



OFFICE OF  
INSURANCE COMMISSIONER

HEARINGS UNIT

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BEFORE THE STATE OF WASHINGTON  
OFFICE OF INSURANCE COMMISSIONER

In the Matter of: )  
)  
Consumer Direct Warranty Services, Inc. )  
Warranty Administration Services, Inc. )  
)  
Safedata Management Services, Inc. )  
)  
Unregistered and Unauthorized Entities, )  
)  
and )  
)  
Robert L. Chapman )  
James C. Sletner )  
Tamara Berbena )  
)  
Individual Respondents. )  
\_\_\_\_\_ )

No. 10-0018

ORDER ON MOTION  
FOR CONTINUANCE

**TO:** Consumer Direct Warranty  
Services, Inc.  
P.O. Box 993520  
Redding, CA 94108

SafeData Management Services, Inc.  
P.O. Box 992050  
Redding, CA 96099

James C. Sletner  
15676 Old Stage Coach Rd.  
Redding, CA 96001

Warranty Administration Services, Inc.  
P.O. Box 992050  
Redding, CA 96099

Robert L. Chapman  
3790 Sunday Court  
Redding, CA 96001

Tamara Berbena  
22845 Sunriver Dr.  
Red Bluff, CA 96080



Denis S. Kenny, Attorney at Law  
Scherer, Smith & Kenny, LLP  
140 Geary Street, Seventh Floor  
San Francisco, California 94108

**COPY TO:** Mike Kreidler, Insurance Commissioner  
Mike Watson, Chief Deputy Insurance Commissioner  
Carol Sureau, Deputy Commissioner, Legal Affairs Division  
Marcia Stickler, Staff Attorney, Legal Affairs Division  
Office of the Insurance Commissioner  
PO Box 40255  
Olympia, WA 98504-0255

On February 1, 2010, the Office of the Insurance Commissioner (OIC) issued an Order to Cease and Desist against Consumer Direct Warranty Services, Inc., Warranty Administration Services, Inc., Safedata Management Services, Inc., Robert L. Chapman, James C. Sletner and Tamara Berbena (collectively "CDWS"), by and through Denis Kenny, Esq. of Scherer, Smith & Kenny, LLP in San Francisco, California. At the request of CDWS and absent opposition from the OIC, the undersigned scheduled the hearing to commence on July 13-14, 2010. On June 16, 2010, the Office of the Insurance Commissioner (OIC), represented by Marcia Stickler, Staff Attorney of the Legal Affairs Division, filed a Motion for Continuance of the currently scheduled hearing date in the above-referenced matter. The purpose of said Motion is to request a two-week continuance of the currently scheduled hearing date on the basis that a key element of the settlement terms agreed to by the parties requires approval by the OIC's Compliance Committee, which does not meet until July 21, 2010. The Respondents, Consumer Direct Warranty Services, Inc., Warranty Administration Services, Inc., Safedata Management Services, Inc., Robert L. Chapman, James C. Sletner, and Tamara Berbena (collectively "CDWS"), by and through Denis Kenny, Esq. of Scherer, Smith & Kenny, LLP in San Francisco, California are in agreement with the OIC's Motion for Continuance.

#### **BACKGROUND OF PROCEEDING**

On February 1, 2010, the OIC entered an Order to Cease and Desist, and on March 17 an Amended Order to Cease and Desist, alleging CDWS acted as vehicle service contract providers in violation of RCW 48.110.030, transacted insurance in Washington in violation of RCW 48.15.020, and acted as insurance producers by soliciting Washington residents for insurance without being licensed as insurance producers in violation of RCW 48.17.060. On February 11, CDWS, by and through Mr. Kenny, filed a Demand for Hearing, denying the allegations set forth in the Order to Cease and Desist and requesting a stay of the effectiveness date upon which CDWS had to comply which by its terms was February 1, 2010.

The undersigned held a first prehearing conference on March 11, 2010, to discuss the procedure to be expected during the hearing process and the issue of a stay of the Order. The undersigned advised that, pursuant to RCW 48.04.020(1), an automatic stay was not in place. CDWS requested that the undersigned consider granting a discretionary stay pursuant to RCW 48.04.020(2).

As recited in the April 6, 2010 Order Granting Partial Discretionary Stay, the undersigned granted a partial stay of the Order, staying only that portion of the Amended Cease and Desist Order which requires CDWS notify Washington consumers of the Order. As reflected in the Order Granting Partial Discretionary Stay, at the time CDWS moved the undersigned to consider a discretionary stay, the OIC agreed with CDWS that a partial discretionary stay should be granted so that CDWS would not be required to notify Washington consumers of the Order at this time. Said Order Granting Partial Discretionary Stay also documents that CDWS has advised the OIC and the undersigned that it was at that time already in compliance with all other portions of the Order to Cease and Desist as amended.

Subsequently, a second prehearing conference was held on April 13, 2010 to address any additional concerns or questions of the parties and to schedule the hearing to commence July 13 and continue through July 14, 2010.

On May 10, 2010, the parties jointly filed a letter notifying the undersigned that they may require an extension of the hearing date, based upon their assertion that they had reached a settlement in principle. Nicole Kelly, Paralegal, advised the parties by letter, dated June 9, 2010, that their request for continuance required a Motion requesting the undersigned to consider another continuance and that the parties could not assume that their letter would automatically result in a continuance being granted, and that pursuant to Title 34 RCW a continuance would only be granted for good cause shown.

#### **OIC'S MOTION FOR CONTINUANCE**

On June 16, 2010, the OIC filed its Motion for Continuance of the hearing date for an additional two weeks after the currently scheduled July 13 hearing date. Accordingly, on June 22 the undersigned heard argument on this Motion. Therein, the OIC, by and through Ms. Stickler, asserted that 1) CDWS and OIC were working on a settlement in principle; 2) a key element of the Consent Order was that the OIC would levy a fine, but because CDWS apparently did not currently have enough money to pay the fine, the OIC wanted to allow CDWS 60 days from the issuance of the Consent Order to make final payment; 3) RCW 48.05.185 states in part, that "the fine shall be fully paid ...[no] more than thirty days from the date of such order"; 3) deviance from the policy of RCW 48.05.185 would require approval of the OIC Compliance Committee, which does not meet until July 21, one week after the currently scheduled July 13 hearing date.

During hearing on the OIC's Motion for Continuance, the undersigned expressed her concern that she had already granted CDWS' request that the hearing be scheduled many months out and had, with the agreement of the OIC, granted CDWS' request for a partial stay, which resulted in a five month partial stay, which kept CDWS' Washington customers from receiving notification of the Order. The undersigned suggested that if she were to continue the hearing for an additional time then the partial stay would not also be extended; in this way, the parties would be given their continuance but also CDWS' Washington customers would not sustain an even longer delay in being notified about this disciplinary action. CDWS did not agree to this proposal. Further discussion from the parties resulted in the information that they felt that notifying CDWS' Washington customers would be a complicated, lengthy process as it was, and CDWS had no plan of action in place even at this time, to ensure their Washington customers

would be notified promptly after entry of any settlement order and could furnish no information as to method of notification or time it would take to provide notification.

Based upon the fact that 1) the undersigned, at the request of CDWS, which had already been given five months between entry of the Order and the hearing date, and been granted a partial stay of the Order – resulting in a five month delay in notifying its Washington customers; 2) the fact that CDWS, along with OIC, was requesting an additional continuance but insisted also that CDWS be granted an additional stay as well so that CDWS would not be required to notify its Washington customers for that additional period of time; and 3) the fact, as advised by the OIC during its Motion for Continuance, that the OIC's Compliance Committee's approval of the terms of the penalties proposed in any settlement agreement are OIC policy and not a requirement of law or regulation, the undersigned determined there was not good cause to grant the OIC's Motion for Continuance herein.

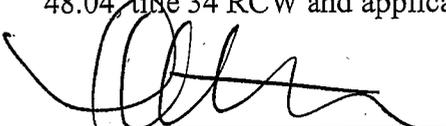
### ORDER

Based upon the above activity, **this written order confirms that oral order of the undersigned entered on June 22, 2010** following presentation of oral argument on the OIC's Motion for continuance, as follows:

**IT WAS ORDERED** that the OIC has not shown good cause to support its Motion for Continuance of this matter, which is required by WAC 10-08-090 as a condition of granting a continuance;

**IT WAS FURTHER ORDERED** that the hearing scheduled in this matter shall remain as scheduled, commencing at **9 a.m. on Tuesday, July 13, 2010, through Wednesday, July 14, 2010**, if necessary, in the Office of the Insurance Commissioner, 5000 Capitol Blvd., Tumwater, Washington, and shall continue on succeeding days until terminated.

ENTERED AT TUMWATER, WASHINGTON, this 9<sup>th</sup> day of July, 2010, pursuant to RCW 48.04, title 34 RCW and applicable regulations.

  
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PATRICIA D. PETERSEN  
Chief Hearing Officer  
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: Consumer Direct Warranty, Inc., Warranty Administration Services, Inc., SafeData Management Services, Inc., Robert L. Chapman, James C. Sletner, Tamara Berbena, Denis S. Kenny, Mike Kreidler, Mike Watson, Carol Sureau, and Marcia Stickler.

DATED this 15<sup>th</sup> day of July, 2010.

  
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NICOLE KELLY