

STATE OF WASHINGTON

Phone: (360) 725-7000
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MIKE KREIDLER
STATE INSURANCE COMMISSIONER
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 parties listed below

DATED this 21st day of July 2008 at Tumwater, Washington.

Signed W. Galloway

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



OFFICE OF
INSURANCE COMMISSIONER
HEARINGS UNIT

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FILED

2008 JUL 21 P 12: 21

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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In re:)	NO. D07-149
)	
NORTH AMERICAN DEALER CO-OP,)	ORDER CONCERNING TESTIMONY
)	OF REMAINING WITNESSES
Appellant.)	
)	

TO: Brian M. King, Esquire
Davies Pearson P.C.
P.O. Box 1657
Tacoma, Washington 98401

Chad Greenlee
North American Dealer Co-Op
1661 Wadsworth Boulevard
Lakewood, Colorado 80214

Henry C. Bailey, Jr., President of NADS
North American Dealer Co-Op
1661 Wadsworth Boulevard
Lakewood, Colorado 80214

COPY TO: Mike Kreidler, Insurance Commissioner
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James T. Odiome, Deputy Commissioner, Company Supervision
John F. Hamje, Deputy Commissioner, Consumer Protection
Carol Sureau, Deputy Commissioner, Legal Affairs Division
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On June 16, 2008, the undersigned held a posthearing conference to address issues related to the remainder of the hearing in this matter, the Insurance Commissioner (OIC) having filed first, second and third Motions to Supplement the Record and North American Dealer Coop (NADC) having submitted new material attached to its posthearing brief and having indicated an interest in having another witness appear posthearing on behalf of NADC.

During the above-referenced posthearing conference, the OIC appeared pro se, by and through Alan Michael Singer, Staff Attorney, and NADC appeared by and through its attorney, Brian M. King of Davies Pearson, P.S. of Tacoma. During said posthearing conference, the OIC requested that Mr. Robert Shattuck, Assistant Vice President of Western Insurance Company, and Mr. Dick Rottman, CEO of Western Insurance Company, be allowed to testify by telephone. The request of the OIC was opposed by NADC, arguing that its prior witness, Chad Greenlee, an employee/officer of National Administrative Dealer Services Inc., (NADS), was not allowed to testify by telephone but rather was required to appear to testify in person.

WAC 10-08-180 provides (1) The presiding officer may conduct all or part of the hearing by telephone ... or other electronic means if the rights of the parties will not be prejudiced and if each participant in the hearing has an opportunity to participate in, to hear, and, if technically and economically feasible, in the judgment of the presiding officer, to see the entire proceeding while it is taking place. However, the presiding officer shall grant the motion of any party showing good cause for having the hearing conducted in person at a rescheduled time. (2) Documentary evidence shall be submitted in advance as provided in WAC 10-08-140(2).

It is the opinion of the undersigned that it is reasonable that Messrs. Shattuck and Rottman be allowed to testify by telephone. Likewise, it is also reasonable that Ms. Janice L. Bowman, which NADC has proposed as a possible witness on its behalf, be allowed to testify by telephone. Mr. Greenlee is an employee/officer of NADS, one of the parties in this matter, while Messrs. Shattuck and Rottman and Ms. Bowman are representatives of a nonparty in this matter; for this reason, consideration of NADC's request that Mr. Greenlee appear by telephone was considered differently.

Each party, as always, shall have the right to cross examine the witnesses, and shall have the right to move at any time to have the hearing conducted in person at a rescheduled time if good cause can be shown, pursuant to WAC 10-08-180(1). Further, pursuant to WAC 10-08-180(2), it is reasonable that all documentary evidence shall be submitted 10 days in advance of the date scheduled for telephonic hearing pursuant to WAC 10-08-140(2).

Based upon the above activity,

IT IS HEREBY ORDERED that Messrs. Shattuck and Rottman and Ms. Bowman are allowed to testify by telephone at a date to be scheduled by the undersigned based upon the convenience of the parties and witnesses, pursuant to WAC 10-08-180;

IT IS FURTHER ORDERED that either party shall have the right to move at any time during the hearing to have the hearing conducted in person at a rescheduled time if good cause is shown, pursuant to WAC 10-08-180(2);

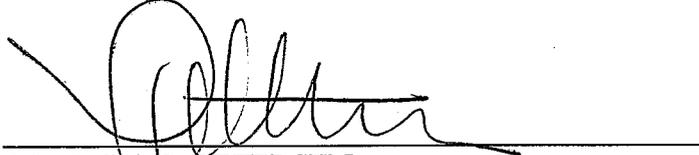
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IT IS FURTHER ORDERED that all documentary evidence shall be submitted 10 days in advance of the date scheduled for telephonic hearing, pursuant to WAC 10-08-140(2) and WAC 10-08-280(2);

The parties will be contacted regarding scheduling further proceedings in this matter in accordance with this order.

ENTERED AT TUMWATER, WASHINGTON, this 21st day of July, 2008.

A handwritten signature in black ink, appearing to read 'Patricia D. Petersen', is written over a horizontal line. The signature is cursive and somewhat stylized.

PATRICIA D. PETERSEN
Presiding Officer