

STATE OF WASHINGTON

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MIKE KREIDLER
STATE INSURANCE COMMISSIONER



OFFICE OF
INSURANCE COMMISSIONER
HEARINGS UNIT
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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
of a true copy of this document to

Patricia Petersen
DATED this 24th day of July 2008
at Tumwater, Washington.

Signed: Wendy Galloway

Patricia D. Petersen
Chief Hearing Officer
(360) 725-7105

Wendy Galloway
Paralegal
(360) 725-7002
Wendygoic.wa.gov

July 24, 2008

Thomas P. Rowland
OIC Legal Affairs, Legal Staff Attorney
P.O. Box 40255
Olympia, Washington 98501

Michael Madden, Esquire
Bennett Bigelow & Leedom, PS
1700 Seventh Ave. Suite 1900
Seattle, Washington 98102

Re: Docket No. D07-0351, Design Savers Plan, et al,
Docket No. D07-0352, Robert D. Edelheit, Licensee

Mssrs. Rowland and Madden:

This letter is in response to Mr. Rowland's letter dated June 11, 2008.

As stated in my previous letter of June 4, 2008, and June 4 Orders concerning these cases, Title 34 RCW provides that orders entered by Office of Administrative Proceedings are initial (or recommended) orders. On occasion, cases are referred to OAH, but orders are, pursuant to Title 34 RCW and chapter 284 WAC never final orders. For this reason, your belief that termination of the case by OAH would result in the matter being terminated by the OIC as well is not accurate. While I have never objected to any provisions of any settlement agreement before entering orders terminating proceedings, there remain matters to be addressed in these cases.

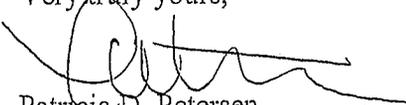
First, as you mention, clearly chapter 10-08 WAC, and particularly WAC 10-08-230(2) always encourage settlement of adjudicative proceedings at any time, and for good indisputable reasons of economy and other factors. It is not clear to me whether you intend to treat the matter as it relates to Robert D. Edelheit, United Group Programs, Inc. (including Opti-Med), and Jonathan Edelheit as having never existed, but if this is the case then you will want to remain cognizant of public disclosure rules as they relate to the original disciplinary documents.

Second, although he did not appear and waived his right to hearing, Jonathan Edelheit is certainly not precluded from reaching an independent settlement of the matter although it is rare that the Commissioner is agreeable to settle a matter with an individual who has waived his right to hearing. There should be no implication that, if the Commissioner is willing, Jonathan Edelheit surely retains the right to settle the matter as it concerns him even at this time, so long as he signs the settlement agreement himself, as he is not represented by Mr. Madden. That has been done.

Third, the language contained in the Settlement Agreement (Paragraph 3.a) remains my concern. Again, you agree that Robert D. Edelheit, United Group Programs, Inc. and Jonathan Edelheit *have no plans to transact insurance business in Washington and further stipulate that they will not, either personally or through any persons or entities under their control, sell insurance products in Washington State or otherwise transact the business of insurance within Washington State or affecting Washington residents.* Then, however, you provide that an activity which is not prohibited is *3.a.i. Sales of group products to single employers outside of the State of Washington that have some Washington employees;....* In its Order to Cease and Desist, the OIC has alleged that United Group Programs, Inc. (including Opti-Med) is an unauthorized carrier and I am assuming that this is still the position of the OIC. I suggest that you need to reword Paragraph 3.a.i. of the Settlement Agreement to clarify that the OIC is not permitting these Respondents to sell unauthorized products to single employers outside of Washington that have some Washington employees, as you would not want it to be understood that the OIC is specifically permitting Washington residents to be covered by unauthorized insurance products, contrary to Title 48 RCW. Your explanation in your June 11, 2008 letter that this wording *was included to make clear that those are not activities prohibited by the settlement agreement since they are not activities which require that Mr. Edelheit possess a valid Washington license* leaves me still concerned.

Although I would like to conclude these cases at the earliest time possible, I cannot enter the Orders Terminating Proceeding until this above third concern is satisfactorily addressed in the wording of the Settlement Agreement. As I mentioned before, I have never had concerns about the terms of any settlement agreements in many years, but I simply cannot fail to address this situation. If you like, I would be happy to work with you on alternate wording of this section if it would be helpful, so that these documents clearly cannot be read to imply that the OIC intends to permit sales of unauthorized insurance to Washington residents by any means.

Very truly yours,



Patricia D. Petersen
Review Judge
Chief Hearing Officer