

BEFORE THE INSURANCE COMMISSIONER OF THE  
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN D.  
DOAK, Insurance Commissioner,  
  
  )     Petitioner,  
  
v.    )     Respondent.  
  
CHOICE HOME WARRANTY,  
an Unlicensed Service Warranty Company,  
  
  )

CASE NO. 11-0712-DIS

**FILED**

JAN 09 2012

**INSURANCE COMMISSIONER  
OKLAHOMA**

CONSENT ORDER

THE STATE OF OKLAHOMA, ex rel., John D. Doak, Insurance Commissioner, by and through counsel FINDS AND ORDERS AS FOLLOWS:

JURISDICTION

1. The Insurance Commissioner has jurisdiction of this cause, pursuant to the provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq., including and in particular Title 36 O.S. § 6604, which covers the requirements for licensure and transactions subject to the Service Warranty Insurance Act.

2. Choice Home Warranty ("Respondent") is an unlicensed service warranty company who has solicited and sold service warranty contracts in the State of Oklahoma.

3. The Insurance Commissioner has jurisdiction over the subject matter raised in this dispute and may issue penalties pursuant to 36 O.S. §§ 6610 and 6613.

4. Respondent has been apprised of their rights including the right to a public hearing and has knowingly and freely waived said rights and entered into this Consent Order as a voluntary settlement of the issues and questions raised in the above captioned case.

#### STIPULATIONS OF FACT

1. The Insurance Commissioner issued to Respondent an Emergency Cease and Desist Order on July 29, 2010, pursuant to finding that Respondent was unauthorized to engage in the business of offering, providing, servicing, and entering service warranty agreements, service warranty contracts, indemnity agreements or indemnity contracts, and in violation of Article 6 of the Insurance Code (Authorization of Insurers), 36 O.S. §§ 601 *et seq.*; the Unauthorized Insurance Business Act, 36 O.S. §§ 6103.1 *et seq.*; and the Service Warranty Insurance Act, 36 O.S. §§ 6601 *et seq.*

2. Respondent does not hold any license, certificate of authority, or other authorization from the Oklahoma Insurance Department to engage in the business of offering, providing, servicing, and entering service warranty agreements, service warranty contracts, indemnity agreements or indemnity contracts.

3. Respondent entered into a Home Warranty Agreement, contract #387395833, of the type covered by the Service Warranty Insurance Act, 36 O.S. §§ 6601 *et seq.* with a citizen of Oklahoma, with an effective starting date of March 12th 2011.

4. Respondent was issued a Conditional Administrative Order which fined them the statutorily required amount of twenty-five thousand dollars (\$25,000) under Title 36 O.S. §6103.7.

5. Respondent has demonstrated their willingness to comply with Oklahoma law governing service warranty contracts by licensing an Oklahoma affiliate.

6. Respondent may only sell service warranty contracts through its affiliate, or other duly licensed entity.

7. Respondent may provide marketing services and any other service not requiring licensure under the Oklahoma Insurance Code.

#### CONCLUSION

Respondent violated Article 6 of the Insurance Code (Authorization of Insurers), 36 O.S. §§ 601 *et seq.*; the Unauthorized Insurance Business Act, 36 O.S. §§ 6103.1 *et seq.*; and the Service Warranty Insurance Act, 36 O.S. §§ 6601 *et seq.* after receiving a lawful Emergency Cease and Desist Order prohibiting the same and was duly fined for the violation.

#### ORDER

**IT IS THEREFORE ORDERED** by the Insurance Commissioner and **CONSENTED** to by Choice Home Warranty that Respondent shall pay a settlement fine in the amount of Fifteen Thousand Dollars (\$15,000.00) for the above mentioned violation of the Oklahoma Insurance Code. The fine is to be submitted to the Oklahoma Insurance Department within thirty (30) days of the date of receipt of this Order.

**IT IS FURTHER ORDERED** that notwithstanding any of the above orders to the contrary, Respondent shall pay all valid claims and refunds that arise pursuant to service warranty agreements and/or contracts in Oklahoma.

**IT IS FURTHER ORDERED** that this Order is effective immediately and shall

continue in full force and effect until further Order of the Commissioner. This Order is binding on Respondent, its agents, affiliates, employees, and/or other representatives, both current and successor, whether named or unnamed herein.

**IT IS FURTHER ORDERED** that notwithstanding anything contained herein to the contrary, any sale of service warranty agreements and/or contracts in Oklahoma by Respondent prior to the effective date of this Order, shall not be deemed to constitute a violation of any Oklahoma law governing service warranty contracts, provided Respondent provides the Insurance Department with a list of current open service warranty contracts and Respondent has/will also transfer all rights and obligations of those contracts to its licensed affiliate in a form approved by the Commissioner and Insurance Department.

Respondent is further notified that the above referenced July 29, 2010 Emergency Cease and Desist Order is still in effect.

Respondent is further notified that THIS FINE REFLECTS A SETTLEMENT OF ONLY THE ABOVE REFERENCED VIOLATION of the Emergency Cease and Desist Order, and that any future violations resulting from the sale of new service warranty contracts through an unlicensed entity will also be assessed and fined by the Insurance Commissioner.

Respondent is further notified that the settlement fine must be submitted within 30 days of the date of receipt of this order, otherwise, on the 31st day, this agreement becomes void and the full \$25,000 fine will be assessed against Respondent. Payment of the fine should be made by check to the Oklahoma Insurance Department and reference Case No. 11-0712-DIS in the memo line.

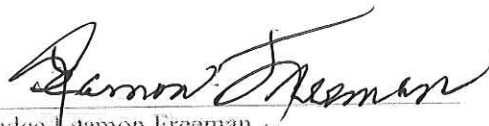
Respondent is further notified that it may request a hearing within 30 days of the receipt of this Order concerning this action, and upon such request the Insurance Department shall

conduct a hearing before an independent hearing examiner. A request for hearing shall be made in writing to Mark A. Willingham, Oklahoma Insurance Department, Legal Division, 3625 NW 56<sup>th</sup> Suite 100, Oklahoma City, Oklahoma 73112 and state the basis for requesting the hearing.

If Respondent does not request a hearing and pays the settlement fine within the 30 days allotted, this Order shall be a **FINAL ORDER** on the 31<sup>st</sup> day following the receipt of the Order.

WITNESS My Hand and Official Seal this 29<sup>th</sup> day of December 11.



  
\_\_\_\_\_  
Judge Leamon Freeman  
Hearing Examiner

  
\_\_\_\_\_  
Victor Mandalawi  
Representative of Respondent

\_\_\_\_\_  
Darren Oved, Esq.  
Attorney for Respondent

  
\_\_\_\_\_  
Mark A. Willingham, OBA No. 22769  
Attorney for Petitioner

CERTIFICATE OF SERVICE

This is to certify that on the date of filing, I, Mark A. Willingham, mailed a true and correct copy of the foregoing **Consent Order and Notice of Right to Be Heard** by **certified mail**, return receipt requested, postage prepaid, on this 9<sup>th</sup> day of January, 2012 to:

Darren Oved, Esq.  
Attorney for Respondent  
401 Greenwich Street  
New York, New York 10013



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Mark A. Willingham

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

7001 0320 0004 4250 5650

OFFICIAL MAIL STATION KING

Postage \$  
 Certified Fee  
 Return Receipt Fee  
 (Endorsement Required)  
 Restricted Delivery Fee  
 (Endorsement Required)

JAN 09 2012  
 C OK 73105

Postmark  
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Total Post

Sent To  
 Street, Apt.  
 or PO Box /  
 City, State

Darren Oved, Esq.  
 Attorney for Respondent  
 401 Greenwich St.  
 New York, NY 10013  
 sms/11-0712-DIS/Const. Ord.

PS Form 3800, January 2004

See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Darren Oved, Esq.  
 Attorney for Respondent  
 401 Greenwich St.  
 New York, NY 10013  
 sms/11-0712-DIS/Const. Ord.

2. Article Number

(Transfer from service label)

7001 0320 0004 4250 5650

PS Form 3811, February 2004

Domestic Return Receipt

102565-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

Is delivery address different from item 1?  Yes

Is delivery address below:  No

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

RECEIVED  
 OKLAHOMA INSURANCE DEPARTMENT

JAN 19 2012

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