

BEFORE THE STATE OF WASHINGTON  
OFFICE OF INSURANCE COMMISSIONER

FILED

2015 JAN 21 P 4:34

In the Matter of )

Docket No. 14-0229

CHARLES D. OLIVER and AMERICAN )  
EQUITY ADVISORY GROUP, LLC )

NOTICE OF HEARING

**TO:** Gulliver Swenson, Attorney at Law  
Ryan, Swanson & Cleveland, PLLC  
1201 Third Avenue, Suite 3400  
Seattle, WA 98101-3034

Marta DeLeon, Assistant Attorney General  
1125 Washington St. SE  
Olympia, WA 98501

**COPY TO:** Mike Kreidler, Insurance Commissioner  
James T. Odiorne, J.D., CPA, Chief Deputy Insurance Commissioner  
AnnaLisa Gellermann, Deputy Commissioner, Legal Affairs Division  
Steve Valandra, Deputy Commissioner, Public Affairs Division  
Office of the Insurance Commissioner  
PO Box 40255  
Olympia, WA 98504-0255

This Notice is provided pursuant to RCW 48.04.010 and RCW 34.05.434.

Charles D. Oliver and American Equity Advisory Group, LLC (collectively, "Oliver") submitted a Demand for Hearing ("Demand"), filed December 3, 2014, requesting removal of a blog post of the Office of Insurance Commissioner's ("OIC") related to an Order to Cease and Desist ("C&D Order") issued against Oliver.

Oliver asserts in the Demand: 1) the blog contains false statements; 2) the C&D Order has been superseded by an agreement between Oliver and the OIC, and the blog post contains a dead link to the superseded C&D Order; 3) maintaining the blog is an *ultra vires* action by the OIC; 4) the C&D Order was false at the time it was issued without an opportunity for prior response or rebuttal; 5) the blog post is causing out-of-state individuals to cease doing business with or refrain from doing business with Oliver; 6) the blog post has been picked up by out-of-state individuals who now rely on it to falsely disparage Oliver, thereby causing business harm; 7) the blog does not serve any legitimate purpose of the state of Washington or its citizens, but instead is being used to further punish Oliver.

In the Demand, Oliver seeks removal of the blog post from the OIC website and damages for commercial disparagement. To the extent the Hearings Unit does not have authority or jurisdiction to provide the requested relief, Oliver states that he will pursue remedies in Thurston County Superior Court.

On January 6, 2015, the undersigned held a first prehearing conference. The OIC was represented by Assistant Attorney General Marta DeLeon. Gulliver Swenson, Attorney at Law, represented Oliver.

During the prehearing conference, the parties agreed that no legal authority supports the award of financial damages in this forum. In response to my invitation to the parties to state their positions on my authority to grant Oliver's remaining requested relief, the OIC filed a letter dated January 13, 2015; Oliver did not file a statement.

The OIC states in its letter that its understanding is that Oliver's presently requested relief is an order requiring that a blog post of the Commissioner be removed from the internet, not deleted, and that the OIC agrees that I have the authority to issue such relief. The OIC requested that I establish a briefing schedule for dispositive motions.

After considering the views of the Parties, I enter the following Order:

By February 6, 2015, the parties shall serve and file dispositive Motions, if any. By February 20, 2015, the parties shall serve and file Responses to such Motions. By February 27, 2015, the parties shall serve and file Replies to such Responses. (The parties may agree to adjust this schedule, informing me of such agreement, as long as the Reply brief is served and filed no later than March 6, 2015.) I expect to rule without oral argument as soon as possible after briefing is complete.

**A hearing will be held at the Office of the Insurance Commissioner, 5000 Capitol Blvd., Tumwater, WA, beginning on March 24, 2015, at 10:00 AM, Pacific Daylight Time.** The hearing is expected to require one day, but will continue until completed. The purpose of the hearing is to consider whether OIC should remove the blog post from the internet.

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.

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).

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.

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.

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: January 21, 2015

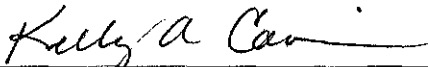


JUDGE GEORGE FINKLE (Ret.)  
Presiding Officer

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, Marta DeLeon, Mike Kreidler, James T. Odiorne, J.D., CPA, Steve Valandra and AnnaLisa Gellermann.

DATED this 22nd day of January, 2015.



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

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**REQUEST FOR INTERPRETER**

I am a party or witness in Matter No. 14-0229 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: \_\_\_\_\_