



OFFICE OF  
INSURANCE COMMISSIONER

FILED

2014 APR 23 P 4:45

CLERK OF COURT  
COUNTY OF KING  
HEARING OFFICER

IN THE MATTER OF

iCAN BENEFIT GROUP, LLC and iCAN  
INSURANCE, LLC

Licensees.

MATTER NO. 13-0216

OIC's RESPONSE TO iCAN's RENEWAL  
OF REQUEST THAT THIS MATTER BE  
DISMISSED

The Insurance Commissioner of the State of Washington hereby responds to "Licensees' Response and Renewal of Request That This Matter be Dismissed".

**Licensees' renewed request again offers no authority for the relief requested.**

RCW 48.04.010(1)(a) and RCW 48.17.560 provide unequivocal statutory authority requiring the Commissioner to hold the requested hearing. Licensees cannot, and do not, object to the hearing itself. iCan's only objection currently before the Hearing Examiner is to the undersigned having signed a Notice of Request for Hearing on behalf of the Commissioner.

The only issue currently before the Hearing Officer in this matter is whether the Commissioner has the authority to designate a staff member to sign the notice of such hearing on his behalf. No argument has been made, or authority cited, that would in any way challenge that action. Therefore, as before, the eventual outcome of Licensees' objection to the Commissioner's designation of a staff attorney to act for him at the hearing is irrelevant to the issue before the Hearing Officer: transfer of this matter to OAH for that hearing.

Judge Petersen notes in her letter of April 15, 2014 that this issue was decided in Scarborough on April 7, 2014. The only difference is that, in Scarborough, OIC submitted a Declaration of Assistant Attorney General Marta U. DeLeon granting OIC Staff the approval of the Attorney General's Office to handle the administrative hearing. Therefore, attached hereto is the Declaration of Marta U. DeLeon approving the undersigned to handle this matter.

Although iCan makes a host of arguments on a side issue – whether the undersigned would have authority to act on behalf of the Commissioner at the Hearing – that side issue is irrelevant (as it was when first made) to the setting of this hearing based upon the Commissioner's Notice of Hearing.

The Commissioner has explicit authority to hold the requested hearing. At the request of Judge Petersen, and consistent with her ruling in Scarborough, the undersigned has now

submitted explicit permission from the Attorney General's office to handle this administrative hearing. Even if iCan had argued that the Commissioner was somehow without authority to delegate the task of signing a Notice of Hearing on his behalf, there can be no question that the Attorney General has provided explicit authority not only to submit a Notice of Hearing, but to handle this matter in its entirety.

Therefore, OIC respectfully reiterates its arguments made in response to iCan's initial objection, and requests that this matter be transferred to the Office of Administrative Hearings ("OAH") per Licensees' request for scheduling of a hearing as soon as possible. The issue of who will appear on behalf of the Commissioner at that hearing will need to be settled prior to the hearing, but is not relevant to whether the hearing will occur. It will. Thus, the transfer of this matter for scheduling of that hearing can and should occur at this time.

**Licensees' Request to Dismiss this matter is legally unsupported.**

Licensees argue that the Commissioner may not designate a staff attorney to act for him at the requested hearing. Once again, the precise arguments put forward by Licensees in their motion are already before the Hearing Officer in another matter, In the Matter of Edmund C. Scarborough and Walter W. Wolf, OIC Docket No. 13-0084. The arguments are in the form of a Motion for Reconsideration in that matter. As before, it will add nothing to the analysis of this issue to repeat OIC's arguments here. Therefore, OIC simply relies upon the arguments and authority submitted on this issue in the Scarborough matter in reply to Licensees' arguments here.

As before, OIC appreciates that this issue will need to be resolved prior to the hearing in this matter. Therefore, OIC will not object to the OAH scheduling of this hearing following the outcome of the pending Motion for Reconsideration in the Scarborough matter.

Resolution of *who* will present OIC's position in the hearing on this matter remains irrelevant to the fact that there *will* be a hearing. OIC respectfully requests that this matter be transferred to OAH to be scheduled for hearing as soon as possible. That hearing will, of course, be handled consistent with the Hearing Officer's ruling on the Motion For Reconsideration in Scarborough.

Respectfully submitted this 23<sup>rd</sup> day of April, 2014.

MIKE KREIDLER  
Insurance Commissioner

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



OFFICE OF  
INSURANCE COMMISSIONER

IN THE MATTER OF )

) Matter No. 13-0216

ICAN BENEFIT GROUP, LLC )  
and ICAN INSURANCE, LLC )

) DECLARATION OF MARTA U. DeLEON

) Licensees.  
)  
)  
)

I, Marta U. DeLeon, am over the age of eighteen (18) years, and am competent and authorized to testify to the matters set forth herein, on the basis of first hand personal knowledge. I declare as follows:

1. I am an Assistant Attorney General with the Washington State Attorney General's Office. I am the lead attorney assigned to advise and represent the Washington State Insurance Commissioner, Mike Kreidler, and the Washington State Office of the Insurance Commissioner ("OIC"). I have been the lead counsel to the Commissioner and the OIC since February 2009.
2. During the time I have been lead counsel and before that time to my knowledge, the OIC has handled administrative hearings before the Insurance Commissioner through delegated OIC staff, with the approval of the Attorney General's Office.
3. Delegated OIC staff have the approval of the Attorney General's Office to handle this administrative hearing.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

SIGNED this 22<sup>nd</sup> day of April, 2014 at Olympia, Washington.

  
Marta U. DeLeon, WSBA #35779  
Assistant Attorney General