

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON

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OFFICE OF
INSURANCE COMMISSIONER
HEARINGS UNIT

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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of)
)
The Choice Manufacturing Company,)
Inc., a.k.a. The Choice Warranty, Inc.,)
)
An Unauthorized Entity,)
)
and Peter Masi,)
)
Its Principal.)

Docket Nos. 12-0039 and 12-0040
ORDER TERMINATING
PROCEEDING

In the Matter of)
)
Independent Dealer Group, Inc.,)
)
A Registered Service Contract Provider)
and Protection Product Guarantee)
Provider.)

TO: The Choice Manufacturing Co., Inc.
a.k.a. The Choice Warranty, Inc.
c/o. Timothy G. Schoenwalder
204 South Monroe Street
Tallahassee, FL 32301

The Choice Manufacturing Co., Inc.
Peter Masi, Principal
777 Corporate Drive
Mahwah, New Jersey 07430

Tara Darcy
Independent Dealer Group, Inc.
777 Corporate Drive
Mahwah, New Jersey 07430

Independent Dealer Group, Inc.
P.O. Box 802
Mahwah, New Jersey 07430



ORDER TERMINATING PROCEEDING

12-0039 and 12-0040

Page - 2

Paige D. Waters, Esq.
Locke Lord LLP
111 South Wacker Drive
Chicago, IL 60606

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Andrea Philhower, Staff Attorney, Legal Affairs Division
Carol Sureau, Deputy Commissioner, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

On February 10, 2012, the Insurance Commissioner (OIC) issued an Order to Cease and Desist, No. 12-0039, against The Choice Manufacturing Company, Inc. a.k.a. The Choice Warranty, Inc. ("Choice") and Peter Masi, its principal ("Masi") requiring that they immediately cease and desist from what the OIC alleges are violations of the Insurance Code by selling their Prolong Plus vehicle warranty in Washington or to Washington residents, thus acting as a Service Contract Provider or Protection Product Guarantee Provider, without having obtained authorization required by Chapter 48.110, RCW. In addition, on February 10, 2012, the OIC issued an Order Revoking Registration No. 12-0040, revoking the registration of Independent Dealer Group, Inc. ("IDG") as a Service Contract Provider and as a Protection Product Guarantee Provider, Washington State OIC Number 500498, due to IDG's affiliation, sharing of general management, and interlocking directorate and/or ownership with Choice.

On February 21, 2012, The Choice Manufacturing Company, Inc. and Peter Masi, its principal, and Independent Dealer Group, Inc., filed a Demand for Hearing to contest both Orders. Said Demand for Hearing was filed by and through their attorney, Paige D. Waters, Esq. of Locke Lord LLP.

On March 5, 2012, the undersigned held a prehearing conference in this matter, at that time the parties agreed that the hearing should commence on May 7, 2012, and on April 19 a Notice of Hearing was issued reflecting this information. Subsequently, at the joint request of the parties, the May 7 hearing date was continued to allow additional time for the parties to reach an amicable resolution of this matter, a second prehearing conference with the undersigned was held on June 25 to discuss the parties' progress toward resolution, and a third prehearing conference was scheduled for August 29.

Thereafter, on August 7, 2012, the OIC filed with the undersigned a copy of the Consent Order Levying a Fine, No. 12-0209 which was executed by Peter G. Masi ("Masi") on his own behalf and on behalf of Choice and IDG on July 25, 2012, and by Andrea L. Philhower, OIC Staff Attorney, on August 6, 2012. Among the terms of the Consent Order, Masi agreed to pay a \$10,000 fine and to withdraw his requests for hearing in both Order Nos. 12-0039 and 12-0040,

ORDER TERMINATING PROCEEDING

12-0039 and 12-0040

Page - 3

and the OIC rescinded its Order No. 12-0040. Order No. 12-0039 against Choice and Masi is not rescinded, not affected by the Consent Order, and remains in effect. Pursuant to the terms of the Consent Order, on August 8, Masi, Choice and IDG filed a letter with the undersigned withdrawing their request for hearing as to both Order Nos. 12-0039 and 12-0040. Copies of the Consent Order Levying a Fine and said August 8 letter are attached hereto and by this reference incorporated herein.

Relative to Consent Order Levying a Fine, No. 12-0209, it is noted that this case was settled prior to the commencement of an adjudicative proceeding. Therefore, for purposes of clarification, while this Consent Order includes statements identified as "Findings of Facts" and "Conclusions of Law," these are not Findings of Fact or Conclusions of Law which were made by an adjudicator after an adjudicative proceeding; rather, the statements contained in the referenced Consent Order which are entitled "Findings of Fact" and "Conclusions of Law" are only statements that are agreed upon between the parties.

Based upon the above activity,

IT IS HEREBY ORDERED that, by agreement of the parties as set forth in Consent Order Levying a Fine executed by Masi on July 25, 2012, and by the Commissioner on August 6, the parties have fully settled this matter, and the proceedings herein, Docket Nos. 12-0039 and 12-0040, are dismissed with prejudice. For purposes of clarification, while the referenced Consent Order Levying a Fine includes statements identified as "Findings of Fact" and "Conclusions of Law," these are not Findings of Fact or Conclusions of Law which were made by an adjudicator after an adjudicative proceeding; rather, the statements contained in the attached Consent Order entitled "Findings of Fact" and "Conclusions of Law" are only statements agreed upon between the parties themselves.

ENTERED AT TUMWATER, WASHINGTON, this 20th day of August, 2012, pursuant to Title 48 RCW and specifically RCW 48.04 and Title 34 RCW and regulations applicable thereto.



PATRICIA D. PETERSEN
Chief Presiding Officer

Attachments

ORDER TERMINATING PROCEEDING

12-0039 and 12-0040

Page - 4

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 above identified individuals at their addresses listed above.

DATED this 20th day of August, 2012.



KEELY A. CAIRNS

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON



Phone: (360) 725-7000
www.insurance.wa.gov

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OFFICE OF
INSURANCE COMMISSIONER

IN THE MATTER OF

PETER G. MASI, individually as owner of
The Choice Manufacturing Co. Inc., and
Independent Dealer Group, Inc.

Respondent.

ORDER NO. 12-0209

CONSENT ORDER LEVYING A FINE

Heidi D. D.C.
Heidi D. D.C.
Chief Hearing Officer

The Insurance Commissioner of the State of Washington, pursuant to the authority set forth in RCW 48.02.080 and 48.110.130(1)(d) and (3), and having reviewed the official records and files of the Office of the Insurance Commissioner ("OIC"), makes the following:

FINDINGS OF FACT:

1. Independent Dealer Group, Inc. (hereinafter "Independent Dealer Group") is wholly owned by a single shareholder, Peter G. Masi (hereinafter, "Mr. Masi"). Mr. Masi also wholly owns, as the sole shareholder, The Choice Manufacturing Co., Inc. (hereinafter, "Choice" or "the Choice company"). Both Independent Dealer Group and the Choice company are New Jersey Corporations.

2. The Choice company is not registered as a Washington Vehicle Service Contract Provider or Protection Product Guarantee Provider. Independent Dealer Group is registered as a Washington Vehicle Service Contract Provider.

3. In the course of investigating a consumer complaint, OIC learned that a Washington resident had purchased a vehicle warranty called "Prolong Plus." The Prolong Plus warranty was sold online to the consumer by a website called Auto Warranty Broker.com ("Auto Warranty Broker"). The Prolong Plus warranty provided that it was between the purchaser and The Choice Manufacturing Company.



4. The Choice Manufacturing Company manufactured automobile additives called Prolong Plus. The warranty said that, if certain parts of a consumer's vehicle - which Prolong Plus was designed to protect - failed, Choice would repair the vehicle.

5. Choice has ceased manufacturing and selling the additive products.

6. In 2009, Choice had a reimbursement policy underwriting these warranties. The insurer on the reimbursement policy reports that the total number of Prolong Plus warranties sold to Washington consumers for calendar year 2009 was 699.

CONCLUSIONS OF LAW:

1. Respondent's unauthorized sale of the Prolong Plus warranty in Washington violated Chapter 48.110 RCW.

2. RCW 48.110.130(1)(d) authorizes OIC to suspend or revoke the registration of Independent Dealer Group because it is affiliated with or under the same general management or interlocking directorate or ownership as The Choice Manufacturing Co., Inc., which has unlawfully transacted auto warranty business in this state without having a registration.

3. RCW 48.110.130(3) allows OIC to impose a fine in lieu of the revocation of Independent Dealer Group's Washington Vehicle Service Contract Provider registration.

CONSENT TO ORDER:

Peter G. Masi, acknowledging his duty to comply fully with the applicable laws of the State of Washington, consents to the following in consideration of his desire to resolve this matter without further administrative or judicial proceedings. The Insurance Commissioner consents to settle the matter in consideration of Mr. Masi's payment of a fine and upon such terms and conditions as are set forth below.

1. Mr. Masi consents to the entry of this Order, waives any and all hearing rights, and further administrative or judicial challenges to this Consent Order.

2. By agreement of the parties, the Insurance Commissioner will impose a fine of \$10,000, on the conditions that:

- a. Within thirty days of the entry of this Order, Mr. Masi pays \$10,000.
- b. Mr. Masi reports to OIC, every six months for two years from the date this Order is entered, all of his interest in any business entity. These reports may take the form of letters or emails and will be sent to:

Investigations Manager
Office of the Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255

- c. Mr. Masi and any entity of which he is a general manager, director, or owner commit no further violations of the statutes and regulations that are the subject of this order.
- d. Mr. Masi understands and agrees that any future failure to comply with the statutes and regulations that are the subject of this Order constitutes grounds for further penalties, which may be imposed in direct response to further violation.
- e. Mr. Masi shall withdraw his request for hearing on this matter, which is pending before Administrative Law Judge Patricia Petersen.

3. Mr. Masi's failure to timely pay this fine and to adhere to the conditions shall constitute grounds for revocation of Independent Dealer Group's registration as a Vehicle Service Contract Provider, and shall result in the recovery of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

4. In exchange for Mr. Masi's payment of the fine and compliance with the conditions set forth above, OIC will rescind the Order Revoking Registration of Independent Dealer Group, Order No. 12-0040.

EXECUTED this 25th day of July, 2012

PETER G. MASI



ORDER

Pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

1. Peter G. Masi shall pay a fine in the amount of \$10,000 and shall report to OIC, every six months for two years from the date this Order is entered, all of his interest in any business entity.

2. Mr. Masi's failure to pay the fine within the time limit set forth above shall result in the revocation of Independent Dealer Group's registration as a Vehicle Service Contract Provider and in the recovery of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

3. Mr. Masi shall withdraw his hearing request pending before Administrative Law Judge Patricia Petersen.

4. OIC hereby rescinds its Order Revoking Registration of Independent Dealer Group, Order No. 12-0040.

ENTERED AT TUMWATER, WASHINGTON, this 6th day of August, 2012.

MIKE KREIDLER
Insurance Commissioner

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

Locke Lord^{LLP}

Attorneys & Counselors

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Paige D. Waters
111 South Wacker Drive
Chicago, IL 60606
Chief Hearing Officer

August 8, 2012

Patricia D. Petersen
Chief Hearing Officer
Washington State Office of Insurance Commissioner
Insurance 5000 Building
P.O. Box 40255
Olympia, WA 98504-0255

Dear Ms. Petersen:

The Choice Manufacturing Company ("Choice"), the Independent Dealer Group ("Independent Dealer") and the Washington State Office of the Insurance Commissioner ("OIC") have resolved through consent order the issues related to Order Nos. 12-0039 and 12-0040 currently scheduled for Monday, August 29, 2012 at 11:00 a.m. Pacific Standard Time. Consequently, Independent Dealer respectfully withdraws its request for a hearing.

Please let me know if you require anything additional to conclude these proceedings.

Sincerely,

LOCKE LORD LLP



Paige D. Waters

cc: Andrea Philhower, Esq.