

STATE OF WASHINGTON  
OFFICE OF THE INSURANCE COMMISSIONER

*In the Matter of:*

Docket Nos. 20-0257 & 20-0457

**ARMED CITIZENS' LEGAL  
DEFENSE NETWORK, INC.,**

**OIC'S MOTION FOR SUMMARY  
JUDGMENT**

Appellant.

**I. RELIEF REQUESTED**

The Office of the Insurance Commissioner (“OIC” or “Insurance Commissioner”) submits this motion requesting entry of an order, finding there is no genuine issue of material fact and the Insurance Commissioner is entitled to summary judgment in this matter. Further, OIC requests that Your Honor affirm Cease and Desist Order No. 20-0257 (“Cease and Desist Order”) and Order Imposing a Fine No. 20-0457 (“Order Imposing a Fine”).

There is no genuine issue of the material facts detailed in the Cease and Desist Order and Order Imposing a Fine. It is also undisputed that Armed Citizens’ Legal Defense Network, Inc. (“Armed Citizens” or “Appellant”) is not authorized to act as an insurer. Here, the Insurance Commissioner conducted a diligent investigation of Armed Citizens and found that the corporation has acted as an unauthorized insurer in Washington since 2008. Upon the finding of Armed Citizens’ unlawful conduct, thousands of violations of RCW 48.05.030(1) and RCW 48.15.020(1), the Insurance Commissioner was authorized to issue the Cease and Desist Order pursuant to RCW 48.02.080(3)(a) and RCW 48.15.023(5)(a)(i). The Insurance Commissioner was also authorized to order Armed Citizens to pay a fine of two hundred thousand dollars (\$200,000) pursuant to RCW 48.15.023(5)(a)(ii).

This motion is based on all of the documents in the record of this case and, in

1 particular, the Declaration of Jessica Bullington in Support of OIC’s Motion for Summary  
2 Judgment (“Bullington Decl.”) and exhibits thereto.

3 **II. ISSUES PRESENTED**

- 4 1. Did Armed Citizens violate RCW 48.05.030(1) and RCW 48.15.020(1) by  
5 transacting insurance in Washington as an unauthorized insurer?  
6 a. If so, should the Cease and Desist Order be affirmed?  
7 b. If so, should the Order Imposing a Fine be affirmed?

8 **III. STATEMENT OF FACTS**

9 Armed Citizens was formed on June 6, 2011, as a Washington Profit Corporation  
10 with a principal office located in Onalaska, Washington. *Bullington Decl.*, Ex. 1. Marty  
11 Hayes is the President, Registered Agent, and Governor of Armed Citizens. *Id.* Armed  
12 Citizens’ Educational Foundation (“Educational Foundation”) was formed on September  
13 25, 2012, as a Washington Non-Profit Corporation. *Bullington Decl.*, Ex. 2. The  
14 Educational Foundation shares the same principal office street address, principal office  
15 mailing address, and governors as Armed Citizens’ Legal Defense Network, Inc.  
16 *Bullington Decl.*, Ex. 1; Ex. 2.

17 The Insurance Commissioner opened an investigation into Armed Citizens after  
18 OIC reviewed Armed Citizens’ website. *Bullington Decl.*, para. 5. According to this  
19 website, Armed Citizens was founded in 2008 with insurance as part of its mission:

20 To help members in the legal fight after they justifiably use force in self  
21 defense by paying for the services of attorneys, expert witnesses, private  
22 investigators and other professionals essential to mounting a vigorous legal  
23 defense of self defense on behalf of our members.

24 *Bullington Decl.*, Ex. 9, p. 16. Armed Citizens does not possess a Certificate of Authority  
25 authorizing it to act as an insurer in Washington State. *Bullington Decl.*, para. 7.

26 OIC Investigator (“INV”) Jessica Bullington was assigned to this matter. *Id.* at  
para. 6. On April 15, 2019, INV Bullington sent a Notice of Investigation (“NOI”) to  
Armed Citizens and requested a response by May 6, 2020. *Id.* at para. 9; *Bullington Decl.*,  
Ex. 3. After receiving additional time from INV Bullington to respond, Armed Citizens

1 submitted a response to the NOI on May 20, 2019. *Bullington Decl.*, para. 9; Ex. 4. INV  
2 Bullington informed Armed Citizens that the response was unresponsive. Bullington  
3 Decl., Ex. 4, pp. 1-2. As Armed Citizens was uncooperative and did not provide an  
4 adequate response to the NOI, the Insurance Commissioner issued a subpoena duces  
5 tecum (“OIC’s Subpoena”) upon Armed Citizens on June 26, 2019. *Bullington Decl.*, Ex.  
6 5. *See also Bullington Decl.*, paras. 9-13.

7 Armed Citizens did not make any objections to OIC’s Subpoena. *Bullington Decl.*,  
8 para. 14. On July 26, 2019, Mr. Hayes visited OIC’s Olympia office and hand delivered  
9 the requested records to INV Bullington. *Id.* at para. 15; *Bullington Decl.*, Ex. 6. Armed  
10 Citizens only addressed concerns with the confidentiality of specific records provided to  
11 OIC. *Bullington Decl.*, Ex. 6, p. 2.

12 One of the materials that Armed Citizens provided, the Membership Application  
13 Brochure (“Brochure”), shows that Armed Citizens is acting as an unauthorized insurer.  
14 *Bullington Decl.*, Ex. 7. Armed Citizens makes offers of insurance to consumers  
15 nationwide in exchange for membership fees. For example, the Brochure advertises the  
16 following “membership benefits”:

- 17 • “Immediate funding: When a member uses force in self defense, the  
18 Network immediately sends up to \$25,000 to the member’s attorney and  
19 can provide up to \$25,000 in bail assistance. This assistance is extended  
20 after any legal self-defense incident whether you use a firearm or other  
21 defense option.”
- 22 • “Funding we pay to your attorney assures critical precautions are taken  
23 including having an attorney present during any questioning, interfacing for  
24 you with law enforcement, keeping the news media at bay, and other  
25 assistance during those critical times immediately following self defense  
26 [sic].”

27 *Id.* at p. 2. In addition to this coverage, Armed Citizens offers further membership benefits:

- 28 • “a free hand to tailor post-incident legal assistance to meet the varying needs each  
29 situation dictates”
- 30 • “paying the expenses to assure a vigorous legal defense if the case goes to trial”
- 31 • “the expertise of an additional attorney or attorneys to contribute much needed  
32 experience to the trial team, as well as pay for expert witnesses, private  
33 investigators and other expenses to defend the member’s self-defense actions”
- 34 • “legal funding to defend against civil law suit”

- 1 • “Additional assistance can be extended if a retrial or appeal is needed, too.”

2 *Id.* To become a member and receive these benefits, consumers must attest to a clean  
3 criminal history and pay the following membership fees:

4 Single membership: \$135 - 1 year; \$295 - 3 year; \$790 - 10 year

5 Couple membership: \$195 - 1 year; \$474- 3 year; \$1390 - 10 year

6 *Id.* at p. 1; Ex. 9, p. 8. Once enrolled, Members receive an Explanation of Membership  
7 Benefits (“Explanation”) from Armed Citizens and a Membership Card. *Bullington Decl.*,  
8 Ex. 8. Armed Citizens allocates twenty-five percent (25%) of collected membership fees  
9 to its Legal Defense Fund. *Bullington Decl.*, Ex. 9, pp. 4, 8. This fund has grown to over  
10 two (2) million dollars. *Id.* at p. 18. Armed Citizens consists of over 17,000 members  
11 nationwide. *Id.* Since 2008, 2,559 Washington consumers have purchased memberships  
12 from Armed Citizens. *Bullington Decl.*, para. 16.

13 Armed Citizens provided a list of 25 members across the United States that sought  
14 coverage for incidents. *Bullington Decl.*, Ex. 10. Armed Citizens made payments related  
15 to 22 memberships. *Id.* Of the 25 claims, two (2) incidents occurred in Washington. *Id.* at  
16 p. 3. For the first one, Armed Citizens paid a member \$2,000. *Id.* The member was a  
17 victim of road rage and displayed a firearm to stop the incident; no criminal charges were  
18 brought. *Id.* For the second one, a member “arrived home, found neighbor’s dog in yard,  
19 went inside for a gun, went back outside and fired shots to scare dog.” *Id.* Armed Citizens  
20 did not pay anything in regards to this member’s claim, as Armed Citizens found the  
21 member’s incident was not one of self-defense. *Id.* Armed Citizens has paid claims related  
22 to incidents in Washington and other states, ranging from \$400 to \$75,000. *Id.*

23 Armed Citizens has made claims that the membership at issue does not constitute  
24 insurance. The Brochure, for example, states: “Armed Citizens’ Legal Defense Network  
25 membership benefits are not insurance reimbursements. That’s a good thing!” *Bullington  
26 Decl.*, Ex. 7, p. 2; Ex. 9, pp. 11, 19.

Based in part on the evidence summarized above, OIC determined that Armed  
Citizens is acting as an unauthorized insurer. Accordingly, on March 26, 2020, the  
Insurance Commissioner issued the Cease and Desist Order, detailing Armed Citizens’

1 conduct which violated RCW 48.05.030 and RCW 48.15.020. On March 31, 2020, Armed  
2 Citizens filed a hearing demand to contest the Cease and Desist Order.

3 On May 26, 2020, Armed Citizens filed a motion seeking a discretionary stay of  
4 the Cease and Desist Order. On May 29, 2020, OIC issued the Order Imposing a Fine and  
5 demanded a hearing to impose a fine of two hundred thousand dollars (\$200,000). On  
6 June 3, 2020, the Presiding Officer consolidated the matters. As a result, this matter  
7 concerns both the Cease and Desist Order and Order Imposing a Fine.

8 On June 5, 2020, OIC filed a response in opposition of Armed Citizens' motion  
9 seeking a discretionary stay of the Cease and Desist Order. On July 30, 2020, the Presiding  
10 Officer issued the Order on Motion for Stay, which denied Armed Citizens' request for a  
11 discretionary stay.

#### 12 IV. AUTHORITY

##### 13 A. Legal Standard for Summary Judgment

14 In administrative adjudications, summary judgment is appropriate where there is  
15 no genuine issue as to any material fact and the moving party is entitled to judgment as a  
16 matter of law. *See* WAC 10-08-135. Summary judgment is designed to do away with  
17 unnecessary trials where there is no genuine issue of material fact. *LaPlante v. State*, 85  
18 Wn.2d 154, 158 (1975). *See also Jacobsen v. State*, 89 Wn.2d 104, 108 (1977) (“A  
19 ‘material fact’ is one upon which the outcome of the litigation depends”) (citations  
20 omitted).

21 The burden is on the moving party to demonstrate that there is no genuine issue of  
22 material fact and that, as a matter of law, summary judgment is proper. *Jacobsen*, 89  
23 Wn.2d at 108. “In ruling on a motion for summary judgment the court must consider the  
24 material evidence and all reasonable inferences therefrom most favorably for the  
25 nonmoving party and, when so considered, if reasonable people might reach different  
26 conclusions, the motion should be denied.” *Id.* at 108-109.

27 If the moving party satisfies its burden, then the nonmoving party must present  
28 evidence demonstrating material facts are in dispute. *Atherton Condo. Ass’n v. Blume Dev.*  
29 *Co.*, 115 Wn.2d 506, 516 (1990) (citations omitted). The nonmoving party must “set forth

1 specific facts showing there is a genuine issue for trial.” *LaPlante*, 85 Wn.2d at 158.  
2 Moreover, a nonmoving party may not successfully oppose a motion of summary  
3 judgment by “nakedly asserting that there are unresolved factual questions.” *Bates v.*  
4 *Grace United Methodist. Church*, 12 Wn. App. 111, 115 (1974). *See also Newton Ins.*  
5 *Agency & Brokerage v. Caledonian Ins. Grp.*, 114 Wn. App. 151, 157 (2002) (Stating a  
6 nonmoving party “may not rely merely upon allegations or self-serving statements, but  
7 must set forth specific facts showing there is a genuine issue for trial.”) Lastly, factual  
8 issues may be decided on summary judgment “when reasonable minds could reach but  
9 one conclusion from the evidence presented.” *Van Dinter v. City of Kennewick*, 121  
Wn.2d 38, 47 (1993).

#### 10 **B. Overview of OIC’s Regulation of Unauthorized Insurers**

11 The Insurance Code, Title 48 RCW, vests the authority to regulate all insurance  
12 transactions in this state in the Insurance Commissioner. The Insurance Commissioner  
13 acts to protect the public interest. RCW 48.01.030 provides:

14 The business of insurance is one affected by the public interest, requiring  
15 that all persons be actuated by good faith, abstain from deception, and  
16 practice honesty and equity in all insurance matters. Upon the insurer, the  
insured, their providers and their representatives rests the duty of preserving  
inviolable the integrity of insurance.

17 The Insurance Commissioner must also execute his duties and enforce the  
18 provisions of the Insurance Code. *See* RCW 48.02.060(2). “All insurance and insurance  
19 transactions in this state, or affecting subjects located wholly or in part or to be performed  
20 within this state, and all persons having to do therewith, are governed by this code.” RCW  
48.01.020.

21 To protect the public in insurance matters, “the legislature created the office of  
22 Insurance Commissioner and conferred upon that office the duty of enforcing the  
23 provisions of the code.” *Ins. Co. of N Am. v. Kueckelhan*, 70 Wn.2d 822, 831, 425 (1967).  
24 To fulfill its mandate, the Insurance Code vests the Insurance Commissioner with broad  
25 authority. *Nat’l Fed’n of Retired Persons, Inc. v. Ins’r Comm’r*, 120 Wn.2d 101, 109  
(1992). The Insurance Commissioner “has the authority expressly conferred upon him by

1 or reasonably implied from the provisions of the [Insurance Code].” See RCW  
2 48.02.060(1); *Nat’l Fed’n of Retired Persons*, 120 Wn.2d at 109.

3 Unauthorized insurance strikes at the heart of insurance regulation. The Insurance  
4 Code prohibits an insurer that is not authorized by the Insurance Commissioner from  
5 soliciting insurance business or transacting insurance business in Washington. See RCW  
6 48.05.030(1) (stating “No person shall act as an insurer and no insurer shall transact  
7 insurance in this state other than as authorized by a certificate of authority issued to it by  
8 the commissioner.”); RCW 48.15.020(1) (stating “An insurer that is not authorized by the  
9 [Insurance Commissioner] may not solicit insurance business in this state or transact  
10 insurance business in this state...”.) The Insurance Commissioner has the duty to protect  
11 consumers and the public from being harmed by companies who are not properly  
12 authorized by the Insurance Commissioner to transact insurance in Washington. For this  
13 type of misconduct, Legislators provided the Insurance Commissioner with cease and  
14 desist authority, RCW 48.02.080(3)(a) and RCW 48.15.023(5)(a)(i), broad fining  
15 authority of up to \$25,000 per violation, RCW 48.15.023(5)(a)(ii), and designated such  
16 knowing misconduct as a felony, RCW 48.15.023(3).

17 From a policy standpoint, these statutory penalties are stiff and warranted because  
18 unauthorized insurers cause substantial harm to consumers and the insurance industry,  
19 relative to other Insurance Code violations. Among many requirements, unauthorized  
20 insurers do not comply with the Insurance Code’s rate and form filing requirements,  
21 capital and surplus requirements, and prohibitions on unfair trade practices. Unauthorized  
22 insurers also avoid paying premium taxes, another important requirement of Washington  
23 insurers. Moreover, insurers that avoid regulation have an unfair advantage over insurers  
24 that comply with the Insurance Code and regulations.

## 25 V. ARGUMENT

26 OIC’s Cease and Desist Order and Order Imposing a Fine are amply justified and  
should be upheld. Armed Citizens undisputedly sold memberships, which constitute  
insurance, to Washington consumers since 2008. In doing so, Armed Citizens transacted  
insurance in Washington as an unauthorized insurer. Armed Citizens’ conduct is

1 regulated by the Insurance Commissioner under the Insurance Code, Title 48 RCW. OIC  
2 properly and appropriately issued the Cease and Desist Order and Order Imposing a Fine.  
3 Accordingly, OIC is entitled to judgment as a matter of law, and OIC’s Motion for  
4 Summary Judgement should be granted.

5 **A. Appellant transacted insurance in Washington and is subject to the Insurance**  
6 **Commissioner’s regulatory authority.**

7 The Insurance Commissioner found that Armed Citizens insured members in  
8 Washington State without authorization. “Insurance is a contract whereby one undertakes  
9 to indemnify another or pay a specified amount upon determinable contingencies.” RCW  
10 48.01.040. “Words in a statute are given their ordinary meaning and common meaning  
11 absent a contrary statutory definition.” *John H Sellen Constr. Co. v. Dep’t of Revenue*, 87  
12 Wn.2d 878, 882 (1976).

13 In an effort to circumvent OIC’s regulatory authority, Armed Citizens explains the  
14 memberships at issue provide “access to *potential* assistance with legal fees should a  
15 member be involved in a lawful use of force situation.” *Appellant’s 05-26-20 Motion to*  
16 *Stay Cease and Desist Order (“Motion to Stay”)*, pp. 2-3. This assertion is at odds with  
17 Armed Citizens’ representations of the membership benefits. *Bullington Decl.*, Ex. 7; Ex.  
18 8; Ex. 9. As to the existence of an insurance contract, it is irrelevant that a contract asserts  
19 that it is not one of insurance. *McCarty v. King County Medical Serv. Corp.*, 26 Wn.2d  
20 660, 684 (1946) (citations omitted). “No one can change the nature of insurance business  
21 by declaring in the contract that it is not insurance.” *Id.* at 684. Specifically, the nature of  
22 the contract, and “the examination of its contents,” aside from the terms used or omitted,  
23 determine whether a contract is one of insurance. *Id.* A review of the promises offered by  
24 Armed Citizens shows the corporation is transacting unauthorized insurance in  
25 Washington.

26 Armed Citizens offers Washington consumers coverage based upon determinable  
contingencies. *See* RCW 48.01.040. The Brochure outlines the offers of insurance  
coverage provided to members. *Bullington Decl.*, Ex. 7. For example, Armed Citizens  
offers to pay specified amounts, representing “[w]hen a member uses force in self defense,



1 the Network immediately sends up to \$25,000 to the member’s attorney and can provide  
2 up to \$25,000 in bail assistance.” *Bullington Decl.*, Ex. 7, p. 2. Armed Citizens’ FAQ  
3 webpage also represents:

4 What does my membership fee buy me? An initial fee deposit of up to \$25,000  
5 paid to the member’s attorney by the Network if the member has been involved in  
6 a self-defense incident... The Network will pay a bail bond agent up to \$25,000 to  
7 post bail on behalf of a member who has used force in self defense.

8 (Emphasis added.) *Bullington Decl.*, Ex. 9, p. 11. Under RCW 48.01.040, this specified  
9 immediate coverage for legal representation and bail when a member uses force in a self-  
10 defense incident, clearly constitutes insurance.

11 Armed Citizens also offers to cover members’ additional expenses:

- 12 • “a free hand to tailor post-incident legal assistance to meet the varying needs each  
13 situation dictates”
- 14 • “paying the expenses to assure a vigorous legal defense if the case goes to trial”
- 15 • “the expertise of an additional attorney or attorneys to contribute much needed  
16 experience to the trial team, as well as pay for expert witnesses, private  
17 investigators and other expenses to defend the member’s self-defense actions”
- 18 • “legal funding to defend against civil law suit”
- 19 • “Additional assistance can be extended if a retrial or appeal is needed, too.”

20 *Bullington Decl.*, Ex. 7, p. 2. *See also Bullington Decl.*, Ex. 8, pp. 1-2. Here, Armed  
21 Citizens offers to indemnify<sup>1</sup> its members against a variety of additional legal and bail  
22 expenses. *See RCW 48.01.040*. If a member uses force in self-defense and is subject to a  
23 variety of events, such as police contact, an arrest, criminal charges, trial, retrial, civil  
24 lawsuit, and/or appeal, Armed Citizens has made offers to pay the member’s legal and  
25 bail expenses arising from these events.

26 In order to accept the offers and become eligible to receive the insurance benefits  
discussed above, Washington consumers fill out an application and pay membership fees.  
*Bullington Decl.*, Ex. 7. Armed Citizens then provides members with the Explanation and

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<sup>1</sup> “Indemnify” is defined as “1a: to secure or protect against hurt or loss or damage... b: to exempt from incurred penalties or liabilities”. *Webster’s Third New International Dictionary of the English Language* 1147 (2002). Under Black’s Law Dictionary, “Indemnify” is defined as “1. To reimburse (another) for a loss suffered because of a third party’s or one’s own act or default; 2. To promise to reimburse (another) for such a loss; 3. To give (another) security against such a loss. Black’s Law Dictionary 918 (11th ed. 2019).

1 a Membership Card. *Bullington Decl.*, Ex. 8. These materials act similarly to a traditional  
2 insurance policy. In exchange for consumers becoming members and paying recurring  
3 fees, Armed Citizens agrees to provide coverage for certain events.<sup>2</sup> Specifically, if a  
4 member is involved in a self-defense incident, Armed Citizens agrees to pay many  
5 different types of legal and bail expenses. *Bullington Decl.*, Ex. 7; Ex. 8; Ex. 9. In  
6 communications and documents provided to members, these contractual terms are framed  
7 as promises and not optional decisions that Armed Citizens may make on a discretionary  
8 basis.

9 Similar to an authorized insurer that reviews a claim and decides whether an  
10 incident is covered under an insurance policy, Armed Citizens has also established a  
11 review process of members' claims. This review process functions to determine whether  
12 a member acted in self-defense and is therefore, covered under the membership:

13 The Network's Advisory Board will review the facts of the case and advise the  
14 Network leadership on specific issues of legal self defense on which decisions to  
15 grant financial support rest. This review is never undertaken to deny assistance to  
16 a member who acted in legitimate self defense, but rather to prevent accusations  
17 that the Network supports or encourages use of force without justification.

18 *Bullington Decl.*, Ex. 8 at p. 2. Under RCW 48.01.040, Armed Citizens' membership  
19 undisputedly acts and functions as insurance.

20 Armed Citizens, in an attempt to avoid regulation, states there is "no contractual  
21 obligation for ACLDN to provide any member with funds to assist with legal fees."  
22 *Motion to Stay*, p. 2. The assertion clearly contradicts Armed Citizens' numerous  
23 representations of the types of coverage offered and provided. *Bullington Decl.*, Ex. 7; Ex.  
24 8; Ex. 9; Ex. 10. Despite making clear representations about the insurance coverage  
25 members have paid for, Armed Citizens denies any obligation to provide members with  
26 such coverage. Such deceptive conduct is one of the many reasons why OIC's

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<sup>2</sup> See e.g. *Love v. Money Tree, Inc.*, 279 Ga. 476, 478-479 (2006) (finding an automobile membership which, in exchange for a monthly fee, paid for 'moving traffic violations up to \$200...up to \$100 in attorney fees to collect damages for personal injuries sustained in an auto accident or to defend a member in traffic court; and up to \$ 750 in attorney fees if prosecuted for criminal manslaughter' constitutes insurance.'").

1 enforcement action is appropriate and necessary. OIC has established that Armed Citizens  
2 is undisputedly transacting insurance in Washington as an unauthorized insurer.

3 **B. Appellant violated RCW 48.05.030(1) and RCW 48.15.020(1) by acting as an**  
4 **unauthorized insurer and soliciting unauthorized insurance in Washington.**

5 Based on Armed Citizens' solicitation and sale of insurance to Washington  
6 consumers, the corporation is in violation of the Insurance Code, specifically RCW  
7 48.05.030(1) and RCW 48.15.020(1). RCW 48.05.030(1) states that no person shall act as  
8 an insurer and no insurer shall transact insurance in this state other than as authorized by  
9 a certificate of authority issued to it by the Insurance Commissioner and then in force.  
10 RCW 48.15.020(1) states that an insurer that is not authorized by the Insurance  
11 Commissioner may not solicit or transact insurance business in this state. The Insurance  
12 Code defines "insurer" as including "every person engaged in the business of making  
13 contracts of insurance." See RCW 48.01.050.

14 Armed Citizens has entered into contracts with Washington consumers wherein  
15 Armed Citizens has provided insurance in exchange for membership fees. *Bullington*  
16 *Decl.*, Exs. 7-10. Armed Citizens provided records showing that since 2008, 2,559  
17 Washington consumers have purchased the memberships at issue. *Bullington Decl.*, para.  
18 16. OIC has shown the memberships at issue are insurance under RCW 48.01.040. The  
19 Brochure, Explanation, and membership materials show the corporation is engaged in the  
20 business of making contracts of insurance and therefore, acting as an insurer under RCW  
21 48.01.050. Armed Citizens is not authorized to transact insurance as an insurer in  
22 Washington. *Bullington Decl.*, para. 7. For the discussed reasons, Armed Citizens has  
23 acted unlawfully and violated RCW 48.05.030(1) and RCW 48.15.020(1).

24 **C. Based on the undisputed facts, the Insurance Commissioner was authorized**  
25 **to issue the Cease and Desist Order upon the finding that Appellant violated**  
26 **RCW 48.05.030(1) and RCW 48.15.020(1).**

As discussed, Armed Citizens violated RCW 48.05.030(1) and RCW 48.15.020(1)  
by transacting insurance in Washington without being authorized by the Insurance  
Commissioner. In order to prevent Armed Citizens from conducting further business as

1 an unauthorized insurer, the Insurance Commissioner was authorized to issue the Cease  
2 and Desist Order pursuant to RCW 48.02.080(3)(a) and RCW 48.15.023(5)(a)(i). RCW  
3 48.02.080(3)(a) authorizes the Insurance Commissioner to issue a cease and desist order  
4 if he has cause to believe that any person is violating or is about to violate the Insurance  
5 Code. RCW 48.15.023(5)(a)(i) authorizes the Insurance Commissioner to issue a cease  
6 and desist order if he has cause to believe that any person has violated RCW 48.15.020(1).  
7 Here, upon the finding that Armed Citizens is violating RCW 48.05.030(1) and RCW  
8 48.15.020(1), the Insurance Commissioner issued the Cease and Desist Order pursuant to  
9 his authority under RCW 48.02.080(3)(a) and RCW 48.15.023(5)(a)(i).

9 **D. Based on the undisputed facts, the Insurance Commissioner was authorized**  
10 **to issue the Order Imposing a Fine upon the finding that Appellant violated**  
11 **RCW 48.15.020(1).**

11 Armed Citizens violated RCW 48.15.020(1) by transacting insurance in  
12 Washington as an unauthorized insurer. If the Insurance Commissioner has cause to  
13 believe that any person has violated this statute, he may:

14 Assess a civil penalty of not more than twenty-five thousand dollars for each  
15 violation, after providing notice and an opportunity for a hearing in accordance  
16 with chapters 34.05 and 48.04 RCW.

16 See RCW 48.15.023(5)(a)(ii). Armed Citizens has transacted insurance in Washington as  
17 an unauthorized insurer and therefore, violated RCW 48.15.020(1). Since 2008, 2,559  
18 Washington consumers purchased memberships from Armed Citizens. *Bullington Decl.*,  
19 para. 16.

20 The Insurance Commissioner's fining authority under the Insurance Code permits  
21 a fine against Armed Citizens of \$25,000 per each violation of RCW 48.15.020(1). Each  
22 time Armed Citizens sold a membership to a Washington consumer, the corporation has  
23 transacted insurance in Washington as an unauthorized insurer. According to the plain  
24 language of RCW 48.15.020(1), and the undisputed material facts in the record, the  
25 Insurance Commissioner is clearly authorized to fine Armed Citizens \$200,000 for  
26 violating RCW 48.15.020(1) more than 2,000 times since 2008.

The Order Imposing a Fine is also appropriate given the circumstances of this case.

1 Armed Citizens' unlawful conduct has occurred since 2008. During the course of OIC's  
2 investigation, Armed Citizens was also uncooperative and did not provide an adequate  
3 response to the NOI. *Bullington Decl.*, Ex. 3 and Ex. 4. *See also Bullington Decl.*, paras.  
4 9-13. The Insurance Commissioner was permitted to conduct an investigation of Armed  
5 Citizens pursuant to RCW 48.02.060(3)(b). In furtherance of OIC's investigation, the NOI  
6 asked Armed Citizens: "What is the total price/fee paid by all Washington consumers who  
7 are or have been members of the Network?" *Bullington Decl.*, Ex. 3, p. 2. Armed Citizens  
8 did not respond to this question and many other questions set forth in the NOI. *See*  
9 *Bullington Decl.*, Ex. 3; Ex. 4. Given the rates charged by Armed Citizens, the cheapest  
10 rate (\$135 for single annual membership), times number of Washington members (2,559),  
11 indicates that Armed Citizen's collected at least \$345,465.00.

12 As Armed Citizens was uncooperative and did not provide an adequate response  
13 to the NOI, the Insurance Commissioner had to issue OIC's Subpoena to gather necessary  
14 information and carry out the investigation. *Bullington Decl.*, Ex. 5. *See also Bullington*  
15 *Decl.*, paras. 9-13. OIC's Subpoena requested Armed Citizens to provide a spreadsheet of  
16 Washington members, which included among other items, the total amount paid by the  
17 member for membership to date and the total amount of the membership cost which was  
18 paid into the Network's Legal Defense Fund to date. *Bullington Decl.*, Ex. 5, p. 2. Armed  
19 Citizens responded the following:

20 [T]his information was not possible for the Network to recreate. The Network has  
21 not kept records of cumulative payments made by each member, but has kept only  
22 records of each member's last payment, and a record of the member's expiration  
23 date based on that most recent payment. In order to recreate these records, the  
24 Network would be making assumptions that would render any document they  
25 created purely speculative. Therefore, they have provided the amount of the most  
26 recent payment made by each member, as that is what they have records of.

27 *Bullington Decl.*, Ex. 6, p. 2. As a result of Armed Citizens' unresponsiveness to the NOI  
28 and this response, OIC was unable to determine the total amount of membership fees  
29 collected by Armed Citizens from the 2,559 Washington members. Such response is  
30 another reason why OIC's enforcement action is appropriate and necessary. If Armed  
31 Citizens were properly registered, it would not be permitted to carry on such practice. *See*

1 RCW 48.05.280 (Stating “Every insurer shall keep full and adequate accounts and records  
2 of its assets, obligations, transactions, and affairs.”) In regards to an insurer’s transactions  
3 with an insured, retaining only one record of the last premium payment is not proper under  
4 the Insurance Code. Armed Citizens’ records retention practice also hindered the  
5 Insurance Commissioner’s investigation in determining how much Armed Citizens  
6 collected in the course of transacting unauthorized insurance in Washington since 2008.

7 Lastly, the Insurance Commissioner has taken prior enforcement action against  
8 other unauthorized entities conducting similar misconduct. For example, the Insurance  
9 Commissioner issued a fine of twenty-five thousand dollars (\$25,000) against Firearms  
10 Legal Protection for engaging in the business of insurance without a certificate of  
11 authority. *Bullington Decl.*, Ex. 11. Firearms Legal Protection “sold 112 contracts to  
12 Washington residents, with 103 active members” and collected \$28,805 in membership  
13 fees. *Id.* at p. 7, para. 8. In another case, the Insurance Commissioner issued a fine of  
14 \$100,000 against United States Concealed Carry Association, Inc. (“USCCA”) for  
15 engaging in the business of insurance without a certificate of authority. *Bullington Decl.*,  
16 Ex. 12. USCCA unlawfully transacted insurance in Washington between December 1,  
17 2018 and January 30, 2019, and collected \$241,003.15 from 1,675 Washington  
18 consumers. *Id.* at p. 2, para. 10. USCAA voluntarily ceased selling the unlawful insurance  
19 product. *Id.* at para. 13. The fine in this matter is consistent with the fines in the other  
20 enforcement actions. Moreover, the fine in this matter is appropriate given the many years  
21 in which Armed Citizens’ misconduct took place, the very large number of violations, and  
22 Armed Citizens’ uncooperativeness during OIC’s investigation.

## 23 V. CONCLUSION

24 Based on the evidence, authority, and arguments made above, the Insurance  
25 Commissioner has the authority and undisputed factual basis to issue the Cease and Desist  
26 Order and Order Imposing a Fine. Appellant has undisputedly violated the Insurance  
Code. Further, under these circumstances, the Insurance Commissioner is authorized to  
impose the Cease and Desist Order and Order Imposing a Fine as remedies for said  
violations. As a result, OIC respectfully requests that the Your Honor grant OIC’s motion

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for summary judgment and uphold the Cease and Desist Order No. 20-0257 and Order Imposing a Fine No. 20-0457.

SIGNED this 12<sup>th</sup> day of August, 2020.

/s/ Sofia Pasarow  
Sofia Pasarow  
Insurance Enforcement Specialist  
Legal Affairs Division

CERTIFICATE OF MAILING

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing OIC’S MOTION FOR SUMMARY JUDGMENT, DECLARATION OF JESSICA BULLINGTON IN SUPPORT OF OIC’S MOTION FOR SUMMARY JUDGMENT, AND CORRESPONDING EXHIBITS 1-12 on the following individuals in the manner indicated:

<p>Julia Eisentrout, Presiding Officer Office of the Insurance Commissioner 5000 Capitol Boulevard SE Tumwater, WA 98501 <a href="mailto:hearingsu@oic.wa.gov">hearingsu@oic.wa.gov</a> <a href="mailto:juliae@oic.wa.gov">juliae@oic.wa.gov</a></p> <p><i>By email per the tribunal’s instructions.</i></p>	<p>Spencer D. Freeman Attorney at Law Freeman Law Firm, Inc. 1107-½ Tacoma Avenue South Tacoma, WA 98402 <a href="mailto:sfreeman@freemanlawfirm.org">sfreeman@freemanlawfirm.org</a> <a href="mailto:sierra@freemanlawfirm.org">sierra@freemanlawfirm.org</a></p> <p><i>By email per electronic service agreement between the parties.</i></p>
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SIGNED this 12<sup>th</sup> day of August, 2020, at Tumwater, Washington.

/s/ Christine Tribe  
Christine Tribe  
Paralegal