

HELZBERG DIAMONDS.

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June 20, 2008

James T. Odiome, Esq.
Company Supervision Division
Office of Insurance Commissioner
5000 Capitol Boulevard
Tumwater, Washington 98501

Re: Notice of Intent to Suspend Registration Issued to
Helzberg Diamond Shops, Inc. (OIC No. 193108)

Dear Mr. Odiome:

In your letter dated June 9, 2008, you state that the Office of the Insurance Commissioner (the "Office of Commissioner") will enter an order on June 23, 2008, suspending the registration of Helzberg's Diamond Shops, Inc. ("Helzberg Diamonds") to act as a service contract provider in the State of Washington. I am writing to appeal this suspension order and demand a hearing on the matter in accordance with RCW 48.04.010. Pursuant to RCW 48.04.020, this demand stays issuance of the order pending hearing on the matter.

Your letter asserts as grounds for the suspension that Helzberg Diamonds has failed to: (1) comply with the indemnification requirements of RCW 48.110.050(2); and (2) submit its audited financial statement or other acceptable financial report as required by RCW 48.110.030(2)(c) and 48.110.130(1)(e). As further discussed below, Helzberg Diamonds has submitted documents that demonstrate its compliance with these statutes and hereby appeals the decision and order of the Office of Commissioner.

(1) INDEMNIFICATION REQUIREMENTS

To Helzberg Diamonds' knowledge, the Office of Commissioner's allegation of failure to demonstrate compliance with the indemnification requirements of RCW 48.110.050(2) relates to the Office of the Commissioner's rejection of Helzberg Diamonds proposed substitution of a parent guaranty for purposes of indemnification. Specifically, in October of 2007, Helzberg Diamonds began issuing service contracts with lifetime duration and anticipated that the amount it would be required to maintain in a funded reserve could grow without limit. Accordingly, to facilitate compliance with RCW 48.110.050(2) and assure adequate security, Helzberg Diamonds informed the Office of Commissioner of its desire to change its method of indemnification from the security bond/funded reserve method described in subsection (b) to the parent guaranty method described in subsection (c) of RCW 48.110.050(2).

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In satisfaction of subsection (c), Helzberg Diamonds provided the Office of Commissioner with the required form 10-K for Berkshire demonstrating its net worth in excess of \$100,000,000,000. It also furnished a copy of Berkshire's letter agreement, dated July 31, 2007, signed by Marc D. Hamburg, Vice President of Berkshire in which Berkshire agrees to guarantee the obligations of Helzberg Diamonds relating to service contracts sold by Helzberg Diamonds. The Office of Commissioner rejected the language of this guaranty. Helzberg Diamonds and Berkshire agreed to make certain language changes as directed by the Office of Commissioner. But, the Office of Commissioner has repeatedly insists that Berkshire omit language that limits Berkshire's irrevocable guaranty to service contracts issued during the period of time in which Berkshire is majority owner of Helzberg Diamonds. This language does not limit the duration of the guaranty it simply makes it applicable only to service contracts issued at a time when Berkshire was the majority owner of Helzberg Diamonds. This means that should Berkshire at any time cease to be the majority owner of Helzberg Diamonds, Berkshire would irrevocably remain guarantor of all service contracts *issued prior* to the effective date of its discontinued majority interest in Helzberg Diamonds, unless it makes other arrangements acceptable to the office of the Commissioner. Berkshire, however, would not be obligated to guaranty service contracts *issued after* such date of discontinued majority ownership. The statute does not expressly require it and it is unreasonable to expect any parent company to guaranty contracts *issued after* discontinuation of its majority ownership of the service provider/issuer. As to contracts *issued after* any such transfer of majority control, the interest of the Office of Commissioner would remain protected as Helzberg Diamonds would be obligated to provide different security to satisfy its indemnification obligations under RSW 48.110.050(2) and retain its authority to continue sell service contracts in the State upon acquiring a new majority owner. Based on the above and Berkshire's net worth, a Berkshire guaranty in the form of the attached conforms with the requirements of RCW 48.110.050(2)(c) and provided security greater than any security bond/funded reserve. As a result, the Office of the Commissioner's refusal to accept it as Helzberg Diamonds' form of indemnification should be overturned.

(2) ACCEPTABLE FINANCIAL REPORT

RCW 48.110.030(2)(c) requires that Helzberg Diamonds provide "audited annual financial statements or other financial reports acceptable to the commissioner for the two most recent years which prove that the applicant is solvent and any information the commissioner may require in order to review the current financial condition of the applicant." Like many, if not, most subsidiaries of 10-K companies, Helzberg Diamonds does not obtain audited financial statements. It instead submits its financial statements to Berkshire, which incorporates the information into its consolidated statements and turns those consolidated statements over to its accounting firm for auditing in connection with Berkshire's form 10-K. So, Helzberg Diamonds submitted to the Office of Commissioner Helzberg Diamonds' unaudited financial statements containing substantially greater detail than that typically included in a company's audited statements and Berkshire's consolidated statements from its form 10-K. The Office of Commissioner informed Helzberg Diamonds it would not accept Helzberg Diamonds' unaudited

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financial statements and would not accept Berkshire's form 10-K as evidence of Helzberg Diamonds' solvency pursuant to RCW 48.110.030(2)(c) unless the form 10-K contained a break-out of Helzberg Diamonds' individual financials. Again, like many, if not most, companies of Berkshire's size consisting of over 50 subsidiaries, it does not include in its form 10-K any financial break-outs with respect to its individual subsidiaries. In order to provide the Office of Commissioner with essentially the same thing as a 10-K with a break-out, Helzberg Diamonds offered to annually provide the Office of Commissioner with a written certification from the Controller or Assistant Controller of Berkshire, which incorporates and attaches the financial statements of Helzberg Diamonds for the two most recent years and certifies that those financial statements are the financial statements Berkshire used in preparing Berkshire's consolidated financial statements included in the Berkshire's 10-K. The sample statement is attached. In essence, the Berkshire Controller/Assistant Controller would certify that had Berkshire included a break-out in the 10-K, the break-out would have consisted of the attached financial statement information.

The Office of the Commissioner rejected such offered certification insisting that Helzberg Diamonds instead either annually provide audited financials for Helzberg Diamonds or a Berkshire 10-K containing break-out financials for Helzberg Diamonds. Such refusal to accept a certification equivalent to a 10-K with break-out is arbitrary and imposes an undue burden on Helzberg Diamonds and companies like Helzberg Diamonds. The cost to Helzberg Diamonds of obtaining audited financial statements is estimated to be in the range of \$60,000 to \$80,000 per year and inclusion of break-out information on Helzberg Diamonds in the Berkshire form 10-K is infeasible. Requiring Helzberg Diamonds to incur such cost in order sell service contracts in its State imposes an unreasonable barrier to doing business in the State and provides the State no additional protection as to solvency or indemnification. This is especially true when the indemnification relied upon is a guaranty by a parent company of Berkshire's financial status making the solvency of the service provider less relevant for purposes of protecting the interests of service plan holders.

(3) CONCLUSION AND REQUESTED REMEDY

Helzberg Diamonds has made good faith, genuine attempts to comply with the statutes governing registration of service contract providers and in doing so has satisfied all such requirements. Suspension of Helzberg Diamonds' registration would be an arbitrary and capricious application of the law. Suspension of Helzberg Diamonds' license to sell service contracts would create serious financial loss and could wrongfully tarnish Helzberg Diamonds' stellar reputation for customer service and legal/ethical compliance.

Accordingly, a hearing should be held to resolve the matter and should find that (1) the guarantee offered by Berkshire Hathaway in the form attached satisfies RCW 48.110.050 and (2) the certification of financial reports offered by Helzberg Diamonds and Berkshire in the form attached satisfy RCW 48.110.030. In the alternative, Helzberg Diamonds seeks approval of

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guaranty language and 10-K breakout certification language that substantially conforms to the language proposed in the attached.

Thank you for your consideration of this matter. I look forward to a prompt resolution.

Sincerely,

HELZBERG'S DIAMOND SHOPS, INC.

By 
Michele Swarts
Divisional Vice President-Controller

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PROPOSED LANGUAGE OF BERKSHIRE GUARANTY

Dear State of Washington:

Helzberg's Diamond Shops, Inc. ("Helzberg") is an indirect wholly-owned subsidiary of Berkshire Hathaway Inc. ("Berkshire"). Berkshire's net worth exceeds \$500 million and it is subject to periodic reporting requirements of the Securities Exchange Act of 1934. Berkshire agrees to guaranty all obligations of Helzberg Diamonds relating to the operation of service contracts issued in your state under Chapter 48.110 RCW during such time as Berkshire maintains a controlling ownership interest of Helzberg.

This guarantee is irrevocable as long as there is in force in your state any contract or any obligation arising from Helzberg service contracts issued while Berkshire controlled Helzberg.

Berkshire may be contacted at:

Berkshire Hathaway, Inc.
1440 Kiewit Plaza
Omaha, NE 68131.

Sincerely,

Berkshire Hathaway Inc.

By _____
Marc D. Hamburg
Vice President

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PROPOSED 10-K BREAK-OUT CERTIFICATION

Dear State of Washington:

As the duly authorized Assistant Controller of Berkshire Hathaway Inc., I hereby certify that the 2006 and 2007 financial statements of Helzberg's Diamond Shops, Inc., which are included in this document, are the financial statements utilized in preparation of Berkshire Hathaway Inc.'s 2006 and 2007 consolidated financial statements included in Berkshire's Annual Reports on Form 10-K for such respective years.

Yours truly,

Berkshire Hathaway Inc.

By _____

Mark R. Vinton
Assistant Controller