



OFFICE OF
INSURANCE COMMISSIONER

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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of the)	NO. 11-0088 and 11-0089
)	
Ability Insurance Company,)	ORDER DENYING MOTION FOR
)	DISCRETIONARY STAY
)	
<u>An Authorized Insurer.</u>)	

TO: Ability Insurance Company
1515 South 75th Street
Omaha, Nebraska 68124-1655

Christopher H. Howard, Esq.
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COPY TO: Mike Kreidler, Washington State Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
Carol Sureau, Deputy Insurance Commissioner, Legal Affairs Division
Alan Michael Singer, Staff Attorney, Legal Affairs Division
John F. Hamje, Deputy Insurance Commissioner, Consumer Protection Division
Office of Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

On May 20, 2011, Ability Insurance Company (Ability) filed its Motion for Stay of Order to Cease and Desist herein, with accompanying Declaration of Virginia Nicholson. Thereafter,



pursuant to briefing schedule agreed to by the parties, on May 27, 2011 the Insurance Commissioner (OIC) filed its OIC's Response and Opposition to Ability Insurance Company's Motion for Stay of Cease and Desist Order with Declarations of Hyung M. Lee, Alan Michael Singer and Cheryl Silvernail, and on June 1, 2011 Ability filed its Ability's Reply Supporting its Motion for Stay of Cease and Desist Order with Declaration of Donald K. Lawler. Pursuant to further agreement of the parties, the undersigned considered and decided this Motion based upon the documents provided.

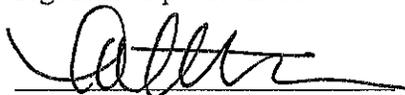
After a review of the above referenced documents and the entire hearing file, based upon the weight of evidence and argument provided by the parties, the undersigned finds as follows:

1. Pursuant to specific authority provided by RCW 48.02.080(3)(a), the OIC had authority to issue the subject Order to Cease and Desist; and
2. Ability has failed to show sufficient evidence to support a finding that the criteria required for issuance of a stay in this matter has been met. Most significantly, Ability has failed to show sufficient evidence to support a finding that irreparable harm to Ability would result should a stay not be granted: the parties have agreed that the Order to Cease and Desist does not require Ability to provide coverage to its policyholder Ms. White at this time; Ability stated at prehearing conference that it knows of no other situation at this time in which it has denied coverage in a situation similar to that of Ms. White (although it would be required to provide coverage pursuant to the Order to Cease and Desist should such another situation arise); and Ability does have the opportunity to receive a plain, complete, speedy and adequate remedy at law.

Based upon the above activity,

IT IS HEREBY ORDERED that Ability Insurance Company's Motion for Stay of Cease and Desist Order is denied. Ability Insurance Company shall comply with said Cease and Desist Order as of its effective date, April 27, 2011.

The parties received the undersigned's oral ruling on Ability's Motion for Discretionary Stay on June 9, 2011, and this written Order is entered on this 14th day of June, 2011, at Tumwater, Washington, pursuant to Title 48 RCW and specifically RCW 48.02.080, Title 34 RCW and regulations pursuant thereto.

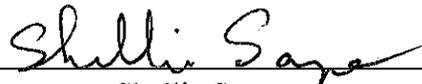


Patricia D. Petersen
Chief Hearing Officer
Presiding Officer

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 through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: Ability Insurance Company; Christopher H. Howard, Esq.; Virginia R. Nicholson, Esq.; Mike Kreidler, Insurance Commissioner; Michael G. Watson, Chief Deputy Insurance Commissioner; Carol Sureau, Deputy Insurance Commissioner, Legal Affairs Division; Alan Michael Singer, Staff Attorney, Legal Affairs Division; and John F. Hamje, Deputy Insurance Commissioner.

DATED this 14th day of June, 2011.



Shellie Savage