

**FILED**

2017 DEC 20 P 2:44

**BEFORE THE STATE OF WASHINGTON  
OFFICE OF INSURANCE  
COMMISSIONER**

**HEARINGS UNIT  
OFFICE OF  
INSURANCE COMMISSIONER**

In the Matter of:

The Form A and Form E Applications for the  
Proposed Acquisition of Control of:

REtitle Insurance Company,

By

A10 Capital, LLC

Docket No. 17-0369

**JOINT SUBMISSION ON  
CONFIDENTIALITY ISSUES**

Pursuant to the October 12, 2017, Case Management Order issued herein, the Staff of the Office of the Washington State Insurance Commissioner ("OIC Staff"), applicant A10 Capital, LLC ("A10"), and target company REtitle Insurance Company ("REtitle") (collectively, the "Parties") hereby submit this Joint Submission on Confidentiality Issues. A10 and REtitle request confidential treatment with respect to the categories of documents set forth below. The OIC Staff concurs with this request.

**1. The Form E Statement**

On October 2, 2017, A10 filed the Form E Preacquisition Notification Form (the "Form E") with the OIC. The Washington Insurance Code provides that the Commissioner must give confidential treatment to the Form E in its entirety.

Pursuant to Washington Revised Code (RCW) 48.31B.020, the Form E statute, the Washington Insurance Commissioner "must give confidential treatment" to information submitted thereunder "in the same manner as provided in RCW 48.31B.038." RCW 48.31B.038 provides, in pertinent part, that:

Documents, materials, or other information in the possession or control of the commissioner that are obtained by or disclosed to the commissioner or any other person... are confidential by law and privileged, are not subject to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissibility in evidence in any private civil action...

Accordingly, the Parties request that the Hearing Officer enter an order requiring that the Form E and all information reported therein (including any exhibits or addendums submitted subsequent to the original filing of the Form E) receive confidential treatment and order that they are not subject to public inspection or disclosure, are not subject to subpoena or discovery, and are not admissible in evidence in any private civil action. See RCW 34.05.446(1).

## **2. Biographical Affidavits**

On October 2, 2017, A10 submitted its Form A Statement ("Form A") to the Washington State Insurance Commissioner (the "OIC").<sup>1</sup> Attached as Exhibit C to the Form A are the biographical affidavits of A10's Directors and Executive Officers, and of the prospective officers and/or directors of REtitle (post-acquisition). To the extent the biographical affidavits contain sensitive personal information such as information used to prove identity, age, residential address and social security number, such personal information is exempt from public inspection and copying and must be redacted from public records. *See* RCW 42.56.230(5) & (7)(a) (protecting personal information from public inspection and copying to prevent compromising the individuals' personal privacy and exposing them to identity theft); GR 31(e) (requiring personal information to be redacted from court records).

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<sup>1</sup> A10 filed supplemental documentation with the OIC on October 27, 2017, and November 17, 2017. All such submittals to date by A10 shall be referred to collectively as the "Form A."

Further, Washington State Court Rules (CR) provide courts with the ability to issue protective orders limiting discovery to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, CR 26(c). The Parties believe that public disclosure of the personal information included in the biographical affidavits would compromise the individuals' personal privacy and expose them to identity theft, thereby potentially resulting in annoyance, embarrassment, oppression, or undue burden or expense. The biographical affidavit form used by The Washington Office of Insurance Commissioner recognizes the need for such confidentiality with the prominent statement "To the extent permitted by law, this affidavit will be kept confidential by the state insurance regulatory authority."

Accordingly, the Parties request that the Hearing Officer enter an order allowing the Parties to redact the personal information in the biographical affidavits of A10's Directors and Executive Officers, including social security numbers, dates of birth, home telephone numbers and home addresses.

### 3. **Form A; Exhibits E & I**

The post-acquisition financial projections for REtitle contained in Exhibit E of the Form A, and the resolutions/minutes of A10 and REtitle relating to approval of the Stock Purchase Agreement contained in Exhibit I to the Form A (collectively, the "Confidential Information"), contain proprietary and confidential information about A10 and A10's future plans for REtitle, which information is not readily ascertainable from another source and which, if known to competitors, would result in competitive harm to A10 and/or REtitle. These analyses are in the nature of working papers, documents, materials, or information disclosed to the Commissioner in

the course of an examination that are not required to be disclosed under the Washington Insurance Code. See RCW 48.02.065(1), (5) & (6).

Because the Confidential Information contains key managerial strategic decisions concerning the growth prospects for A10 and REtitle, and financial data regarding A10 and REtitle that are not readily ascertainable from another source, the Parties request that the Hearing Officer enter an order requiring that the Confidential Information receive confidential treatment and be maintained under seal.

#### **4. Disputed Items**

The parties could not reach agreement on the following exhibits, which were attached to the Form A:

- Exhibit A; Stock Purchase Agreement
- Exhibit B and Addendums No. 1 & 2; Detailed description of A10's ownership structure
- Exhibit F; A10's financial statements
- Exhibit G; A10's ownership structure chart
- Exhibit H; Amendment to Stock Purchase Agreement
- Exhibit J; A10's supplemental financial statements

Additionally, the parties were unable to reach agreement regarding the portions of the Form A that contain statements of the purchase price A10 agreed to pay for the acquisition of REtitle, and the proposed interim compensation for David Bayley as President of REtitle post-acquisition.

The parties will address these discrepancies in their respective hearing briefs.

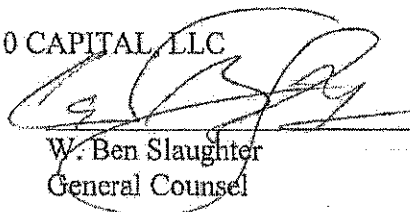
**5. Conclusion**

For these reasons, A10 and REtitle respectfully request that the Hearing Office enter an order:

1) requiring that the Form E be maintained as confidential in its entirety; 2) allowing the Parties to redact the personal information in the biographical affidavits of A10's Executive Officers and Directors, and of the prospective officers and/or directors of REtitle (post-acquisition), including social security numbers, dates of birth, home telephone numbers and home addresses; and 3) requiring that the Confidential Information be maintained as confidential. As previously indicated, these requested confidentiality protections are supported under established Washington law. Finally, the OIC Staff concurs in this request.

DATED This 20<sup>th</sup> day of December, 2017.

A10 CAPITAL LLC



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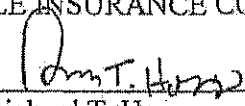
W. Ben Slaughter  
General Counsel

WASHINGTON OIC

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Dave Jorgensen  
Insurance Enforcement Specialist

RETITLE INSURANCE COMPANY



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Richard T. Hoss  
Hoss & Wilson-Hoss, LLP  
Counsel for REtitle Insurance Company

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**5. Conclusion**

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Richard T. Hoss  
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Counsel for REtitle Insurance Company

CERTIFICATE OF SERVICE

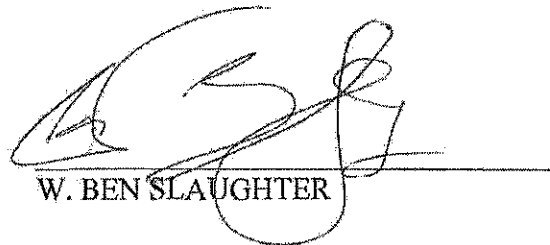
I HEREBY CERTIFY that on this 20<sup>th</sup> day of December, 2017, a true and correct copy of the above and foregoing document was forwarded addressed as follows in the manner stated below, pursuant to the Case Management Order filed herein:

Via Email to:

Hearings Unit ([HearingsU@oic.wa.gov](mailto:HearingsU@oic.wa.gov))  
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W. BEN SLAUGHTER