

FILED

2014 OCT 29 A 9 11

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

IN THE MATTER OF

RENT-A-CENTER, INC.,
RENT-A-CENTER WEST, INC.,

Unlicensed Entities,

and

BENEFIT MARKETING SOLUTIONS, LLC;
BENEFIT SERVICES ASSOCIATION,

Unregistered and Unauthorized Entities..

Respondents.

ORDER NO. 14-0082

SECOND AMENDED NOTICE OF
REQUEST FOR HEARING FOR
IMPOSITION OF FINES

I. REQUEST FOR IMPOSITION OF FINES

A. BASIS

1. Respondents Rent-A-Center, Inc. and Rent-A-Center West, Inc. ("RAC") are Delaware Corporations. RAC sold 13,018 memberships on behalf of Benefit Marketing Solutions, LLC and Benefit Services Association to customers at RAC retail locations in Washington. Membership benefits included accidental death and dismemberment coverage and a non-vehicle service contract product.

2. Neither of the RAC Respondents is licensed as an insurance producer in this state. Neither of the RAC Respondents has submitted to the Insurance Commissioner any appropriate certificate, license, or other document issued by another agency of this state, any subdivision thereof, or the federal government permitting or qualifying the Respondents to solicit insurance coverage in this state.

3. RAC Respondents solicited 13,018 accidental death and dismemberment insurance benefits on behalf of Benefit Marketing Solutions, LLC and Benefit Services Association to Washington residents in 2012 and 2013. Respondents have transacted insurance in Washington affecting subjects located wholly or in part in Washington and to be performed in Washington.

4. Respondents' above-described conduct violates the Insurance Code, including RCW 48.17.060, producer license required; RCW 48.17.063, unlicensed activities; and RCW 48.01.250, assistance or services in exchange for dues.

5. Respondents Benefit Marketing Solutions, LLC and Benefit Services Association (BMS/BSA") are Oklahoma providers of marketing, consulting and benefit services.

6. Service contract providers who register under RCW 48.110 are not required to have a Certificate of Authority from the Insurance Commissioner. Without such registration, issuers of service contracts are subject to all of the general provisions of the Insurance Code, Chapter 48 RCW. A contract sold to a Washington resident by an unregistered entity therefore constitutes the act of undertaking to indemnify the consumer or pay a specified amount upon determinable contingencies and thus constitutes "insurance" as defined in RCW 48.01.040.

7. Neither of the BMS/BSA Respondents has applied for or been granted registration as a service contract provider or a Certificate of Authority to act as an insurer in Washington. Respondents have not submitted to the Insurance Commissioner any appropriate certificate, license, or other document issued by another agency of this state, any subdivision thereof, or the federal government, permitting or qualifying Respondents to provide service contracts in this state.

8. Respondents BMS/BSA acted as service contract providers in Washington in violation of RCW 48.110.030 and have transacted insurance business in Washington in violation of RCW 48.15.020. By providing RAC customers with accidental death and dismemberment insurance that was not approved for sale in Washington, Respondents BMS/BSA also violated RCW 48.01.250.

B. PENALTIES AND RELIEF REQUESTED

1. Pursuant to RCW 48.05.185, 48.15.023 and RCW 48.17.063, the Insurance Commissioner seeks to impose a fine against Respondents in the total amount of \$100,000 for violation of RCW 48.05.030, RCW 48.15.023, RCW 48.17.060, and RCW 48.110.030, respectively. The payment liability and compliance obligations of Respondents under any Final Order should be joint and several.

2. RCW 48.05.030 states that no person shall act as an insurer and no insurer shall transact insurance in this state other than as authorized by a certificate of authority issued to it by the commissioner and then in force; except, as to such transactions as are expressly otherwise provided for in this code.

3. RCW 48.05.185 authorizes the commissioner, after hearing or with the consent of the insurer, and in addition to or in lieu of the suspension, revocation, or refusal to renew any certificate of authority the commissioner may levy a fine upon the insurer in an amount not less than two hundred fifty dollars and not more than ten thousand dollars.

4. RCW 48.15.020 provides that

(1) An insurer that is not authorized by the commissioner may not solicit insurance business in this state or transact insurance business in this state, except as provided in this chapter.

(2)(a) A person may not, in this state, represent an unauthorized insurer except as provided in this chapter. This subsection does not apply to any adjuster or attorney-at-law representing an unauthorized insurer from time to time in this state in his or her professional capacity.

(b) A person, other than a duly licensed surplus line broker acting in good faith under his or her license, who makes a contract of insurance in this state, directly or indirectly, on behalf of an unauthorized insurer, without complying with the provisions of this chapter, is personally liable for the performance of such contract.

(3) Each violation of subsection (2) of this section constitutes a separate offense punishable by a fine of not more than twenty-five thousand dollars, and the Commissioner, at the Commissioner's discretion, may order replacement of policies improperly placed with an unauthorized insurer with policies issued by an authorized insurer.

5. RCW 48.15.023(5)(a)(ii) provides that if the commissioner has cause to believe that any person has violated the provisions of RCW 48.15.020(1), the commissioner may assess a civil penalty of not more than twenty-five thousand dollars for each violation, after providing notice and an opportunity for a hearing in accordance with chapters 34.05 and 48.04 RCW.

6. RCW 48.17.060(1) provides that a person shall not sell, solicit, or negotiate insurance in this state for any line or lines of insurance unless the person is licensed for that line of authority in accordance with this chapter.

7. RCW 48.01.250 (1) and (3) provide that any person, firm, partnership, corporation, or association promising, in exchange for dues, assessments, or periodic or lump-sum payments, to furnish members or subscribers with assistance in matters relating to trip cancellation, bail bond service or any accident, sickness, or death insurance benefit program must:

- (a) Have a certificate of authority, issued by the insurance commissioner, authorizing the person, firm, partnership, corporation, or association to sell that coverage in this state; or
- (b) Purchase the service or insurance from a company that holds a certificate of authority, issued by the insurance commissioner, authorizing the company to sell that coverage in this state. If coverage cannot be procured from an authorized insurer holding a certificate of authority issued by the insurance commissioner, insurance may be procured from an unauthorized insurer subject to chapter 48.15 RCW.

(3) Violation of this section is subject to the enforcement provisions of RCW 48.02.080 and to the hearing and appeal provisions of chapter 48.04 RCW.

8. RCW 48.17.063(4)(a) provides that if the commissioner has cause to believe that any person has violated the provisions of RCW 48.17.060, the commissioner may:

- (i) Issue and enforce a cease and desist order in accordance with the provisions of RCW 48.02.080;
- (ii) Suspend or revoke a license; and/or
- (iii) Assess a civil penalty of not more than twenty-five thousand dollars for each violation, after providing notice and an opportunity for a hearing in accordance with chapters 34.05 and 48.04 RCW.

II. NOTICE OF HEARING

The Insurance Commissioner will convene a hearing at a date, location, and time to be determined, to consider the allegations above and the sanctions to be imposed upon

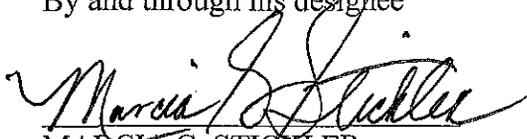
Respondents pursuant to RCW 48.15.020 and RCW 48.15.023. At the hearing, the Insurance Commissioner will present evidence showing that Respondents violated the Insurance Code as summarized above and that the sanctions requested above are authorized under the law. The Respondents may cross-examine Insurance Commissioner's witnesses and present any defenses, evidence, or arguments they may have in opposition.

The Insurance Commissioner's staff will participate in this matter through its designated representative, Marcia G. Stickler, P.O. Box 40255, Olympia, Washington, 98504-0255, MarciaS@oic.wa.gov, (360) 725-7048. Pursuant to RCW 34.05.428 and WAC 10-08-083, OIC requests that the Respondents provide the Chief Hearing Officer and Ms. Stickler with written notification of the identity of any representative who will appear at conferences and hearings, including the person's name, address, e-mail address, and telephone number.

Executed this 29th day of October, 2014.



MIKE KREIDLER
Insurance Commissioner
By and through his designee



MARCIA G. STICKLER
Insurance Enforcement Specialist
Legal Affairs Division

CERTIFICATE OF MAILING

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

On the date given below I caused to be served the foregoing SECOND AMENDED NOTICE OF REQUEST FOR HEARING FOR IMPOSITION OF FINES on the following individuals in the manner indicated:

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

(XXX) Via Hand Delivery

For Respondents:

Gulliver Swenson, Counsel for Benefit Marketing Solutions, LLC
Ryan, Swanson & Cleveland, PLLC
1201 Third Avenue, Suite 3400
Seattle, Washington 98101-3034

(XXX) Via U.S. Regular Mail

SIGNED this 29th day of October, 2014, at Tumwater, Washington.



Josh Pace