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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	)	<b>Docket No. 13-0108</b>
	)	
<b>CHARLES D. OLIVER, AMERICAN</b>	)	<b>ORDER RE RESPONDENTS'</b>
<b>EQUITY ADVISORY GROUP, LLC,</b>	)	<b>RCW 34.12 REQUEST</b>
<b>and "THE CHUCK OLIVER TEAM,"</b>	)	
	)	
Respondents.	)	
	)	

**TO:** Jerry Kindinger, Esq.  
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**COPY TO:** Mike Kreidler, Insurance Commissioner  
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**NATURE OF PROCEEDING**

On April 4, 2013 the Washington State Insurance Commissioner entered an Order to Cease and Desist ("Order") against Charles D. Oliver, American Equity Advisory Group, LLC and "The Chuck Oliver Team" (hereinafter "Respondents") pursuant to RCW 48.17.063. As bases for said Order the OIC asserts, briefly, that Respondents have been engaged in various activities detailed therein for which they were required to - but did not - hold Washington insurance producer's licenses. The OIC also bases its Order upon allegations that, briefly, even if Respondents had held Washington

producer's licenses, some of Respondents' activities detailed therein constituted violations of the Title 34 RCW, the Insurance Code, and regulations applicable thereto. On May 21, 2013, Respondents filed a Demand for Administrative Hearing, demanding an adjudicative proceeding in which to contest the OIC's action. The matter herein, however, is one preliminary to the adjudicative proceeding itself: Respondents here assert that under RCW 48.04.010(5) they have the right to have their adjudicative proceeding presided over by an administrative law judge ("ALJ") who is an ALJ appointed from the Office of Administrative Hearings ("OAH") under Chapter 34.12 RCW.

### ISSUE

The issue herein is whether RCW 48.04.010(5) gives Respondents, who are not licensed as insurance producers and hold no other authorizations of any kind under Title 48 RCW, the Insurance Code, the right to have their adjudicative proceeding presided over by an ALJ who is an ALJ appointed from the OAH under Chapter 34.12 RCW. The OIC has opposed appointment of an ALJ from OAH to preside over the hearing, arguing that RCW 48.04.010(5) does not provide Respondents the right to such appointment, and also that in the adjudicative proceeding to which Respondents are entitled under RCW 48.04 and Chapter 34.05 RCW Respondents have all the same protections of Chapter 34.05, the Administrative Procedure Act, which they would have if an ALJ from OAH presided.

### PROCEDURAL MATTERS

1. On April 4, 2013 the Washington State Insurance Commissioner entered an Order to Cease and Desist against Charles D. Oliver, American Equity Advisory Group, LLC and "The Chuck Oliver Team" pursuant to RCW 48.17.063. As bases for said Order the OIC asserts, briefly, that Respondents have been engaged in various activities detailed therein for which they were required to - but did not - hold Washington insurance producer's licenses. The OIC also bases its Order upon allegations that, briefly, even if Respondents had held Washington producer's licenses, some of Respondents' activities detailed therein constituted violations of the Insurance Code and regulations.

2. On May 21, 2013 Respondents, by and through their attorney, Jerry Kindinger, Esq., filed a Demand for Administrative Hearing with the undersigned dated May 15, 2013. Said Demand states, in total, *Charles D. Oliver, American Equity Advisory Group, LLC, and "The Chuck Oliver Team," being aggrieved by the acts and threatened acts of the Office of Insurance Commissioner Order to Cease and Desist No. 13-0108 dated April 4, 2013 hereby demand a hearing in accordance with the provisions of Chapter 48.04 RCW, and Title 34 RCW.* This Demand fails to constitute a legal Demand for Hearing under the provisions of Chapter 48.04 RCW and Title 34 RCW, the Administrative Procedures Act. However, in order to assist Respondents, the undersigned determined to treat this as a legal Demand for Hearing.

3. On June 10, 2013 Respondents changed their Demand for Administrative Hearing by filing another document entitled Request for RCW 34.12 Appointment of Administrative Law Judge ("Request"). Respondents' Request states, in total, *Pursuant to RCW 48.04.010(5), Charles D. Oliver, American Equity Advisory Group, LLC and "The Chuck Oliver Team" hereby requests that the hearing in this matter be presided over by an administrative law judge assigned under RCW*

34.12. By this Request, Respondents now assert they have the right to have their adjudicative proceeding to contest the OIC's Order to Cease and Desist presided over by an administrative law judge ("ALJ") who is an ALJ from the Washington State Office of Administrative Hearings ("OAH"). (Hereinafter referred to as "ALJ from OAH.")

4. The issue herein is whether Respondents are entitled to have their adjudicative proceeding presided over by an ALJ from OAH. During first prehearing conference held June 12, 2013, which included both parties, the OIC opposed appointment of an ALJ from OAH to preside over the hearing, arguing that RCW 48.04.010(5) does not provide Respondents the right to such appointment. The parties discussed this issue in some detail during that prehearing conference. Respondents stated that because they assumed they had an automatic right under RCW 48.04.010(5) to an ALJ from OAH they were unprepared to argue this issue at that time. In order to assist Respondents, the undersigned offered to delay her decision on this issue and offered to allow Respondents to research and brief this issue prior to her making a final decision on the matter. Specifically, Respondents were allowed one week to file their brief on this issue, and the OIC was allowed one week to file a Response if it chose to do so. Accordingly, Respondents properly filed their Memorandum in Support of Respondents' RCW 34.12 Request on June 18, and the OIC properly filed its OIC's Response to Respondents' RCW 34.12 Request on June 25.

5. At the outset, the following should be noted:

- 1) In their Memorandum, Respondents state *Following receipt of respondents' written request for the appointment of an RCW 34.12 administrative law judge ("ALJ"), [the undersigned] initiated a "scheduling conference" during which she questioned respondents' right to appointment of the requested ALJ to preside over the hearing of the dispute.*

Contrary to this statement, as all parties – including Respondents – are specifically advised in the undersigned's Notice of Receipt of Demand for Hearing entered and mailed to Respondents on May 22, the undersigned contacts the parties to schedule a prehearing conference in every matter within approximately five days of mailing her Notice of Receipt of Demand for Hearing to the parties. Consistent with this procedure which is followed in literally all cases and was followed in this case: Respondents filed their Demand for Hearing on May 21; the Notice of Receipt of Demand for Hearing was mailed to Respondents and their counsel on May 22; and on May 28 the undersigned's paralegal contacted the parties to schedule the prehearing conference in this matter. Therefore, the parties were contacted on May 28 to schedule the prehearing conference in strict accordance with normal procedure – which was 14 days before Respondents filed their RCW 34.12 Request on June 11. Further, as is also in strict accordance with normal procedure, the prehearing conference was scheduled to address all issues and concerns of the parties; to summarize procedure to be expected at hearing; to answer all questions pertaining to procedure, discovery matters and all other issues the parties might have at that time; and to seek a mutually convenient date for the hearing so that the Notice of Hearing can then be entered. Contrary to Respondents' assertion, the prehearing conference was clearly not *initiated ... to question respondents' right to appointment of the requested ALJ to preside over the hearing of the dispute.* As

above, the issue of Respondents' right to an ALJ from OAH arose long after the parties were contacted and the routine prehearing conference was scheduled.

- 2) In their Memorandum, Respondents state that in the *scheduling conference* [sic] the following occurred:

[The undersigned] *implied* (1) *whether the respondents were entitled to an appointment of an RCW 34.12 administrative law judge was within the discretion of the Insurance Commissioner, not a matter of right; (2) that if respondents were not licensees at the time of their request, that RCW 48.04.010(5) did not apply to them; and further (3) that no other authority entitled them to the requested appointment.* [Emphasis added.]

Contrary to Respondents' assertion, the undersigned implied nothing. The issue was raised by Respondents in their Request filed June 11, 2013, and therefore became, according to normal procedure pertaining to prehearing conferences held in all cases, just one of the many topics to be discussed at prehearing conference (see No. 5 (1) above). In said prehearing conference Respondents assumed they had a right under RCW 48.04.010(5) to have their Request for an ALJ from OAH granted, but the OIC responded opposing Respondents' Request, and therefore this became an issue between the parties. This is the type of prehearing issue the undersigned would normally decide during prehearing conference without delay. However, because Respondents were not prepared to argue their position, and had not included argument or authorities in their written Request to support their position as they had assumed an automatic right under RCW 48.04.010(5), the undersigned entertained discussion on this issue between the parties so Respondents might understand why this is an issue rather than a clear matter of right.

- 3) In their Memorandum Respondents state that in the *scheduling conference* [sic] the following occurred:

[The undersigned] *indicated that she was inclined to disallow respondents' request and proceed forward with scheduling a hearing before her, but allowed respondents to submit a brief on the subject if they did so within four days. Request for a short time extension was denied. This Memorandum is intended as respondents' response.*

Contrary to Respondents' above statement, at prehearing conference the OIC opposed Respondents' Request for an ALJ from OAH, making it a prehearing issue to be decided by the undersigned. One option was for the undersigned to make a decision immediately during the prehearing conference after hearing arguments from the parties, which is more common in preliminary issues such as this. However, because Respondents stated they had assumed they had an automatic right to have an ALJ from OAH under RCW 48.04.010(5) they were not prepared to present argument on it at that time. Because the OIC presented argument and authorities in opposition to the Request, to allow Respondents the opportunity to present argument on the issue, not only did the undersigned entertain discussion on the issue so that Respondents could understand why it is an issue and not a matter of right, but she (not

Respondents) delayed her decision on the issue and instead offered to allow Respondents one week to be able to research and submit written argument and authorities on this issue. The OIC opposed the undersigned allowing Respondents extra time to research and submit argument on this issue, urging that the matter should be decided at that time.

Contrary to Respondents' above statement, the undersigned allowed Respondents one week (not four days as Respondent states) to research and file written argument on this issue and also allowed the OIC one week to file a Reply if it chose to do so. Once again, allowance of any extra time at all for Respondent to research and present argument to support their position was done strictly as a courtesy to Respondents. This is because normally it is the purpose of holding a prehearing conference to decide procedural issues such as this during that prehearing conference on that day – and therefore no additional time at all is normally provided. In this situation, however, again strictly as a courtesy to Respondents and against opposition from the OIC the undersigned offered Respondents extra time to present argument and authorities because Respondents were not prepared to do so during prehearing conference.

### **FINDINGS OF FACTS**

1. Respondents admit, and it is here found, that none of the Respondents hold insurance producer's licenses issued under Title 48 RCW, the Insurance Code. [Respondents' Memorandum at p. 1.] The Respondents do not argue that they hold any authorization of any kind issued under Title 48 RCW, the Insurance Code, and it is here found that they do not hold any authorizations of any kind issued under Title 48 RCW. Further, Mr. Oliver and "The Chuck Oliver Team" did not hold any licenses or authorizations of any kind issued under Title 48 RCW at the time of the events at issue herein. The only Respondent who held any authorization of any kind (which was a producer's license) under Title 48 RCW during the time of the events at issue (but not at the time the Demand was filed) was American Equity Advisory Group, LLC, and Mr. Oliver and "The Chuck Oliver Team" were not affiliated with American Equity Advisory Group, LLC.

### **CONCLUSIONS OF LAW**

1. The adjudicative proceeding, scheduled to hear and determine this preliminary issue herein, was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied. This Order is entered pursuant to Title 48 RCW, the Insurance Code, and specifically RCW 48.04; Title 34 RCW, the Administrative Procedure Act; and regulations pursuant thereto. As found above, because they were not prepared to present argument and authorities to support their Request for an ALJ from OAH during prehearing conference in this case, the undersigned delayed decision at that time and instead offered and allowed Respondents one week to research and present arguments and authorities in support of their position, and the OIC was allowed one week to respond. This allowance was reasonable and adequate to address the situation, was made as a courtesy to Respondents, and was made against opposition from the OIC. Neither party requested the opportunity to present oral arguments herein, and the matter was decided on the written submissions from the parties.

2. As found above, Respondents do not hold licenses as insurance producers or authorization of any kind under Title 48 RCW, the Insurance Code. Further, none of the Respondents argue that if they did hold licenses or authorization of any kind under Title 48 RCW at the time of the events at issue this would entitle them to select the forum for hearing under RCW 48.04.010(5); however even if they had raised this argument, it would be moot as to Mr. Oliver and “The Chuck Oliver Team” because they did not hold licenses or authorizations of any kind under Title 48 RCW at the time of the events at issue nor were they affiliated with American Equity Advisory Group, LLC, the only Respondent who held a license or other authorization from the OIC at the relevant times. Therefore, the issue herein is whether Respondents, who are not licensed as insurance producers under Title 48 RCW and hold no other authorizations of any kind under Title 48 RCW, have the right under RCW 48.04.010(5) to have an ALJ who is an ALJ from OAH preside over their adjudicative proceeding.

3. Respondents argue that *RCW 48.04.010 does not selectively limit availability of RCW 34.12 ALJ's [sic] only to current licensees* and that *On its face, RCW 34.12 applies to all adjudicative proceedings of state administrative agencies without regard to the class or particular attributes of persons against whom agencies have taken adjudicative type actions. Persons aggrieved by state administrative actions which give rise to rights to a hearing do not have to meet any personal prerequisites in order to be entitled to the protections of RCW 34.12.*

However, as the OIC argues, contrary to Respondents’ argument, RCW 48.04.010 does limit availability of ALJs assigned under Chapter 34.12 (i.e. an ALJ who is an ALJ from OAH, hereinafter referred to as “RCW 34.12 ALJ”). RCW 48.04.010 provides:

*(5) A licensee under this title may request that a hearing authorized under this section be presided over by an administrative law judge assigned under chapter 34.12 RCW. Any such request shall not be denied. [Emphasis added.]*

RCW 48.04.010(5) clearly states that “[a] licensee under this title” may request a hearing under chapter 34.12 RCW (i.e. a hearing presided over by an ALJ who is an ALJ from OAH). The meaning of this statute is plain: individuals and entities who are “licensees” under Title 48 RCW, the Insurance Code, are given the right to request a hearing before an ALJ who is an ALJ from OAH. In this matter, 1) Respondents admit they do not hold insurance producer’s licenses, or any other licenses, issued under Title 48 RCW, the Insurance Code, and therefore they cannot be considered to be “licensees” if the definition of “licensee” is restricted to those sections of the Insurance Code which specifically contain definitions of “licensee” (see Conclusion No. 5 below). 2) Moreover, the Respondents do not hold any other types of permits, registrations, or other grants of authority under Title 48 RCW -- i.e. they do not hold any types of authorizations under Title 48 RCW of any kind -- and therefore they cannot even arguably be considered to be “licensees under this title” by virtue of holding any other authorizations under Title 48 which might be considered to make them a “licensee” under RCW 48.04.010(5).

4. As the OIC argues, the plain meaning of RCW 48.04.010(5) is clear and so the argument should end here. When interpreting a statute, the first rule of statutory construction is to identify the plain meaning of the statute. As the Washington State Supreme Court stated in State v. Ervin, 169 Wn.2d 815, 820 (2010):

When interpreting a statute, “*the court’s objective is to determine the legislature’s intent.*” State v. Jacobs, 154 Wn.2d 596, 600; 115 P.3d 281 (2005). The surest indication of legislative intent is the language enacted by the legislature, so if the meaning of a statute is plain on its face, we “*give effect to that plain meaning.*” *Id.* (quoting Dept. of Ecology v. Campbell & Swinn, LLC, 146 Wn.2d 1, 9; 43 P.3d 4 (2002)). In determining the plain meaning of a provision, we look to the text of the statutory provision in question, as well as “the context of the statute in which that provision is found, related provisions, and the statutory scheme as a whole.” *Id.* An undefined term is “given its plain and ordinary meaning unless a contrary legislative intent is indicated.” Ravenscroft v. Wash. Water Power Co., 136 Wn.2d 911, 920-21; 969 P.2d 75 (1998).

5. While “*licensee*” is not defined for purposes of Chapter 48.04 RCW, the Legislature has defined the word elsewhere in the Insurance Code:

1) RCW 48.18.543(a) defines “*licensee*” to mean “every insurance producer licensed under chapter 48.17.RCW.”

2) In Chapter 48.56 RCW, “*licensee*” is defined as “a premium finance company holding a license issued by the Insurance Commissioner under this chapter.”

3) Under the definition of “*licensee*” in Chapter 48.87 RCW, relative to midwives and birthing centers, a “*licensee*” is “a person or facility licensed to provide midwifery services under chapter 18.50, 18.79 or 18.46 RCW.”

4) In Chapter 48.88 RCW, “*licensee*” means any person or facility licensed to provide day care services pursuant to chapter 74.15 RCW.

Therefore, at least, the Washington State Legislature defines “*licensee*” to mean one who possesses a particular license under Washington law. It is also noted that the Legislature’s definition is the same as the dictionary definition: according to Merriam-Webster.com, the definition of “*licensee*” is “one that is licensed.” Black’s Law Dictionary (Abridged 6<sup>th</sup> Edition) defines “*licensee*” as “person to whom a license has been granted.”

6. In addition, RCW 48.04.010(3) treats “*licensees who are aggrieved*” differently from “*other entities who are aggrieved*”:

*Unless a person aggrieved by a written order of the commissioner demands a hearing thereon within ninety days after receiving notice of such order, or in the case of a licensee under Title 48 RCW within ninety days after the commissioner has mailed the order to the licensee at the most recent address shown in the commissioner’s licensing records for the licensee, the right to such hearing shall conclusively be deemed to have been waived.* RCW 48.04.010(3). [Emphasis added.]

7. As above, it has been found that Respondents do not hold licenses as insurance producers under Title 34 RCW, the Insurance Code, and do not hold any other types of authorization under Title 48 RCW. No matter what Respondents are, they do not hold any authorizations of any kind under Title 48 RCW, which is the minimum that is required under RCW 48.04.010(5) to be entitled to an RCW 34.12 ALJ. [Nor do Respondents argue they hold any licenses or authorizations under any other RCW title in Washington or elsewhere which might make them a "licensee" or other authorized entity entitled to an ALJ from OAH under RCW 48.04.010(5).] Respondents are not "licensees" under any reasonable definition of "licensee" in Title 48 RCW, the Insurance Code, or even under any more broad definition of "licensee." Therefore RCW 48.04.010(5) does not entitle Respondents to have their hearing presided over by an ALJ from OAH.

8. More generally, Respondents argue that if their *right to contest charges brought by the OIC in an administrative proceeding exists, then the exercise of that right entitles them to a proceeding that is fundamentally fair....* [and that] *Several circumstances and facts underlying the cease and desist order and the Department's actions to date have raised concerns about its impartiality and fairness.... Implicit in the hearing process is the concept that an aggrieved persons [sic] who dispute the allegations made against them have an opportunity to present their case with the expectations that a trier of fact will receive all the evidence without preconditioned views and independently and fairly decide the matter and that [a]n adjudicative proceeding which does not ensure [this] is no hearing at all.* Respondents argue that RCW 34.05 *et seq.*, the Administrative Procedure Act, which was enacted in 1981, *was enacted to ensure the appearance of impartiality....and to ensure basic concepts of fair play....* [Respondents' Memorandum, Ex. A, 1981 Legislative history of RCW 34.05 *et seq.*, the Administrative Procedure Act.] Therefore, Respondents argue, those persons aggrieved by actions of state agencies are entitled to an adjudicative hearing pursuant to RCW 34.05.010(1)(2) and (3), and that *Adjudicative actions [sic] in Washington are governed by the Washington Administrative Procedure Act ("APA"). RCW 34.05 et seq.*

Respondents are correct: as required by Chapter 34.05 RCW, and as is the situation with most state agencies, 1) all individuals and entities who are aggrieved by an action of the OIC are entitled under RCW 34.05.010(1), (2) and (3) to appeal the OIC's action in an adjudicative proceeding governed by Chapter 34.05 RCW (the Washington Administrative Procedure Act); and 2) all individuals and entities who are aggrieved by an action of the OIC are entitled to the full protections of Chapter 34.05 RCW (the Administrative Procedure Act) including strict prohibitions on ex parte communications and all other rules which ensure them a fair and impartial hearings at all times. Indeed, these are the rights of all entities aggrieved by actions of the OIC regardless of whether or not they are *licensees*. As is also the situation with most other state agencies, the protections of Chapter 34.05 apply to all aggrieved entities. They just do not have their choice of forum for their Chapter 34.05 RCW proceeding extended to OAH.

9. As concluded above, Respondents are correct that under RCW 48.04.010(5) and RCW 34.05.010(1)(2) and (3) they are entitled to an adjudicative proceeding governed by Chapter 34.05 RCW. Respondents are correct that they are entitled to all the protections of Chapter 34.05 RCW which ensure them a fair and impartial hearing. All entities aggrieved by an action of the OIC are entitled to these protections, and these protections strictly apply in adjudicative proceedings whether or not the forum is before an ALJ from OAH or not. Once again, this should be the end of the argument because Respondents are entitled to these protections and these protections apply whether

the forum is before an ALJ from OAH as contemplated by Chapter 34.12 RCW or not. However, even if Respondents' argument were still considered to have merit, Chapter 48.04 – the more specific statute which applies to this matter – governs over Chapter 34.12 RCW; Chapter 34.12 is a more general statute that governs the OAH and applies to hearings before any agency that uses OAH ALJs. Even RCW 34.05.001 itself, however, articulates its intent in enacting the 1988 Administrative Procedure Act – which was in fact enacted seven years after creation of the OAH: “*The legislature intends that to the greatest extent possible and unless this chapter clearly requires otherwise, current agency practices and court decisions interpreting the Administrative Procedure Act in effect before July 1, 1989, shall remain in effect.*” This statute contemplates that OAH ALJs will conduct hearings for state agencies where those agencies do not already conduct their own: “*Whenever a state agency conducts a hearing which is not presided over by officials of the agency who are to render the final decision, the hearing shall be conducted by an administrative law judge assigned under this chapter.*” See, also, WAC 10-05-050. Therefore, in 1988 the Legislature, in enacting the Administrative Procedure Act, determined that current agency practices interpreting the Administrative Procedure Act in effect before July 1, 1989 shall remain in effect: as this relates to hearings involving the OIC, since 1947 Chapter 48.04 of the Insurance Code, Title 48 RCW, has provided that parties aggrieved by an act of the OIC have the right to appeal in adjudicative proceedings in the forum which is still the current forum in which these adjudicative proceedings take place. There has literally never been a time in the past when the forum provided to parties aggrieved by acts of the OIC has been an ALJ from OAH. Therefore, Chapter 48.04 RCW is not only the specific chapter which applies to hearings before the OIC, but also since 1947 it has provided the current forum for OIC adjudicative proceedings. The current forum was also, therefore, clearly the “current agency practice” which the Legislature dictated was to remain in effect when the Legislature enacted Chapter 34.12 RCW in 1988. Finally, RCW 48.02.040(5) enacted in 2000 is also a more specific section than the general Chapter 34.05 RCW, and clearly provides a choice of forum only to “licensees.” [Additionally, it is noted that the Legislature has set forth a few specific instances where OIC hearings are to be presided over exclusively by an ALJ from OAH, e.g., where a dispute exists over disapproval of a carrier's rates. This matter, however, does not involve a rate case or other instance where the OIC hearing is to be presided over exclusively by an ALJ from OAH, nor do Respondents make this argument.]

10. Therefore Title 34.05, the Administrative Procedure Act, contemplates that ALJs from OAH will conduct hearings for state agencies only where those agencies do not conduct their own (with specific exceptions such as rate cases which are not applicable here). RCW 48.04.010(5), the most specific statute which governs, provides that only entities who are “licensees” are entitled to have their hearing presided over by an ALJ from OAH. Even by the most contrived, stretched, imaginative arguments Respondents cannot be construed to be “licensees” under RCW 48.04.010(5) and therefore Respondents are not entitled to have their hearing presided over by an ALJ from OAH. In any case, however, as above, Respondents are entitled to, and shall, have their hearing governed by Chapter 34.05 RCW, the Administrative Procedure Act. Respondents are also entitled to, and shall have, the full protections of Chapter 34.05 RCW including strict prohibitions on ex parte communications and all other rules which ensure Respondents a fair and impartial adjudicative proceeding. They have, in short, all of the same protections which apply to the minority of aggrieved parties in this state who have their adjudicative proceedings presided over by an ALJ from OAH.

11. For the above reasons, it is hereby concluded that the Respondents' Request for RCW 34.12 Appointment of Administrative Law Judge should be denied, the adjudicative proceeding herein shall be scheduled, and a Notice of Hearing advising the parties and public of the date of the hearing, shall be entered forthwith.

**ORDER**

Based upon the above activity,

**IT IS HEREBY ORDERED** that the Respondents' Request for RCW 34.12 Appointment of Administrative Law Judge is **DENIED**;

**IT IS FURTHER ORDERED** that the adjudicative proceeding shall be scheduled, and a Notice of Hearing advising the parties and the public of the date of the adjudicative proceeding, shall be entered forthwith.

ENTERED AT TUMWATER, WASHINGTON, this 10<sup>th</sup> day of September, 2013, pursuant to Title 48 RCW and specifically RCW 48.04 and Title 34 RCW and regulations applicable thereto.



PATRICIA D. PETERSEN  
Chief 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: Jerry Kindinger, Esq., Mike Kreidler, James T. Odiome, John F. Hamje, Esq., Andrea Philhower, Esq., and AnnaLisa Gellermann, Esq.,

DATED this 11<sup>th</sup> day of September, 2013.



KELLY A. CAIRNS