

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

IN THE MATTER OF:

Robert D. Edelheit

DOCKET NO. D07-351

LICENSEE'S MOTION TO TRANSFER
TO OFFICE OF ADMINISTRATIVE
HEARINGS OR IN THE ALTERNATIVE
FOR A STAY

MOTION

Robert D. Edelheit ("Licensee") requests that this matter be transferred to the Office of Administrative Hearings ("OAH"), pursuant to RCW 48.04.010(5). In the alternative, Licensee moves for a stay of further proceedings in this matter pending resolution of revocation proceedings with respect to Order No. D07-0352, now pending before the OAH.

EVIDENCE RELIED UPON

Licensee relies upon the Declaration of Michael Madden ("Madden Decl.") and exhibits thereto, submitted herewith.

FACTS

Robert D. Edelheit is a licensed non-resident insurance agent. Madden Decl. ¶ 2. On December 18, 2007, the Commissioner issued two orders relative to Mr. Edelheit. See Madden Decl. Exhibits A and B. The first order, No. D07-351 (hereinafter "the C&D Order"), makes a blanket allegation that the "Respondents" (of whom there are 24, many of

1 whom are either defunct, have nothing to do with the business of insurance, or are unrelated
2 to Mr. Edelheit) engaged in four categories of illegal conduct: (1) acting as unauthorized
3 agents or brokers in violation of RCW 48.17.060; (2) acting as unauthorized insurers in
4 violation of RCW 48.15.020 and 48.15.023; (3) using unapproved forms and rates in violation
5 of RCW 48.18.100 and 48.19.040; and (4) making false representations and failing to identify
6 insurers in violation of RCW 48.30.040-050. The second order, No. D07-0352 (hereinafter
7 “the Revocation Order”), revoked Mr. Edelheit’s license as an insurance agent based on the
8 same factual allegations as are contained in the C&D Order.

9 On January 3, 2008, Mr. Edelheit filed a Demand for Hearing and request for transfer
10 to the OAH with respect to the Revocation Order. Madden Decl. Exhibit C. His request was
11 granted and the matter has now been assigned to an independent ALJ, who has set a week-
12 long hearing to begin on June 16, 2008. The OIC staff and Mr. Edelheit have entered into a
13 stipulation regarding discovery, have exchanged initial discovery requests, and over 3,000
14 pages of documents have been produced by the OIC. Madden Decl. ¶ 4.

15 The C&D Order addresses matters that are moot with respect to Mr. Edelheit because,
16 as that Order states, the activities in question ceased as of April 2007. C&D Order p. 2, ¶ 1.A.
17 Furthermore, as the OIC staff is aware based on information provided during its investigation,
18 Mr. Edelheit has terminated all relationships with both the carriers in question and with the
19 persons/entities who were accused of making illegal sales. Mr. Edelheit was nevertheless
20 compelled to demand a hearing on the C&D Order because of a concern that the OIC staff
21 will assert that he is estopped from challenging the Revocation Order if he fails to challenge
22 the C&D and because of the potential impact of that Order on his licenses in other states.
23 Accordingly, a hearing demand was filed with respect to the C&D Order on January 24, 2008.
24 Madden Decl. Ex. D.

25 The OIC Hearings Unit has refused to honor Mr. Edelheit’s request for transfer to the
26 OAH. The Hearings Unit apparently takes the position that, although Mr. Edelheit is a

1 licensed agent, RCW 48.04.010(5) does not apply because the challenged order alleges in part
2 that the Respondents acted as unauthorized insurers. Madden Decl. Ex. E (2/6/08 email).
3 Accordingly, the Hearings Unit scheduled an initial pre-hearing conference for February 20,
4 2008. At that time, counsel for Mr. Edelheit summarized his legal position, which is that the
5 statute gives licensees an unqualified right to a hearing before the OAH, regardless of the
6 nature of the allegations, and further explained: (a) that neither Mr. Edelheit nor the OIC staff
7 has any interest in conducting two or more hearings; (b) that the OIC staff's factual
8 allegations are the same with respect to the C&D and Revocation Orders; and (c) that the
9 outcome of the revocation hearing would in all likelihood eliminate the need for a hearing on
10 the C&D Order with respect to Mr. Edelheit or his company, United Group Programs, Inc.
11 Madden Decl. ¶ 7.

12 In response, the OIC Hearing Officer suggested that Mr. Edelheit waive his right to a
13 hearing before an independent Administrative Law Judge so that the two matters could be
14 consolidated before her. When counsel for Mr. Edelheit stated that his client would not agree
15 to this proposal, the OIC hearing officer stated that she would set a hearing on the C&D Order
16 in March, 2008. Both Mr. Edelheit and the OIC staff objected to that proposal and urged the
17 OIC Hearing Officer to defer setting a hearing date. Madden Decl. ¶ 8.

18 ARGUMENT

19 1. Licensees Have an Unqualified Right to a Hearing Before the OAH Under RCW 20 48.04.010(5).

21 RCW 48.04.010(1) provides in pertinent part:

22 The commissioner shall hold a hearing:

23 ***

24 (b) ... upon written demand for a hearing made by any person aggrieved by any
25 act, threatened act, or failure of the commissioner to act, if such failure is deemed
26 of the commissioner other than an order on a hearing of which such person was

1 given actual notice or at which such person appeared as a party, or order pursuant
2 to the order on such hearing.

3 The combination of investigative, prosecutorial and adjudicative functions in a single
4 agency raises serious due process and appearance of fairness concerns. *In re Johnston*, 99
5 Wn.2d 466, 663 P.2d 457 (1983). These concerns are heightened here. The OIC is a
6 relatively small agency headed by an elected official. The statutes governing the OIC do not
7 provide for a separate hearings unit or the appointment of independent Administrative Law
8 Judges within the agency. Therefore, the Hearing Unit is the creation of and subject to the
9 control of the Commissioner. Concurrent with issuing the C&D and Revocation Orders,
10 Commissioner Kreidler put his personal credibility on the line by issuing an inflammatory and
11 defamatory press release. At least two and perhaps three deputy commissioners have been
12 involved in handling the matter. One or more of them will be called to testify. Furthermore,
13 based on the activities of its investigator, the agency faces potential civil liability.

14 To address these concerns, the Legislature has guaranteed all persons and entities
15 licensed under Title 48 a hearing before an independent Administrative Law Judge. As
16 pertinent here, RCW 48.04.010(5) provides:

17 A licensee under this title may request that a hearing authorized under this section
18 be presided over by an Administrative Law Judge assigned under chapter 34.12
19 RCW. Any such request shall not be denied.

20 Here, it is undisputed that: (a) Mr. Edelheit, a licensed agent, is a "licensee" under
21 Title 48; (b) based upon Mr. Edelheit's timely demand, a hearing on the C&D Order is
22 "authorized" and required by RCW 48.10.010(1); and (c) a timely request for a hearing before
23 an independent Administrative Law Judge has been made.

24 **2. There Is No Exception for Licensees Accused of Unauthorized Activities.**

25 The OIC Hearings Unit bases its refusal upon the idea that the C&D Order alleges that
26 the Respondents (undifferentiated apparently) acted as unauthorized insurers, and therefore

1 that they did not act in the capacity of “licensees.” No judicial authority in Washington
2 supports the Hearing Unit’s position. Indeed, to uphold the Hearing Unit’s position would
3 require that the statute be re-written to say:

4 A licensee under this title may request that a hearing authorized under this section
5 be presided over by an Administrative Law Judge assigned under chapter 34.12
6 RCW. Any such request shall not be denied, except where it is alleged that the
7 licensee acted outside the scope of the license.

8 The OIC is not authorized to re-write the statute in this manner. To do so would allow the
9 OIC itself to determine, based on its characterization of the facts and circumstances
10 underlying the Order, whether the licensee will be entitled to an independent Administrative
11 Law Judge.

12 Such a characterization would be inaccurate in this case in any event because the C&D
13 Order does not solely allege conducting business as an unauthorized insurer. It also alleges
14 activities clearly within the scope of an agent’s license. Moreover, the record will show that
15 the involvement of Mr. Edelheit and his companies centered on the placement of group
16 disability coverage for members of a Georgia non-profit association (UNWA). It is
17 undisputed that this coverage was underwritten by two insurers, both of which are authorized
18 to offer disability coverage in Washington, Chesapeake Life Insurance and HM Health.
19 Unknown to Mr. Edelheit, the policy form that Chesapeake was using was not approved for
20 sale in Washington and, ultimately, Chesapeake refused to issue a policy, even after coverage
21 had been bound and sold. To resolve this dispute between Chesapeake and UNWA, a claims
22 account was established which was funded and controlled by Chesapeake and administered by
23 Mr. Edelheit’s company, United Group Programs.

24 With respect to HM Health, a Georgia group policy actually was issued to the
25 association, and marketed by the third party. Mr. Edelheit’s role, through UGP, was simply to
26 accept enrollment data from the marketing agent, to calculate and collect premium, and to
remit to HM Health. Despite earlier representations by HM Health, however, it was

1 discovered that HM Health's policy form also was not approved in Washington. When this
2 fact was discovered, Mr. Edelheit and his companies promptly disassociated themselves from
3 both HM Health and the marketing company.

4 Therefore, the crux of the issue with respect to Mr. Edelheit is whether he is liable as
5 an agent because group coverage that was placed with his association in Georgia and
6 administered by his company in Florida was not written on forms approved in Washington.
7 To characterize his activities as functioning as an unauthorized insurer, when there were two
8 Washington authorized insurers directly involved that had full knowledge of where their
9 coverage was being sold, is simply not accurate. To deny Mr. Edelheit's unqualified right to
10 have his status as a Washington agent heard by an independent Administrative Law Judge
11 based on these allegations would be a grievous legal error.

12 **3. Alternative Request for a Stay.**

13 Mr. Edelheit will agree to a stay of proceedings with regard to the C&D Order,
14 without prejudice to his right to seek a transfer to the OAH, pending the outcome of the
15 hearing on the Revocation Order. We understand that the OIC staff does not oppose this
16 request. A postponement with respect to the C&D Order will not only avoid needless
17 duplication and the need to litigate concerning the OIC Hearing Unit's position regarding
18 assignment of an Administrative Law Judge, but will also allow the time remaining for the
19 other parties named in the C&D to demand a hearing to elapse.

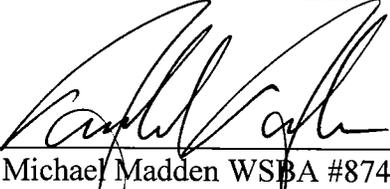
20 **CONCLUSION**

21 It is undisputed that Mr. Edelheit is a licensee who is entitled to a hearing under RCW
22 48.04.010. He has requested a hearing before an independent Administrative Law Judge from
23 the OAH. The law provides that such a request "shall not be denied." RCW 48.04.010(5).

24 \\
25 \\
26 \\
27 \\
28 \\
29 \\
30 \\
31 \\
32 \\
33 \\
34 \\
35 \\
36 \\
37 \\
38 \\
39 \\
40 \\
41 \\
42 \\
43 \\
44 \\
45 \\
46 \\
47 \\
48 \\
49 \\
50 \\
51 \\
52 \\
53 \\
54 \\
55 \\
56 \\
57 \\
58 \\
59 \\
60 \\
61 \\
62 \\
63 \\
64 \\
65 \\
66 \\
67 \\
68 \\
69 \\
70 \\
71 \\
72 \\
73 \\
74 \\
75 \\
76 \\
77 \\
78 \\
79 \\
80 \\
81 \\
82 \\
83 \\
84 \\
85 \\
86 \\
87 \\
88 \\
89 \\
90 \\
91 \\
92 \\
93 \\
94 \\
95 \\
96 \\
97 \\
98 \\
99 \\
100 \\
101 \\
102 \\
103 \\
104 \\
105 \\
106 \\
107 \\
108 \\
109 \\
110 \\
111 \\
112 \\
113 \\
114 \\
115 \\
116 \\
117 \\
118 \\
119 \\
120 \\
121 \\
122 \\
123 \\
124 \\
125 \\
126 \\
127 \\
128 \\
129 \\
130 \\
131 \\
132 \\
133 \\
134 \\
135 \\
136 \\
137 \\
138 \\
139 \\
140 \\
141 \\
142 \\
143 \\
144 \\
145 \\
146 \\
147 \\
148 \\
149 \\
150 \\
151 \\
152 \\
153 \\
154 \\
155 \\
156 \\
157 \\
158 \\
159 \\
160 \\
161 \\
162 \\
163 \\
164 \\
165 \\
166 \\
167 \\
168 \\
169 \\
170 \\
171 \\
172 \\
173 \\
174 \\
175 \\
176 \\
177 \\
178 \\
179 \\
180 \\
181 \\
182 \\
183 \\
184 \\
185 \\
186 \\
187 \\
188 \\
189 \\
190 \\
191 \\
192 \\
193 \\
194 \\
195 \\
196 \\
197 \\
198 \\
199 \\
200 \\
201 \\
202 \\
203 \\
204 \\
205 \\
206 \\
207 \\
208 \\
209 \\
210 \\
211 \\
212 \\
213 \\
214 \\
215 \\
216 \\
217 \\
218 \\
219 \\
220 \\
221 \\
222 \\
223 \\
224 \\
225 \\
226 \\
227 \\
228 \\
229 \\
230 \\
231 \\
232 \\
233 \\
234 \\
235 \\
236 \\
237 \\
238 \\
239 \\
240 \\
241 \\
242 \\
243 \\
244 \\
245 \\
246 \\
247 \\
248 \\
249 \\
250 \\
251 \\
252 \\
253 \\
254 \\
255 \\
256 \\
257 \\
258 \\
259 \\
260 \\
261 \\
262 \\
263 \\
264 \\
265 \\
266 \\
267 \\
268 \\
269 \\
270 \\
271 \\
272 \\
273 \\
274 \\
275 \\
276 \\
277 \\
278 \\
279 \\
280 \\
281 \\
282 \\
283 \\
284 \\
285 \\
286 \\
287 \\
288 \\
289 \\
290 \\
291 \\
292 \\
293 \\
294 \\
295 \\
296 \\
297 \\
298 \\
299 \\
300 \\
301 \\
302 \\
303 \\
304 \\
305 \\
306 \\
307 \\
308 \\
309 \\
310 \\
311 \\
312 \\
313 \\
314 \\
315 \\
316 \\
317 \\
318 \\
319 \\
320 \\
321 \\
322 \\
323 \\
324 \\
325 \\
326 \\
327 \\
328 \\
329 \\
330 \\
331 \\
332 \\
333 \\
334 \\
335 \\
336 \\
337 \\
338 \\
339 \\
340 \\
341 \\
342 \\
343 \\
344 \\
345 \\
346 \\
347 \\
348 \\
349 \\
350 \\
351 \\
352 \\
353 \\
354 \\
355 \\
356 \\
357 \\
358 \\
359 \\
360 \\
361 \\
362 \\
363 \\
364 \\
365 \\
366 \\
367 \\
368 \\
369 \\
370 \\
371 \\
372 \\
373 \\
374 \\
375 \\
376 \\
377 \\
378 \\
379 \\
380 \\
381 \\
382 \\
383 \\
384 \\
385 \\
386 \\
387 \\
388 \\
389 \\
390 \\
391 \\
392 \\
393 \\
394 \\
395 \\
396 \\
397 \\
398 \\
399 \\
400 \\
401 \\
402 \\
403 \\
404 \\
405 \\
406 \\
407 \\
408 \\
409 \\
410 \\
411 \\
412 \\
413 \\
414 \\
415 \\
416 \\
417 \\
418 \\
419 \\
420 \\
421 \\
422 \\
423 \\
424 \\
425 \\
426 \\
427 \\
428 \\
429 \\
430 \\
431 \\
432 \\
433 \\
434 \\
435 \\
436 \\
437 \\
438 \\
439 \\
440 \\
441 \\
442 \\
443 \\
444 \\
445 \\
446 \\
447 \\
448 \\
449 \\
450 \\
451 \\
452 \\
453 \\
454 \\
455 \\
456 \\
457 \\
458 \\
459 \\
460 \\
461 \\
462 \\
463 \\
464 \\
465 \\
466 \\
467 \\
468 \\
469 \\
470 \\
471 \\
472 \\
473 \\
474 \\
475 \\
476 \\
477 \\
478 \\
479 \\
480 \\
481 \\
482 \\
483 \\
484 \\
485 \\
486 \\
487 \\
488 \\
489 \\
490 \\
491 \\
492 \\
493 \\
494 \\
495 \\
496 \\
497 \\
498 \\
499 \\
500 \\
501 \\
502 \\
503 \\
504 \\
505 \\
506 \\
507 \\
508 \\
509 \\
510 \\
511 \\
512 \\
513 \\
514 \\
515 \\
516 \\
517 \\
518 \\
519 \\
520 \\
521 \\
522 \\
523 \\
524 \\
525 \\
526 \\
527 \\
528 \\
529 \\
530 \\
531 \\
532 \\
533 \\
534 \\
535 \\
536 \\
537 \\
538 \\
539 \\
540 \\
541 \\
542 \\
543 \\
544 \\
545 \\
546 \\
547 \\
548 \\
549 \\
550 \\
551 \\
552 \\
553 \\
554 \\
555 \\
556 \\
557 \\
558 \\
559 \\
560 \\
561 \\
562 \\
563 \\
564 \\
565 \\
566 \\
567 \\
568 \\
569 \\
570 \\
571 \\
572 \\
573 \\
574 \\
575 \\
576 \\
577 \\
578 \\
579 \\
580 \\
581 \\
582 \\
583 \\
584 \\
585 \\
586 \\
587 \\
588 \\
589 \\
590 \\
591 \\
592 \\
593 \\
594 \\
595 \\
596 \\
597 \\
598 \\
599 \\
600 \\
601 \\
602 \\
603 \\
604 \\
605 \\
606 \\
607 \\
608 \\
609 \\
610 \\
611 \\
612 \\
613 \\
614 \\
615 \\
616 \\
617 \\
618 \\
619 \\
620 \\
621 \\
622 \\
623 \\
624 \\
625 \\
626 \\
627 \\
628 \\
629 \\
630 \\
631 \\
632 \\
633 \\
634 \\
635 \\
636 \\
637 \\
638 \\
639 \\
640 \\
641 \\
642 \\
643 \\
644 \\
645 \\
646 \\
647 \\
648 \\
649 \\
650 \\
651 \\
652 \\
653 \\
654 \\
655 \\
656 \\
657 \\
658 \\
659 \\
660 \\
661 \\
662 \\
663 \\
664 \\
665 \\
666 \\
667 \\
668 \\
669 \\
670 \\
671 \\
672 \\
673 \\
674 \\
675 \\
676 \\
677 \\
678 \\
679 \\
680 \\
681 \\
682 \\
683 \\
684 \\
685 \\
686 \\
687 \\
688 \\
689 \\
690 \\
691 \\
692 \\
693 \\
694 \\
695 \\
696 \\
697 \\
698 \\
699 \\
700 \\
701 \\
702 \\
703 \\
704 \\
705 \\
706 \\
707 \\
708 \\
709 \\
710 \\
711 \\
712 \\
713 \\
714 \\
715 \\
716 \\
717 \\
718 \\
719 \\
720 \\
721 \\
722 \\
723 \\
724 \\
725 \\
726 \\
727 \\
728 \\
729 \\
730 \\
731 \\
732 \\
733 \\
734 \\
735 \\
736 \\
737 \\
738 \\
739 \\
740 \\
741 \\
742 \\
743 \\
744 \\
745 \\
746 \\
747 \\
748 \\
749 \\
750 \\
751 \\
752 \\
753 \\
754 \\
755 \\
756 \\
757 \\
758 \\
759 \\
760 \\
761 \\
762 \\
763 \\
764 \\
765 \\
766 \\
767 \\
768 \\
769 \\
770 \\
771 \\
772 \\
773 \\
774 \\
775 \\
776 \\
777 \\
778 \\
779 \\
780 \\
781 \\
782 \\
783 \\
784 \\
785 \\
786 \\
787 \\
788 \\
789 \\
790 \\
791 \\
792 \\
793 \\
794 \\
795 \\
796 \\
797 \\
798 \\
799 \\
800 \\
801 \\
802 \\
803 \\
804 \\
805 \\
806 \\
807 \\
808 \\
809 \\
810 \\
811 \\
812 \\
813 \\
814 \\
815 \\
816 \\
817 \\
818 \\
819 \\
820 \\
821 \\
822 \\
823 \\
824 \\
825 \\
826 \\
827 \\
828 \\
829 \\
830 \\
831 \\
832 \\
833 \\
834 \\
835 \\
836 \\
837 \\
838 \\
839 \\
840 \\
841 \\
842 \\
843 \\
844 \\
845 \\
846 \\
847 \\
848 \\
849 \\
850 \\
851 \\
852 \\
853 \\
854 \\
855 \\
856 \\
857 \\
858 \\
859 \\
860 \\
861 \\
862 \\
863 \\
864 \\
865 \\
866 \\
867 \\
868 \\
869 \\
870 \\
871 \\
872 \\
873 \\
874 \\
875 \\
876 \\
877 \\
878 \\
879 \\
880 \\
881 \\
882 \\
883 \\
884 \\
885 \\
886 \\
887 \\
888 \\
889 \\
890 \\
891 \\
892 \\
893 \\
894 \\
895 \\
896 \\
897 \\
898 \\
899 \\
900 \\
901 \\
902 \\
903 \\
904 \\
905 \\
906 \\
907 \\
908 \\
909 \\
910 \\
911 \\
912 \\
913 \\
914 \\
915 \\
916 \\
917 \\
918 \\
919 \\
920 \\
921 \\
922 \\
923 \\
924 \\
925 \\
926 \\
927 \\
928 \\
929 \\
930 \\
931 \\
932 \\
933 \\
934 \\
935 \\
936 \\
937 \\
938 \\
939 \\
940 \\
941 \\
942 \\
943 \\
944 \\
945 \\
946 \\
947 \\
948 \\
949 \\
950 \\
951 \\
952 \\
953 \\
954 \\
955 \\
956 \\
957 \\
958 \\
959 \\
960 \\
961 \\
962 \\
963 \\
964 \\
965 \\
966 \\
967 \\
968 \\
969 \\
970 \\
971 \\
972 \\
973 \\
974 \\
975 \\
976 \\
977 \\
978 \\
979 \\
980 \\
981 \\
982 \\
983 \\
984 \\
985 \\
986 \\
987 \\
988 \\
989 \\
990 \\
991 \\
992 \\
993 \\
994 \\
995 \\
996 \\
997 \\
998 \\
999 \\
1000 \\
1001 \\
1002 \\
1003 \\
1004 \\
1005 \\
1006 \\
1007 \\
1008 \\
1009 \\
1010 \\
1011 \\
1012 \\
1013 \\
1014 \\
1015 \\
1016 \\
1017 \\
1018 \\
1019 \\
1020 \\
1021 \\
1022 \\
1023 \\
1024 \\
1025 \\
1026 \\
1027 \\
1028 \\
1029 \\
1030 \\
1031 \\
1032 \\
1033 \\
1034 \\
1035 \\
1036 \\
1037 \\
1038 \\
1039 \\
1040 \\
1041 \\
1042 \\
1043 \\
1044 \\
1045 \\
1046 \\
1047 \\
1048 \\
1049 \\
1050 \\
1051 \\
1052 \\
1053 \\
1054 \\
1055 \\
1056 \\
1057 \\
1058 \\
1059 \\
1060 \\
1061 \\
1062 \\
1063 \\
1064 \\
1065 \\
1066 \\
1067 \\
1068 \\
1069 \\
1070 \\
1071 \\
1072 \\
1073 \\
1074 \\
1075 \\
1076 \\
1077 \\
1078 \\
1079 \\
1080 \\
1081 \\
1082 \\
1083 \\
1084 \\
1085 \\
1086 \\
1087 \\
1088 \\
1089 \\
1090 \\
1091 \\
1092 \\
1093 \\
1094 \\
1095 \\
1096 \\
1097 \\
1098 \\
1099 \\
1100 \\
1101 \\
1102 \\
1103 \\
1104 \\
1105 \\
1106 \\
1107 \\
1108 \\
1109 \\
1110 \\
1111 \\
1112 \\
1113 \\
1114 \\
1115 \\
1116 \\
1117 \\
1118 \\
1119 \\
1120 \\
1121 \\
1122 \\
1123 \\
1124 \\
1125 \\
1126 \\
1127 \\
1128 \\
1129 \\
1130 \\
1131 \\
1132 \\
1133 \\
1134 \\
1135 \\
1136 \\
1137 \\
1138 \\
1139 \\
1140 \\
1141 \\
1142 \\
1143 \\
1144 \\
1145 \\
1146 \\
1147 \\
1148 \\
1149 \\
1150 \\
1151 \\
1152 \\
1153 \\
1154 \\
1155 \\
1156 \\
1157 \\
1158 \\
1159 \\
1160 \\
1161 \\
1162 \\
1163 \\
1164 \\
1165 \\
1166 \\
1167 \\
1168 \\
1169 \\
1170 \\
1171 \\
1172 \\
1173 \\
1174 \\
1175 \\
1176 \\
1177 \\
1178 \\
1179 \\
1180 \\
1181 \\
1182 \\
1183 \\
1184 \\
1185 \\
1186 \\
1187 \\
1188 \\
1189 \\
1190 \\
1191 \\
1192 \\
1193 \\
1194 \\
1195 \\
1196 \\
1197 \\
1198 \\
1199 \\
1200 \\
1201 \\
1202 \\
1203 \\
1204 \\
1205 \\
1206 \\
1207 \\
1208 \\
1209 \\
1210 \\
1211 \\
1212 \\
1213 \\
1214 \\
1215 \\
1216 \\
1217 \\
1218 \\
1219 \\
1220 \\
1221 \\
1222 \\
1223 \\
1224 \\
1225 \\
1226 \\
1227 \\
1228 \\
1229 \\
1230 \\
1231 \\
1232 \\
1233 \\
1234 \\
1235 \\
1236 \\
1237 \\
1238 \\
1239 \\
1240 \\
1241 \\
1242 \\
1243 \\
1244 \\
1245 \\
1246 \\
1247 \\
1248 \\
1249 \\
1250 \\
1251 \\
1252 \\
1253 \\
1254 \\
1255 \\
1256 \\
1257 \\
1258 \\
1259 \\
1260 \\
1261 \\
1262 \\
1263 \\
1264 \\
1265 \\
1266 \\
1267 \\
1268 \\
1269 \\
1270 \\
1271 \\
1272 \\
1273 \\
1274 \\
1275 \\
1276 \\
1277 \\
1278 \\
1279 \\
1280 \\
1281 \\
1282 \\
1283 \\
1284 \\
1285 \\
1286 \\
1287 \\
1288 \\
1289 \\
1290 \\
1291 \\
1292 \\
1293 \\
1294 \\
1295 \\
1296 \\
1297 \\
1298 \\
1299 \\
1300 \\
1301 \\
1302 \\
1303 \\
1304 \\
1305 \\
1306 \\
1307 \\
1308 \\
1309 \\
1310 \\
1311 \\
1312 \\
1313 \\
1314 \\
1315 \\
1316 \\
1317 \\
1318 \\
1319 \\
1320 \\
1321 \\
1322 \\
1323 \\
1324 \\
1325 \\
1326 \\
1327 \\
1328 \\
1329 \\
1330 \\
1331 \\
1332 \\
1333 \\
1334 \\
1335 \\
1336 \\
1337 \\
1338 \\
1339 \\
1340 \\
1341 \\
1342 \\
1343 \\
1344 \\
1345 \\
1346 \\
1347 \\
1348 \\
1349 \\
1350 \\
1351 \\
1352 \\
1353 \\
1354 \\
1355 \\
1356 \\
1357 \\
1358 \\
1359 \\
1360 \\
1361 \\
1362 \\
1363 \\
1364 \\
1365 \\
1366 \\
1367 \\
1368 \\
1369 \\
1370 \\
1371 \\
1372 \\
1373 \\
1374 \\
1375 \\
1376 \\
1377 \\
1378 \\
1379 \\
1380 \\
1381 \\
1382 \\
1383 \\
1384 \\
1385 \\
1386 \\
1387 \\
1388 \\
1389 \\
1390 \\
1391 \\
1392 \\
1393 \\
1394 \\
1395 \\
1396 \\
1397 \\
1398 \\
1399 \\
1400 \\
1401 \\
1402 \\
1403 \\
1404 \\
1405 \\
1406 \\
1407 \\
1408 \\
1409 \\
1410 \\
1411 \\
1412 \\
1413 \\
1414 \\
1415 \\
1416 \\
1417 \\
1418 \\
1419 \\
1420 \\
1421 \\
1422 \\
1423 \\
1424 \\
1425 \\
1426 \\
1427 \\
1428 \\
1429 \\
1430 \\
1431 \\
1432 \\
1433 \\
1434 \\
1435 \\
1436 \\
1437 \\
1438 \\
1439 \\
1440 \\
1441 \\
1442 \\
1443 \\
1444 \\
1445 \\
1446 \\
1447 \\
1448 \\
1449 \\
1450 \\
1451 \\
1452 \\
1453 \\
1454 \\
1455 \\
1456 \\
1457 \\
1458 \\
1459 \\
1460 \\
1461 \\
1462 \\
1463 \\
1464 \\
1465 \\
1466 \\
1467 \\
1468 \\
1469 \\
1470 \\
1471 \\
1472 \\
1473 \\
1474 \\
1475 \\
1476 \\
1477 \\
1478 \\
1479 \\
1480 \\
1481 \\
1482 \\
1483 \\
1484 \\
1485 \\
1486 \\
1487 \\
1488 \\
1489 \\
1490 \\
1491 \\
1492 \\
1493 \\
1494 \\
1495 \\
1496 \\
1497 \\
1498 \\
1499 \\
1500 \\
1501 \\
1502 \\
1503 \\
1504 \\
1505 \\
1506 \\
1507 \\
1508 \\
1509 \\
1510 \\
1511 \\
1512 \\
1513 \\
1514 \\
1515 \\
1516 \\
1517 \\
1518 \\
1519 \\
1520 \\
1521 \\
1522 \\
1523 \\
1524 \\
1525 \\
1526 \\
1527 \\
1528 \\
1529 \\
1530 \\
1531 \\
1532 \\
1533 \\
1534 \\
1535 \\
1536 \\
1537 \\
1538 \\
1539 \\
1540 \\
1541 \\
1542 \\
1543 \\
1544 \\
1545 \\
1546 \\
1547 \\
1548 \\
1549 \\
1550 \\
1551 \\
1552 \\
1553 \\
1554 \\
1555 \\
1556 \\
1557 \\
1558 \\
1559 \\
1560 \\
1561 \\
1562 \\
1563 \\
1564 \\
1565 \\
1566 \\
1567 \\
1568 \\
1569 \\
1570 \\
1571 \\
1572 \\
1573 \\
1574 \\
1575 \\
1576 \\
1577 \\
1578 \\
1579 \\
1580 \\
1581 \\
1582 \\
1583 \\
1584 \\
1585 \\
1586 \\
1587 \\
1588 \\
1589 \\
1590 \\
1591 \\
1592 \\
1593 \\
1594 \\
1595 \\
1596 \\
1597 \\
1598 \\
1599 \\
1600 \\
1601 \\
1602 \\
1603 \\
1604 \\
1605 \\
1606 \\
1607 \\
1608 \\
1609 \\
1610 \\
1611 \\
1612 \\
1613 \\
1614 \\
1615 \\
1616 \\
1617 \\<

Dated this 26 day of February 26, 2008

BENNETT BIGELOW & LEEDOM, P.S.

By 
Michael Madden WSBA #8747
Attorney for Licensee

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

IN THE MATTER OF:

Robert D. Edelheit

DOCKET NO. D07-351

DECLARATION OF MICHAEL
MADDEN IN SUPPORT OF LICENSEE'S
MOTION TO TRANSFER

I, Michael Madden, hereby declare as follows:

1. I am the attorney for Robert D. Edelheit in this matter and have personal knowledge of the matters stated herein.
2. Robert D. Edelheit is a licensed non-resident insurance agent in Washington.
3. Attached hereto as Exhibits A and B, respectively, are true and correct copies of the Commissioner's Orders Nos. D07-351 and D07-352, issued December 18, 2007.
4. Attached hereto as Exhibit C is a true and correct copy of Mr. Edelheit's demand for hearing in No. D07-352. Mr. Edelheit's request for a hearing before an Administrative Law Judge from the Office for Administrative Hearings was granted and the matter has now been assigned to an independent ALJ, who has set a week-long hearing to begin on June 16, 2008. The OIC staff and Mr. Edelheit have entered into a stipulation regarding discovery, have exchanged initial discovery requests, and over 3,000 pages of documents have been produced by the OIC.

Exhibit A

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON

Phone: (360) 725-7000
www.insurance.wa.gov



OFFICE OF
INSURANCE COMMISSIONER

In the Matter of)	No. D07-351
)	
DESIGN SAVERS PLAN, STEVEN D.)	ORDER TO
SMITH, INC., STEVEN D. SMITH,)	CEASE AND DESIST
DESIGN BENEFITS, INC.,)	
DENTAL BY DESIGN, DESIGN)	
TELESERVICES, INC., SDS)	
FINANCIAL, JOHN BYARS,)	
ADOVAHEALTH, IRA GOTTLIEB,)	
FAMILY SECURITY COUNCIL,)	
INC., NEW HEALTH CARE)	
MANAGEMENT GROUP, INC.,)	
C. MURPHY LEOPOLD, EDWARD)	
DEMMING, ROBERT D. EDELHEIT,)	
UNITED GROUP PROGRAMS, INC.,)	
E2 HOLDING, INC., WAR COLLEGE)	
SIMULATIONS, INC., UNITED)	
PROGRAMS WORLDWIDE, INC.,)	
UNITED NATIONAL WORKFORCE)	
ASSOCIATION, INC., OPTI-MED,)	
ARNOLD H. KATZ, JONATHAN)	
EDELHEIT,)	
)	
)	
<u>Respondents.</u>)	

Pursuant to RCW 48.02.080(3)(a), RCW 48.15.023, and RCW 48.17.063(6)(a)(i), the Insurance Commissioner of the State of Washington hereby **Orders** the entities and individuals named above, including their principals, officers, directors, trustees, agents, employees, and affiliates (collectively hereafter "Respondents") to immediately **Cease and Desist** from the following:

A. Engaging in or transacting the unauthorized business of insurance in the State of Washington in violation of the Washington State Insurance Code, Title 48 RCW, including the advertising and solicitation of insurance products, the collection or attempted collection of premium monies, and the issuance of insurance and insurance-related products in any manner whatsoever.

B. Participating or assisting, directly or indirectly, in the advertisement, solicitation, and/or issuance of unauthorized insurance products or business in the State of Washington, including



CEASE AND DESIST ORDER

No. D07-351

Page 2

advertising or soliciting State of Washington residents by email, facsimile, telephone, mail, internet advertising, or any other means to induce State of Washington residents to purchase any form of insurance product. Internet advertising includes statements from Respondents that insurance products presented by these entities are available in the State of Washington.

C. If unlicensed in the State of Washington, acting as or holding themselves out as agents, brokers, and/or insurance producers in the State of Washington for any purpose, including soliciting insurance business in the State of Washington and participating or assisting, directly or indirectly, in any act of an insurance agent or insurance company to solicit insurance products or business in the State of Washington.

D. If licensed in the State of Washington, acting as or holding themselves out as agents, brokers, administrators, or insurance producers for insurers and/or insurance products or business which are not authorized in the State of Washington, and from otherwise participating or assisting, directly or indirectly, in any act of a person acting as an insurance agent to solicit and/or issue unauthorized insurance products or business in the State of Washington.

THIS ORDER IS BASED ON THE FOLLOWING:

1. Violation of RCW 48.17.060.

A. Beginning in the year 2003 and continuing until April 2007, Respondents advertised, solicited, and issued to Washington residents policies for medical health insurance without having been granted Certificates of Authority or Registration, and/or Licenses to act as insurers or insurance agents in the State of Washington. Respondents did not and have not submitted to the Washington State Office of Insurance Commissioner ("OIC") 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 and/or provide such insurance coverage in the State of Washington. Respondents have also not registered with the OIC as a risk retention group or risk purchasing agents, nor have they solicited this insurance through a licensed surplus lines broker in the State of Washington.

B. Respondents have advertised and solicited unauthorized insurance products in the State of Washington and have thereby engaged in or transacted the unauthorized business of insurance. From 2003 until April 2007, Respondents have sold unauthorized insurance plans or policies to approximately four-thousand (4,000) residents with the State of Washington.

CEASE AND DESIST ORDER

No. D07-351

Page 3

2. Violations of RCW 48.15.020 and RCW 48.15.023.

A. Respondents have participated or assisted, directly and/or indirectly, in the solicitation and/or issuance to Washington residents of policies for medical health insurance that were not issued by an entity with a Certificate of Authority or Registration in the State of Washington.

B. Respondents have participated or assisted, directly and/or indirectly, in the advertisement, solicitation, and issuance of unauthorized medical health insurance plans or policies in the State of Washington and have thereby engaged in or transacted the unauthorized business of insurance. Respondents have acted as agents and/or third-party administrators, collected premiums, paid claims, and sent fulfillment packages to consumers in the State of Washington with respect to the unauthorized medical health insurance products.

3. Violations of RCW 48.18.100 and RCW 48.19.040.

Respondents have issued, delivered, and/or used insurance forms in the State of Washington without filing and obtaining prior approval for use of such forms from the OIC. Likewise, Respondents have used classification manuals, manuals of rules and rates, rating plans, rating schedules, minimum rates, class rates, and/or rating rules without obtaining prior approval for use of such rates from the OIC.

4. Violations of RCW 48.30.040 and RCW 48.30.050.

Respondents represented to prospective purchasers that the insurance product they were selling complied with the laws of the State of Washington. These representations were false, deceptive, and misleading because, among other reasons, these products had not been filed with and approved by the OIC and Respondents were not authorized to solicit an insurance transaction or to deliver or issue an insurance contract under Title 48 RCW.

THE INSURANCE COMMISSIONER FURTHER ORDERS AS FOLLOWS:

1. Respondents shall, within thirty (30) days from receipt of this Order, provide the OIC with a complete listing, to include full contact information, of all Washington residents who have received any insurance policy, plan or insurance-related solicitation from Respondents for the last ten (10) years. Respondents shall also include the total amount of premiums collected from sales within the State of Washington for the last ten (10) years;

CEASE AND DESIST ORDER

No. D07-351

Page 4

2. Respondents shall, within thirty (30) days from receipt of this Order, include in all marketing materials to be used when soliciting insurance products (such as scripts, outlines, facsimiles, internet materials, mailings, etc.) a disclaimer that the product is not available in the State of Washington. Respondents shall also provide the OIC, within forty (40) days of receipt of this Order, with copies of all such marketing materials to demonstrate that they have been so revised;

3. Respondents shall, within thirty (30) days from receipt of this Order, provide the OIC with the complete names and contact information for all insurers whom Respondents claim to have represented in the Washington solicitations which are the subject of this Order for the last ten (10) years, as well as copies of any contracts made with those insurers during the last ten (10) years;

4. Pursuant to RCW 48.15.020(2)(b), each unauthorized insurer and each individual who made a contract of insurance in the State of Washington, directly or indirectly, shall remain individually liable for the performance of the contract and for the full amount of any loss sustained by an insured under such contract;

5. Pursuant to RCW 48.14.020 and RCW 48.14.095, each unauthorized insurer that made a contract of insurance in this State, directly or indirectly, shall be and shall remain liable for payment of Washington State premium taxes and for any penalties and interest due pursuant to RCW 48.14.060;

6. Any violation of the terms of this Order by Respondents, their officers, directors, employees, agents, or affiliates, will render the violator(s) subject to the full penalties authorized by RCW 48.02.080, RCW 48.17.530, RCW 48.15.020, or other applicable Insurance Code sections; and

7. Respondents have a right to demand a hearing pursuant to Chapter 48.04 RCW and Chapter 34.05 RCW. This Order shall remain in effect subject to further Order of the Insurance Commissioner of the State of Washington.

THIS ORDER IS EFFECTIVE IMMEDIATELY AND IS ENTERED at Tumwater, Washington this 18th day of December, 2007.

MIKE KREIDLER
Insurance Commissioner

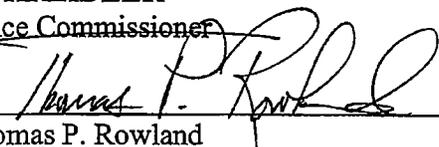
By: 
Thomas P. Rowland
Staff Attorney
Legal Affairs Division

Exhibit B



OFFICE OF
INSURANCE COMMISSIONER

In the Matter of

ROBERT D. EDELHEIT,

Licensee.

NO. D07-0352

ORDER REVOKING LICENSE

TO: Robert D. Edelheit
Congress Corporate Plaza
902 Clint Moore Road, Suite 100
Boca Raton, FL 33487

Robert D. Edelheit
5887 N.W. 24th Avenue, # 1202
Boca Raton, FL 33496

IT IS ORDERED AND YOU ARE HEREBY NOTIFIED that your license is **REVOKED**, effective January 7, 2008, pursuant to, amongst other provisions, RCW 48.01.030, RCW 48.15.020, RCW 48.15.023, RCW 48.17.070, and RCW 48.17.530.

THIS ORDER IS BASED ON THE FOLLOWING:

A. THE LICENSEE.

1. Robert D. Edelheit ("Licensee") is a licensed agent authorized to sell life and disability insurance in Washington.
2. Beginning in approximately July 13, 1989, and at all relevant times, Licensee served as the CEO of United National Workforce Association ("UNWA"), a non-profit corporation domiciled in the State of Georgia.
3. At all relevant times, Licensee also served as the President and CEO of United Group Programs, Inc. ("UGP"), which is an insurance third-party administrator for UNWA and which is involved with the unauthorized sale of insurance products to Washington residents.

B. BACKGROUND AND RELEVANT FACTS.

4. Steven Dudley Smith is the President of Steven D. Smith, Inc., which is domiciled in the State of Colorado and was formed on March 1, 1996. Steven D. Smith, Inc., owned and marketed a product called the Design Savers Plan ("DSP"), which was a product named for a bundled group of discounted benefits that included consumer and discount benefits, air evacuation benefits, travel assistance benefits, and



ORDER REVOKING LICENSE

No. D07-0352

Page 2

medical discount benefits.

5. With respect to the marketing of the discount medical benefits, DSP initially was associated with two entities called Family Security Council ("FSC") and Adovahealth Plan. Later, however, FSC purchased DSP for one million, two hundred thousand dollars (\$1,200,000.00) and thereby acquired and/or assumed DSP's client list.
6. FSC is domiciled in the State of Georgia and is a member of UNWA. Adovahealth Plan primarily is a discount medical plan, but it also contains fixed medical payment benefits and acts as a marketing arm of UNWA, FSC, and DSP. Both FSC and Adovahealth are under the corporate direction of UNWA.
7. Under the corporate umbrella of UNWA, a group insurance plan for the association was purchased from HM Health Insurance Company ("HM Health"). UNWA then marketed this insurance plan and offered it as a benefit when joining the association. The insurance portion of the product included fixed payment medical health, as well as accidental death and dismemberment. This plan was sold to Washington consumers. In fact, at least 198 Washington residents have purchased a medical plan through the aforementioned companies.
8. DSP, FSC, and UNWA are not licensed to transact the business of insurance in the State of Washington. In addition, while HM Health is licensed to transact the business of insurance in the State of Washington, it does not have any rates and forms that are being offered through UNWA approved for sale in the State of Washington. Moreover, during the relevant period, the fixed medical plans at issue were not approved in the State of Washington.
9. Prior to offering the HM Health plan, an agent for StartHRG (a subsidiary of Chesapeake Insurance Company) sold unauthorized products to DSP and FSC between August 1, 2006 and September 30, 2006. No actual policy, however, was ever issued. In addition, it was during this time period when Washington consumers purchased the unauthorized product from DSP. Ultimately, neither HM Health nor Chesapeake Insurance Company has products that meet the State of Washington's standards for health insurance. HM Health has ordered UNWA to stop selling memberships that include any HM Health product.
10. The Licensee permitted the UNWA name to be used in numerous types of insurance transactions, from the sales of bundled benefits plans to the reselling of policies issued to UNWA without the authorization and/or permission of the insurer. Furthermore, as President of UGP, the Licensee has paid his company excessive fees with monies in his care, monies placed there for the benefit of the "members" of UNWA. UGP has manipulated the handling of claims on behalf of HM Health,

ORDER REVOKING LICENSE

No. D07-0352

Page 3

taking extraordinary periods of time to even submit claims to HM Health. The Licensee is a licensed agent in Washington and, therefore, knows or should know his responsibilities with respect to regulatory and compliance laws. UGP, while acting as the third-party administrator for HM Health, received and processed numerous packets for new business sold in states where they are not authorized to transact business. As a director of the UNWA, the Licensee is deemed to have knowledge of his company affairs under RCW 48.30.130.

11. HM Health has a policy issued to UNWA. Moreover, the Licensee is an appointed agent for HM Health and it was the Licensee who sold the HM Health policy to UNWA. The Licensee receives monthly commissions on sales from HM Health in an amount between \$29,000 to \$32,000 per month. The commissions are paid as follows: the master policyholder is UNWA who recruits new members, and when an individual joins UNWA, he or she is included in the umbrella group insurance policy as part of his or her membership benefits.
12. The Licensee is integrally involved with the operation of UNWA and is continuing to collect commissions. The Licensee, in his capacity as an insurance agent, is appointed by HM Health, and that the programs sold the fixed payment medical plan from HM Health to UNWA. The Licensee's other entity, UGP, administers an insurance payment fund from Chesapeake that covers the unauthorized product sold through UNWA and FSC. The Licensee benefits directly from the commissions his company receives from HM Health sales, plus administering any claims that the Licensee oversees for Chesapeake.

C. UNTRUSTWORTHINESS DURING THE OIC'S INVESTIGATION.

13. During the OIC's investigation into this matter, the Licensee provided misleading and erroneous information regarding his conduct as an agent and regarding his involvement with the unauthorized entities at issue in this matter, including UNWA and UGP.
14. As another example, at one point during the OIC's investigation of this matter, the Licensee acknowledged that he serves as CEO and President of UGP and the CEO of UNWA. At a later date, however, the Licensee informed the OIC that he is not the President and CEO of UNWA and that he forgot that he was not the President and CEO.
15. By way of further example, when the OIC inquired into the commissions that the Licensee earned from his involvement with UGP and UNWA, the Licensee informed the OIC that he does not earn significant income from commissions. This information is contrary to the information provided by HM Health Insurance, which

ORDER REVOKING LICENSE

No. D07-0352

Page 4

indicates that it was paying UNWA commissions between \$29,000 to \$32,000 per month.

D. VIOLATIONS OF THE INSURANCE CODE.

16. Based on the foregoing, the Licensee has violated the following regulations and provisions of the Washington State Insurance Code, Title 48 RCW:
 - a. The Licensee violated RCW 48.01.030(1) by acting in bad faith, by engaging in deceptive and/or dishonest and/or inequitable acts or practices, and by failing to preserve the integrity of the business of insurance.
 - b. The Licensee violated RCW 48.15.020(1) by representing and/or making contracts of insurance on behalf of an unauthorized insurer.
 - c. The Licensee violated RCW 48.17.060(1) and (2) by acting and/or holding himself out to be a licensed agent and by soliciting or taking applications for, procuring, or placing for others any kind of insurance for which he was not then licensed.
 - d. The Licensee caused and/or participated in a violation of RCW 48.18.100 by soliciting and selling policies to Washington residents when the policies were not approved for sale in Washington.
 - e. The Licensee violated RCW 48.30.010(1) by engaging in unfair methods of competition in the business of insurance and/or by engaging in unfair or deceptive acts or practices in the conduct of the business of insurance.
 - f. The Licensee violated RCW 48.30.040 by knowingly making, publishing, or disseminating false, deceptive or misleading representation or advertising in the conduct of the business of insurance, or relative to the business of insurance or relative to any person engaged therein.
 - g. The Licensee violated RCW 48.30.060 by assuming or using a name or names which deceptively infers or suggests that it is an insurer.
 - h. The Licensee violated RCW 48.30.090 by making, issuing, or circulating, and/or causing to be made, issued, or circulated,

ORDER REVOKING LICENSE

No. D07-0352

Page 5

misrepresentations of the terms of insurance policies or the benefits or advantages promised thereby, and misrepresenting the nature of a name, title, or class of policies.

- i. The License violated RCW 48.30.190(1) by willfully collecting sums as premium for insurance, which insurance is not then provided or is not in due course provided by an insurance policy issued by an insurer as authorized by the Insurance Code.
- j. The License violated RCW 48.30.190(3) by willfully or knowingly failing to return to the person entitled thereto within a reasonable length of time any sum collected as premium for insurance in excess of the amount actually expended for insurance applicable to the subject on account of which the premium was collected.
- k. The Licensee violated RCW 48.30.210 by knowingly making a false or misleading statement and/or by willfully failing to reveal a material fact related to an application for insurance to an insurer.
- l. The Licensee violated RCW 48.30.210 by falsifying information on insurance applications and submitting information on insurance applications that the Licensee knew to be false.

By reason of your conduct, and your violations of Title 48 RCW, you have shown yourself to be, and are so deemed by the Commissioner, untrustworthy and a source of injury and loss to the public and not qualified to be an insurance agent in the State of Washington. Accordingly, your license is revoked pursuant to RCW 48.17.530(1)(b), (d), (e), and (h), and RCW 48.17.540(2).

IT IS FURTHER ORDERED that you immediately return your insurance agent's license certificate to the Commissioner on or before the effective date of the revocation of your license, as required by RCW 48.17.530(4).

NOTICE CONCERNING YOUR RIGHT TO A HEARING. Please note that a detailed summary of your right to contest this Order is attached. Briefly, if you are aggrieved by this Order, RCW 48.04.010 permits you to demand a hearing. Pursuant to that statute, and others, you must demand a hearing, in writing, within 90 days after the date of this Order, which is the day it was mailed to you, or you will waive your right to a hearing. Your demand for a hearing must specifically state the reasons why you think this Order should be changed. If your demand for a hearing is received by the Commissioner before the effective date of the revocation, then the revocation will be stayed (postponed) pending the hearing, pursuant to RCW 48.04.020. Upon receipt of your demand for

ORDER REVOKING LICENSE

No. D07-0352

Page 6

hearing, you will be contacted by an assistant of the Chief Hearing Officer to schedule a teleconference with you and the Insurance Commissioner's Office to discuss the hearing and the procedures to be followed.

Pease send any demand for hearing to the Insurance Commissioner, Attention John Hamje, Deputy Insurance Commissioner, Office of the Insurance Commissioner, P.O. Box 40257, Olympia, Washington 98504-0257.

ENTERED AT TUMWATER, WASHINGTON, this 18th day of December, 2007.

MIKE KREIDLER
Insurance Commissioner

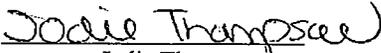
By


JOHN F. HAMJE
Deputy Insurance Commissioner
Consumer Protection Division

DECLARATION OF MAILING

I certify under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery of a true copy of this document to *Robert D. Edelheit to two different addresses.*

Dated: December 18, 2007
At Tumwater, Washington


Jodie Thompson

NOTICE OF YOUR RIGHT TO A HEARING

You have the right to demand a hearing to contest this Order. During this hearing, you can present your argument that the Order should not have been entered for legal and/or factual reasons and/or to explain the circumstances surrounding the activities which are the subject of this Order. You may be represented by an attorney if you wish, although in some hearings before this agency parties do choose to represent themselves without an attorney.

Your Demand for Hearing should be sent to John F. Hamje, Deputy Insurance Commissioner, Office of the Insurance Commissioner, P.O. Box 40257, Olympia, WA 98504-0257, and must briefly state how you are harmed by this Order and why you disagree with it. You will then be notified both by telephone and in writing of the time and place of your hearing. If you have questions concerning filing a Demand for Hearing or the hearing process, please telephone the Hearings Unit, Office of the Insurance Commissioner, at 360/725-7002.

Your Demand for Hearing must be made within 90 days after the date of this Order, which is the date of mailing, or your Demand will be invalid and this Order will stand. If your Demand for Hearing is received before the effective date of this Order, the penalties contained in the Order will be stayed (postponed) until after your hearing.

It is important to know that if you demand a hearing, you will have two options for how it will be handled:

Option 1: Unless you specifically request Option 2, your hearing will be presided over by an administrative law judge from the Office of the Insurance Commissioner. Under this option, upon receipt of your Demand for Hearing, the Insurance Commissioner may refer the case to an administrative law judge. The administrative law judge is an individual who has not had any involvement with this case. The administrative law judge will hear and make the final decision in the case without any communication, input or review by the Insurance Commissioner or staff or any other individual who has knowledge of the case. This administrative law judge's final decision may uphold or reverse the Commissioner's action or may instead impose any penalties which are less than those contained in the Order.

Option 2: If you elect, your hearing will be presided over by an administrative law judge from the Office of Administrative Hearings. That administrative law judge will issue an initial or recommended decision which will then be sent to the Insurance Commissioner. The Insurance Commissioner, or his designee, will review the initial decision and make the final decision. The Insurance Commissioner's final decision in the case may uphold, reverse or modify the initial decision, thereby changing the penalty which is recommended in the initial decision. In writing the final decision, the Insurance Commissioner is not bound by the findings of facts or conclusions of law which were made in the initial decision.

Exhibit C

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

OFFICE OF INSURANCE COMMISSIONER
OF THE STATE OF WASHINGTON

In the Matter of
ROBERT D. EDELHEIT,
Licensee,

NO. D07-0352
NOTICE OF APPEARANCE AND
DEMAND FOR HEARING

To: John F. Hamje
Deputy Commissioner
Consumer Protection Division

Please take notice that Robert D. Edelheit, licensee, is represented by Michael Madden of Bennett Bigelow & Leedom, P.S. and that all further communications concerning this matter should be directed to counsel for Mr. Edelheit.

Pursuant to RCW 48.10.010, Mr. Edelheit hereby demands a hearing with respect to Order Revoking License issued by the Insurance Commissioner on December 18, 2007 ('the Order'). Mr. Edelheit is aggrieved in that the revocation of his license and the statements contained in the Order have or will cause injury to his business or person. Pursuant to RCW 48.10.020, this Demand shall result in a stay of the Order. Pursuant to RCW 48.10.010(5), it

1 is requested that this matter to be assigned to an Administrative Law Judge appointed by the
2 Office of Administrative Hearings.

3 As bases for relief, Mr. Edelheit asserts his statutory and constitutional rights to
4 require the Insurance Commissioner to prove the matters alleged by clear and convincing
5 evidence. Mr. Edelheit further asserts that the material factual allegations upon which the
6 Order is based are inaccurate and the legal conclusions asserted are erroneous. Mr. Edelheit
7 has not committed any illegal acts involving the business of insurance within the state of
8 Washington nor authorized others to do so, and has not committed any acts that would
9 authorize the Commissioner to revoke his license as an agent.
10

11 This demand for hearing is without prejudice to assertion of other grounds for relief or
12 other remedies that may exist against the Office of Insurance Commissioner or its officers and
13 employees.
14

15 Dated this 3 day of January 2007

16 BENNETT BIGELOW & LEEDOM, P.S.

17
18 By 
19 Michael Madden WSBA #8747
20 Attorneys for Robert D. Edelheit
21
22
23
24
25
26

Exhibit D

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

OFFICE OF INSURANCE COMMISSIONER
OF THE STATE OF WASHINGTON

In the Matter of

DESIGN SAVERS PLAN, et al

ROBERT D. EDELHEIT, UNITED GROUP
PROGRAMS, INC., and OPTIMED.

Respondents

NO. D07-0351

NOTICE OF APPEARANCE AND
DEMAND FOR HEARING

To: MIKE KREIDLER
INSURANCE COMMISSIONER
Thomas P. Rowland
Staff Attorney
Legal Affairs Division

Please take notice that Robert D. Edelheit, United Group Programs, Inc. (including OptiMed) are represented by Michael Madden of Bennett Bigelow & Leedom, P.S. and that all further communications concerning this matter should be directed to counsel.

Pursuant to RCW 48.04.010, Mr. Edelheit and United Group Programs, Inc. hereby demand a hearing with respect to the Order to Cease & Desist issued by the Insurance Commissioner on December 18, 2007 ("the Order"). Mr. Edelheit and United Group

1 Programs, Inc. are aggrieved by the Order in that the statements contained in the Order have
2 or will cause injury to their business or person. Pursuant to RCW 48.10.010(5), it is requested
3 that this matter to be assigned to an Administrative Law Judge appointed by the Office of
4 Administrative Hearings.

5 As bases for relief, Mr. Edelheit and UGP further assert that the material factual
6 allegations upon which the Order is based are inaccurate with respect to their role and
7 involvement and that the legal conclusions asserted are erroneous. Mr. Edelheit and United
8 Group Programs, Inc. have not committed any illegal acts involving the business of insurance
9 within the state of Washington nor authorized others to do so.
10

11 This demand for hearing is without prejudice to assertion of other grounds for relief or
12 other remedies that may exist against the Office of Insurance Commissioner or its officers and
13 employees.
14

15 Dated this 24th day of January 2008

16 BENNETT BIGELOW & LEEDOM, P.S.

17
18 By  _____
19 Michael Madden WSBA #8747

20 Attorneys for Robert D. Edelheit and United
21 Group Programs, Inc.
22
23
24
25
26

Exhibit E

From: Mike Madden (internal)
Sent: Wed 2/6/2008 12:29 PM
Rcvd: Wed 2/6/2008 12:29 PM
To: 'WendyG@OIC.WA.GOV'
CC: TomR@oic.wa.gov
Subject: RE: Robert D. Edelheit and UGP D07-0351

Thank you for the explanation. We will take up the issue with Ms. Petersen initially. For the record, Robert Edelheit is a licensed agent and, as such, he is entitled to a hearing before an ALJ.

Mike Madden

Michael Madden
Bennett Bigelow & Leedom, P.S.
1700 Seventh Avenue, Suite 1900
Seattle, WA 98101
Tel: (206) 622-5511
Fax: (206) 622-8986
<http://www.bbllaw.com>

CONFIDENTIALITY NOTICE

The contents of this message may be protected by the attorney-client privilege, work product doctrine or other applicable protection. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this email message in error, please notify the sender via email or telephone at (206) 622-5511.

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

From: WendyG@OIC.WA.GOV [mailto:WendyG@OIC.WA.GOV]
Sent: Wednesday, February 06, 2008 12:19 PM
To: Mike Madden
Cc: TomR@oic.wa.gov
Subject: RE: Robert D. Edelheit and UGP D07-0351

Mr. Madden:

Yes, Judge Petersen is aware that Mr. Edelheit has another matter being reviewed by OAH and of your request to have the matter regarding the Cease and Desist Order, D07-0351, heard by OAH. Because the respondents are unauthorized insurers, the matter is heard by the Chief Hearing Officer of the OIC.

*Wendy Galloway, Paralegal
Office of Insurance Commissioner
Hearings Unit
(360)725-7002
(360)664-2782 (fax)
wendyg@oic.wa.gov*

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

From: Mike Madden [mailto:mmadden@bblaw.com]

Sent: Wednesday, February 06, 2008 12:01 PM

To: Wendy Galloway

Cc: Tom Rowland

Subject: Robert D. Edelheit and UGP D07-0351

Dear Ms. Galloway:

I received the Notice of Receipt of Demand for Hearing this morning and noted that it appears to signal that the Hearings Unit of the OIC is planning to conduct the proceedings. Please note that my clients have requested that the matter be assigned to an ALJ from the OAH. Thank you.

Michael Madden
Bennett Bigelow & Leedom, P.S.
1700 Seventh Avenue, Suite 1900
Seattle, WA 98101
Tel: (206) 622-5511
Fax: (206) 622-8986
<http://www.bblaw.com>

CONFIDENTIALITY NOTICE

The contents of this message may be protected by the attorney-client privilege, work product doctrine or other applicable protection. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this email message in error, please notify the sender via email or telephone at (206) 622-5511.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

IN THE MATTER OF:

Robert D. Edelheit

DOCKET NO. D07-351

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

On the 27th day of February 2008, the undersigned served **LICENSEE'S MOTION TO TRANSFER TO OFFICE OF ADMINISTRATIVE HEARINGS OR IN THE ALTERNATIVE FOR A STAY and DECLARATION OF MICHAEL MADDEN IN SUPPORT OF LICENSEE'S MOTION TO TRANSFER** by causing true and correct copies to be delivered via email and U.S. Mail to:

Thomas P. Rowland
Staff Attorney
Office of Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255
tomr@oic.wa.gov

Stephen Smith
Family Financial Advisors
7034 S Yampa Court
Foxfield, CO 80016
ssmith@sdsfinancial.net

Dated this 27th day of February 2008.


Deanna L. Schow