold covering Washington risks* [i.e. by October 31, 2010]. Respondents argue that 1) the Commissioner is not authorized to include mandates in his Cease and Desist Order such as requiring Respondents to notify their Washington customers or, apparently, reporting to the Commissioner all premiums collected or charged for service contracts they sold covering Washington risks. This argument is without merit: Title 48 RCW and particularly RCW 48.02.080 and related statutes and case law clearly authorize the Commissioner to order Respondents to notify their consumers and report to the Commissioner along with other remedial measures the Commissioner reasonably related to the disciplinary action. Further, 2) Respondents argue that they will suffer irreparable harm if they are required to notify their Washington customers of the Commissioner's action. Based upon the evidence presented,

Respondents have presented insufficient evidence to support a conclusion that they will suffer irreparable harm, and the undersigned has concluded that the benefit to consumers of receiving a copy of the Cease and Desist Order from Respondents outweighs any concern of harm, particularly, as suggested by the Commissioner, because Respondents can include their own reasonable letter explaining that they have appealed the Commissioner's action and a final decision has not been made. Finally, 3) the Commissioner's interest in receiving a report from Respondents detailing all premiums collected or charged for service contracts they sold covering Washington risks by October 31, 2010 causes no potential harm to the Respondents.

Based upon the above activity,

IT IS HEREBY ORDERED that Respondents' Motion for Discretionary Stay herein is DENIED.

IT IS FURTHER ORDERED that, recognizing that Respondents have not yet sent a copy of the Order to Cease and Desist or, apparently, reported to the OIC all premiums collected or charged for policies they sold covering Washington risks as required in the Order to Cease and Desist, Respondents are therefore hereby ordered to send notice to their customers in accordance with the Order to Cease and Desist immediately. Further, if they have not already done so, Respondents are hereby ordered to immediately report to the Commissioner in accordance with the Order to Cease and Desist.

ENTERED AT TUMWATER, WASHINGTON, this 1st day of December, 2010, pursuant to Title 48 RCW, Title 34 RCW regulations applicable thereto.

PATRICIA D. PETERSEN
Chief Hearing Officer
Presiding Officer

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
Darren Oved, Esq. & Alan M. Singer, Esq.
DATED this 2nd day of December
at Tumwater, Washington.
Signed: