

FILED

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

2014 SEP 26 A 10: 09

In the Matters of:

**BENEFIT MARKETING SOLUTIONS,
LLC, and BENEFIT SERVICES
ASSOCIATION
and
RENT-A-CENTER, INC. and
RENT-A-CENTER WEST, INC.**

No. 14-0081

No. 14-0082

ORDER CONSOLIDATING CASES,
NOTICE OF HEARING AND
SCHEDULING ORDER

TO: Gulliver A. Swenson, Esq.
Ryan Swanson & Cleveland, PLLC
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3034
Attorney for Benefit Marketing Solution, LLC, Benefit Services
Association, Rent-a-Center Inc. and Rent-a-Center West, Inc.

COPY TO: Mike Kreidler, Insurance Commissioner
James T. Odiorne, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Marcia G. Stickler, Insurance Enforcement Specialist, Legal Affairs Div.
AnnaLisa Gellermann, Deputy Commissioner, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

1. On May 1, 2014, the Office of the Insurance Commissioner ("OIC") filed a Notice of Request for Hearing for Imposition of Fines as to Rent-a-Center Inc. and Rent-a-Center West, Inc. (collectively "Rent-a-Center"), Benefit Marketing Solutions, LLC ("BMS"), and Benefit Services Association ("BSA").

2. On May 2, 2014, the Hearings Unit filed a Notice of Receipt of OIC Notice of Request for Hearing.

3. On May 7, 2014, the OIC filed an Amended Notice of Request for Hearing. The crux of the allegations against BMS and BSA were that they were not registered as service contract providers and that they had no certificates of authority to act as insurers

in the State of Washington. The crux of the allegation against Rent-a-Center was that it was not licensed as an insurance producer in the State of Washington and therefore not qualified to solicit insurance coverage.

4. On May 15, 2014, the OIC issued an Amended Cease and Desist Order in Matter No. 14-0081 ("Amended Order"), requiring BMS and BSA to immediately cease and desist from engaging in or transacting unauthorized business of insurance in the State of Washington, including advertising and/or solicitation of service contracts or other insurance-related products, and from seeking or soliciting insurance business in the State of Washington and participating in any act of an insurance producer or insurance company in seeking or soliciting insurance business, including service contracts, in the State of Washington. The Amended Order was based in substantial part on the OIC's conclusion that BMS and BSA acted as unregistered service contract providers, whose contracts to indemnify consumers or pay a specified amount upon determinable contingencies constitute "insurance," as defined in RCW 48.01.040.

5. On June 13, 2014, BMS and BSA filed a Complaint for Declaratory Relief in Thurston County Superior Court ("Declaratory Judgment Action"), asking the Court to declare that the OIC lacks jurisdiction. BMS and BSA asserted: 1) they are not service contract providers and are not engaged in the solicitation or sale of service contracts as defined by RCW 48.110.020; and 2) they are not insurance providers as defined by RCW 48.17.060.

6. On June 18, 2014, BMS and BSA filed a Motion for Stay of Proceedings in No. 14-0082, requesting a stay pending the Court's ruling in the Declaratory Judgment Action.

7. On July 2, 2014, I stayed Matter No. 14-0082 "until the Thurston County Superior Court resolves the Declaratory Judgment Action."

8. On July 22, 2014, BMS and BSA filed a Motion for Stay of Amended Cease and Desist Order in Matter No. 14-0081, requesting a stay pending the Court's ruling in the Declaratory Judgment Action.

9. On August 7, 2014, I stayed Matter No. 14-0081 "until the Thurston County Superior Court resolves the pending Declaratory Judgment Action."

10. By Order Granting the OIC's Motion to Dismiss, dated August 29, 2014, Thurston County Superior Court Judge Carol Murphy dismissed the Declaratory Judgment Action "without prejudice and without addressing whether Plaintiffs can petition the court to amend the complaint."

11. The Thurston County Superior Court "resolved" the pending Declaratory Judgment Action. The stays granted in my July 2 and August 7 Orders are therefore dissolved, and the present matters will go forward.

12. The Parties have agreed to consolidation. I believe consolidation would likely promote efficiency and be cost-effective, without prejudicing any Party. Consolidation of Matter No. 14-0081 and Matter No. 14-0082 is hereby ordered.

13. On September 10, 2014, Matter No. 14-0081 came before me for telephonic status conference. The OIC was represented by Marcia G. Stickler, Attorney at Law, OIC Insurance Enforcement Specialist. BMS and BSA were represented by Gulliver A. Swenson, Attorney at Law, of Ryan, Swanson & Cleveland.

14. On September 11, 2014, BMS and BSA filed a Demand for Administrative Hearing in Matter No. 14-0081.

15. Consistent with my direction during the September 10 conference, BMS and BSA served and filed a Motion for Stay of Amended Cease and Desist Order, dated September 19, 2014, and OIC served and filed a Response to such Motion, dated September 25, 2014. BMS and BSA's service and filing of their Reply to the Response is due by September 30, 2014. I expect to rule without oral argument as soon as possible after briefing is complete.

16. By September 26, 2014, the Parties shall serve and file dispositive Motions, if any. By October 3, 2014, the Parties shall serve and file Responses to such Motions. I expect to rule without oral argument as soon as possible after briefing is complete. (This briefing schedule was established as to Matter No. 14-0081 during the September 10 conference. In Matter No. 14-0082, the Parties may adhere to this briefing schedule or establish a different schedule by agreement or further order.)

17. By October 22, 2014, the Parties shall serve and file final lists of witnesses they expect to call and exhibits they expect to offer at the evidentiary hearing, and may serve and file pre-hearing memoranda.

18. If any Party wishes a further telephonic prehearing conference in view of the consolidation of these matters, such will be set.

19. The consolidated evidentiary hearing will be held at the Office of the Insurance Commissioner, 5000 Capitol Blvd., Tumwater, WA, beginning on October 29, 2014, at 10:00 AM, Pacific Daylight Time. The hearing is expected to end by October 31, 2014, but will continue until completed. The purpose of the hearing is to consider whether OIC's Amended Cease and Desist Order should be upheld, modified or set aside, and whether fines should be imposed on Rent-a-Center, BMS, and BSA for alleged violations of the Insurance Code.

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20. The hearing will be governed by the Administrative Procedure Act, Chapter 34.05 RCW, and the model rules of procedure contained in Chapter 10-08 WAC. All parties may be represented and may examine witnesses, respond, and present evidence and argument on all relevant issues.

21. A party who fails to attend or participate in the hearing or another stage of this proceeding may be held in default in accordance with Chapter 34.05 RCW. *See*, RCW 34.05.434(2)(i).

22. Judge George Finkle (Ret.), Presiding Officer, has been designated by the Insurance Commissioner to hear and determine this matter. The hearing will be held under the authority granted by the Insurance Commissioner under Chapter 48.04 RCW.

23. Pursuant to WAC 10-08-040(2) and in accordance with Ch. 2.42 RCW, if a limited English speaking or hearing impaired or speech impaired party or witness needs an interpreter, a qualified interpreter will be appointed. There will be no cost to the party or witness therefore, except as may be provided by Ch. 2.42 RCW. A Request for Interpreter form, with instructions, is attached to the original of this Notice.

24. All case related documents and correspondence shall be directed to the Hearings Unit, Office of Insurance Commissioner, P.O. Box 40255, Olympia, Washington 98504-0255. All interested individuals and entities who have questions or concerns concerning this proceeding should direct them to the Hearings Unit paralegal, Kelly Cairns, at the same address. Ms. Cairns' telephone number is (360) 725-7002.

Dated: September 26, 2014

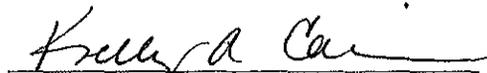


George A. Finkle, Superior Court Judge (Ret.)
Presiding Officer

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 through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: Gulliver Swenson, Esq., James T. Odiorne, John F. Hamje, AnnaLisa Gellermann, and Marcia Stickler.

DATED this 26th day of September, 2014.


KELLY A. CAIRNS

OFFICE OF INSURANCE COMMISSIONER
HEARINGS UNIT
Fax: (360) 664-2782

To request an interpreter, complete and mail this form to:

Presiding Officer
Hearings Unit
Office of Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255

REQUEST FOR INTERPRETER

I am a party or witness in Matter Nos. 14-0081 and 14-0082 before the Insurance Commissioner. I NEED AN INTERPRETER and request that one be furnished.

Please check the statements that apply to you:

I am a non-English-speaking person. I cannot readily speak or understand the English language. My primary language is _____ (insert your primary language). I need an interpreter who can translate to and from the primary language and English.

I am unable to readily understand or communicate the spoken English language because:

- I am deaf.
- I have an impairment of hearing.
- I have an impairment of speech.

[Please state below or on the reverse side any details which would assist the Commissioner or Presiding Officer in arranging for a suitable interpreter or in providing appropriate mechanical or electronic amplification, viewing, or communication equipment.]

Date: _____

Signed: _____

Please print or type your name: _____

Address: _____

Telephone: _____