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**STATE OF WASHINGTON**  
**OFFICE OF THE INSURANCE COMMISSIONER**

*In the Matter of*

**BENEFIT MARKETING  
SOLUTIONS, LLC and  
BENEFIT SERVICES  
ASSOCIATION,**

Unregistered and  
Unauthorized Entities

ORDER NO. 14-0081

**OIC RESPONSE TO  
SECOND MOTION FOR  
STAY OF AMENDED  
CEASE AND DESIST  
ORDER**

The Insurance Commissioner hereby responds to Respondents' Motion for Stay of Amended Order to Cease and Desist.

Regardless of further sanctions placed on Respondents as requested in the Notice of Hearing, which have yet to be even considered by this tribunal, no less imposed upon them, Respondents mistakenly state in their Motion for Stay that the Commissioner is "seeking to punish" them before they have had their "day in court." There is no punishment involved here, and an administrative hearing was available to them to have their say. Any punishment for unauthorized insurance business will, if at all, be determined by a hearing regarding the imposition of a fine for violating RCW 48.15.020, RCW 48.110.030, or

1 RCW 48.17.060, noted up by the Commissioner. The Amended Order  
2 simply tells Respondents to stop doing what they are doing, period. The  
3 Amended Order to Cease and Desist could have been immediately  
4 appealed by a demand for hearing before this tribunal. But rather than  
5 doing so, they chose to pursue another ill-considered course. They chose  
6 to ignore the Amended Order in search of perhaps more fertile judicial  
7 grounds, and when that did not work, they again claim they are being  
8 punished.

9 In any event, because the Commissioner believes that the  
10 protection product sold by Respondents constitutes “insurance,” as  
11 defined in RCW 48.01.040, he has every right to issue and enforce an  
12 order to cease and desist under RCW 48.15.023(5)(a)(i), as well as to  
13 seek a civil penalty under RCW 48.15.023(5)(a)(ii). The Commissioner  
14 has done so, fully in accordance with law.

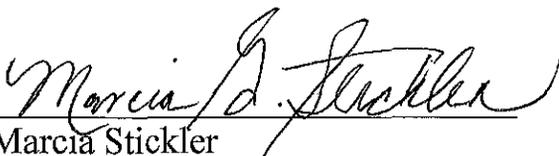
15 Respondents put out two further reasons in their Motion for Stay in  
16 addition to the aforementioned. Together, they amount to a claim there is  
17 no possibility of consumer harm, and that their failure to abide by the law  
18 is merely a “technical statutory violation” of the service contract statute.  
19 The Commissioner invites the tribunal to visit RCW 48.110.030 through  
20 RCW 48.110.050 for an exhaustive list of registration requirements that  
21 insure solvency and thus some level of consumer protection. The  
22 Washington legislature was prescient when it required such measures, as  
23 Washington has been plagued by predatory service contract scams since  
24 as far back as February 2008 (**Exhibit 1**, Email from AAG Mary Lobdell  
25 to Justin Simoncic, dated February 18, 2008).

1 Yet while the most notorious examples of predatory service  
2 contract activity have involved motor vehicle service contracts, the  
3 Commissioner has issued Orders to Cease and Desist against purveyors  
4 of so-called "home warranty" sales, as well, citing violation of RCW  
5 48.15.020.<sup>1</sup> These products claimed to provide repair and/or replacement  
6 of furniture, electronics, and other items in a manner remarkably similar  
7 to Respondents' product service protection plan. Thus, Respondents are  
8 not being singled out for "punishment," but cited for violating the  
9 insurance code just like any other unlicensed entity thought to be  
10 engaging in the business of insurance.

11 A clear avenue has been available to Respondents to challenge the  
12 Commissioner. Staying the effectiveness of the Amended Order to Cease  
13 and Desist, particularly when Respondents are in breach of same, makes  
14 no sense and may harm unwitting consumers. The Motion for stay  
15 should be denied.

16 EXECUTED this 25<sup>th</sup> day of September, 2014, at Tumwater, Washington.

17 MIKE KREIDLER  
18 INSURANCE COMMISSIONER

19  
20 BY:   
21 Marcia Stickler  
22 Insurance Enforcement Specialist  
Legal Affairs

23 <sup>1</sup> See SENSIBLE HOME WARRANTY, LLC, Commissioner's Order to Cease  
24 and Desist 12-0012; ShieldStar, LLC, et al. Commissioner's Order to Cease and Desist  
25 10-0202; MN Home Warranty Corporation, Commissioner's Order to Cease and  
26 Desist 10-0186; Nationwide Home Warranty, Commissioner's Order to Cease and  
Desist 08-0088.

1  
2 CERTIFICATE OF MAILING

3 The undersigned certifies under the penalty of perjury under the  
4 laws of the state of Washington that I am now and at all times herein  
5 mentioned, a citizen of the United States, a resident of the state of  
6 Washington, over the age of eighteen years, not a party to or interested in  
7 the above-entitled action, and competent to be a witness herein.

8 On the date given below I caused to be served the foregoing **OIC**  
9 **RESPONSE TO SECOND MOTION FOR STAY OF AMENDED**  
10 **CEASE AND DESIST ORDER** on the following individuals in the  
11 manner indicated:

12  
13 Hon. George Finkle, Chief Hearing Officer  
14 P O Box 40255  
15 Olympia, WA 98504-0255

16 (XXX) Via Hand Delivery

17 **For Respondents:**

18 Gulliver Swenson and Jerry Kindinger  
19 Ryan, Swanson & Cleveland, PLLC  
20 1201 Third Avenue, Suite 3400  
Seattle, WA 98101-3034

21 (XXX) Via U.S. Regular Mail

22  
23 **SIGNED** this 25<sup>th</sup> day of September, 2014, at Tumwater, Washington.

24 

25 \_\_\_\_\_  
Renee Molnes

**From:** Carol Sureau  
**Sent:** Monday, February 18, 2008 3:25 PM  
**To:** Charles Brown  
**Subject:** FW: Warranty Predators From Outside Washington State

-----Original Message-----

**From:** Lobdell, Mary (ATG) [mailto:MaryL@atg.wa.gov]  
**Sent:** Monday, February 18, 2008 2:03 PM  
**To:** justinsimoncic@hotmail.com  
**Cc:** O'Hearne, Carla (ATG); Ferazza, Michelle (ATG); Carol Sureau  
**Subject:** Warranty Predators From Outside Washington State

Mr. Simoncic,

Thank you for your inquiry about the onslaught of warranty mailers and phone calls that consumers have been receiving. Your inquiry was recently forwarded to me for a response. I apologize for the delay in responding to you.

Our Office is greatly concerned about the unfair and deceptive practices of companies that market auto service contracts and warranties. We have identified at least 15 out-of-state companies that are preying upon consumers. We are leading 20 states in an investigation of four companies in an attempt to stop their deceptive practices. We are also working with the Office of the Insurance Commissioner to identify those businesses that are not licensed in the state of Washington and to target these unlicensed companies for appropriate action. We are further partnering with other state agencies to identify how the warranty sellers are obtaining their marketing information and to stop any improper use. Our Office continues to alert consumers about these deceptive practices and is working with the media to get that word out. You'll find our consumer alert at <http://www.atg.wa.gov/ConsumerAlerts/default.aspx>. Additional commentary is provided at <http://www.msnbc.msn.com/id/23147777/from/ET/> and on the websites of many local television stations and newspapers.

If consumers receive any phone calls in violation of Do Not Call requirements or if they receive any phone call on a cell phone, we recommend that they file a complaint with the Federal Trade Commission (FTC). A complaint can be filed electronically at [https://rn.ftc.gov/pls/dod/wsolcq\\$.startup?Z\\_ORG\\_CODE=PU01](https://rn.ftc.gov/pls/dod/wsolcq$.startup?Z_ORG_CODE=PU01) or by going to [www.ftc.gov](http://www.ftc.gov) and clicking on the consumer protection tab. I have been told that some of the solicitors are located outside the United States, which may put them beyond Washington's jurisdiction. The FTC has the means to enforce federal laws against these foreign businesses.

I sympathize with your concerns; unfortunately we do not have a silver bullet that will make these companies stop their practices. We hope that as we proceed with our investigations along with the combined efforts of other state agencies, we will start to see fewer of these deceptive practices in the marketplace. Please be assured that we take this problem very seriously and are working diligently to stop these practices.

Thank you for your concern,

Mary C. Lobdell

Exhibit 1, Page 1 of 2

Assistant Attorney General  
Tacoma Section Chief  
Consumer Protection Division  
1019 Pacific Avenue - 3rd Floor  
P.O. Box 2317  
Tacoma, WA 98401-2317  
(253) 593-2256

*Print me only if you need me*

**From:** justinsimoncic@hotmail.com [mailto:justinsimoncic@hotmail.com]  
**Sent:** Saturday, February 02, 2008 1:56 PM  
**To:** ATG WWW Email AGO  
**Subject:** Contact AGO - WARRANTY PREDATORS FROM OUTSIDE WASHINGTON STATE

The following message was submitted to the Attorney General. You will be contacted by a member of the AGO staff to help you with your request shortly. Please do not respond to this message. The ATG WWW Email AGO mailbox is an unmonitored box.

**From:** SIMONCIC, JUSTIN F  
**Business Name:** CAMPBELL CHRYSLER JEEP DODGE INC  
**Email Address:** justinsimoncic@hotmail.com  
**Address:** 217 w main st  
CENTRALIA WA 98531  
**Address Type:** Work  
**Phone:** 360-736-3353 **Phone Type:** Work  
**Subject:** WARRANTY PREDATORS FROM OUTSIDE WASHINGTON STATE  
**Message:**

As the Finance Manager of Campbell C-J-D Inc, I would like to know what your office is doing to curb the predatory tactics of out of state Warranty Companies. At least 3 times per week I have our customers calling asking why thier warranty is gone when they know they purchased one from this dealership or that the vehicle is still under factory warranty. Alot of our senior customers do not like the repeated harrasment from these companies. Today, saturday, we just received a call at this dealership stating this is our 2nd notice for warranty experation. Please let me know if anything is being done, my next step is to take these cards that are mailed from these predatory companies and register AG complaints against each company for our customers. Thanks for your time.

**Previous Contact:** No **Date:**

**Regarding:**

Exhibit 1, Page 2 of 2