

**IN THE SUPREME COURT OF THE  
STATE OF NEVADA**

HOME WARRANTY  
ADMINISTRATOR OF NEVADA,  
INC. dba CHOICE HOME  
WARRANTY, a Nevada corporation,

Appellant,

vs.

STATE OF NEVADA, DEPARTMENT  
OF BUSINESS AND INDUSTRY-  
DIVISION OF INSURANCE, a Nevada  
administrative agency,

Respondent.

**Supreme Court No. 80218**

First Judicial District Court  
Case No. 17 OC 00261  
Electronically Filed  
May 12 2020 05:09 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Appeal from First Judicial District Court, State of Nevada, County of Clark  
The Honorable James. T. Russell, District Judge

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**APPELLANT'S APPENDIX  
VOLUME IV OF XIV  
(AA000500 – AA000719)**

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Certificate of Service of Stipulation and Order for Interpleading of Fines Pending Final Decision (Case No. 17 OC 00269 1B)	03/28/18	IX	AA001642 – AA001643
Civil Cover Sheet (Case No. 17 OC 00269 1B)	12/22/17	VIII	AA001459
Complaint and Application for Order to Show Cause (Cause No. 17.0050)	05/09/17	I	AA000001 – AA000010
Division’s Closing Statement (Cause No. 17.0050)	11/17/17	VII	AA001341 – AA001358
Division’s Opposition to HWAN’s Proposed Exhibits KK, LL, and MM (Cause No. 17.0050)	11/20/18	IX	AA001746 – AA001753
Division’s Opposition to Motion for Leave to File Supplemental Memorandum of Points and Authorities Pursuant to NRS 233B.133 and Amend the Record on Appeal (erroneously filed in Case No. 19 OC 00015 1B)	04/03/19	XI	AA001983 – AA002003

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Division's Opposition to Motion for Stay of Final Administrative Decision Pursuant to NRS 233B.140 (Case No. 17 OC 00269 1B)	01/30/18	VIII	AA001490 – AA001503
Division's Opposition to Petitioner's Motion for Stay (Case No. 17 OC 00269 1B)	12/19/19	XIV	AA002732 – AA002741
Division's Opposition to Respondent's Motion to Strike Portions of the Division's Post-hearing Brief (Cause No. 17.0050)	11/14/17	VII	AA001333 – AA001338
Division's Post-hearing Brief Pursuant to Order (Cause No. 17.0050)	10/30/17	VII	AA001299 – AA001307
Division's Pre-hearing Statement (Cause No. 17.0050)	09/06/17	I	AA000178 – AA000188
Findings of Fact, Conclusions of Law, Order of Hearing Officer, and Final Order of the Commissioner (Cause No. 17.0050)	12/18/17	VIII	AA001379 – AA001409
Hearing Date Memo (Case No. 17 OC 00269 1B)	06/06/18	IX	AA001707
Hearing Date Memo (Case No. 17 OC 00269 1B)	08/28/19	XII	AA002292 – AA002294
Hearing Exhibit List by HWAN (Cause No. 17.0050) ( <i>Exhibits D, F-H, J-K, M-N, W-X, and HH excluded from appendix as irrelevant to this appeal</i> )	09/06/17	III	AA000276 – AA000499
HWAN's Brief regarding Exhibits KK, LL, and MM (Cause No. 17.0050)	11/13/18	IX	AA001739 – AA001745
HWAN's Closing Argument (Cause No. 17.0050)	11/22/17	VIII	AA001359 – AA001378
HWAN's Notice of Filing Supplemental Hearing Exhibit SS (Cause No. 17.0050)	09/21/17	VII	AA001271 – AA001295
HWAN's Notice of Intent to File Supplemental Hearing Exhibits and Amended Hearing Exhibit List (Cause No. 17.0050)	09/11/17	IV	AA000522 – AA000582
HWAN's Post-hearing Brief on Hearing Officer's Inquiry (Cause No. 17.0050)	10/30/17	VII	AA001308 – AA001325
HWAN's Pre-hearing Statement (Cause No. 17.0050)	09/08/17	IV	AA000500 – AA000513

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HWAN's Reply to Division's Opposition to its Brief regarding Exhibits KK, LL and MM (Cause No. 17.0050)	11/21/18	IX	AA001754 – AA001758
Joint Application to Conduct Deposition to Preserve Hearing Testimony (Cause No. 17.0050)	08/21/17	I	AA000165 – AA000168
Joint Motion for Clarification and/or Reconsideration of the May 8, 2019 Order Denying Request for Submission (Case No. 17 OC 00269 1B)	05/30/19	XI	AA002170 – AA002173
Joint Request for Pre-hearing Conference (Cause No. 17.0050)	08/16/17	I	AA000149 – AA000152
Joint Request to Continue Hearing (Cause No. 17.0050)	06/20/17	I	AA000042 – AA000044
Legislative History Statement Regarding NRS 690C.325(1) and NRS 690C.330 (Case No. 17 OC 00269 1B)	11/06/19	XII	AA002295 – AA002358
Limited Opposition to Motion for Pre-hearing Deposition Subpoenas or, in the alternative, Application for Hearing Subpoenas and Application for Subpoena Duces Tecum (Cause No. 17.0050)	07/21/17	I	AA000074 – AA000076
List of Hearing Witnesses by HWAN (Cause No. 17.0050)	09/08/17	IV	AA000514 – AA000517
Motion for Leave of Court Pursuant to FJDCR 15(10) and DCR 13(7) for Limited Reconsideration of Findings Pertaining to HWAN's Petition for Judicial Review (Case No. 17 OC 00269 1B)	11/15/19	XIII	AA002456 – AA002494
Motion for Leave to File Supplemental Memorandum of Points and Authorities Pursuant to NRS 233B.133 and Amend the Record on Appeal (Case No. 17 OC 00269 1B)	02/22/19	X	AA001802 – AA001961
Motion for Leave to Present Additional Evidence (Case No. 17 OC 00269 1B)	04/19/18	IX	AA001663 – AA001680
Motion for Order Shortening Time for Briefing and Decision of Motion for Stay Pending Appeal Pursuant to NRCP 62(D) (Case No. 17 OC 00269 1B)	12/06/19	XIII	AA002574 – AA002582



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Motion for Pre-hearing Deposition Subpoenas or, in the alternative, Application for Hearing Subpoenas and Application for Subpoena Duces Tecum (Cause No. 17.0050)	07/14/17	I	AA000054 – AA000064
Motion for Stay of Final Administrative Decision Pursuant to NRS 233B.140 (Case No. 17 OC 00269 1B)	01/16/18	VIII	AA001471 – AA001486
Motion for Stay Pending Appeal Pursuant to NRCP 62(D) (Case No. 17 OC 00269 1B)	12/06/19	XIV	AA002583 – AA002639
Motion to Strike Portions of the Division's Post-hearing Brief (Cause No. 17.0050)	11/13/17	VII	AA001326 – AA001332
Notice of Amendment to Record on Appeal (Case No. 17 OC 00269 1B)	02/01/19	X	AA001788 – AA001801
Notice of Amendment to Record on Appeal (Case No. 17 OC 00269 1B)	05/28/19	XI	AA002139 – AA002169
Notice of Appeal (Case No. 17 OC 00269 1B)	12/06/19	XIV	AA002646 – AA002693
Notice of Entry of Order Affirming in Part, and Modifying in Part, Findings of Fact, Conclusions of Law, Order of the Hearing Officer, and Final Order of the Commissioner in Cause No 17.0050 in the Matter of Home Warranty Administrator of Nevada, Inc. dba Choice Home Warranty (Case No. 17 OC 00269 1B)	11/27/19	XIII	AA002522 – AA002530
Notice of Entry of Order Denying Motion for Stay (Case No. 17 OC 00269 1B)	02/16/18	VIII	AA001552 – AA001559
Notice of Entry of Order Denying Petitioner's Motion for Leave of Court for Limited Reconsideration of Court's Findings on HWAN's Petition for Judicial Review (Case No. 17 OC 00269 1B)	12/11/19	XIV	AA002717 – AA002723
Notice of Entry of Order Denying Petitioner's Motion for Order Shortening Time for Briefing and Decision on Motion for Stay Pending Appeal Pursuant to NRCP 62(D) (Case No. 17 OC 00269 1B)	12/18/19	XIV	AA002726 – AA002731

<b>EXHIBIT DESCRIPTION</b>	<b>DATE</b>	<b>VOL.</b>	<b>PAGE NOS.</b>
Notice of Entry of Order Denying Petitioner's Motion for Stay Pending Appeal Pursuant to NRCP 62(D) (Case No. 17 OC 00269 1B)	01/07/20	XIV	AA002765 – AA002775
Notice of Entry of Order Denying Request for Submission (Case No. 17 OC 00269 1B)	05/21/19	XI	AA002014 – AA002018
Notice of Entry of Order for Stipulation regarding (1) Withdrawing Notice of Non-Opposition and Request for Submission of Motion for Leave to File Supplemental Memo of Points and Authorities Pursuant to NRS 233B.133 and Amend the Record on Appeal; and (2) Extending the Time for Opposition to and Reply in Support of Motion for Leave to File Supplemental Memo of Points and Authorities Pursuant to NRS 233B.133 and Amend the Record on Appeal (Case No. 17 OC 00269 1B)	04/01/19	X	AA001977 – AA001982
Notice of Entry of Order Granting Petitioner's Motion for Leave to File Supplemental Memorandum of Points and Authorities Pursuant to NRS 233B.133 and Amend the Record on Appeal (Case No. 17 OC 00269 1B)	05/21/19	XI	AA002019 – AA002023
Notice of Entry of Order Granting Petitioner's Motion for Leave to File Supplemental Memorandum of Points and Authorities Pursuant to NRS 233B.133 and Amend the Record on Appeal (Case No. 17 OC 00269 1B)	07/10/19	XI	AA002190 – AA002194
Notice of Entry of Order on Joint Motion for Clarification and/or Reconsideration of the May 8, 2019 Order Denying Request for Submission (Case No. 17 OC 00269 1B)	06/06/19	XI	AA002180 – AA002185
Notice of Filing Hearing Officer's Administrative Order (Case No. 17 OC 00269 1B)	01/28/19	X	AA001774 – AA001787
Notice of No Opposition to Request to Continue Hearing (Cause No. 17.0050)	07/24/17	I	AA000077 – AA000078

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Notice of Non-Opposition to Petitioner's Motion for Leave to File Supplemental Memorandum of Points and Authorities Pursuant to NRS 233B.133 and Amend the Record on Appeal and Notice of Submission of Proposed Order (Case No. 17 OC 00269 1B)	03/12/19	X	AA001962 – AA001968
Notice of Non-Opposition to Respondent's Request for Extension of Time to Comply with Subpoena Duces Tecum (Cause No. 17.0050)	06/01/17	I	AA000030 – AA000031
Notice of Non-Opposition to Respondent's Second Request for Extension of Time to Comply with Subpoena Duces Tecum (Cause No. 17.0050)	06/16/17	I	AA000040 – AA000041
Notice of Submission of Competing Proposed Order (Case No. 17 OC 00269 1B)	11/22/19	XIII	AA002495 – AA002516
Notice to Set (Case No. 17 OC 00269 1B)	08/15/19	XII	AA002289 – AA002291
Opposition to Motion for Leave to Present Additional Evidence (Case No. 17 OC 00269 1B)	05/04/18	IX	AA001681 – AA001687
Opposition to Petitioner's Motion for Order Shortening Time for Briefing and Decision on Motion for Stay Pending Appeal Pursuant to NRCP 62(D) (Case No. 17 OC 00269 1B)	12/09/19	XIV	AA002694 – AA002698
Order Affirming in Part, and Modifying in Part, Findings of Fact, Conclusions of Law, Order of the Hearing Officer, and Final Order of the Commissioner in Cause No 17.0050 in the Matter of Home Warranty Administrator of Nevada, Inc. dba Choice Home Warranty (Case No. 17 OC 00269 1B)	11/25/19	XIII	AA002517 – AA002521
Order Denying Petitioner's Motion for Leave of Court for Limited Reconsideration of Court's Findings on HWAN's Petition for Judicial Review (Case No. 17 OC 00269 1B)	12/09/19	XIV	AA002699 – AA002702
Order Denying Petitioner's Motion for Order Shortening Time for Briefing and Decision on Motion for Stay Pending Appeal Pursuant to NRCP 62(D) (Case No. 17 OC 00269 1B)	12/12/19	XIV	AA002724 – AA002725

<b>EXHIBIT DESCRIPTION</b>	<b>DATE</b>	<b>VOL.</b>	<b>PAGE NOS.</b>
Order Denying Petitioner's Motion for Stay Pending Appeal (Case No. 17 OC 00269 1B)	12/31/19	XIV	AA002759 – AA002764
Order Denying Request for Submission (Case No. 17 OC 00269 1B)	05/08/19	XI	AA002012 – AA002013
Order for Briefing Schedule (Case No. 17 OC 00269 1B)	12/26/17	VIII	AA001460 – AA001462
Order Granting Petitioner's Motion for Leave to File Supplemental Memorandum of Points and Authorities Pursuant to NRS 233B.133 and Amend the Record on Appeal (Case No. 17 OC 00269 1B)	03/13/19	X	AA001972 – AA001973
Order Granting Petitioner's Motion for Leave to File Supplemental Memorandum of Points and Authorities Pursuant to NRS 233B.133 and Amend the Record on Appeal (Case No. 17 OC 00269 1B)	06/18/19	XI	AA002186 – AA002189
Order Granting Petitioner's Motion for Leave to Present Additional Evidence (Case No. 17 OC 00269 1B)	09/06/18	IX	AA001732 – AA001735
Order on Joint Application to Conduct Deposition (Cause No. 17.0050)	08/17/17	I	AA000159 – AA000164
Order on Joint Motion for Clarification and/or Reconsideration of the May 8, 2019 Order Denying Request for Submission (Case No. 17 OC 00269 1B)	06/05/19	XI	AA002177 – AA002179
Order on Motion Requesting Extension of Time and Order on Joint Request for Continuance (Cause No. 17.0050)	06/22/17	I	AA000045 – AA000047
Order on Motions (Cause No. 17.0050)	07/27/17	I	AA000084 – AA000091
Order on Petition to Enlarge Time to Respond to Subpoena Duces Tecum (Cause No. 17.0050)	06/05/17	I	AA000032 – AA000035
Order on Remand (Cause No. 17.0050)	01/22/19	IX	AA001759 – AA001767
Order regarding Exhibits KK, LL & MM (Cause No. 17.0050)	10/31/18	IX	AA001736 – AA001738
Order regarding Motion to Strike and Written Closing Arguments (Cause No. 17.0050)	11/14/17	VII	AA001339 – AA001340

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Order to Show Cause (Cause No. 17.0050)	05/11/17	I	AA000015 – AA000018
Petition for Judicial Review (Case No. 17 OC 00269 1B)	12/22/17	VIII	AA001412 – AA001458
Petition to Enlarge Time to Respond to Subpoena Duces Tecum, with cover letter (Cause No. 17.0050)	06/01/17	I	AA000023 – AA000029
Petitioner's Opening Brief in Support of Petition for Judicial Review (Case No. 17 OC 00269 1B)	02/16/18	IX	AA001560 – AA001599
Petitioner's Reply in Support of its Supplemental Memorandum of Points and Authorities Pursuant to NRS 233B.133 (Case No. 17 OC 00269 1B)	08/15/19	XII	AA002210 – AA002285
Petitioner's Supplemental Memorandum of Points and Authorities Pursuant to NRS 233B.133 (Case No. 17 OC 00269 1B)	05/28/19	XI	AA002024 – AA002138
Pre-hearing Order (Cause No. 17.0050)	06/22/17	I	AA000048 – AA000053
Proposed Hearing Exhibits and Witness List by Division (Cause No. 17.0050) ( <i>Exhibits 1, 3, 6, 8-11, 13-20, 24-29, and 38-40 excluded from appendix as irrelevant to this appeal</i> )	09/06/17	II	AA000189 – AA000275
Reply Brief in Support of Petition for Judicial Review (Case No. 17 OC 00269 1B)	04/11/18	IX	AA001644 – AA001662
Reply in Support of Motion for Leave of Court Pursuant to FJDCR 15(10) and DCR 13(7) for Limited Reconsideration of Findings Pertaining to HWAN's Petition for Judicial Review (Case No. 17 OC 00269 1B)	12/04/19	XIII	AA002542 – AA002570

<b>EXHIBIT DESCRIPTION</b>	<b>DATE</b>	<b>VOL.</b>	<b>PAGE NOS.</b>
Reply in Support of Motion for Order Shortening Time for Briefing and Decision of Motion for Stay Pending Appeal Pursuant to NRCP 62(D) (Case No. 17 OC 00269 1B)	12/10/19	XIV	AA002706 – AA002716
Reply in Support of Motion for Stay of Final Administrative Decision Pursuant to NRS 233B.140 (Case No. 17 OC 00269 1B)	02/08/18	VIII	AA001538 – AA001548
Reply in Support of Motion for Stay Pending Appeal Pursuant to NRCP 62(D) (Case No. 17 OC 00269 1B)	12/26/19	XIV	AA002742 – AA002755
Reply in Support of Petitioner’s Motion for Leave to Present Additional Evidence (Case No. 17 OC 00269 1B)	05/14/18	IX	AA001688 – AA001701
Reply Memorandum of Points and Authorities in Support of Petitioner’s Motion for Leave to File Supplemental Memorandum of Points and Authorities Pursuant to NRS 233B.133 and Amend the Record on Appeal (Case No. 17 OC 00269 1B)	04/15/19	XI	AA002004 – AA002008
Request for Hearing on Petition for Judicial Review Pursuant to NRS 233B.133(4) (Case No. 17 OC 00269 1B)	08/15/19	XII	AA002286 – AA002288
Request for Submission of Joint Motion for Clarification and/or Reconsideration of the May 8, 2019 Order Denying Request for Submission (Case No. 17 OC 00269 1B)	05/31/19	XI	AA002174 – AA002176
Request for Submission of Motion for Leave to File Supplemental Memorandum of Points and Authorities Pursuant to NRS 233B.133 and Amend the Record on Appeal (Case No. 17 OC 00269 1B)	05/06/19	XI	AA002009 – AA002011
Request for Submission of Motion for Leave of Court Pursuant to FJDCR 15(10) and DCR 13(7) for Limited Reconsideration of Findings Pertaining to HWAN’s Petition for Judicial Review (Case No. 17 OC 00269 1B)	12/04/19	XIII	AA002571 – AA002573
Request for Submission of Motion for Leave to File Supplemental Memorandum of Points and Authorities Pursuant to NRS 233B.133 (Case No. 17 OC 00269 1B)	03/12/19	X	AA001969 – AA001971

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Request for Submission of Motion for Order Shortening Time for Briefing and Decision on Motion for Stay Pending Appeal Pursuant to NRCP 62(D) (Case No. 17 OC 00269 1B)	12/10/19	XIV	AA002703 – AA002705
Request for Submission of Motion for Stay of Final Administrative Decision Pursuant to NRS 233B.140 (Case No. 17 OC 00269 1B)	02/08/18	VIII	AA001549 – AA001551
Request for Submission of Motion to Stay Pending Appeal Pursuant to NRCP 62(D) (Case No. 17 OC 00269 1B)	12/26/19	XIV	AA002756 – AA002758
Request for Submission of Petitioner’s Motion for Leave to Present Additional Evidence and Petitioner’s Request for Hearing on its Motion for Leave to Present Additional Evidence (Case No. 17 OC 00269 1B)	05/14/18	IX	AA001702 – AA001704
Request to Continue Hearing (Cause No. 17.0050)	07/20/17	I	AA000072 – AA000073
Respondent’s Answering Brief (Case No. 17 OC 00269 1B)	03/19/18	IX	AA001602 – AA001641
Respondent’s Opposition to Petitioner’s Motion for Leave of Court for Limited Reconsideration of Court’s Findings on HWAN’s Petition for Judicial Review (Case No. 17 OC 00269 1B)	11/27/19	XIII	AA002531 – AA002541
Respondent’s Statement of Legislative History of NRS 690C.325 (Case No. 17 OC 00269 1B)	11/06/19	XII	AA002359 – AA002383
Respondents’ Response to Petitioner’s Supplemental Memorandum of Points and Authorities Pursuant to NRS 233B.133 (Case No. 17 OC 00269 1B)	08/08/19	XII	AA002195 – AA002209
Second Application for Subpoena Duces Tecum (Cause No. 17.0050)	07/19/17	I	AA000065 – AA000071
Second Request for Extension of Time to Comply with Subpoena Duces Tecum (Cause No. 17.0050)	06/14/17	I	AA000036 – AA000039
Statement of Intent to Participate (Case No. 17 OC 00269 1B)	01/19/18	VIII	AA001487 – AA001489

<b>EXHIBIT DESCRIPTION</b>	<b>DATE</b>	<b>VOL.</b>	<b>PAGE NOS.</b>
Stipulation and Order (1) Withdrawing Notice of Non-Opposition and Request for Submission of Motion for Leave to File Supplemental Memo of Points and Authorities Pursuant to NRS 233B.133 and Amend the Record on Appeal; and (2) Extending the Time for Opposition to and Reply in Support of Motion for Leave to File Supplemental Memo of Points and Authorities Pursuant to NRS 233B.133 and Amend the Record on Appeal (Case No. 17 OC 00269 1B)	03/25/19	X	AA001974 – AA001976
Stipulation and Order for Interpleading of Fines Pending Final Decision (Case No. 17 OC 00269 1B)	03/15/18	IX	AA001600 – AA001601
Subpoena Duces Tecum to HWAN (Cause No. 17.0050)	05/11/17	I	AA000019 – AA000022
Subpoena Duces Tecum to HWAN (Cause No. 17.0050)	07/26/17	I	AA000079 – AA000083
Subpoena Duces Tecum to the Commissioner of the State of Nevada Division of Insurance (the “Division”) (Cause No. 17.0050)	08/09/17	I	AA000104 – AA000108
Subpoena for Appearance at Hearing to Dolores Bennett (Cause No. 17.0050)	08/04/17	I	AA000092 – AA000095
Subpoena for Appearance at Hearing to Sanja Samardzija (Cause No. 17.0050)	08/04/17	I	AA000096 – AA000099
Subpoena for Appearance at Hearing to Vincent Capitini (Cause No. 17.0050)	08/04/17	I	AA000100 – AA000103
Subpoena for Appearance at Hearing to Chloe Stewart (Cause No. 17.0050)	08/09/17	I	AA000109 – AA000112
Subpoena for Appearance at Hearing to Derrick Dennis (Cause No. 17.0050)	08/09/17	I	AA000113 – AA000116
Subpoena for Appearance at Hearing to Linda Stratton (Cause No. 17.0050)	08/09/17	I	AA000121 – AA000124
Subpoena for Appearance at Hearing to Vicki Folster (Cause No. 17.0050)	08/09/17	I	AA000133 – AA000136
Subpoena for Appearance at Hearing to Kim Kuhlman (Cause No. 17.0050)	08/09/17	I	AA000137 – AA000140
Subpoena for Appearance at Hearing to Mary Strong (Cause No. 17.0050)	08/09/17	I	AA000145 – AA000148



<b>EXHIBIT DESCRIPTION</b>	<b>DATE</b>	<b>VOL.</b>	<b>PAGE NOS.</b>
Subpoena for Appearance at Hearing to Geoffrey Hunt (Cause No. 17.0050)	08/09/17	I	AA000117 – AA000120
Subpoena for Appearance at Hearing to Martin Reis (Cause No. 17.0050)	08/09/17	I	AA000141 – AA000144
Subpoena for Appearance at Hearing to the State of Nevada, Division of Insurance Person Most Knowledgeable as to the Creation of the Division's Annual Renewal Application Forms (Cause No. 17.0050)	08/09/17	I	AA000125 – AA000128
Subpoena for Appearance at Hearing to the State of Nevada, Division of Insurance Person Most Knowledgeable as to the Date of the Division's Knowledge of the Violations Set Forth in the Division's Complaint on File in this Cause (Cause No. 17.0050)	08/09/17	I	AA000129 – AA000132
Substitution of Attorney (Case No. 17 OC 00269 1B)	01/25/19	IX	AA001771 – AA001773
Substitution of Attorney (Cause No. 17.0050)	01/24/19	IX	AA001768 – AA001770
Supplement to Division's Opposition to Motion for Stay of Final Administrative Decision Pursuant to NRS 233B.140 (Case No. 17 OC 00269 1B)	01/31/18	VIII	AA001504 – AA001537
Transcript of Hearing Proceedings on September 12, 2017 (Cause No. 17.0050)	09/12/17	IV-V	AA000583 – AA000853
Transcript of Hearing Proceedings on September 13, 2017 (Cause No. 17.0050)	09/13/17	V-VI	AA000854 – AA001150
Transcript of Hearing Proceedings on September 14, 2017 (Cause No. 17.0050)	09/14/17	VII	AA001151 – AA001270
Transcript of Hearing Proceedings on August 6, 2018 (Case No. 17 OC 00269 1B)	08/06/18	IX	AA001708 – AA001731
Transcript of Hearing Proceedings on November 7, 2019 (Case No. 17 OC 00269 1B)	11/07/19	XIII	AA002384 – AA002455
Updated Hearing Exhibits and Updated Witness List by Division (Cause No. 17.0050) <i>(Exhibits 41-42 excluded from appendix as irrelevant to this appeal)</i>	09/08/17	IV	AA000518 – AA000521

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*Attorneys for Respondent Home Warranty  
 Administrator of Nevada, Inc. dba Choice Home  
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STATE OF NEVADA  
 DEPARTMENT OF BUSINESS AND INDUSTRY  
 DIVISION OF INSURANCE

IN THE MATTER OF:

CAUSE NO.: 17.0050

HOME WARRANTY ADMINISTRATOR  
 OF NEVADA, INC. dba CHOICE HOME  
 WARRANTY,

HOME WARRANTY ADMINISTRATOR  
 OF NEVADA, INC.'S PREHEARING  
 STATEMENT

*Respondent.*

Pursuant to the Prehearing Order entered June 22, 2017, Respondent HOME WARRANTY ADMINISTRATOR OF NEVADA, INC.<sup>1</sup> ("HWAN"), by and through its attorneys of record Kirk B. Lenhard, Esq. and Travis F. Chance, Esq., of the law firm of Brownstein Hyatt Farber Schreck, LLP, and Lori Grifa, Esq., of the law firm of Archer & Greiner, P.C., hereby submits the instant Prehearing Statement, outlining its position on the facts and issues of law in this Cause.

//

<sup>1</sup> The Division errantly attached the d/b/a of Choice Home Warranty to HWAN in its Complaint.



1 This Prehearing Statement is made and based upon the papers on file herein, the attached  
2 Memorandum of Points and Authorities, and any oral arguments of counsel that this tribunal shall  
3 choose to consider at the hearing of this matter.

4 DATED this 6th day of September, 2017.

5 BROWNSTEIN HYATT FARBER SCHRECK, LLP

6  
7 BY: 

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12 *Administrator of Nevada, Inc. dba Choice Home*  
13 *Warranty*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. STATEMENT OF FACTUAL ISSUES**

3 On May 9, 2017, the Division of Insurance ("Division"), through the Nevada Attorney  
4 General, filed a Complaint and Application for Order to Show Cause (the "Complaint") against  
5 HWAN. The Complaint set forth five substantive allegations:<sup>2</sup>

- 6 A. Violation of NRS 686A.310(1)(b) by failing to promptly and reasonably respond to  
7 claims made under HWAN's service contracts;  
8 B. Violation of NRS 679B.125(2) by conducting its business in an unsuitable manner,  
9 based upon consumer complaints, alleged news articles, and decisions of agencies and  
10 courts in other states;  
11 C. Violation of NRS 686A.170 by engaging in unfair and deceptive trade practices based  
12 upon administrative and court decisions from other states;  
13 D. Violation of NRS 686A.070 by submitting knowingly false statements that no new  
14 officers of HWAN had been fined in HWAN's 2011, 2012, 2014, and 2015 license  
15 renewal applications; and  
16 E. Violation of NRS 690C.320 by failing to make available for inspection HWAN's  
17 records related to its offered service contracts.

18 HWAN has been a registered service contract provider in the State of Nevada since 2010.  
19 Since that time, HWAN has sold service contracts and serviced 69,849 claims made by Nevada  
20 consumers. HWAN currently has more than 13,000 active consumer contracts in Nevada; and, on  
21 average, those customers will make 3.4 claims under their contract per year. The evidence will  
22 show that although the Division alleges 80 consumer complaints since HWAN's inception, there  
23 were only 62 complaints actually made, when accounting for duplicates and complainants that  
24 never held a contract with HWAN. Of those 62 complaints, only two of them remained open at  
25 the time the Division's Complaint was filed. The evidence will further show that HWAN's  
26 approval of claims made from 2010 through the present is 87 percent. In short, what will be  
27 apparent at the hearing is that HWAN has and is operating its business not just in a suitable  
28 manner but in an exemplary fashion, one that should be encouraged by the Division.

Furthermore, the Division cites to alleged news and media, communications with the  
Better Business Bureau, and decisions of agencies and courts in other states in its contention that

<sup>2</sup> The following allegations are not necessarily set forth as they were in the Division's Complaint.

1 HWAN has operated in an unsuitable manner and participated in deceptive trade practices. With  
2 regard to other state agency and court decisions, the Division claims that:

- 3 A. HWAN was fined by the State of California in 2010 for conducting business without  
appropriate licensure;
- 4 B. HWAN was fined by the State of Oklahoma in 2011 for conducting business without  
5 appropriate licensure;
- 6 C. HWAN was fined by the State of Oklahoma in 2014 for engaging in deceptive trade  
practices; and
- 7 D. A consent judgment was entered against HWAN and its officers by the State of New  
Jersey on June 9, 2015 for consumer fraud and violations of advertising regulations.

8 However, the Division will be unable to show at the hearing of this matter that it was  
9 *HWAN* that was disciplined in each of those states or was the subject of any negative media. In  
10 fact, it was *CHW Group, Inc. d/b/a Choice Home Warranty* ("CHW"). The evidence will  
11 unequivocally show that HWAN is an independent and separate entity from CHW. The  
12 Division's entire case related to the foregoing is based solely upon the fact that HWAN does  
13 business as "Choice Home Warranty" in Nevada - but it was the *Division itself* that requested  
14 HWAN to obtain that fictitious name in 2014. For similar reasons, it will be shown that no  
15 fraudulent statements were made on HWAN's 2011, 2012, 2014, and 2015 renewal applications  
16 because the questions at issue there relate only to *HWAN* - not *CHW*. Moreover, those questions  
17 also relate only to any *new* officers of HWAN - which HWAN did not have at the time of its  
18 2011, 2012, 2014, and 2015 renewal applications.

19 Lastly, the Division contends that HWAN failed to make its records available for  
20 inspection upon request. Specifically, the Division contends that HWAN failed to respond to an  
21 e-mail purportedly sent by Mary Strong, a Division employee, on or about February 1, 2017. The  
22 evidence will show that HWAN never received this request and that the Division cannot provide  
23 either proof of service or confirmation of electronic delivery of same.

24 Until the Division's May 9, 2017 Complaint, HWAN had never received a citation or  
25 adverse notification from the Division regarding the manner in which it does business. Indeed, its  
26 Certificate of Registration was renewed annually without incident.<sup>3</sup> Additionally, it is  
27

28 <sup>3</sup> This is with the exception of Ms. Strong's February 1, 2017 e-mail request, the receipt of which HWAN disputes.

1 unequivocally clear that HWAN's handling of consumer claims and complaints is done with  
2 nothing but good faith. Therefore, the Division's Complaint should be summarily dismissed.

3 **II. STATEMENT OF LEGAL ISSUES**

4 **A. The Division's entire case related to fines in other states rests upon the false  
premise that HWAN was the legal entity that was subject to those fines.**

5 As an initial matter, the Division's entire case related to the allegations that HWAN has  
6 conducted its business in an unsuitable manner, engaged in unfair and deceptive trade practices,  
7 and falsely misrepresented that it had not been fined in other states rests upon a series of false  
8 assumptions. Foremost among them is that "Home Warranty Administrator of Nevada, Inc." was  
9 in fact the legal entity that was fined in other states. On the contrary, any fine, discipline, negative  
10 attention or allegation of wrongdoing in any other state was related to the New Jersey entity,  
11 CHW, and in some instances took place before HWAN was even created.

12 There is incontrovertible evidence that HWAN and CHW are entirely separate legal  
13 entities. The former is a duly authorized Nevada corporation, wholly owned by Victor  
14 Mandalawi. The latter is a duly authorized New Jersey corporation, with a different corporate  
15 structure. A close reading of the California penalty cited by the Division, shows that it was  
16 imposed against CHW. Moreover, the California penalty makes clear that "Choice Home  
17 Warranty" has acted in a capacity for which a home protection company license or certificate of  
18 authority was required but was not possessed from not later than October 25, 2008." This was  
19 well before HWAN even came into existence in Nevada on July 23, 2010. Additionally, the  
20 Declaration of Service by Mail for the California penalty unquestionably shows that the penalty  
21 was imposed only against CHW – the New Jersey entity. Similarly, the Oklahoma penalty was  
22 also imposed against CHW. The Certificate of Mailing for the Oklahoma penalty also  
23 unequivocally shows it was mailed to CHW – the New Jersey entity. Lastly, the 2015 New  
24 Jersey fine was imposed upon CHW without doubt, as the Final Consent Judgment states by its  
25 terms that "CHW Group, Inc." is the subject of its punishment.

26 The Division's fatal misperception apparently arises from the fact that HWAN does  
27 business as "Choice Home Warranty" via fictitious name filings in Nevada. However, those  
28 fictitious name filings do not themselves make HWAN one and the same with CHW, the New

Jersey entity that was actually fined in other states. *See* NRS 602.010(1) (distinguishing between an “assumed” name and a “legal” name for doing business). Even more telling, it was the **Division itself** that requested in 2014 that HWAN obtain those fictitious name filings. The Division’s own records indicate that it knew as early as July 27, 2011 that HWAN and CHW were legally distinct entities and actually approved the contract between those two companies under which CHW acts as HWAN’s claims administrator. These facts are incontrovertible.

**B. The Division has no evidence that HWAN has conducted its business in an unsuitable manner or engaged in deceptive trade practices.**

The Division next contends that HWAN violated NRS 679B.125(2) by conducting its business in an unsuitable manner and NRS 686A.170 by engaging in unfair and deceptive trade practices. Compl. at 6-7, ¶¶ 5-6. These allegations are based upon the consumer complaints noted herein, vague references to the Better Business Bureau, oblique attribution to news and media outlets, and the findings of the other state agencies and courts. *Id.* Once again, however, the Division’s claim as against HWAN must fail.

NAC 679B.0385 provides an explicit statutory definition of “unsuitable manner.” This term means “conducting insurance business in a manner which: (1) Results in a violation of any statute or regulation of this State relating to insurance; (2) Results in an intentional violation of any other statute or regulation of this State; or (3) Causes injury to the general public...**with such frequency** as to indicate a general business practice.” As to the consumer complaints made against HWAN, the record and history of HWAN’s operations in Nevada will not sustain such a charge. To the contrary, HWAN provides sterling service to Nevada customers.

The Division relies upon “80” complaints made over a seven year period. As outlined above, though, there have actually only been 62 unique complaints, when accounting for duplicates and consumers that never had a contract with HWAN. At the time of filing the Complaint, there were only **two** open complaints. In other words, in the entire seven years of HWAN’s operation, 60 complaints were filed and resolved – while at the same time, HWAN has fulfilled **69,8499** service requests. Even if each complaint were filed by a unique consumer, the ratio of complaints to consumers is only approximately 0.1%. Surely this cannot constitute a

1 “general” business practice.

2 As to the Division’s reliance upon the Better Business Bureau, news and media sources,  
3 and findings of other state agencies and courts, that reliance is wholly misplaced because even if  
4 such proofs were relevant and admissible, they fail to meet the statutory and regulatory definition  
5 of “unsuitable manner.” As noted above, all of the alleged citations or fines from other states  
6 were against *CHW*, an entirely separate and legally distinct entity from HWAN. These distinct  
7 identities requires a finding that any fines, adverse news, or other similar negative treatment is  
8 attributable only to CHW. Importantly, CHW has never been found to have engaged in false or  
9 deceptive business practices, nor did it ever admit liability for the same. Its business practices in  
10 New Jersey and elsewhere are neither relevant nor probative of HWAN’s business practices in  
11 Nevada. They most certainly cannot provide a basis for a statutory finding against HWAN and  
12 will not support a finding that it conducts its business in an unsuitable manner and/or engages in  
13 deceptive trade practices. Therefore, the Division’s claim that HWAN has violated NRS  
14 679B.125(2) must be summarily dismissed.

15 **C. HWAN did not knowingly submit false statements in its 2011, 2012, 2014, and**  
16 **2015 renewal applications because it truthfully answered all questions.**

17 *1. HWAN truthfully answered all questions in the 2011 and 2012 applications*  
18 *because it was CHW, not HWAN, that was fined in other states.*

19 The Division claims that HWAN submitted knowingly false information in its 2011  
20 renewal application by answering “No” to the question of whether it had been fined since its last  
21 application. Compl. at 2, ¶ 2. The Division contends this was false because, in 2010, HWAN was  
22 fined by the California Insurance Commissioner for selling service contracts without a proper  
23 license. *Id.* at 2, ¶¶ 1-2; 6, ¶ 2. The Division also claims that HWAN provided the same  
24 knowingly false response in its 2012 renewal application. *Id.* at 6, ¶ 2. The Division bases that  
25 allegation on the purported fact that HWAN was fined by the Oklahoma Insurance Commissioner  
26 in 2011.<sup>4</sup> *Id.* at 3, ¶ 3. As a matter of law, neither of those two allegations may stand.

27 As was set forth in full above, the face of the California penalty shows that it was imposed

28 <sup>4</sup> This fine was imposed via order of the Oklahoma Insurance Commissioner based upon an Emergency Cease and Desist Order entered July 29, 2010.



1 against **CHW**. It found that “**Choice Home Warranty** has acted in a capacity for which a home  
2 protection company license or certificate of authority was required but was not possessed from  
3 not later than **October 25, 2008**” and it was mailed to CHW – the New Jersey entity. Similarly,  
4 the Oklahoma penalty was also imposed against **CHW** and was mailed to **CHW** in New Jersey.  
5 Once again, HWAN and CHW are distinct legal entities, evidenced by the contract for claims  
6 administration between them and fines or penalties against CHW have no applicability or bearing  
7 upon HWAN. Further, even if HWAN’s use of the fictitious name “Choice Home Warranty”  
8 could somehow make HWAN one and the same with CHW, their marriage by fictitious name was  
9 not consummated until May 16, 2014, well after the California and Oklahoma fines were issued  
10 and after the 2011 and 2012 renewal applications were submitted at the Division’s request.  
11 Therefore, HWAN answered the question of whether **HWAN** had been fined or penalized since  
12 its last application truthfully in both its 2011 and 2012 renewal applications.

13 2. *HWAN truthfully answered all questions in the 2014 and 2015 renewal*  
14 *applications because HWAN has never been fined or disciplined.*

15 In addition to the foregoing, the Division alleges that HWAN submitted knowingly false  
16 information in its 2014 and 2015 applications based upon the same question – whether it had been  
17 fined since its previous application. Compl. at 3-5, ¶¶ 5-8; 6, ¶ 2. These alleged violations are  
18 based upon a 2014 fine by the Oklahoma Insurance Commissioner for violating a consent order  
19 and a 2015 consent judgment entered by the New Jersey Superior Court for consumer fraud and  
20 violations of advertising regulations. *Id.* However, just as above, both of those penalties were not  
21 imposed against **HWAN** but against **CHW**. Once again, Oklahoma’s Certificate of Mailing makes  
22 clear that it was mailed to the New Jersey Entity. The terms of the New Jersey Final Consent  
23 Judgment are even more clear that it was “CHW Group, Inc. d/b/a Choice Home Warranty” – the  
24 underlying New Jersey case was captioned that way. In short, HWAN has never been fined in  
25 either Oklahoma or New Jersey. It has never operated in New Jersey. Accordingly, the truthful  
26 answers provided on the 2014 and 2015 applications indicate that the Division’s allegations in  
27 this regard must be dismissed.  
28

1                   3.     *HWAN truthfully answered all questions in the 2015 renewal application*  
2                   *because the 2014 and 2015 applications are ambiguous on their face.*

3             The Division also cites HWAN's response to Question number 4(d) in the 2015 renewal  
4 application, which asks whether not just the applicant but "any of the officers listed in question 1"  
5 have been fined by any other government agency since the last application. In addition to the  
6 above, the Division apparently also contends that response was knowingly false because Mr.  
7 Mandalawi, an officer of HWAN, was a party to the New Jersey Consent Judgment. This  
8 allegation must also fail for two reasons. First, the question by its very terms asks if any *new*  
9 officers have been fined since the date of the last renewal application. Mr. Mandalawi is the only  
10 officer of HWAN, and has been its only officer since its inception in 2010. As a matter of actual  
11 fact, this question is irrelevant to HWAN; but nonetheless, the question as it relates to Mr.  
12 Mandalawi was answered truthfully. Second, even if that were not the case, the application form  
13 for 2015 is ambiguous on its face. Question 4(d) asks about the "officers listed in Question 1."  
14 Yet, Question 1 only asked HWAN to list any aliases or trade names it uses. This makes the 2015  
15 application irreparably ambiguous and it cannot be the basis for a revocation of HWAN's  
16 Certificate of Registration.

17                   4.     *Prosecution by the Division resulting from ambiguities on a form for which*  
18                   *it is singularly responsible and can readily correct violates due process.*

19             NRS 686A.070 prohibits HWAN from "knowingly mak[ing] or caus[ing] to be made any  
20 false entry of a material fact in any book, report or statement of any person or knowingly omit to  
21 make a true entry of any material fact pertaining to such person's business in any book, report or  
22 statement of such person." Similarly, the federal False Claims Act ("FCA") requires that false  
23 claims be made "knowingly." *See* 31 U.S.C. § 3729(b). Because the scienter in these two statutes  
24 is similar, FCA cases concerning ambiguity are instructive here.

25             For instance, in *United States ex rel. K & R Ltd. P'ship v. Mass. Hous. Fin. Agency*, 530  
26 F.3d 980, 983 (D.C. Cir. 2008), MassHousing was charged with submitting false claims to the  
27 Department of Housing and Urban Development ("HUD") for using proceeds from tax-exempt  
28 bond sales to redeem higher interest bonds that were used to finance its loans, including loans

1 submitted for reimbursement by HUD, without reducing its claims for payment to HUD. 530 F.3d  
2 at 981. The D.C. Circuit Court of Appeals found that the notes that established the interest rates  
3 were ambiguous because they were susceptible to more than one reasonable interpretation. *Id.* at  
4 983. The D.C. Circuit found that MassHousing's interpretation thereof appeared to be reasonable  
5 and so it could not have been found to have "knowingly" submitted a false claim. *Id.* at 984.  
6 Here, the same situation exists. The 2014 and 2015 applications could reasonably be read just as  
7 written, asking the applicant to reference Question 1 for its answer. Or, they could be read to have  
8 actually been referring to Question 2, which asks about changes to HWAN's officers, of which  
9 there were none. Because Mr. Mandalawi's interpretation of the 2014 and 2015 applications was  
10 entirely reasonable, the Division cannot prove that he knowingly provided false information.

11       It cannot be overlooked that the application itself was drafted by the Division, making the  
12 doctrine of *contra proferentem* applicable and requiring that ambiguities in the form be construed  
13 against the Division. *See also Dickinson v. State, Dep't of Wildlife*, 110 Nev. 934, 937, 877 P.2d  
14 1059, 1061 (1994) (holding that an ambiguous contract must be construed against the drafter).  
15 The evidence will show that the Division was the sole drafter of the document and saw fit to  
16 amend the form at least twice in six years<sup>5</sup> and then again roughly thirty days ago. Even if the  
17 application form was corrected, and Question 4(d) properly cross-referenced Question 2 as to the  
18 officers, since there was no change in officers at HWAN in 2014 or 2015, Mr. Mandalawi's  
19 answers were still true. A truthful answer to an ambiguous question cannot be used to strip a  
20 company of its right to do business. Indeed, fundamental due process considerations demand the  
21 Division appropriately amend or otherwise correct its own forms before resorting to adversarial  
22 proceedings.

23               5.       *The Division had knowledge of the true facts prior to the alleged*  
24                       *misrepresentations in the renewal applications in question.*

25       In addition to the foregoing, the Division had prior knowledge of the true facts related to  
26 the allegedly false representations made in the renewal applications, which negates the knowing

27 \_\_\_\_\_  
28 <sup>5</sup> A close reading of the seminal question in 2015, most recently numbered 4(d), previously had appeared as No. 3(d)  
in years past. Additionally, the 2016 Renewal of HWAN reveals that it was revised on "7/5/16."

1 and intentional element required for a violation of NRS 686A.070. In *United States ex rel.*  
2 *Durcholz v. FKW Inc.*, the 7th Circuit held that no false claim had been presented because “[t]he  
3 government’s prior knowledge of an allegedly false claim can vitiate a FCA action,” since, “[i]f  
4 the government knows and approves of the particulars of a claim for payment before that claim is  
5 presented, the presenter cannot be said to have knowingly presented a fraudulent or false claim. In  
6 such a case, the government’s knowledge effectively negates the fraud or falsity required.” 189  
7 F.3d 542, 544-545 (7th Cir. 1999). *See also United States ex rel. Hagood v. Sonoma Cnty. Water*  
8 *Agency*, 929 F.2d 1416, 1421 (9th Cir.1991).

9 First, HWAN unequivocally contends that the fines cited by the Division are solely  
10 attributable to CHW for the reasons set forth in full above. Second, even if that is not the case,  
11 the Division’s allegations of fraud fail in any event because the Division’s officials had prior  
12 knowledge of the California, Oklahoma, and New Jersey penalties *before* HWAN submitted its  
13 2011, 2012, 2014, and 2015 renewal applications. The Division’s own records will reveal the  
14 same, thus negating “the fraud or falsity required” for a violation of NRS 686A.070.

15 **D. The Division has no evidence that HWAN has failed to promptly and**  
16 **reasonably respond to claims.**

17 The Division also contends that HWAN has failed to promptly and reasonably respond to  
18 claims in violation of NRS 686A.310(1)(b). Compl. at 6, ¶ 3. The basis for this allegation is  
19 apparently based only on 80 complaints allegedly filed against HWAN. *Id.* at 5, ¶ 9. However, the  
20 Division is unable to prove this allegation. Of the “80” complaints made over a seven year period,  
21 7 are duplicates. Out of the 73 remaining alleged complaints, 11 of those never held an actual  
22 contract with HWAN, leaving just 62 unique complaints. At the time of filing the Complaint,  
23 HWAN had just two open complaints with the Division.

24 HWAN will conclusively prove these allegations are patently false and unsubstantiated.  
25 HWAN’s files reveal prompt responses, timely dispatch and intervention by trained technicians  
26 and redress provided either by skilled repair work, replacement, or at times a refund. To the  
27 extent claims were denied, such denials were based on the facts presented and clear and concise  
28 contractual exclusions. The evidence will show that not only were there nearly 69,849 claims

1 serviced in Nevada during HWAN's business operations, but the dispatch time for a service  
2 technician to respond to new complaints averaged four hours or less. HWAN's communications  
3 with its Nevada policy holders were constant and almost daily during claims events. Therefore,  
4 the Division's allegation that HWAN has violated NRS 686A.310(1)(b) must be dismissed.

5 **E. The Division has no evidence that HWAN ever received Ms. Strong's request**  
6 **for information.**

7 Lastly, the Division's Complaint contends that HWAN has violated NRS 690C.320 for  
8 failing to make available its books and records for inspection. Compl. at 6, ¶ 10. Its basis for that  
9 contention is that Mary Strong is alleged to have sent an e-mail on February 1, 2017 to Mr.  
10 Mandalawi requesting certain information be provided in connection with the Division's renewal.  
11 The Division contends that this request for information went unanswered, *see* Compl. at 6, § 10;  
12 while HWAN contends that the February 1, 2017 e-mail was not received at all.

13 NRS 690C.320(2) states that HWAN "shall, upon the request of the Commissioner, make  
14 available to the Commissioner for inspection any accounts, books and records concerning any" of  
15 its service contracts. Prefixing "shall" to the Commissioner's request in that statute implies that  
16 the request must have actually been received by HWAN. It is the Division that has filed a  
17 Complaint and is seeking disciplinary action against HWAN and it is therefore the Division's  
18 burden to show that its request was not just sent, but also received. The Division has to date failed  
19 to produce any such evidence; and, to the contrary, HWAN will provide testimony at the hearing  
20 indicating the e-mail request was not received. HWAN further contends that in the absence of  
21 any mailed copy or telephonic inquiry, HWAN had no way of knowing of the Division's request  
22 and that any failure to answer the request was unintentional. Therefore, the Division's allegation  
23 that HWAN failed to respond to a request for information is without merit and must be dismissed.

24 **III. CONCLUSION**

25 The burden of proof never leaves the Division. Based upon the foregoing, it is clear that  
26 the Division will fail as a matter of fact and law to establish any of the necessary statutory  
27 predicates required by NRS 690C.325 to support revocation. Therefore, HWAN respectfully  
28 requests that the Complaint be dismissed in full.

1 DATED this 6th day of September, 2017.

2 BROWNSTEIN HYATT FARBER SCHRECK, LLP

3  
4 BY: 

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9 *Attorneys for Respondent Home Warranty*  
10 *Administrator of Nevada, Inc. dba Choice Home*  
11 *Warranty*

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and that on the 6th day of September, 2017, I caused a true and correct copy of the foregoing **HOME WARRANTY ADMINISTRATOR OF NEVADA, INC.'S PREHEARING STATEMENT** to be served, U.S. Mail, postage prepaid, and via electronic mail, to the following:

ALEXIA M. EMMERMANN, ESQ.  
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Division of Insurance  
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Carson City, NV 89706  
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*Attorneys for Respondent Home Warranty  
 Administrator of Nevada, Inc. dba Choice Home  
 Warranty*

**STATE OF NEVADA  
 DEPARTMENT OF BUSINESS AND INDUSTRY  
 DIVISION OF INSURANCE**

IN THE MATTER OF:

CAUSE NO.: 17.0050

HOME WARRANTY ADMINISTRATOR  
 OF NEVADA, INC. dba CHOICE HOME  
 WARRANTY,

**LIST OF HEARING WITNESSES**

*Respondent.*

Respondent HOME WARRANTY ADMINISTRATOR OF NEVADA, INC. d/b/a Choice Home Warranty ("HWAN"), by and through its attorneys of record Kirk B. Lenhard, Esq. and Travis F. Chance, Esq., of the law firm of Brownstein Hyatt Farber Schreck, LLP, and Lori Grifa, Esq., of the law firm of Archer & Greiner, P.C., hereby submits the instant List of Hearing Witnesses:

**WITNESSES**

HWAN may call the following witnesses at the hearing of this matter:

1. Victor Mandalawi  
 c/o Kirk B. Lenhard, Esq.  
 Brownstein Hyatt Farber Schreck, LLP  
 100 North City Parkway, Suite 1600  
 Las Vegas, NV 89106-4614  
 Telephone: (702) 382-2101  
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1 Lori Grifa, Esq.  
2 Archer & Greiner, P.C.  
3 21 Main Street, Suite 353  
4 Hackensack, NJ 07601  
5 Telephone: (201) 342.6000  
6 Facsimile: (201) 342.6611

- 7 2. Victor Hakim  
8 c/o Kirk B. Lenhard, Esq.  
9 Brownstein Hyatt Farber Schreck, LLP  
10 100 North City Parkway, Suite 1600  
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- 20 3. Judge Harriet Derman, J.S.C. (ret.), former Judge of the New Jersey  
21 Superior Court and Contract Compliance Monitor to the State of New  
22 Jersey (to be presented via videotaped and stenographically recorded  
23 deposition testimony)  
24 c/o Kirk B. Lenhard, Esq.  
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4. Mary Strong  
c/o Richard Yien, Deputy Attorney General  
Office of the Attorney General, State of Nevada  
100 N. Carson  
Carson City, Nevada 89701  
Telephone: (775) 684-1129  
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5. Derrick Dennis  
c/o Richard Yien, Deputy Attorney General  
Office of the Attorney General, State of Nevada  
100 N. Carson  
Carson City, Nevada 89701  
Telephone: (775) 684-1129  
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- 1           6.     Marla Ramirez  
2                 c/o Richard Yien, Deputy Attorney General  
3                 Office of the Attorney General, State of Nevada  
4                 100 N. Carson  
5                 Carson City, Nevada 89701  
6                 Telephone: (775) 684-1129  
7                 Facsimile: (775) 684-1156
- 8           7.     The Division of Insurance's (the "Division") person most knowledgeable  
9                 as to the Division's notice of HWAN's alleged violations, citations, and/or  
10                fines in other states, as alleged in the Division's Complaint  
11                c/o Richard Yien, Deputy Attorney General  
12                Office of the Attorney General, State of Nevada  
13                100 N. Carson  
14                Carson City, Nevada 89701  
15                Telephone: (775) 684-1129  
16                Facsimile: (775) 684-1156
- 17           8.     The Division's person most knowledgeable as to the creation of its annual  
18                renewal application forms  
19                c/o Richard Yien, Deputy Attorney General  
20                Office of the Attorney General, State of Nevada  
21                100 N. Carson  
22                Carson City, Nevada 89701  
23                Telephone: (775) 684-1129  
24                Facsimile: (775) 684-1156
- 25           9.     Martin Reis  
26                8212 Green Clover Avenue  
27                Las Vegas, NV 89149  
28                Telephone: (702) 658-7903

HWAN reserves the right to amend this list. HWAN further reserves the right to call any witness for impeachment or rebuttal purposes. HWAN further reserves the right to call any and/or all of the witnesses listed on the Division of Insurance's witness list.

DATED this 6th day of September, 2017.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

BY: 

KIRK B. LENHARD, ESQ., Nevada Bar No. 1437

[klenhard@bhfs.com](mailto:klenhard@bhfs.com)

TRAVIS F. CHANCE, ESQ., Nevada Bar No. 13800

[tchance@bhfs.com](mailto:tchance@bhfs.com)

LORI GRIFA, ESQ., NJ Bar No. 011551989

[lgrifa@archerlaw.com](mailto:lgrifa@archerlaw.com)

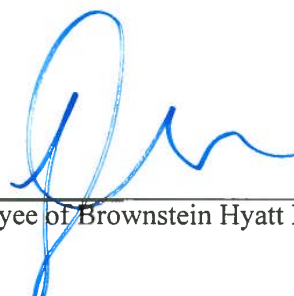
*Attorneys for Respondent Home Warranty  
Administrator of Nevada, Inc. dba Choice Home  
Warranty*

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and that on the 6th day of September, 2017, I caused a true and correct copy of the foregoing **LIST OF HEARING WITNESSES** to be served, U.S. Mail, postage prepaid, and via electronic mail, to the following:

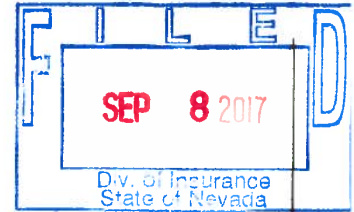
ALEXIA M. EMMERMANN, ESQ.  
Hearing Office  
Department of Business and Industry  
Division of Insurance  
1818 East College Parkway, Suite 103  
Carson City, NV 89706  
Email: yrenta@doi.nv.gov

ADAM PAUL LAXALT, ESQ.  
ATTORNEY GENERAL  
RICHARD YIEN, Deputy Attorney General  
Nevada Attorney General's Office  
100 North Carson Street  
Carson City, NV 89701-4717  
Email: ryien@ag.nv.gov



an employee of Brownstein Hyatt Farber Schreck, LLP

212864670v1



STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE

IN THE MATTER OF ) CAUSE NO. 17.0050  
)  
HOME WARRANTY ADMINISTRATOR ) UPDATED HEARING EXHIBITS  
OF NEVADA, INC. dba CHOICE HOME ) AND UPDATED WITNESS LIST  
WARRANTY )  
)  
Respondent. )

This matter comes before the Hearing Officer on an Order to Show Cause issued by the Commissioner of insurance on May 11, 2017. The Nevada Division of Insurance ("Division"), by and through its counsel, Deputy Attorney General Richard Yien, submitted Proposed Hearing Exhibits per the Hearing Officer's Order dated July 27, 2017 on September 6, 2017. The Division hereby submits this Updated Hearing Exhibits and Updated Witness List. The Division's new exhibits, 41-42, were recently acquired, and found after September 6, 2017, when the original Proposed Hearing Exhibits and Witness List was filed. Only the new exhibits are attached as exhibits to this updated list. Please refer to the original Proposed Hearing Exhibits and Witness List for previously submitted exhibits. The Division has added David Hall to the Witness List and reserves the right to call additional witnesses.

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## PROPOSED HEARING EXHIBITS


Exhibit Number	Exhibit Description
1	California Regulatory Action
2	2011-2012 Service Contractor Provider Renewal Application
3	Oklahoma Regulatory Actions
4	2012-2013 Service Contractor Provider Renewal Application
5	2013-2014 Service Contractor Provider Renewal Application
6	New Jersey Attorney General Settlement Press Release and Settlement
7	2014-2015 Service Contractor Provider Renewal Application
8	State of Washington Regulatory Action
9	Better Business Bureau Report
10	Civil Action in New Jersey
11	Nevada Complaints #1 and #2
12	2015-2016 Service Contract Provider Renewal Application
13	New Jersey Attorney General Press Release and Complaint
14	Ripoff Report filed by Nevada Consumer on October 31, 2016
15	Ripoff Report filed by Nevada Consumer on July 7, 2016
16	Ripoff Report filed by Nevada Consumer on April 20, 2016
17	Ripoff Report filed by Nevada Vendor on January 14-17, 2016
18	Ripoff Report review by Nevada Consumer on October 12, 2016
19	"Warranty Company notorious for denying claims" Click2Houston News Report
20	"Home Warranty Company Accused of Not Paying Up" NBC Chicago 5 News Report
21	2016-2017 Service Contract Provider Renewal Application
22	CHW Initial Application
23	CHW Certificate of Registration
24	Nevada Complaint #3
25	Nevada Service Provider Complaint
26	CHW Internet Advertisement
27	CHW Email Advertisements
28	DOI compiled list of complaints as of March 8, 2017
	South Carolina Civil Action
	Clark County Clerk's Office Business Record
	Washoe County Clerk's Office Business Record
	Carson City Business License Application

33	DOI Request to Examine Reserve Account
34	Reserve Account Information Provided by CHW
35	CHW Contract Approved by DOI
36	DOI Bulletin 17-002
37	CHW Nevada Consumer Contract
38	Nevada Complaint #4
39	Fox 4 Problem Solvers: Overland Park man wants to warn others about home warranty
40	Action 9 investigates home warranties
41	South Carolina Department of Insurance Licensing Application
42	South Carolina Civil Complaint Federspiel v CHW

#### WITNESS LIST

The Division may call the following witnesses at hearing: Rajat Jain, Mary Strong, Timothy Ghan, Patti Flasch, Felecia Casci, Kim Kuhlman, Derick Dennis, Linda Stratton, and David Hall.

DATED this 8<sup>th</sup> day of September, 2017.

  
 RICHARD PAILI YIEN  
 Deputy Attorney General  
 100 N. Carson Street  
 Carson City, Nevada 89701  
 (775) 684-1129  
*Attorney for the Division of Insurance*

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Alexia M. Emmermann, Esq.  
Hearing Officer  
Department of Business and Industry  
Division of Insurance  
1818 East College Parkway, Suite 103  
Carson City, NV 89706

Richard Yien, Deputy Attorney General  
Nevada Attorney General's Office  
E-MAIL: [ryien@ag.nv.gov](mailto:ryien@ag.nv.gov)

Felicia Carr

-1-

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[klenhard@bhfs.com](mailto:klenhard@bhfs.com)  
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Facsimile: 702.382.8135

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Hackensack, NJ 07601  
Telephone: 201.342.6000  
Facsimile: 201.342.6611

*Attorneys for Respondent Home Warranty  
Administrator of Nevada, Inc. dba Choice Home  
Warranty*

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE

IN THE MATTER OF:

HOME WARRANTY ADMINISTRATOR  
OF NEVADA, INC. dba CHOICE HOME  
WARRANTY,

*Respondent.*

CAUSE NO.: 17.0050

HOME WARRANTY ADMINISTRATOR  
OF NEVADA, INC.'S NOTICE OF INTENT  
TO FILE SUPPLEMENTAL HEARING  
EXHIBITS

AND

AMENDED HEARING EXHIBIT LIST

TO: THE NEVADA DIVISION OF INSURANCE  
c/o Richard Yien, Deputy Attorney General  
Office of the Attorney General, State of Nevada  
100 N. Carson  
Carson City, Nevada 89701





1 Please take notice that Respondent HOME WARRANTY ADMINISTRATOR OF  
2 NEVADA, INC. d/b/a CHOICE HOME WARRANTY intends to file Supplemental Hearing  
3 Exhibits this 11<sup>th</sup> day of September, 2017. The Amended Hearing Exhibits List is attached hereto  
4 as **Exhibit 1** and the Supplemental Exhibits being filed are noted in bold typeface thereon. Any  
5 non-substantive corrections to the original Exhibit List are also noted in bold typeface.

6 DATED this 11th day of September, 2017.

7 BROWNSTEIN HYATT FARBER SCHRECK, LLP

8  
9 BY: 

KIRK B. LENHARD, ESQ., Nevada Bar No. 1437  
[klenhard@bhfs.com](mailto:klenhard@bhfs.com)

10 TRAVIS F. CHANCE, ESQ., Nevada Bar No. 13800  
11 [tchance@bhfs.com](mailto:tchance@bhfs.com)

12 LORI GRIFA, ESQ., NJ Bar No. 011551989  
13 [lgrifa@archerlaw.com](mailto:lgrifa@archerlaw.com)

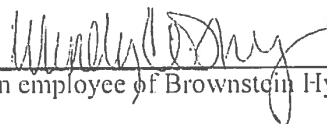
14 *Attorneys for Respondent Home Warranty*  
15 *Administrator of Nevada, Inc. dba Choice Home*  
16 *Warranty*

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and that on the 11th day of September, 2017, I caused a true and correct copy of the foregoing **HOME WARRANTY ADMINISTRATOR OF NEVADA, INC.'S NOTICE OF INTENT TO FILE SUPPLEMENTAL HEARING EXHIBITS AND SUPPLEMENTAL HEARING EXHIBIT LIST** to be served, U.S. Mail, postage prepaid, and via electronic mail, to the following:

ALEXIA M. EMMERMANN, ESQ.  
Hearing Office  
Department of Business and Industry  
Division of Insurance  
1818 East College Parkway, Suite 103  
Carson City, NV 89706  
Email: [vrenta@doi.nv.gov](mailto:vrenta@doi.nv.gov)

ADAM PAUL LAXALT, ESQ.  
ATTORNEY GENERAL  
RICHARD YIEN, Deputy Attorney General  
Nevada Attorney General's Office  
100 North Carson Street  
Carson City, NV 89701-4717  
Email: [ryien@ag.nv.gov](mailto:ryien@ag.nv.gov)

  
an employee of Brownstein Hyatt Farber Schreck, LLP

# EXHIBIT 1

KIRK B. LENHARD, ESQ., Nevada Bar No. 1437  
[klenhard@bhfs.com](mailto:klenhard@bhfs.com)  
TRAVIS F. CHANCE, ESQ., Nevada Bar No. 13800  
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Court Plaza South, West Wing  
21 Main Street, Suite 353  
Hackensack, NJ 07601  
Telephone: 201.342.6000  
Facsimile: 201.342.6611

*Attorneys for Respondent Home Warranty  
Administrator of Nevada, Inc. dba Choice Home  
Warranty*

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE

IN THE MATTER OF:

CAUSE NO.: 17.0050

HOME WARRANTY ADMINISTRATOR  
OF NEVADA, INC. dba CHOICE HOME  
WARRANTY,

AMENDED HEARING EXHIBIT LIST

*Respondent.*

EXHIBIT	DESCRIPTION	PAGES
A	CHW Group, Inc.'s Corporate Documents (Certified)	5
B	DBA Certified Filings: Certificate of Business: Fictitious Firm Name for Clark County (Certified) and Certificate of Business: Fictitious Firm Name for Washoe County (Certified)	3
C	Home Warranty Administrator of Nevada, Inc.'s Corporate Documents (Certified)	4
D	Certificate of Incorporation: Home Warranty Administrator of Oklahoma, Inc. (Certified)	1

1	EXHIBIT	DESCRIPTION	PAGES
2			
3	E	CHW Group Independent Service Provider Agreement	8
4	F	New Jersey Final Consent Judgment: Hoffman, et al v. CHW Group, Inc. d/b/a Choice Home Warranty entered June 9, 2015	54
5	G	California Fine: Default Decision, Imposition of Monetary Penalty, Demand for Payment	3
6			
7			
8	H	Oklahoma Fine: Emergency Cease and Desist Order dated July 29, 2010 and Conditional Administrative Order and Notice of Right to be Heard dated January 7, 2014	45
9			
10	I	HWAN Renewals – 2011 through 2016	23
11	J	Report: DOI Computer Search for HWAN Complaints dated November 29, 2016	5
12	K	Claims Ratio & Analysis	1
13	L	Mary Strong E-mail to HWAN dated February 1, 2017	1
14	M	HWAN Customer Testimonials	867
15	N	HWAN Nevada Vendors' Contracts, Insurance, Pricing, and Claims	153
16	O	Nevada DOI Licensee Search showing HWAN's status as "Inactive"	1
17	P	HWAN 2010 Application for Licensure with Approved Form Application	20
18	Q	Division of Insurance Memo fr. D. Dennis dated July 8, 2017 Re: Reissuance of Certificate of Registration to HWAN after Name Change (DBA)	1
19			
20	R	Division of Insurance Memo fr. D. Bennett dated September 17, 2010 Re: Recommending Approval of Initial Application and Registration	1
21	S	Division of Insurance Memo fr. M. Strong dated January 26, 2017 Re: Revocation	3
22	T	CHW DBA E-mails	59
23	U	Notice of Approval of HWAN Application dated November 30, 2010 & 2010 Certificate of Registration Issued November 18, 2010	7
24			
25			
26			
27			
28			

EXHIBIT	DESCRIPTION	PAGES
V	Blank Renewal Applications for 2010-2017	25
W	Report: DOI Computer Search for HWAN Consumer Complaints dated November 29, 2016	5
X	Videotaped Deposition Transcript of Hon. Harriet Derman, J.S.C. – (Retired)	142
Y	Division Copies of HWAN Renewal 2012	4
Z	Division Copies of HWAN Renewal 2013	6
AA	Division Copies of HWAN Renewal 2014	6
BB	Division Copies of HWAN Renewal 2015	10
CC	Division Copies of HWAN Renewal 2016	11
DD	Division Copies of HWAN Renewal 2017	4
EE	2011 HWAN Revised Contract Form with DOI Approval	9
FF	DOI Revisions to Service Contract Provider Application bearing date July 25, 2016	5
GG	DOI Revisions to Service Contract Provider Application bearing date August 3, 2017	6
HH	HWAN Files for Complainants	1672
II	July 21, 2017 E-mail from M. Strong RE Alleged Failure to Timely Renew	2
JJ	July 26, 2017 Letter Response from L. Grifa RE M. Strong Failure to Renew	12
KK	July-Nov. 2011 E-mails from D. Bennett to D. Hall RE CHW Group, Inc.	4
LL	July 2010 E-mails Among Washington DOI, D. Bennett, and D. Hall RE CHW Group, Inc. Actions in Nevada	3
MM	July 1, 2011 E-mails Among D. Bennett, T. Bader, and D. Hall RE Sensible Home Warranty, LLC and CHW Group, Inc. Relationship	3
NN	Feb. 12, 2010 E-mails Among A. Chartrand, D. Bennet, and D. Hall RE Registration of CHW Group, Inc. in Nevada	2
OO	Feb. 17, 2010 E-mail from A. Chartrand to D. Hall RE Transmission of CHW Group, Inc. Application Materials	1
PP	Feb. 10, 2010 D. Bennett and D. Hall E-mails RE Negotiation of	3

EXHIBIT	DESCRIPTION	PAGES
	Consent Judgment and Formally Registering CHW Group, Inc. for Nevada Operation	
QQ	April 25, 2011 E-mail Among T. Bader, D. Hall, and HWAN Employee RE Test E-mail	1

**Yvonne Renta**

---

**From:** Cosby, Wendy C. <[wcosby@bhfs.com](mailto:wcosby@bhfs.com)>  
**Sent:** Monday, September 11, 2017 12:53 PM  
**To:** Yvonne Renta  
**Cc:** Chance, Travis F.; Lenhard, Kirk B.; '[lgrifa@archerlaw.com](mailto:lgrifa@archerlaw.com)'; '[ryien@ag.nv.gov](mailto:ryien@ag.nv.gov)'  
**Subject:** Home Warranty Administrator of Nevada, Inc. dba Choice Home Warranty  
**Attachments:** 2017.09.11 Notice of Intent to File Supplemental Hearing Exhibits\_(15956417\_1).PDF

Please see attached Home Warranty Administrator of Nevada, Inc.'s Notice of Intent to File Supplemental Hearing Exhibits and Amended Hearing Exhibit List.

Ms. Renta, we will be sending the supplemental exhibits via overnight mail.

Thanks,

**Wendy C. Cosby**

Legal Secretary  
**Brownstein Hyatt Farber Schreck, LLP**  
100 North City Parkway, Suite 1600  
Las Vegas, NV 89106  
702.464.7073 tel  
[wcosby@bhfs.com](mailto:wcosby@bhfs.com)

STATEMENT OF CONFIDENTIALITY & DISCLAIMER: The information contained in this email message is attorney privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this email is strictly prohibited. If you have received this email in error, please notify us immediately by calling (303)-223-1300 and delete the message. Thank you.



# EXHIBIT II

---

**From:** Mary Strong <mstrong@doi.nv.gov>  
**Date:** July 21, 2017 at 12:51:28 PM EDT  
**To:** "'vmandalawi@homewarrantyadministrators.com'"  
<vmandalawi@homewarrantyadministrators.com>  
**Cc:** Rajat Jain <rjain@doi.nv.gov>  
**Subject:** State of Nevada Division of Insurance

Dear Mr. Mandalawi,

Home Warranty Administrators of Nevada, Inc. d/b/a Choice Home Warranty's (HWAN) Certificate of Registration expired on November 18<sup>th</sup>, 2016. The Certificate of Registration was not renewed prior to November 18<sup>th</sup>, 2016 as required by Nevada law.

Pursuant to the Division's Bulletin 17.002 ([http://doi.nv.gov/News\\_Notices/Bulletins/Bulletin\\_17-002/](http://doi.nv.gov/News_Notices/Bulletins/Bulletin_17-002/)), please be advised that:

- The Certificate of Registration automatically ***expires*** as a matter of law. As such, HWAN's status in Nevada is "inactive", and HWAN is no longer lawfully allowed to issue, sell, or offer for sale service contract in Nevada.
- HWAN must surrender its original (expired) Certificate of Registration to the Division.

The Division is requesting the following information/documents from HWAN no later than July 21, 2017:

1. Surrender the expired Certificate of Registration to the Division of Insurance
2. Submit, via email, a list of active service contracts in an Excel format containing the following information to my attention at [mstrong@doi.nv.gov](mailto:mstrong@doi.nv.gov):
  - a. Name of the Contract Holder
  - b. Address of the Contract Holder
  - c. Contract purchase date
  - d. Contract expiration date

e. Contract purchase price

Please feel free to contact me if you have any questions.

Sincerely,

*Mary Strong*

Management Analyst III  
Property & Casualty Section  
Nevada Division of Insurance  
1818 E. College Pkwy Suite 103  
Carson City, NV 89706-7986  
(775) 687-0763 direct  
(775) 687-0700 main  
(775) 687-0787 fax

CONFIDENTIALITY STATEMENT:

This e-mail and any attachments are intended only for those to which it is addressed and may contain information which is privileged, confidential and prohibited from disclosure and unauthorized use under applicable law. If you are not the intended recipient of this e-mail, you are hereby notified that any use, dissemination, or copying of this e-mail or the information contained in this e-mail is strictly prohibited by the sender. If you have received this transmission in error, please return the material received to the sender and delete all copies from your system.

# EXHIBIT JJ



Lori Grifa  
Member of the New Jersey  
and New York Bars  
lgrifa@archerlaw.com  
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201-342-6611 Direct Fax

Archer & Greiner, P.C.  
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Hackensack, NJ 07601-7095  
201-342-6000 Main  
201-342-6611 Fax  
[www.archerlaw.com](http://www.archerlaw.com)

July 26, 2017

***By Electronic Mail Only***

DAG Richard Yien  
State of Nevada  
Office of the Attorney General  
100 N. Carson  
Carson City, Nevada 89701

**Re: Home Warranty of Nevada Inc./Nevada Company Identification No. 113194**

Dear DAG Yien:

As you know, this firm, along with the Brownstein Hyatt firm, represents the aforesaid Home Warranty Administrator of Nevada Inc. ("HWAN") We write to address the conduct of your client, the Nevada Division of Insurance; and in particular the conduct of its employee, Mary Strong, a management analyst, and an email she sent to our client on Friday, July 21, 2017.

HWAN is represented by legal counsel. You know that, as does Ms. Strong, since she met us in the Division's office on June 21, 2017. Additionally, we are in the midst of an adversarial proceeding with the Division. Accordingly, we insist that all communications going forward be through counsel. We trust you will advise your client and its employees accordingly.

In the email she sent to our client last week, Ms. Strong advised that

*"Home Warranty Administrators of Nevada Inc. d/b/a Choice Home Warranty's (HWAN) Certificate of Registration expired on November 18<sup>th</sup>, 2016. The Certificate of Registration was not renewed prior to November 18<sup>th</sup>, 2016 as required by Nevada law."*

Thereafter, she demanded the return of the "expired" Certificate of Registration by the close of business that same day<sup>1</sup>.

---

<sup>1</sup> As it happens, just three hours later.

DAG Richard Yien  
July 26, 2017  
Page 2

We find Ms. Strong's email to be statutorily defective and of no force and effect for a number of reasons. Of these, despite being days away from a trial on the merits of the May 11, 2017 Complaint, it seems the Division's has attempted to retroactively revoke HWAN's Certificate of Registration. Nevada's own statutes and basic due process principles do not allow for this.

Moreover, kindly be advised that Ms. Strong's position that HWAN's Certificate of Registration "was not renewed prior to November 18, 2016" is wholly unsupported by uncontradicted facts.

#### **HWAN Renewed on Time**

Since at least July 14, 2014, HWAN has had a renewal date ("Renewal Date") of November 18. See Service Contract Provider Certificate of Registration, dated July 14, 2014, attached hereto as Exhibit A. This date was assigned by your client in 2014 and the Division has never taken any steps to indicate that the date was ever modified or changed.

Indeed, the Mary Strong email, purportedly of February 1, 2017 and seeking additional information, stated:

"We are in the process of reviewing the Renewal Application for [HWAN]. To expedite our review, the Division is requesting that you provide the number of open service contracts for [HWAN]".

It seems more than likely that if HWAN had not submitted the appropriate renewal application and the appropriate renewal fee by November 18, 2016, any communication from Mary Strong in February would have been worded differently.

In light of the foregoing, we can think of nothing that would allow Ms. Strong to summarily and retroactively change the Renewal Date. Her July 21, 2017 email is silent as to the basis of that authority.

#### **HWAN Tendered all of the Renewal Appropriate Fees in Full and On Time.**

In advance of the Renewal Date, on November 8, 2016, by Check No. 1804, HWAN provided the Division with the renewal fee of \$1,000. See Bank Statement dated November 30, 2016 attached hereto as Exhibit B. That check was delivered to the office of your client, attention to Derick Dennis, at 1818 College Parkway, Suite 103, Carson City, Nevada, via express mail on November 7, 2016 and was signed for by A. Barchus on November 8, 2016. See Federal Express Receipt attached hereto as Exhibit C.

Accordingly, by the explicit terms of NRS 690C.160(3) HWAN's Certificate of Registration to act as a service contract provider in Nevada is valid for one year after the Commissioner issues the certificate, provided the renewal application, renewal fee and any other fee or charge required pursuant to NRS 680C.110 is paid on time.

DAG Richard Yien  
July 26, 2017  
Page 3

The “any other fee” pursuant to NRS 680C.110, to wit the administration and enforcement fee prescribed in NRS 680C.110(4)(y) and due pursuant to Invoice No. 631629, was also paid in full and on time. That fee, due on March 1, 2017, was paid by Check No. 1805, tendered to the Division on February 20, 2017, and was cashed by the Division on March 1, 2017. See Bank Statement dated March 31, 2017 attached hereto as Exhibit D.

Accordingly, nothing in NRS 690C.160(3), apparently last amended in 2009, affixes a different or additional due date for payment of the renewal fee other than the Renewal Date. Nothing in NRS 680C.110, apparently last amended in 2015, affixes a different or additional due date for the payment of the administration and enforcement fee. Thus, we can think of nothing that would allow Ms. Strong to summarily and retroactively change the due dates for applicable fees. Again, her email is silent as to the basis of that authority.

**HWAN has not and will not Tender its Certificate of Registration.**

HWAN did not tender its still valid Certificate of Registration last week. (You may know that by now.) We note that the Division nonetheless has altered its website; and now lists HWAN as an “inactive” service provider. HWAN was listed as “active” on the Division’s website as recently as July 18, 2017.

HWAN will not tender the Certificate without a formal notice from the Commissioner of Insurance, properly served. Ms. Strong, a “Management Analyst II” is undoubtedly a valued employee, but we wonder if she wields the enforcement authority of your client simply by virtue of her email communications with the Division’s registrants.

We trust you understand that HWAN is entitled to the protections of NRS 690C.325 and that even if the Commissioner is inclined to “refuse to renew” or is inclined to “suspend, limit or revoke a provider’s certificate of registration” that can only happen AFTER a hearing on the merits and a specific finding that HWAN has:

- (a) Violated or failed to comply with any lawful order of the Commissioner;
- (b) Conducted business in an unsuitable manner;
- (c) Willfully violated or willfully failed to comply with any lawful regulation of the Commissioner; or
- (d) Violated any provision of this chapter.

NRS 690C.325

DAG Richard Yien  
July 26, 2017  
Page 4

In closing, unilaterally changing HWAN's status on the Nevada website has caused injury to our client. We suggest you encourage your client to reverse its website change and withdraw the Strong email of last week. As HWAN is now aggrieved, it reserves its rights and remedies to pursue any cause of action against your client, its employees and the State, in any manner provided by applicable law.

Very truly yours,

  
LORI GRIFA

Attachments

c. K. Lenhard, Esq. (by email, w/ attachments)

212949522v1



EXHIBIT A

Service Contract Provider  
Certificate of Registration  
DEPARTMENT OF BUSINESS AND INDUSTRY



DIVISION OF INSURANCE

This certificate with affixed seal is evidence of registration for

Home Warranty Administrator of Nevada, Inc. dba Choice Home  
Warranty

Nevada Company ID No. 113194


to act as a service contract provider in the state of Nevada in accordance with Chapter  
690C of the Nevada Revised Statutes.

This Certificate shall remain in force unless suspended, revoked, terminated or  
voluntarily surrendered. This Certificate shall at all times remain the property of the  
State of Nevada. Upon any termination, suspension or revocation thereof, the holder  
shall promptly deliver or surrender this Certificate of Registration to the  
Commissioner of Insurance.



Dated at Carson City, Nevada

this 14<sup>th</sup> day of July, 2014

  
Commissioner of Insurance

Effective Date: July 14<sup>th</sup>, 2014

Renewal Date is November 18<sup>th</sup> of Each Year

EXHIBIT B

Date 11/30/16 Page 1  
 Account Number @XXXXXXXXXXXXX@  
 Enclosures 1

Home Warranty Administrator of NV Inc  
 OPERATING ACCOUNT  
 1090 King Georges Post Rd  
 Edison NJ 08837

Check your balance anytime with Online Banking  
 Visit [www.chesbank.com](http://www.chesbank.com) to learn more.

\*\*\*\*\* S U M M A R Y O F A C C O U N T S \*\*\*\*\*  
 Account Number Account Title Current Balance Enclosures  
 @XXXXXXXXXXXXX@ BUSINESS CHECKING 944.51 1

\*\*\*\*\* CHECKING ACCOUNT \*\*\*\*\*

Account Title: Home Warranty Administrator of NV Inc  
 OPERATING ACCOUNT

BUSINESS CHECKING		Number of Enclosures	1
Account Number	@XXXXXXXXXXXXX@	Statement Dates	11/01/16 thru 11/30/16
Previous Balance	944.51	Days in the statement period	30
1 Deposits/Credits	1,000.00	Average Ledger	1,144.51
1 Checks/Debits	1,000.00	Average Collected	1,144.51
Service Charge	.00		
Interest Paid	.00		
Current Balance	944.51		

Activity in Date Order		
Date	Description	Amount
11/04	Trsf from NV	1,000.00
	Confirmation number 1104160208	

----- Summary By Check Number -----  
 Date Check No Amount  
 11/10 1804 1,000.00  
 \* Indicates Break In Check Number Sequence

Daily Balance Information					
Date	Balance	Date	Balance	Date	Balance
11/01	944.51	11/04	1,944.51	11/10	944.51

\* \* \* END OF STATEMENT \* \* \*

EXHIBIT C



July 21, 2017

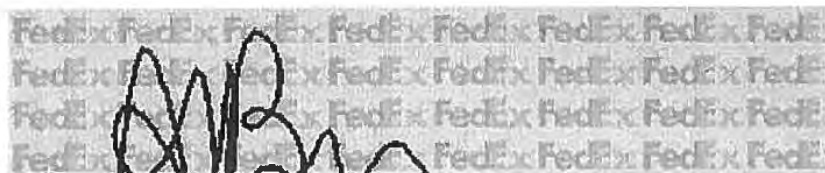
Dear Customer:

The following is the proof-of-delivery for tracking number **777636657036**.

---

**Delivery Information:**

<b>Status:</b>	Delivered	<b>Delivery location:</b>	1818 COLLEGE PKWY 103 CARSON CITY, NV 89706
<b>Signed for by:</b>	A.BARCHUS	<b>Delivery date:</b>	Nov 8, 2016 09:01
<b>Service type:</b>	FedEx Standard Overnight		
<b>Special Handling:</b>	Deliver Weekday		



---

**Shipping Information:**

<b>Tracking number:</b>	777636657036	<b>Ship date:</b>	Nov 7, 2016
-------------------------	--------------	-------------------	-------------

**Recipient:**  
Nevada Division of Insurance  
Derick Dennis  
1818 COLLEGE PKWY STE 103  
CARSON CITY, NV 89706 US

**Shipper:**  
Mail Room  
1090 King Georges Post Road  
Building 10  
EDISON, NJ 08837 US

Thank you for choosing FedEx.

EXHIBIT D

Date 3/31/17 Page 1  
 Account Number @XXXXXXXXXXXXX@  
 Enclosures 1

Home Warranty Administrator of NV Inc  
 OPERATING ACCOUNT  
 1090 King Georges Post Rd  
 Edison NJ 08837

\*\*\*Effective April 1, 2017 bank statements returned by the Postal Service  
 as Return Address/Undeliverable Address will be subject to a \$10.00  
 fee charged to the customer's account.\*\*\*

\*\*\*\*\* S U M M A R Y O F A C C O U N T S \*\*\*\*\*  
 Account Number Account Title Current Balance Enclosures  
 @XXXXXXXXXXXXX@ BUSINESS CHECKING 944.52 1

\*\*\*\*\* CHECKING ACCOUNT \*\*\*\*\*

Account Title: Home Warranty Administrator of NV Inc  
 OPERATING ACCOUNT

BUSINESS CHECKING		Number of Enclosures	1
Account Number	@XXXXXXXXXXXXX@	Statement Dates	3/01/17 thru 4/02/17
Previous Balance	2,244.52	Days in the statement period	33
Deposits/Credits	.00	Average Ledger	983.91
1 Checks/Debits	1,300.00	Average Collected	983.91
Service Charge	.00		
Interest Paid	.00		
Current Balance	944.52		

----- Summary By Check Number -----  
 Date Check No Amount  
 3/02 1805 1,300.00  
 \* Indicates Break In Check Number Sequence

Daily Balance Information  
 Date Balance Date Balance  
 3/01 2,244.52 3/02 944.52

\* \* \* END OF STATEMENT \* \* \*



# **EXHIBIT KK**

Dolores Bennett

---

**From:** Dolores Bennett  
**Sent:** Monday, November 07, 2011 9:21 AM  
**To:** David Hall  
**Cc:** Ted Bader; Marie Holt  
**Subject:** Update: CHW Group, Inc. dba Choice Home Warranty

**Importance:** High

David:

It was just recapping my notes from our meeting last week about CHW Group, Inc. dba Choice Home Warranty and realized that Victor Mandalawi, who was listed as President of CHW Group, Inc., obtained a Certificate of Registration as a service contract provider a year ago with our office on 11/18/10 under a different corporation: **Home Warranty Administrator of Nevada, Inc. (Org. ID # 113194)**.

Note: Home Warranty Administrator of Nevada, Inc. was formed in Nevada on 7/23/10, but the **Nevada Secretary of State revoked their corporation on 8/1/11**, since they only filed their Articles of Incorporation, and then missed two filings (8/31/10 List of Officers and 7/31/11 Annual List). I just received their service contract provider renewal application for their 11/18/11 renewal with us, so I will have to contact Mr. Mandalawi about their corporate status, since I cannot renew a license for a corporation that does not exist. FYI: They indicated on our renewal that they have had no sales since we licensed them.

*Dolores Bennett*, ARC, ARM, AIS, AINS

**Insurance Examiner**  
**Property & Casualty Section**  
**Nevada Division of Insurance**  
**1818 E. College Parkway, Suite 103**  
**Carson City, NV 89706**  
**direct: (775) 687-0763**  
**main: (775) 687-0700**  
**fax: (775) 687-0787**  
[dbennett@doi.state.nv.us](mailto:dbennett@doi.state.nv.us)

Visit us online at the [Service Contracts Section](#) for service contract provider requirements, filing information, and more.

11-1-11 Check Home Warrant  
 Name Got L.C.O.  
 Had Allegory Done Business in NV  
 firm Allegory David to move forward  
 with address to business written  
 without being registered.  
 Dave confirmed DOT rec'd complaints.  
 Would now need a CLIP.  
 Get list of all written contracts  
 10 business days  
 Prescribed w/ action.

DIVISION-SDT000400

AA000549

**Dolores Bennett**

---

**From:** Dolores Bennett  
**Sent:** Wednesday, July 27, 2011 2:39 PM  
**To:** Harland Amborn; David Hall  
**Cc:** Ted Bader; Gennady Stolyarov  
**Subject:** RE: Choice Home Warranty

Mr. Hall:

**Choice Home Warranty** is not registered as a service contract provider in Nevada.

**Home Warranty Administrator Of Nevada, Inc.** (Org. ID # 113194) is registered as a service contract provider in Nevada, and only has one service contract **approved** for sale in Nevada at this time: Home Service Agreement # HWAADMIN-8/2/10 (Approved: 11/22/10). That contract is under the "Home Warranty Administrators" name and makes no mention of Choice Home Warranty. However, Home Warranty Administrator of Nevada, Inc. has a **pending** form filing (Filing # 25290) in SERFF for a new contract called "Choice Home Warranty" (Home Service Agreement # HWA-NV-0711) listing Home Warranty Administrator Of Nevada, Inc. as the Obligor, and listing Choice Home Warranty as the Administrator.

The cover letter contains both Choice Home Warranty and Home Warranty Administrators logos and reads,

- ❖ Welcome to Choice Home Warranty! You made a wise decision when you chose to protect your home with a home warranty. We appreciate your business and look forward to providing you with quality service for all your home protection needs. To obtain the most value from your new home warranty, please take a moment to read and understand your coverage. Your coverage is dependant on the plan you have selected. Should you have a problem with any of your covered systems or appliances, please call us toll-free at (888)-531-5403. We are available 24 hours a day, 7 days a week, 365 days a year, or simply log on to our website located at [www.ChoiceHomeWarranty.com](http://www.ChoiceHomeWarranty.com) and file your claim online.

However, the agreement reads,

- ❖ Throughout this Agreement the words "We", "Us" and "Our" refer to Home Warranty Administrator of Nevada, Inc. (HWA), 90 Washington Valley Road, Bedminster, NJ 07921, the Obligor of this Agreement and it is backed by the full faith and credit of HWA. This Agreement is administered by Choice Home Warranty (Administrator), 510 Thornall Street, Edison, NJ 08837.

That pending filing is still under review pending the company response to our objections to certain statements, wording and typographical errors in the contract. We will approve the contract after they correct those errors.

**Dolores Bennett, ARC, ARM, AIS, AINS**

**Insurance Examiner  
Property & Casualty Section  
Nevada Division of Insurance  
1818 E. College Parkway, Suite 103  
Carson City, NV 89706  
direct: (775) 687-0763  
main: (775) 687-0700  
fax: (775) 687-0787  
[dbennett@doi.state.nv.us](mailto:dbennett@doi.state.nv.us)**

Visit us online at the [Service Contracts Section](#) for service contract provider requirements, filing information, and more.

---

**From:** Harland Amborn  
**Sent:** Wednesday, July 27, 2011 1:39 PM  
**To:** David Hall  
**Cc:** Dolores Bennett  
**Subject:** Choice Home Warranty

Enforcement Case ID: 11424

<< File: DOC.PDF >>

Here are two responses that we received from Choice Home Warranty on Consumer Complaints that were filed. I'm not sure that Home Warranty Administrator of Nevada, Inc Company ID << OLE Object: Picture (Metafile) >> << OLE Object: Picture (Metafile) >> 113194 can "back" a warranty from Choice Home Warranty.

*Harland F. Amborn*  
*Deputy Commissioner*  
**Nevada Division of Insurance**  
**2501 E. Sahara Ave., Ste. 302**  
**Las Vegas, NV 89104**  
**(702) 486-4379**  
**(702) 486-4007 (fax)**

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# EXHIBIT LL

Dolores Bennett

---

**From:** Lara Pellegrini  
**Sent:** Thursday, July 22, 2010 3:59 PM  
**To:** Dolores Bennett  
**Subject:** RE: Choice Home Warranty

No doubt about that. I talked to the Insurance Division in Washington and it sounds like Choice is a big scam.

---

**From:** Dolores Bennett  
**Sent:** Thursday, July 22, 2010 3:51 PM  
**To:** Lara Pellegrini  
**Subject:** RE: Choice Home Warranty

Thanks very much. I've been watching all the emails. So far the company's a lot of talk and no action!

Dolores Bennett, ARC, ARM, AIS

State of Nevada  
Division of Insurance  
788 Fairview Drive, Suite 300  
Carson City, Nevada 89701  
(775) 687-4270 x 250  
[dbennett@doi.state.nv.us](mailto:dbennett@doi.state.nv.us)

---

**From:** Lara Pellegrini  
**Sent:** Thursday, July 22, 2010 3:50 PM  
**To:** Dolores Bennett  
**Subject:** RE: Choice Home Warranty

I am sure David is working on it. I just wanted you to be aware that they have been in violation of Nevada law, if they do apply to be registered.

---

**From:** Dolores Bennett  
**Sent:** Thursday, July 22, 2010 3:16 PM  
**To:** Lara Pellegrini  
**Subject:** RE: Choice Home Warranty

Have you talked to David Hall? He seems to be handling it on your end. Who should be taking administrative action? Maybe Ben Gillard has been dealing with David Hall.

Dolores Bennett, ARC, ARM, AIS

State of Nevada  
Division of Insurance  
788 Fairview Drive, Suite 300  
Carson City, Nevada 89701  
(775) 687-4270 x 250  
[dbennett@doi.state.nv.us](mailto:dbennett@doi.state.nv.us)

---

**From:** Lara Pellegrini  
**Sent:** Thursday, July 22, 2010 2:36 PM  
**To:** Dolores Bennett  
**Subject:** RE: Choice Home Warranty

I do not understand why we are even waiting for them to get registered before taking any administrative action. They have already violated Nevada law by selling service contracts to Nevada residents without being registered, and then when the residents have a claim, Choice Home Warranty tries to find any reason they can to deny the claim. Check out this link:

<http://www.complaintsboard.com/bycompany/choice-home-warranty-a96136.html>

---

**From:** Dolores Bennett  
**Sent:** Thursday, July 15, 2010 7:42 AM  
**To:** Ben Gillard; Dave Erickson; Lara Pellegrini; Kristy Scott; Felecia Tuin  
**Cc:** David Hall  
**Subject:** RE: Choice Home Warranty

RE: CHW GROUP, INC., DBA CHOICE HOME WARRANTY

Ben:

David Hall in our Legal department has been working on that case, so please consult with him. David sent me emails in February mentioning this company and asking how companies get registered. Then on February 17, 2010 David Hall and I received the following message from Art Chartrand [artchartrand@me.com]:

*The attached is being Fed X'd today to your attention in original: The completed signed registration, the list of officers and copy of certificate of incorporation.*

*Choice is working earnestly on obtaining a bond and completing the affidavit on the reserves for Nevada business and hopes to have completed soon.*

*As I advised, the obtaining of a bond for smaller companies can be problematic. We will keep you advised. We appreciate your willingness to work with Choice as it continues to serve the best interests of its Nevada customers.*

I never received the Fed Ex or the application fees or proof of financial responsibility, so they are still not a registered service contract provider in Nevada. I believe it might have been directed to Mr. Hall. Please ask him. Let me know if you would like a copy of the application that he emailed along with the above message. It has their FEIN # 27-0255041 and states that they are incorporated in New Jersey. I don't believe we have received any registration fees for this company.

Dolores Bennett, ARC, ARM, AIS

State of Nevada  
Division of Insurance  
788 Fairview Drive, Suite 300  
Carson City, Nevada 89701  
(775) 687-4270 x 250  
[dbennett@doi.state.nv.us](mailto:dbennett@doi.state.nv.us)

---

**From:** Ben Gillard  
**Sent:** Wednesday, July 14, 2010 4:34 PM  
**To:** Dave Erickson; Lara Pellegrini; Kristy Scott; Dolores Bennett; Felecia Tuin  
**Subject:** FW: Choice Home Warranty

Does anyone have anything on "Choice Home Warranty"?

---

**From:** Singer, Alan (OIC) [<mailto:AlanS@OIC.WA.GOV>]  
**Sent:** Wednesday, July 14, 2010 3:46 PM  
**To:** Ben Gillard  
**Subject:** Choice Home Warranty



Hi Ben,

I learned that Elizabeth Saenz left the agency – sorry to hear that, I enjoyed working with her!

I am writing to ask your help. We received a Choice Home Warranty complaint and I wanted to ask if you would please check and see if your state has taken any action or issued any order or had any complaint about Choice Home Warranty. If there was only a complaint and no regulatory order or other action taken, I want to learn the disposition.

I appreciate your help.

Thanks,

Alan

Alan Michael Singer  
Staff Attorney  
Legal Affairs  
Office of the Insurance Commissioner  
PO Box 40255  
Olympia, WA 98504-0255  
360-725-7046  
360-586-0152 Fax

# EXHIBIT MM

Dolores Bennett

**From:** Dolores Bennett  
**Sent:** Monday, July 11, 2011 8:08 AM  
**To:** Dolores Bennett  
**Subject:** FW: Sensible Home Warranty, LLC (Org. ID # 113841)

For file.

Dolores Bennett, ARC, ARM, AIS, AINS

Insurance Examiner  
Property & Casualty Section  
Nevada Division of Insurance  
1818 E. College Parkway, Suite 103  
Carson City, NV 89706  
direct: (775) 687-0763  
main: (775) 687-0700  
fax: (775) 687-0787  
[dbennett@doi.state.nv.us](mailto:dbennett@doi.state.nv.us)

Visit us online at the [Service Contracts Section](#) for service contract provider requirements, filing information, and more.

**From:** Ted Bader  
**Sent:** Monday, July 11, 2011 8:06 AM  
**To:** Dolores Bennett  
**Cc:** David Hall; Ted Bader  
**Subject:** RE: Sensible Home Warranty, LLC (Org. ID # 113841)

Thank you. David and I discussed this before he responded to you and I concur with his appraisal. Should you discover any further nexus between the two entities, please advise us.

Ted L. Bader, CFE, Senior Investigator  
Enforcement Unit, Nevada Division of Insurance  
1818 East College Parkway  
Carson City, NV 89706  
[tbader@doi.state.nv.us](mailto:tbader@doi.state.nv.us)  
(775) 687-0711; FAX: (775) 687-0787

If you hold a cat by the tail you learn things you cannot learn any other way.

Mark Twain

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**From:** Dolores Bennett  
**Sent:** Monday, July 11, 2011 7:35 AM  
**To:** Ted Bader  
**Cc:** Dolores Bennett  
**Subject:** FW: Sensible Home Warranty, LLC (Org. ID # 113841)

FYI

Please note our new address and phone number:

*Dolores Bennett, ARC, ARM, AIS, AINS*

Insurance Examiner  
Property & Casualty Section  
Nevada Division of Insurance  
1818 E. College Parkway, Suite 103  
Carson City, NV 89706  
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[dbennett@doi.state.nv.us](mailto:dbennett@doi.state.nv.us)

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**From:** David Hall  
**Sent:** Friday, July 08, 2011 9:16 AM  
**To:** Dolores Bennett  
**Subject:** RE: Sensible Home Warranty, LLC (Org. ID # 113841)

We are in the process of filing a complaint against Choice Home Warranty. The connection with Sensible is difficult to prove, so we are going to hold off on following that up unless it becomes an issue.

**David R. Hall**  
Insurance Counsel  
Department of Business and Industry  
Division of Insurance  
1818 College Pkwy., Suite 103  
Carson City, NV 89706  
Phone: (775) 687-0708  
Fax: (775) 687-0787  
Email: [dhall@doi.state.nv.us](mailto:dhall@doi.state.nv.us)

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**From:** Dolores Bennett  
**Sent:** Friday, July 01, 2011 10:51 AM  
**To:** Ted Bader  
**Cc:** David Hall; Ben Gillard  
**Subject:** Sensible Home Warranty, LLC (Org. ID # 113841)

Re: Sensible Home Warranty, LLC (Org. ID # 113841)  
Ted:

Amy Parks wanted me to follow up with you or David Hall to make sure there's no problem with Sensible Home Warranty, LLC in relation to CHW Group Inc., dba Choice Home Warranty. You had a copy of records from New Jersey that established a relation between the two. Have you spoken to David Hall about this situation? Choice Home Warranty is not registered with us.

Please note our new address and phone number:

Dolores Bennett, ARC, Ak. , AIS, AINS

Insurance Examiner  
Property & Casualty Section  
Nevada Division of Insurance  
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Dolores Bennett

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**From:** Dolores Bennett  
**Sent:** Monday, July 11, 2011 8:08 AM  
**To:** Dolores Bennett  
**Subject:** FW: Sensible Home Warranty, LLC (Org. ID # 113841)

For file.

Dolores Bennett, ARC, ARM, AIS, AINS

Insurance Examiner  
Property & Casualty Section  
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**From:** Ted Bader  
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**Cc:** David Hall; Ted Bader  
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Thank you. David and I discussed this before he responded to you and I concur with his appraisal. Should you discover any further nexus between the two entities, please advise us.

Ted L. Bader, CFE, Senior Investigator  
Enforcement Unit, Nevada Division of Insurance  
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**Mark Twain**

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---

**From:** Dolores Bennett  
**Sent:** Monday, July 11, 2011 7:35 AM  
**To:** Ted Bader  
**Cc:** Dolores Bennett  
**Subject:** FW: Sensible Home Warranty, LLC (Org. ID # 113841)

FYI

Please note our new address and phone number:

*Dolores Bennett, ARC, ARM, AIS, AINS*

Insurance Examiner  
Property & Casualty Section  
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**From:** David Hall  
**Sent:** Friday, July 08, 2011 9:16 AM  
**To:** Dolores Bennett  
**Subject:** RE: Sensible Home Warranty, LLC (Org. ID # 113841)

We are in the process of filing a complaint against Choice Home Warranty. The connection with Sensible is difficult to prove, so we are going to hold off on following that up unless it becomes an issue.

**David R. Hall**  
Insurance Counsel  
Department of Business and Industry  
Division of Insurance  
1818 College Pkwy., Suite 103  
Carson City, NV 89706  
Phone: (775) 687-0708  
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**From:** Dolores Bennett  
**Sent:** Friday, July 01, 2011 10:51 AM  
**To:** Ted Bader  
**Cc:** David Hall; Ben Gillard  
**Subject:** Sensible Home Warranty, LLC (Org. ID # 113841)

Re: Sensible Home Warranty, LLC (Org. ID # 113841)  
Ted:

Amy Parks wanted me to follow up with you or David Hall to make sure there's no problem with Sensible Home Warranty, LLC in relation to CHW Group Inc., dba Choice Home Warranty. You had a copy of records from New Jersey that established a relation between the two. Have you spoken to David Hall about this situation? Choice Home Warranty is not registered with us.

Please note our new address and phone number:

Dolores Bennett, ARC, AK, AIS, AINS

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Property & Casualty Section  
Nevada Division of Insurance  
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[dbennett@doi.state.nv.us](mailto:dbennett@doi.state.nv.us)

Visit us online at the [Service Contracts Section](#) for service contract provider requirements, filing information, and more.



# EXHIBIT NN

Dolores Bennett

From: Dolores Bennett  
Sent: Friday, February 12, 2010 8:56 AM  
To: 'Art Chartrand'  
Cc: David Hall; joy moore  
Subject: RE: 690C Bond form  
Attachments: SURETY BOND service contract bond form blank.doc; NRS 690C.170.doc

There is no specific bond form that the insurance company issuing the bond needs to follow. I've attached sample bond wording and a copy of Nevada Revised Statute NRS 690C.170 for your information.

> The surety bond must be issued by a surety company authorized to do business in the state of Nevada.

> The surety bond must be in the amount of \$25,000.00 or 5 percent of the gross consideration received by the provider for any unexpired service contracts, less any claims paid on the unexpired contracts, whichever is greater.

Reserve Attestation: In order to comply with NRS 690C.170 (2), a provider must not only deposit with the Commissioner security such as a surety bond, but must also maintain a reserve account. To show that they are maintaining that reserve account, the company should submit to the Division a notarized letter (statement) signed by an officer responsible for the service contract portion of the business. The attestation should state that the business will maintain a reserve account, which will contain at all times an amount of money equal to at least 40 percent of the gross consideration received by the provider for any unexpired service contracts, less any claims paid on those unexpired service contracts.

Dolores Bennett, ARC, ARM, AIS  
State of Nevada  
Division of Insurance  
788 Fairview Drive, Suite 300  
Carson City, Nevada 89701  
(775) 687-4270 x 250  
[dbennett@doi.state.nv.us](mailto:dbennett@doi.state.nv.us)

-----Original Message-----

From: Art Chartrand [<mailto:artchartrand@me.com>]  
Sent: Friday, February 12, 2010 8:46 AM  
To: Dolores Bennett  
Cc: David Hall; joy moore  
Subject: 690C Bond form

Delores,

I am working with your attorney David Hall to get Choice Home Warranty's (of Edison , NJ) registration in order under 690 C

Do you require a specific bond form to be used? Could you email it to me? Thanks much

We appreciate your help and anything you can suggest to us to expedite are getting this properly filed with you we will give ti immediate attention.  
We should have their registration ready to file by next week.

Best regards.

Art Chartrand  
Chartand Legal Management, Inc.

12710 S. Pflumm Rd Ste 200

Olathe, KS 66062

Ph. 913.768.4700 Fax: 913.768.4900

[www.chartlaw.com](http://www.chartlaw.com)

Email reply to: [artchartrand@mac.com](mailto:artchartrand@mac.com)

Assistant: Joy L. Moore [joylmoore@mac.com](mailto:joylmoore@mac.com)

# **EXHIBIT OO**

Dolores Bennett

---

**From:** Chartrand Art [artchartrand@me.com]  
**Sent:** Wednesday, February 17, 2010 10:42 AM  
**To:** David Hall; Dolores Bennett  
**Cc:** Charles Dillon  
**Subject:** Application of Choice Home Warranty  
**Attachments:** Nevada App New - CHW.pdf; ATT00001.htm; CHW Cert of Inc.pdf; ATT00002.htm; Nevada - Officers.pdf; ATT00003.htm

David,

The attached is being Fed X'd today to your attention in original: The completed signed registration, the list of officers and copy of certificate of incorporation.

*Choice* is working earnestly on obtaining a bond and completing the affidavit on the reserves for Nevada business and hopes to have completed soon.

As I advised, the obtaining of a bond for smaller companies can be problematic. We will keep you advised.

We appreciate your willingness to work with Choice as it continues to serve the best interests of its Nevada customers.

# EXHIBIT PP

**Dolores Bennett**

---

**From:** David Hall  
**Sent:** Wednesday, February 10, 2010 11:11 AM  
**To:** Dolores Bennett  
**Subject:** RE: Registration of Service Contract Providers

Let me see how cooperative they are before declaring them a priority. They have an attorney helping them that used to work for the NAIC and supposedly worked on the model for service contract regulation, so I'm hoping the quality of their submission is high.

Thanks,

**David R. Hall**  
Insurance Counsel  
Department of Business and Industry  
Division of Insurance  
788 Fairview Dr., Suite 300  
Carson City, NV 89701-5491  
Phone: (775) 687-4270 x 222  
Fax: (775) 687-3937  
Email: [dhall@doi.state.nv.us](mailto:dhall@doi.state.nv.us)

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---

**From:** Dolores Bennett  
**Sent:** Wednesday, February 10, 2010 11:09 AM  
**To:** David Hall  
**Subject:** RE: Registration of Service Contract Providers

I will process it as quickly as possible. If this is a priority, I can do it ahead of other filings. I have only processed one new company since taking this position, so I don't have exact times for you. It all depends on the quality of the submission. I have three on my desk right now who have applied, but haven't satisfied all of our requirements. As long as they submit all required documentation and fees, my review could be done the same day. Then I give it to my supervisor, Elena Ahrens for review, who gives it to Marie Holt, Chief of P&C for review. If all is in order, it then goes to the Commissioner to sign the Certificate of Registration.

The review of any service contracts they submit for review and approval could take longer, unless it is a priority to review them quickly also, since I usually do those in order received. I can review them as a priority if needed.

*Dolores Bennett, ARC, ARM, AIS*  
State of Nevada  
Division of Insurance  
788 Fairview Drive, Suite 300  
Carson City, Nevada 89701  
(775) 687-4270 x 250  
[dbennett@doi.state.nv.us](mailto:dbennett@doi.state.nv.us)

---

**From:** David Hall  
**Sent:** Wednesday, February 10, 2010 10:59 AM  
**To:** Dolores Bennett  
**Subject:** RE: Registration of Service Contract Providers

I found that stuff on the website. I was most curious as to our turn around. They want to be registered before we do a consent order for the fines so that we can include a line about them taking the initiative and getting registered.

Thanks,

**David R. Hall**  
Insurance Counsel  
Department of Business and Industry  
Division of Insurance  
788 Fairview Dr., Suite 300  
Carson City, NV 89701-5491  
Phone: (775) 687-4270 x 222  
Fax: (775) 687-3937  
Email: [dhall@doi.state.nv.us](mailto:dhall@doi.state.nv.us)

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---

**From:** Dolores Bennett  
**Sent:** Wednesday, February 10, 2010 10:58 AM  
**To:** David Hall  
**Subject:** RE: Registration of Service Contract Providers

Applicants must submit the completed application and documentation along with the required fees. We can process the application fairly quickly if everything is in order, but there is usually some back and forth with requests for information. Once all the information and fees are received, we will do everything we can to speed it along.

I can't bring up our web site right now, but the Service Contract Providers page is under Property and Casualty Section under Insurers. The application and list of fees required is all there.

*Dolores Bennett, ARC, ARM, AIS*  
State of Nevada  
Division of Insurance  
788 Fairview Drive, Suite 300  
Carson City, Nevada 89701  
(775) 687-4270 x 250  
[dbennett@doi.state.nv.us](mailto:dbennett@doi.state.nv.us)

---

**From:** David Hall  
**Sent:** Wednesday, February 10, 2010 9:42 AM  
**To:** Dolores Bennett  
**Subject:** Registration of Service Contract Providers

Dolores:

I was told you are the service contract guru. I'm working on a case involving a service contract provider – Choice Home Warranty – who has entered into service contracts on at least eight occasions in Las Vegas (likely there are many more). They are repentant, and want to get registered. How involved is the application process and how long is our turn around once we receive all of the forms, bond, etc.



Thanks,

***David R. Hall***

Insurance Counsel  
Department of Business and Industry  
Division of Insurance  
788 Fairview Dr., Suite 300  
Carson City, NV 89701-5491  
Phone: (775) 687-4270 x 222  
Fax: (775) 687-3937  
Email: [dhall@doi.state.nv.us](mailto:dhall@doi.state.nv.us)

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# EXHIBIT QQ

---

**From:** Ted Bader  
**Sent:** Friday, April 25, 2014 8:37 AM  
**To:** 'kmichaels@choicewarranty.com'  
**Cc:** David Hall; Ted Bader; Elena Ahrens; Derick Dennis  
**Subject:** Inquiry yesterday from Ted Bader

Kevin,

Thank you for the prompt response yesterday and I have commended you to Victor for your quick response to what you perceived as a lead. Unfortunately, this was merely a test to determine if your company was operating in compliance with Nevada law, so you can disregard further contact. ([Goodoltd@hotmail.com](mailto:Goodoltd@hotmail.com))

Thank you

**Ted L. Bader, CFE, Senior Investigator,  
Nevada Division of Insurance  
1818 East College Parkway  
Carson City, NV, 89706  
(775) 687-0711 [tbader@doi.nv.gov](mailto:tbader@doi.nv.gov)**



*"The man who sets out to carry a cat by the tail learns something that will always be useful and which will never grow dim or doubtful." -Mark Twain*

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# EXHIBIT RR

# Better Business Bureau (//)<sup>®</sup>

MENU

1

Find

What are you looking for?

Near

Current location

## This Business Is Not BBB Accredited Choice Home Warranty

### Business Information

(888) 531-5403

9 years in business

#### Headquarters

1090 King Georges Post Rd  
Edison, NJ 08837-3701

#### Fax Numbers

- (732) 520-6461

[See More Contact Options](#)

BBB File Opened: 05/19/2009

003920

AA000575

1 of 8

EX RR

9/12/2017, 5:12 PM

Business Started: 05/18/2008  
Business Incorporated: 05/18/2008 in NJ

**Type of Entity**

Corporation

**Business Management**

- Mr. Victor Mandalawi, President

**Business Category**

- Home Warranty Plans
- NAICS: Other Direct Insurance (except Life, Health, and Medical) Carriers

[See More Business Categories](#)

**Additional Information**

- In September 2016, BBB advised Choice Home Warranty that it was brought to the attention of BBB that Choice Home Warranty was offering an incentive to consumers who submit positive Customer Reviews. The business was notified this is not permitted wit...
- In September 2016, BBB advised Choice Home Warranty that it was brought to the attention of BBB that Choice Home Warranty was offering an incentive to consumers who submit positive Customer Reviews. The business was notified this is not permitted within BBB policy and BBB cannot publish those Customer Reviews. The business was asked to cease the practice of offering incentives for reviews. In November 2016, Choice Home Warranty assured BBB in writing they were not offering incentives to consumers for reviews.
- In June 2017 BBB advised Choice Home Warranty it was again brought to the attention of BBB the business is offering incentives to consumers who submit positive reviews. BBB has reminded Choice Home Warranty this is not allowed within BBB policy and the reviews will not be published.
- Customers may not receive any type of payment, compensation or favor in exchange for submitting a BBB customer review. BBB wants only real reviews that present no conflict of interest.

[See More Additional Information](#)

**Alternate Business Names**

- ChoiceHomeWarranty.com

- Home Warranty Administrators

## GOVERNMENT ACTION

### Final Consent Judgment

The following describes a government action that has been resolved by either a settlement or a decision by a court or administrative agency. If the matter is being appealed, it will be noted below.

June, 15, 2015 NEWARK -- Edison-based CHW Group, Inc., which does business as Choice Home Warranty, has agreed to pay the State \$779,913.93 including consumer restitution; revise its business practices; and retain a compliance moni... [Read More \(https://www.bbb.org/new-jersey/business-reviews/home-warranty-plans/choice-home-warranty-in-edison-nj-90048733/alerts-and-actions\)](https://www.bbb.org/new-jersey/business-reviews/home-warranty-plans/choice-home-warranty-in-edison-nj-90048733/alerts-and-actions)

## Overview

Choice Home Warranty is a service contract that covers the repair or replacement of many of the most frequently occurring breakdowns of home system components and appliances.

Before submitting a complaint, Choice Home Warranty requests that consumers contact Tracy M. to try and resolve the issue. Tracy can be contacted at [tracy@choicehomewarranty.com](mailto:tracy@choicehomewarranty.com) or 732-243-5964.

## BBB Reason for Ratings

BBB rating is based on 13 factors: [Get the details about the factors considered. \(https://www.bbb.org/council/overview-of-bbb-grade/\)](https://www.bbb.org/council/overview-of-bbb-grade/)

Factors that affect the rating for Choice Home Warranty include:

- 3071 complaint(s) filed against business

## BBB Reports On

### Licensing

Licensing information is provided in the BBB Business Profiles to inform the public about industries that may require professional licensing, bonding, or registration. Better Business Bureau encourages you to check with the appropriate agency to be certain any requirements are currently being met.

**Advertising Review**

BBB promotes truth in advertising by contacting advertisers whose claims conflict with the BBB Code of Advertising. These claims come to our attention from our internal review of advertising, consumer complaints and competitor challenges. BBB asks advertisers to substantiate their claims, change ads to make offers more clear to consumers, and remove misleading or deceptive statements.

**Government Actions**

BBB reports on known significant government actions involving the business's marketplace conduct.

**Out of Business**

BBB reports on a company that is out of business for three years from the date the company closes its doors or ceases to do business.

**Misuse of Better Business Bureau Name/Logo**

BBB reports on unauthorized use of the Better Business Bureau's name and/or logo for as long as the business continues to use it in any advertising, or for one year after the business ceases any repeated unauthorized uses.

**Bankruptcy**

BBB reports on a business's bankruptcy as long as the business remains in bankruptcy.

**Mail Returned**

BBB reports when mail sent to the business was returned by the Postal Service.

**BBB Rating Scorecard**

**This Business Is Not BBB Accredited**

**Choice Home Warranty**

**B-**

[BBB Rating System Overview \(https://www.bbb.org/council/overview-of-bbb-grade/\)](https://www.bbb.org/council/overview-of-bbb-grade/)



Customer Review Rating:

The BBB Customer Review Rating represents the customer's opinion of the business. The Customer Review Rating percentages are based on the total number of positive, neutral, and negative reviews posted.

14%

83%

[97] Positive Reviews (<https://www.bbb.org/new-jersey/business-reviews/home-warranty-plans/choice-home-warranty-in-edison-nj-90048733/reviews-and-complaints?section=reviews&reviewtype=positive>)

[21] Neutral Reviews (<https://www.bbb.org/new-jersey/business-reviews/home-warranty-plans/choice-home-warranty-in-edison-nj-90048733/reviews-and-complaints?section=reviews&reviewtype=neutral>)

[586] Negative Reviews (<https://www.bbb.org/new-jersey/business-reviews/home-warranty-plans/choice-home-warranty-in-edison-nj-90048733/reviews-and-complaints?section=reviews&reviewtype=negative>)

[704] Total Customer Reviews (<https://www.bbb.org/new-jersey/business-reviews/home-warranty-plans/choice-home-warranty-in-edison-nj-90048733/reviews-and-complaints?section=reviews>)

[3,071] Total Customer Complaints (<https://www.bbb.org/new-jersey/business-reviews/home-warranty-plans/choice-home-warranty-in-edison-nj-90048733/reviews-and-complaints?section=complaints>)

Composite Score:

Choice Home Warranty has received 2.76 out of 5 stars based on 704 Customer Reviews and a BBB Rating of B-. Comprised of 67% BBB Rating and 33% Customer Review Rating.

The BBB Customer Review Rating represents the customer's opinion of the business. The Customer Review Rating percentages are based on the total number of positive, neutral, and negative reviews posted.

The BBB letter grade represents the BBB's opinion of how the business is likely to interact with its customers. The BBB grade is based on BBB file information about the business. In some cases, a business' grade may be lowered if the BBB does not have sufficient information about the business despite BBB's requests for that information from the business.

The BBB Customer Review Rating plus the BBB Rating is not a guarantee of a business' reliability or performance. BBB recommends that consumers consider a business' BBB Rating and Customer Review Rating in addition to all other available information about the business.


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When considering complaint information, please take into account the company's size and volume of transactions, and the number of complaints and a firm's responses to them are often more important than the number of complaints.

BBB Business Profiles generally cover a three-year reporting period. BBB Business Profiles are subject to change at any time without notice. If you have been contacted by BBB for a BBB Business Profile, please let the business know that you contacted BBB for a BBB Business Profile.


For Consumers	For Businesses	About BBB
<a href="#">File a Complaint (/consumer-complaints/file-a-complaint/get-started)</a>	<a href="#">Become Accredited (/whybbb.org/BBB_EU_Privacy_Shield)</a>	<a href="#">BBB Directory (http://www.bbb.org/bbb-locator/)</a>
<a href="#">Scam Information &amp; Resources (/scamtips)</a>	<a href="#">BBB EU Privacy Shield (/www.bbb.org/EU-privacy-shield/)</a>	<a href="#">Give.org (http://www.give.org/)</a>
<a href="#">File an Auto Warranty Complaint (/www.bbb.org/autoline/)</a>		<a href="#">Council of Better Business Bureaus (https://www.bbb.org/council/)</a>
		<a href="#">Contact (https://www.bbb.org/new-jersey/get-to-know-us/contact/)</a>
		<a href="#">BBB Business Partner Code (https://www.bbb.org/bbb-business-partner-code-of-conduct/)</a>


 (<https://www.facebook.com/pages/Better-Business-Bureau-Serving-New-Jersey/139368939724>)

 (<https://plus.google.com/u/0/b/104005038311737563586/104005038311737563586/posts>)

 (<https://www.linkedin.com/organization/13316231>)

 (<http://pinterest.com/BBBConsumerNews/>)

 (<https://twitter.com/bbbnewjersey>)

 (<http://www.youtube.com/user/BBBconsumerTips>)

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STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE  
BEFORE HEARING OFFICER ALEXIA M. EMMERMANN

-oOo-

IN THE MATTER OF

Cause No. 17.0050

Home Warranty Administrator of  
Nevada, Inc. dba Choice Home  
Warranty,

Respondent.

=====

HEARING

Tuesday, September 12, 2017

9:00 a.m.

Carson City, Nevada

(Videoconferenced to Las Vegas)

REPORTED BY: SHANNON L. TAYLOR, CCR, CSR, RMR  
Certified Court, Shorthand and Registered Merit Reporter  
Nevada CCR #322, California CSR #8753, Idaho CSR #485  
(775) 887-0472

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Victor Mandalawi  
Victor Hakim

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2	2011-2012 Service Contractor Provider Renewal Application	10	10
3	Oklahoma Regulatory Actions	10	43
4	2012-2013 Service Contractor Provider Renew Application	10	10
5	2013-2014 Service Contractor Provider Renewal Application	10	10
6	New Jersey Attorney General Settlement Press Release and Settlement	10	37
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12	2015-2016 Service Contractor Provider Renewal Application	10	10
13	New Jersey Attorney General Press Release and Complaint	10	44
14	Ripoff Report filed by Nevada Consumer on October 31, 2016	10	61
15	Ripoff Report filed by Nevada Consumer on July 7, 2016	10	61
16	Ripoff Report filed by Nevada Consumer on April 20, 2016	10	61



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2	17	Ripoff Report filed by Nevada Vendor on January 14-17, 2016	10	61
3	18	Yelp.com Report	10	62
4	19	"Warranty Company notorious for denying claims" Click2Houston News Report	10	
5				
6	19-A	Video, Click2Houston News Report		
7	20	"Home Warranty Company Accused of Not Paying Up" NBC Chicago 5 News Report	10	
8				
9	20-A	Video, NBC Chicago 5 News Report		
10	21	2016-2017 Service Contract Provider Renewal Application	10	10
11	22	CHW Initial Application	10	10
12	23	CHW Certificate of Registration	10	10
13	24	Nevada Complaint #3	10	52
14	25	Nevada Service Provider Complaint	10	64
15	26	CHW Internet Advertisement	10	
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17	28	DOI compiled list of complaints as of March 8, 2017	10	10
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19	29	South Carolina Civil Action	10	44
20	30	Clark County Clerk's Office Business Record	10	30
21	31	Washoe County Clerk's Office Business Record	10	10
22				
23	32	Carson City Business License Application	10	10
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25				

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2	33	DOI Request to Examine Reserve Account	10	65
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5	35	CHW Contract Approved by DOI	10	74
6	36	DOI Bulletin 17-002	10	10
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14	41	South Carolina Department of Insurance Licensing Application	10	10
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RESPONDENT'S EXHIBITS				
Exhibit	Description	Mkd	Adm	
A	CHW Group, Inc.'s Corporate Documents (Certified)	10	10	
B	DBA Certified Filings: Certificate of Business: Fictitious Firm Name for Clark County (Certified) and Certificate of Business: Fictitious Firm Name for Washoe County (Certified)	10	10	
C	Home Warranty Administrator of Nevada, Inc.'s Corporate Documents (Certified)	10	10	
D	Certificate of Incorporation: Home Warranty Administrator of Oklahoma, Inc. (Certified)	10	10	
E	CHW Group Independent Service Provider Agreement	10	10	
F	New Jersey Final Consent Judgment: Hoffman, et al v. CHW Group, Inc. d/b/a Choice Home Warranty entered June 9, 2015	10	10	
G	California Fine: Default Decision, Imposition of Monetary Penalty, Demand for Payment	10	10	
H	Oklahoma Fine: Emergency Cease and Desist Order dated July 29, 2010 and Conditional Administrative Order and Notice of Right to be Heard dated January 7, 2014	10	10	
I	HWAN Renewals - 2011 through 2016	10	10	
J	Report: DOI Computer Search for HWAN Complaints dated November 29, 2016	10	10	
K	Claims Ratio & Analysis	10	10	

Exhibit	Description	Mkd	Adm
L	Mary Strong Email to HWAN dated February 1, 2017	10	10
M	HWAN Customer Testimonials	10	10
N	HWAN Nevada Vendors' Contracts, Insurance, Pricing, and Claims	10	10
O	Nevada DOI Licensee Search showing HWAN's status as "Inactive"	10	10
P	HWAN 2010 Application for Licensure with Approved Form Application	10	10
Q	Division of Insurance Memo from D. Dennis dated July 8, 2017 Re: Reissuance of Certificate of Registration to HWAN after Name Change (dba)	10	10
R	Division of Insurance Memo from D. Bennett dated September 17, 2010 Re: Recommending Approval of Initial Application and Registration	10	10
S	Division of Insurance Memo from M. Strong dated January 26, 2017 Re: Revocation	10	10
T	CHW dba emails	10	10
U	Notice of Approval of HWAN Application dated November 30, 2010 & 2010 Certificate of Registration Issued November 18, 2010	10	10
V	Blank Renewal Applications for 2010-2017	10	10
W	Report: DOI Computer Search for HWAN Consumer Complaints dated November 29, 2016	10	10
X	Videotaped Deposition Transcript of Hon. Harriet Derman, J.S.C. (Retired)	10	10

HEARING, 09-12-2017

1	Exhibit	Description	Mkd	Adm
2	Y	Division Copies of HWAN Renewal 2012	10	10
3	Z	Division Copies of HWAN Renewal 2013	10	10
4	AA	Division Copies of HWAN Renewal 2014	10	10
5	BB	Division Copies of HWAN Renewal 2015	10	10
6	CC	Division Copies of HWAN Renewal 2016	10	10
7	DD	Division Copies of HWAN Renewal 2017	10	10
8	EE	2011 HWAN Revised Contract Form with DOI Approval	10	10
9	FF	DOI Revisions to Service Contract Provider Application bearing date July 25, 2016	10	10
10	GG	DOI Revisions to Service Contract Provider Application bearing date August 3, 2017	10	10
11	HH	HWAN Files for Complainants	10	10
12	II	July 21, 2017 Email from M. Strong		
13	JJ	July 26, 2017 Letter Response from L. Grifa		
14	KK - QQ	Emails		
15	RR	BBB Business Profile - Choice Home Warranty		
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1 CARSON CITY, NEVADA, TUESDAY, SEPTEMBER 12, 2017,

2 9:11 A.M.

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4 (Division's Exhibits 1 through 42 and Respondent's  
5 Exhibits A through Z and AA through HH were marked for  
6 identification prior to the commencement of the hearing.  
7 Division's Exhibits 2, 4, 5, 7, 12, 21, 22, 23, 28, 30,  
8 31, 32, 36, 37, 41 and 42, and Respondent's Exhibits A  
9 through Z and AA through HH were admitted during the  
10 Pre-Hearing Conference held on September 8, 2017.)

11 \* \* \* \* \*

12 HEARING OFFICER EMMERMANN: Good morning.

13 Ready to go on the record?

14 THE REPORTER: Yes.

15 HEARING OFFICER EMMERMANN: Okay. Today is  
16 September 12th, 2017.

17 Can you hear us okay down in Vegas?

18 MS. GRIGORIEV: Yes.

19 HEARING OFFICER EMMERMANN: We're getting a lot  
20 of shuffling paper.

21 MS. GRIGORIEV: Sorry.

22 HEARING OFFICER EMMERMANN: So today is  
23 September 12th, 2017. The time is now 9:11.

24 My name is Alexia Emmermann. On May 11th,  
25 2017, the Commissioner of Insurance appointed me to

1 preside as the Hearing Officer in the matter of Home  
2 Warranty Administrator of Nevada, Inc. dba Choice Home  
3 Warranty, Respondent, in Cause Number 17.0050.

4 This matter is being heard at the Division  
5 office located at 1818 East College Parkway in Carson  
6 City, with videoconference in real time in the  
7 Division's Las Vegas office located at 3300 West Sahara  
8 Avenue, Suite 275.

9 Please note, everybody, that this, this matter  
10 is being transcribed by a court reporter. And so I ask  
11 everyone to speak in turn and at a reasonable tempo.

12 This is a public hearing. So for right now,  
13 I'd like the parties to introduce themselves and their  
14 respective roles in the matter for the record.

15 MR. YIEN: Deputy Attorney General Richard Yien  
16 on behalf of the Nevada Division of Insurance.

17 MS. GRIGORIEV: Senior Deputy Attorney General  
18 Joanna Grigoriev in Las Vegas for the Division.

19 MR. LENHARD: Kirk Lenhard, Brownstein Hyatt  
20 Farber Schreck, on behalf of the respondent. With me  
21 is also Travis Chance from the same office.

22 MS. GRIFA: Good morning, Madam Hearing  
23 Officer. Lori Grifa of Archer & Greiner, for the  
24 respondent.

25 MR. LENHARD: The record should reflect that

1 Victor Mandalawi and Victor Hakim are both present,  
2 Mr. Mandalawi, of course, on behalf of the respondent,  
3 HWAN.

4 HEARING OFFICER EMMERMANN: And I see other  
5 members here in the hearing room. Are they witnesses,  
6 or are they members of the public?

7 MR. YIEN: They're witnesses. There's three of  
8 the Division's witnesses.

9 HEARING OFFICER EMMERMANN: Okay. As explained  
10 in the prehearing order that I issued on June 22nd of  
11 2017, the parties are expected to be familiar with the  
12 rules of practice and procedure before the Division.

13 The Division has filed a complaint with various  
14 allegations of fact. It is, therefore, the Division's  
15 burden in this matter to provide the evidence in support  
16 of its allegations. Because it is the Division's  
17 burden, the Division will present evidence first, and  
18 then respondent will have an opportunity to rebut the  
19 evidence as well as present their own evidence. The  
20 standard of proof is the preponderance of the evidence.

21 The parties may give brief opening statements  
22 before calling witnesses. And the Hearing Officer may  
23 ask questions directly of the witnesses, and the parties  
24 will both have an opportunity to ask questions  
25 thereafter.



1           After evidence is presented, in the interest of  
2 maximizing time for witnesses, as I indicated in the  
3 prehearing conference, I will ask that closing arguments  
4 be in writing. And we'll figure out tomorrow, if we end  
5 tomorrow, how long I'll give you for closing arguments.

6           After this hearing, I will review the evidence  
7 and issue a findings of fact, conclusions of law, and  
8 order to the Commissioner. The Commissioner will then  
9 determine whether she agrees or disagrees with the order  
10 through a final order.

11           Does anybody have any questions?

12           MS. GRIFA: No, ma'am.

13           HEARING OFFICER EMMERMANN: Some housekeeping  
14 rules I want to go over real quick. Please make sure  
15 that your cell phones are off or on silent, do not  
16 disturb, airplane, whatever. If you need a break,  
17 please let me know. And only one person, again, should  
18 be speaking at a time. And everyone will be given an  
19 opportunity to speak.

20           There are witnesses, you said, present in the  
21 hearing room that are expected to testify. So the  
22 witnesses are hereby warned that they are not to talk  
23 about their testimony with anyone or in any way until a  
24 final order is issued by the Commissioner.

25           At this time, all witnesses -- I assume the

1 parties do want the witnesses sequestered?

2 MR. LENHARD: Are we invoking the exclusionary  
3 rule? On behalf of the respondents, no.

4 HEARING OFFICER EMMERMANN: No?

5 MR. YIEN: I'm sorry. What?

6 HEARING OFFICER EMMERMANN: Did you want the  
7 witnesses sequestered, did you want the exclusionary  
8 rule, or do you want them all present?

9 MR. YIEN: I don't care.

10 HEARING OFFICER EMMERMANN: You don't care?

11 MR. YIEN: Yeah.

12 HEARING OFFICER EMMERMANN: So neither of the  
13 parties care. I don't care.

14 MR. LENHARD: They can sit here.

15 HEARING OFFICER EMMERMANN: So the witnesses  
16 can sit here, or you can go. If you want to go, just  
17 let Yvonne know so that she knows where you are in case  
18 we need to call you.

19 Okay. I do have a preliminary matter that I  
20 wanted to talk about real quick with the parties that I  
21 didn't talk about at the prehearing conference. And in  
22 this case, we have two attorneys for each side. And in  
23 my experience, it's usually best that there be one  
24 attorney identified as the lead, and that person will  
25 sort of take most of the arguments and whatever other

1 issues that come before us. So I just want to make sure  
2 each side had selected the lead attorney and to let me  
3 know who that lead attorney is.

4 MR. LENHARD: I'll wear that hat.

5 HEARING OFFICER EMMERMANN: Mr. Lenhard.

6 MR. YIEN: And I will be lead for the Division.

7 HEARING OFFICER EMMERMANN: Okay. Richard.

8 MR. LENHARD: I'm assuming that still allows a  
9 division of witnesses?

10 HEARING OFFICER EMMERMANN: I'm sorry?

11 MR. LENHARD: I assume that still allows a  
12 division of witnesses. In other words, Ms. Grifa will  
13 do the same in her response, or?

14 HEARING OFFICER EMMERMANN: That's what I was  
15 going to mention next. So if you decide to divide the  
16 witnesses, who you're going to direct or cross, that  
17 that attorney will be who I'm considering the lead for  
18 that particular part of the hearing.

19 MR. LENHARD: Yes.

20 HEARING OFFICER EMMERMANN: I will grant  
21 Mr. Yien and Ms. Grigoriev a little bit of leeway since  
22 they're not right next to each other. So I don't know  
23 what leeway means right now. But as the hearing  
24 progresses, then we'll figure it out that way, if you  
25 need to discuss anything, because Mr. Lenhard and

1 Ms. Grifa are right next to each other, and you guys  
2 don't have that same opportunity. So we'll figure it  
3 out if the need arises.

4 MR. YIEN: I appreciate that, Madam Hearing  
5 Officer. And I have my cell phone here, too, and may or  
6 may not text my co-counsel. I'm not texting my friends  
7 or anything, just so you know.

8 HEARING OFFICER EMMERMANN: Thank you. I  
9 appreciate that.

10 All right. With that -- oh, also, Ms. Taylor  
11 already provided me with the transcript from the  
12 prehearing conference, which I will go over. But if  
13 anybody has any issues, let me know.

14 Okay. And with that, we can go ahead and  
15 start.

16 MR. YIEN: Did you want an opening statement,  
17 or you want me just to start calling witnesses?

18 HEARING OFFICER EMMERMANN: I would prefer an  
19 opening statement to sort of catch the issues.

20 MR. YIEN: Okay. It's just brief. I'll let  
21 our prehearing statement stand for the record as to what  
22 we're alleging. But I'll read it out for the record.

23 The Division deems Home Warranty Administrator  
24 of Nevada doing business as Choice Home Warranty to be  
25 in violation of the following provisions of the Nevada

1 Revised Statutes: NRS 686A.070, falsifying material  
2 fact in any book, report or statement; NRS 690C.325,  
3 subsection 1, subsection (b), conducting business in an  
4 unsuitable manner; and NRS 686A.310, engaging in unfair  
5 practices in settling claims. The Commissioner may  
6 refuse to renew or may suspend or provide a certificate  
7 of registration pursuant to NRS 690C.325.

8 HEARING OFFICER EMMERMANN: Will you call your  
9 first witness, then.

10 Or would you prefer to do your opening now?

11 MR. LENHARD: I would prefer to do it now.

12 HEARING OFFICER EMMERMANN: Okay.

13 MR. LENHARD: Yes.

14 HEARING OFFICER EMMERMANN: All right.

15 MR. LENHARD: And out of necessity, due to the  
16 severity of the sanction being sought, I will be a  
17 little more detailed. I will not burden you with a  
18 rehash of our prehearing brief. But it is important to  
19 understand the nature of these proceedings. And I  
20 understand the preponderance of the evidence and the  
21 burden of proof upon the state or the Deputy Attorney  
22 General. But we are talking about what amounts to a  
23 civil death penalty. We are talking about running the  
24 business from the state and prohibiting them from  
25 practicing their trade in the state, the loss of their

1 registration.

2           The judge that I appeared in front of when I  
3 was a young public defender many, many years ago was  
4 Paul Goldman, and he always used to say, when you seek  
5 the ultimate sanction, you got to be certain that the  
6 moving party crosses all t's and dot all i's. That's  
7 what we're going to be asking for here today as you  
8 analyze the evidence presented by -- I'm going to call  
9 Richard the state or the department. And that's the  
10 context I'm going to ask you to examine in this case.

11           First and foremost, HWAN is a Nevada  
12 corporation with one corporate officer. And that's no  
13 secret. That was in the application. The department  
14 has known that from day one.

15           It is also no secret, based upon the contracts  
16 that were approved by the department in 2010 and 2011,  
17 that HWAN had a service agreement and utilized the  
18 services CHW Group, Incorporated to service the clients.  
19 The contracts are replete with that relationship. This  
20 is no surprise. It is no secret.

21           The issue before the Hearing Officer -- and if  
22 I slip at times and call you a court, I'm sorry. That's  
23 where I do most of my work.

24           The issue here before you is the performance of  
25 HWAN and its service organization in the State of

1 Nevada. And that's what I want to start with, because  
 2 you're going to learn something about HWAN and Victor  
 3 Mandalawi, its sole officer and director. You're going  
 4 to learn through him that this company's been in  
 5 business in this state for seven years. They've had  
 6 approximately 70,000 claims filed during that period.  
 7 They presently have 13,000 contracts. Each contract  
 8 averages 3.4 claims per annum, per year.

9 As alleged by Mr. Yien in his original  
 10 complaint and in the amended complaint, there were 80  
 11 consumer complaints that led partially to the filing of  
 12 this complaint by the department. We went through a  
 13 great deal of effort, and you were aware, to locate  
 14 those complaints. And truth in fact, there were only 62  
 15 complaints. Some were duplicates. Of the 62  
 16 complaints, at the time this matter was filed, only two  
 17 were open. The rest have been resolved.

18 Mr. Mandalawi's before you now, as to how that occurred.

19 What I am saying is the numbers presented by  
 20 the department do not justify a finding of unsuitability  
 21 under the statute as it concerns consumer complaints.

22 There is also an allegation concerning  
 23 unsuitability in Mr. Yien's pleading. It is suitability  
 24 based upon findings in other jurisdictions. I don't  
 25 think I have to remind you of corporate identity. HWAN

1 is a Nevada corporation. It does business nowhere else.  
2 Mr. Mandalawi will make that very clear. Yet the state  
3 has come in and claimed, well, there were findings in  
4 California, there were findings in Oklahoma, there were  
5 findings in New Jersey, of unsuitability. But you need  
6 to look at those findings.

7 And, Travis, will you put up first California.

8 HEARING OFFICER EMMERMANN: Do you need the  
9 keyboard?

10 MR. CHANCE: No.

11 MR. LENHARD: And I can see that's going to be  
12 a little tough to see maybe.

13 MR. YIEN: I'm sorry. This is -- if I may  
14 interrupt, this is our exhibit that --

15 MR. LENHARD: Yeah.

16 MR. YIEN: -- that you haven't agreed to admit  
17 into evidence.

18 MR. LENHARD: Well, I'm agreeing now because  
19 I'm using it, so.

20 MR. YIEN: All right.

21 MR. LENHARD: We would check into it.

22 MR. YIEN: Is that on the record, is it  
23 admitted, then?

24 HEARING OFFICER EMMERMANN: I don't have it as  
25 admitted based on my notes. But we will be going over



1 that today.

2 MR. LENHARD: It's also our Exhibit P, in any  
3 event. Since we had moved for Exhibit P, it seems like  
4 it makes not a whole lot of sense to be objecting to  
5 your exhibits, because we're using the same exhibit.  
6 But let's don't get off track right now.

7 MR. YIEN: Sure.

8 MR. LENHARD: Okay. What you'll see in the  
9 California exhibit is the finding was against CHW Group,  
10 Incorporated. The word HWAN does not appear anywhere in  
11 that document. The document was mailed to the mailing  
12 address of CHW Group, Incorporated. Again, not HWAN.

13 The same is true for the Oklahoma findings. It  
14 was against CHW Group, Incorporated, not HWAN. HWAN  
15 does not do business in the state of Oklahoma.

16 Finally, the same with the New Jersey consent  
17 decree. It was clearly against CHW Group, Incorporated.  
18 HWAN is not mentioned.

19 So to utilize findings from a separate  
20 corporate entity, a separate business, to say the Nevada  
21 business is unsuitable, is inherently unfair.

22 You will not find in this proceeding nor any  
23 proceeding any judicial or administrative proceedings  
24 against HWAN. Victor Mandalawi will tell you that.

25 You are being asked to find HWAN unsuitable

1 based upon proceedings to which it was not a party,  
2 based upon findings against an entity that is not a  
3 party here today. Victor Hakim will testify to that.

4 Now, obviously, there's a dba issue here. And  
5 Mr. Dennis is sitting here. I'm assuming he will giving  
6 some detail about the doing business as, or the  
7 fictitious name certificate.

8 At the request specifically of the department,  
9 and that is Exhibit Q, if you can pull that out, our  
10 client filed a fictitious name in 2014. Mr. Dennis went  
11 through the process. The Commissioner signed off on it.  
12 And there's a notation on this document specifically  
13 stating, from a lady named Ahrens, I believe -- I may  
14 not be pronouncing the name correctly -- specifically  
15 stating this was done at the request of the department.  
16 We cooperated. So from the end of 2014 on, we were the  
17 dba CHW Group, Inc.

18 The fact you're a dba under Nevada law does not  
19 make you the same corporate entity. It is nothing more  
20 than a fictitious name filing.

21 So it comes now to what I consider to be and  
22 I'm assuming is the most troublesome issue and the issue  
23 that really brings us here today. And that's the  
24 686A.070 violation. And that is the reported  
25 misrepresentation on the annual renewal claims.

1           And what I'm going to do, and, again, with the  
2 screen, I'll probably just have to walk you through in  
3 testimony. I'm going to take you through each and every  
4 one of these renewal applications, that this was an  
5 evolving document.

6           2001, which is Exhibit 2, can we pull that up?  
7 2010. Excuse me.

8           Can I get closer?

9           HEARING OFFICER EMMERMANN: You may. I'm just  
10 curious how far in detail we're going to go in opening  
11 on the exhibits, if we're going to have witnesses that  
12 are going to be testifying.

13           MR. LENHARD: Very briefly. I was just going  
14 to say, for the first three years of the renewal  
15 certificate, you have the first question, question  
16 number one, have there been any changes in the executive  
17 officers, directors or the officers responsible for  
18 service contract business since last year's application?  
19 No. And then you go to number three, which is the  
20 four-part response, have you done some bad things,  
21 basically. All answers for HWAN were no.

22           Then we flip to 2015, after the dba was filed.

23           Can you put up 2015?

24           This is the heart and sole of the issue. List  
25 all aliases or names under which the company conducts

1 business, doing business as. Provide supporting  
2 documentation.

3 Two, have there been any changes in the  
4 executive officers or the officers responsible for the  
5 service contract?

6 Then go down to four and five. Four, since the  
7 last application, has applicant or any of the officers  
8 listed in question one ever; and you list the bad acts?  
9 We answered no. You go back to question one. There's  
10 no mention of officers. There's no mention of  
11 directors. There's no mention of corporate entities.  
12 The question itself is horribly vague and ambiguous.  
13 Yet our response to that question is the reason we're  
14 sitting here today. Our response to that question is  
15 the claim under 686A.070.

16 It is our position and Mr. Mandalawi will  
17 testify as to why he answered the way he did, both in  
18 the 2015 and the 2016 application. The reason I'm  
19 raising this, because as we all know, the New Jersey  
20 consent order he signed.

21 I'm asking you to look closely, and I will be  
22 asking you throughout these proceedings to look closely  
23 at the language of those documents. Because it is  
24 inherently unfair and, I would suggest, inappropriate to  
25 take someone's license away and their registration away

1 because they answered a question that is capable of a  
2 number of interpretations.

3 And if there's any doubt, the last exhibit you  
4 will see from us is Exhibit GG. And I'm not going to --  
5 rather than walk through it, Exhibit GG clarifies and  
6 corrects the problems in the applications or the renewal  
7 applications for 2015 and 2016. That specific exhibit  
8 clearly makes it clear what the question is and what the  
9 answer should be.

10 If that question had been posed in 2015 and  
11 2016, my client would have answered it differently. If  
12 the clarifying question had been posed properly, we  
13 would not be sitting here today.

14 Under the circumstances that I've described, we  
15 are comfortable and confident that we can put on a  
16 compelling defense to these claims.

17 Thank you.

18 HEARING OFFICER EMMERMANN: Thank you.

19 Mr. Yien.

20 MR. YIEN: The Division calls Rajat Jain.

21 HEARING OFFICER EMMERMANN: Mr. Jain, the court  
22 reporter will be swearing you in, and then we can begin.  
23 I want to let you know, please wait until the questions  
24 asked of you today have been completely asked. If you  
25 don't understand a question, please ask for

1 clarification. Speak up, and always use a verbal  
2 response. Even though we don't always do it, please  
3 refrain from "uh-huh," "hm-m," shaking your head. And  
4 if you need a break, please ask.

5 Do you have any questions?

6 THE WITNESS: No question, just one comment. I  
7 had mentioned this before. I do have a hearing  
8 disability. I would appreciate if everyone spoke up as  
9 well.

10 HEARING OFFICER EMMERMANN: Okay. Thank you.

11 All right. You may swear in the witness.

12 (The witness, Rajat Jain, was sworn/affirmed by  
13 the Reporter.)

14 MR. YIEN: Before we begin, we have still yet  
15 to identify. You had subpoenaed two witnesses, one with  
16 the most -- the most knowledgeable person in terms of  
17 the application process.

18 MR. LENHARD: M-hm (affirmative).

19 MR. YIEN: As well as the person that's most  
20 knowledgeable about the charges against your client.  
21 And that person would for both be Mr. Jain.

22 MS. GRIFA: Thank you.

23 MR. YIEN: So I just wanted to identify him  
24 before we start, prior to starting.

25 Madam Hearing Officer, what I was going to do

1 with Mr. Jain was to first go over the exhibits that  
2 have not been admitted, that counsel has not agreed to  
3 be admitted, and have him authenticate each one, and  
4 ask, request that they be admitted. Is that okay?

5 HEARING OFFICER EMMERMANN: That's fine with  
6 me. You can do it however you want, whatever's easiest  
7 for you.

8 MR. YIEN: It's because it's so numerous, that  
9 I'd rather not have to do that in between.

10 HEARING OFFICER EMMERMANN: Okay. All right.

11 MR. YIEN: But for the record, let's just  
12 start.

13  
14 R A J A T J A I N,  
15 having been first duly sworn/affirmed by the Reporter,  
16 was examined and testified as follows:

17  
18 DIRECT EXAMINATION

19 BY MR. YIEN:

20 A. Mr. Jain, what is your position here at the  
21 Nevada Division of Insurance?

22 A. I'm the Chief Insurance Examiner for the  
23 Property and Casualty Section.

24 Q. And how long have you worked with the Division?

25 A. I've been with the Division just under 14

1 years.

2 HEARING OFFICER EMMERMANN: Mr. Yien, could you  
3 have Mr. Jain say and spell his name for the record, so  
4 that that's clear.

5 MR. YIEN: Oh. Yes.

6 BY MR. YIEN:

7 Q. Mr. Jain, could you please state and spell your  
8 name for the record.

9 A. R-A-J-A-T as in Tom, J-A-I-N as in Nancy.

10 MR. YIEN: And if we could, from my notes here,  
11 if we could remember to speak up when addressing  
12 Mr. Jain. He does have a hearing impairment.

13 BY MR. YIEN:

14 Q. Moving forward, can you tell the court what  
15 your training is and your background that qualifies you  
16 for your position?

17 A. I have a bachelor's degree in mathematics, a  
18 master's degree in statistics, and a PhD in industrial  
19 engineering. I had IT background and mathematical  
20 background for about eight years in the private sector.  
21 And on top of that, I've been with the Division for 14  
22 years, first reviewing rate and form filings for all  
23 lines of insurance in property and casualty, and then  
24 moving up to becoming the Assistant Chief Insurance  
25 Examiner, and now I have been in my position as Chief



1 for about two and a half years.

2 Q. And can you briefly describe the duties you  
3 have as Chief?

4 A. As Chief, it's my responsibility to overall see  
5 the section's duties, to oversee, making sure I provide  
6 the guidance, make the ultimate decisions. Just for the  
7 record, this section, even though it is Property and  
8 Casualty Section, it is responsible for overseeing all  
9 property and casualty insurance products. That includes  
10 rates, forms. It also is responsible for overseeing  
11 service contract, service contract desk.

12 Q. And, Mr. Jain, how did you first become  
13 involved with this case?

14 A. I was generally involved or been aware of  
15 service contract desk since my involvement with the  
16 section going back to 2003. However, in late 2012, I  
17 was promoted to Assistant Chief Insurance Examiner. As  
18 part of that, the service contract desk reports directly  
19 to the Assistant Chief Insurance Examiner. And I was  
20 mentoring the staff. I was guiding the staff and  
21 overseeing the staff. As part of that duty, I was made  
22 aware of concerns with Choice.

23 Q. Okay. And at that time you were made aware of  
24 Choice, did you start engaging in any activity to  
25 investigate the company; can you comment on that?

1           A.    Yeah.   So what happened was a few months into  
2 my duties as Assistant Chief, it was brought to my  
3 attention that there was a service contract provider  
4 called Choice Home Warranty against whom a consumer  
5 complaint had been filed, I believe, sometime in May  
6 2013.   The reason it was brought to my attention was  
7 when our consumer services investigator started looking  
8 at the company, they could not find them as a district  
9 service provider in our database.   So the concern was  
10 escalated to my -- my level.

11               I approached other Division staff to see if we  
12 had heard of the company.   I approached my service  
13 contract desk to confirm that the company did not exist  
14 in Nevada.   It was not licensed in Nevada.   Then I  
15 approached one of our investigators, asked him to  
16 undertake some research.   Our chief investigator, our  
17 investigator recalled that back and when he was a chief  
18 investigator for Washington Department of Insurance,  
19 that department had investigated Choice.

20               At that point, I told the staff to continue  
21 looking at this company, overseeing it, monitoring if  
22 there were any further complaints that came in.

23               In mid, early 2014, our public information  
24 officer forwarded me an article.   I do not remember  
25 which publication it came from.   However, that article,

1 again, portrayed how Choice Home Warranty --

2 MR. LENHARD: Excuse me. I have to object to  
3 that. I understand there's foundation here, but there's  
4 got to be some foundation that this article can be  
5 identified, the publication, the date.

6 HEARING OFFICER EMMERMANN: I'll allow it.

7 MR. LENHARD: I understand there's a low bar  
8 here. That's, that's subterranean.

9 HEARING OFFICER EMMERMANN: I'll allow it.

10 THE WITNESS: A news article was forwarded to  
11 my attention. And tied to that was I heard from our  
12 consumer services staff that we were continuing to  
13 receive complaints against this company called Choice  
14 Home Warranty. And, in fact, as part of the complaint  
15 investigation, staff also provided me responses from the  
16 company. And those responses came to us on Choice Home  
17 Warranty letterhead from personnel within the Choice who  
18 were either in a customer relation position or a  
19 managerial position.

20 At that point, I continued going back to our  
21 investigator and saying, can you look up this company a  
22 little further? And at my question, he did, and he  
23 found the action against Choice Home Warranty in  
24 New Jersey. At that point --

25 HEARING OFFICER EMMERMANN: I'm going to

1 interrupt here. This sounds a lot like narrative. And  
2 I want to make sure that we are not just allowing the  
3 witness to talk.

4 MR. YIEN: No, we need a foundation to admit  
5 all this evidence, and we're building that in order to  
6 be able to introduce how the Division came across these  
7 exhibits that haven't been admitted into evidence yet.

8 HEARING OFFICER EMMERMANN: Okay. Could we do  
9 it in a question and answer format.

10 MR. LENHARD: Thank you.

11 MR. YIEN: Sure. Okay. Where did we leave off  
12 here?

13 THE WITNESS: So --

14 MS. GRIFA: New Jersey is where you left off.

15 BY MR. YIEN:

16 Q. Okay. So did you discover any regulatory  
17 action against Choice Home Warranty?

18 A. Yes. At that point, the investigator informed  
19 me of a regulatory action against Choice Home Warranty.

20 There are multiple facets here that played a  
21 role into my decision of looking into the company  
22 further. One of the concerns was --

23 MR. LENHARD: We're back into the narrative  
24 again. The question is New Jersey.

25 HEARING OFFICER EMMERMANN: Yeah, Mr. Yien, if

1 you could control the questions, and after the answers,  
2 address it during that.

3 MR. YIEN: Okay. While we're on New Jersey,  
4 may I have the witness take a look at some of our  
5 exhibits to start admitting evidence?

6 HEARING OFFICER EMMERMANN: Yes. Mr. Yien,  
7 when you pull the binder, and for Mr. Lenhard, too, when  
8 you pull the binder, please say it out loud so that we  
9 have it on the record. And then I'll know what to pull  
10 as well.

11 MR. YIEN: Sure. Okay. So I'm pulling the  
12 Division's list of exhibits, the binder. I believe,  
13 opposing counsel has a binder as well.

14 MS. GRIFA: Actually, we're awaiting our  
15 delivery. But we do have a list of exhibits available  
16 to us.

17 MR. LENHARD: It was so voluminous, we wanted  
18 to FedEx them back.

19 MR. YIEN: I thought we hand-delivered that to  
20 you.

21 MS. GRIFA: No, we have your exhibits.

22 MR. YIEN: Oh, okay.

23 MS. GRIFA: Our own exhibits are we expect  
24 delivery momentarily.

25 MR. LENHARD: We can proceed. We're fine.

1 HEARING OFFICER EMMERMANN: Okay. But you do  
2 have what Mr. Jain is being directed to look at?

3 MS. GRIFA: Yes, we have it electronically.

4 MR. LENHARD: We've seen it, and if we don't  
5 have it in front of us, I'll use the Division's binder  
6 on cross.

7 HEARING OFFICER EMMERMANN: Thank you.  
8 Proceed.

9 MR. YIEN: So Mr. Jain had just testified that  
10 he had, one of his staff had provided him with the  
11 New Jersey action.

12 BY MR. JAIN:

13 Q. Is that correct, Mr. Jain?

14 A. That is correct.

15 Q. Okay. If I could have you turn to Exhibit 6 of  
16 the Division's. And do you recognize that document?

17 A. I do.

18 Q. And is that document a true and correct copy of  
19 what it purports to be?

20 A. Yes, it is.

21 MR. YIEN: And for the record --

22 MR. LENHARD: I will object. There are two  
23 documents. One's a press release, and one's a  
24 settlement agreement. You're referring to it as a  
25 document.

1 BY MR. YIEN:

2 Q. So I was going to, as I was going to say,  
3 there's two documents there, a settlement press release  
4 and a settlement agreement. Are those two documents --  
5 if you could take a look at both of them. One starts on  
6 page one and goes to two of 43. And one goes from three  
7 of 43 to 43 of 43. Are those two documents copies of  
8 what your staff provided you?

9 A. Yes, I see them.

10 Q. And so they are what your staff provided to  
11 you, are they what your staff provided to you in terms  
12 of you stated that they had given, they'd notified you  
13 about a regulatory action?

14 A. That is correct. Division staff had notified  
15 me of the action as well as provided me with both  
16 documents.

17 MR. YIEN: So the Division would request that  
18 that Exhibit 6 be entered into the record.

19 HEARING OFFICER EMMERMANN: Mr. Yien, could  
20 you, just for clarification of the record, could you  
21 identify what the two documents are in Exhibit 6,  
22 because I don't think that that was clear to me.

23 MR. YIEN: Okay. So the two documents, as  
24 titled, are the New Jersey Attorney General Settlement  
25 Press Release. And that goes from page one of 43 to two

1 of 43.

2 HEARING OFFICER EMMERMANN: Oh, I see the page  
3 numbers on the top right.

4 MR. YIEN: Right. Yes. Sometimes there's two  
5 sets of them. But ours are always going to be  
6 identified as two, slash, and then the number of pages.

7 HEARING OFFICER EMMERMANN: Thank you.

8 MR. YIEN: And then the second document, of  
9 course, is the final consent judgment. It's titled as  
10 Settlement, in Exhibit Number 6. And that goes from  
11 three of 43 to 43 of 43.

12 HEARING OFFICER EMMERMANN: Thank you.

13 MR. LENHARD: Did you move for admission?

14 MR. YIEN: I have. Have you ruled?

15 HEARING OFFICER EMMERMANN: I'm sorry. You  
16 move for admission?

17 MR. YIEN: Yes, I do move to admit that,  
18 Exhibit 6.

19 HEARING OFFICER EMMERMANN: Do you have any  
20 objection?

21 MR. LENHARD: Thank you. May I respond? I  
22 don't object to the New Jersey consent judgment. I do  
23 object to the press release telling the New Jersey  
24 consent judgment. The consent judgment speaks for  
25 itself. The press release is, frankly, hearsay.



1           MR. YIEN: In response to that, hearsay is  
2 admissible in an administrative hearing if it's  
3 corroborated by other evidence. In this instance, it's  
4 corroborated by the settlement document itself. We ask  
5 that it be admitted.

6           HEARING OFFICER EMMERMANN: Okay. So I'm going  
7 to admit Exhibit 6, both parts, because Mr. Jain did  
8 testify that he received information from the PIO. So I  
9 do, I do think that this is relevant. And Mr. Yien is  
10 correct, hearsay is generally admissible in  
11 administrative hearings, just so that we have that clear  
12 early on.

13           Okay. Please proceed. So I will admit this.

14           (Exhibit 6 was admitted.)

15 BY MR. YIEN:

16           Q. Mr. Jain, were there other, what other factors  
17 played into your decision to further investigate Choice  
18 Home Warranty?

19           A. There were two primary factors that played a  
20 role. One was an increase in consumer complaints. And  
21 by that time, at my request, any consumer complaints  
22 against Choice were flagged and brought to my attention.  
23 The second factor was the difficulty we were having in  
24 having Choice comply with their renewal applications.  
25 And my staff reported that to me directly. Both of

1 those factors, as well as the regulatory actions that I  
2 was aware of, prompted me to look into the company  
3 further.

4 MS. GRIFA: Excuse me. Can we have a year for  
5 when this is happening, in the record?

6 MR. YIEN: Sure. You're going to have the  
7 ability to cross-examine.

8 BY MR. YIEN:

9 Q. For the record, Mr. Jain, did you want to  
10 clarify when you perhaps began investigating Choice  
11 Warranty?

12 A. I'm sorry?

13 Q. Can you state when, about what year you began  
14 investigating Choice Home Warranty?

15 A. I believe, I'm not sure what the formal  
16 definition of investigate would be, but we started  
17 looking at the company beginning in 2013. And that  
18 research and investigation, so to speak, escalated  
19 through 2014 and '15 and '16.

20 Q. So the investigation was sort of a years-long  
21 process and sort of just built up as you gathered more  
22 evidence?

23 A. That's correct.

24 Q. Okay. Is there other regulatory action that  
25 your staff discovered during this investigation or

1 during these years?

2 A. So at some point, I directed my staff,  
3 including the service contract desk, my assistant chief,  
4 as well as other staff, to do some research and come  
5 back to me and report to me if they found anything else.  
6 And this included our DOI investigator. And over the  
7 course of that investigation and research, we did  
8 discover several other regulatory actions.

9 Q. Can I have -- Mr. Jain, can you please turn to  
10 the Division's Exhibit 1, which is titled California  
11 Regulatory Action. Does that document -- have you taken  
12 a look at it yet?

13 A. Yes, I have.

14 Q. Does that document, is that purported to be  
15 what the Division purports it to be, the regulatory  
16 action from California?

17 A. Yes, it is.

18 MR. YIEN: The Division moves to admit this  
19 into evidence.

20 MR. LENHARD: We're not objecting.

21 HEARING OFFICER EMMERMANN: Exhibit 1 is  
22 admitted.

23 (Exhibit 1 was admitted.)

24 MS. RENTA: May I interrupt for a minute? The  
25 package came, and it's three boxes.

1 HEARING OFFICER EMMERMANN: So with that, let's  
2 see.

3 MR. LENHARD: We don't need to. We can break  
4 whenever you're ready. We're fine.

5 HEARING OFFICER EMMERMANN: Mr. Yien, are you  
6 okay if we take a five-minute recess?

7 MR. YIEN: Yes, I'm fine. Okay.

8 HEARING OFFICER EMMERMANN: Let's just go ahead  
9 and take it. That way, it's all here.

10 MR. LENHARD: Sure.

11 HEARING OFFICER EMMERMANN: So a five-minute  
12 recess. Thank you.

13 \* \* \* \* \*

14 (A break was taken, 9:49 to 9:55 a.m.)

15 \* \* \* \* \*

16 HEARING OFFICER EMMERMANN: All right. If we  
17 can go back on the record.

18 And Ms. Grifa had something she wanted to  
19 address on the record.

20 MS. GRIFA: Yes. On Friday, we discussed the  
21 videotaped testimony of Judge Harriet Derman. That's X.  
22 But I also brought, and I believe it should be made part  
23 of the record, the certified transcript of that, which  
24 is now available under seal.

25 HEARING OFFICER EMMERMANN: Okay.

1 MS. GRIFA: So that would be respondent's X.  
2 And as a certified document, I think we could agree it  
3 could go in.

4 MR. YIEN: It's presumed authenticated.

5 HEARING OFFICER EMMERMANN: So will that be  
6 coming to me, or will you hold onto it until you --

7 MS. GRIFA: I'd be very happy to give it to  
8 you.

9 HEARING OFFICER EMMERMANN: So you don't have  
10 to be responsible for it anymore?

11 MS. GRIFA: Yes. Thank you very much.

12 HEARING OFFICER EMMERMANN: Okay. Are we ready  
13 to resume?

14 MR. LENHARD: Yes. Thank you for the  
15 accommodation.

16 MR. YIEN: Yes.

17 HEARING OFFICER EMMERMANN: Okay. Please  
18 proceed, Mr. Yien.

19 MS. GRIGORIEV: Excuse me. Are you guys  
20 talking?

21 HEARING OFFICER EMMERMANN: Oh, I just realized  
22 that. Sorry, Ms. Grigoriev. There was a quick matter  
23 that Ms. Grifa asked that we resolve before we continue  
24 with the direct examination. And that was the original  
25 certified copy under seal of the deposition of the judge

1 from New Jersey that they handed over to the Hearing  
2 Officer.

3 MS. GRIGORIEV: Okay.

4 HEARING OFFICER EMMERMANN: Okay?

5 MS. GRIGORIEV: All right.

6 HEARING OFFICER EMMERMANN: Thank you. Sorry  
7 about that. All right. And then I've asked Mr. --  
8 Mr. Yien is free to continue with his direct.

9 MR. YIEN: Am I correct in --

10 MS. GRIGORIEV: Thank you.

11 MR. YIEN: We admitted, did Madam Hearing  
12 Officer admit Exhibit 1, then, the California regulatory  
13 action?

14 MR. LENHARD: Yes.

15 MR. YIEN: Thank you.

16 HEARING OFFICER EMMERMANN: Yes, I admitted it.

17 MR. LENHARD: And I understand you admitted --

18 MS. GRIFA: Six.

19 MR. LENHARD: -- five or six?

20 MR. YIEN: Six.

21 BY MR. YIEN:

22 Q. Mr. Jain, can I have you turn to Exhibit 3? So  
23 Exhibit 3 is titled Oklahoma Regulatory Actions. Can  
24 you look through these documents and verify whether or  
25 not these documents are documents that came as a result

1 of your staff's investigation?

2 A. I can confirm they are.

3 MR. YIEN: Then, the Division would like to  
4 admit Exhibit 3, titled Oklahoma Regulatory Actions,  
5 into evidence.

6 MR. LENHARD: And no objection.

7 HEARING OFFICER EMMERMANN: Okay. Exhibit 3 is  
8 admitted.

9 (Exhibit 3 was admitted.)

10 BY MR. YIEN:

11 Q. Mr. Jain, can you turn to Exhibit 8?

12 A. Yes.

13 Q. And look through it. Exhibit 8 is titled State  
14 of Washington Regulatory Action. Are those documents  
15 what the Division purports them to be, a regulatory  
16 action from the State of Washington that your staff  
17 found as a result of your investigation?

18 A. That is correct.

19 MR. YIEN: The Division would like to move that  
20 the Division's Exhibit Number 8 be admitted into  
21 evidence.

22 HEARING OFFICER EMMERMANN: Any objection?

23 MR. LENHARD: No.

24 HEARING OFFICER EMMERMANN: It's admitted.

25 (Exhibit 8 was admitted.)

1 BY MR. YIEN:

2 Q. Mr. Jain, can you turn to Exhibit 13? And look  
3 through those documents. Exhibit 13 is titled  
4 New Jersey Attorney General Press Release and Complaint.  
5 There are two documents there. The press release are  
6 documents one through three of 51. And the complaint  
7 are pages four of 51 through 51 of 51. So, again, there  
8 are two documents there. Mr. Jain, are those documents  
9 what the Division purports them to be, and did they come  
10 as a result of your staff's investigation?

11 A. Yes, they are.

12 MR. YIEN: The Division moves that Exhibit 13  
13 be entered as evidence.

14 MR. LENHARD: I have no objection to the  
15 complaint. And in light of the previous ruling on the  
16 press release, I'll withdraw my objection, or not object  
17 to the press release.

18 HEARING OFFICER EMMERMANN: All right.  
19 Exhibit 13 is admitted.

20 (Exhibit 13 was admitted.)

21 BY MR. YIEN:

22 Q. Mr. Jain, can you please turn to Exhibit 29?  
23 Exhibit 29 is titled South Carolina Civil Action. Is  
24 this document -- have you looked through it?

25 A. Yes, I have.



1 Q. Is this document what the Division purports it  
2 to be, a civil action from South Carolina against Choice  
3 Home Warranty?

4 A. It is.

5 MR. YIEN: The Division moves that Exhibit 29  
6 be admitted into evidence.

7 HEARING OFFICER EMMERMANN: Any objection?

8 MR. LENHARD: No.

9 HEARING OFFICER EMMERMANN: Exhibit 29 is  
10 admitted.

11 (Exhibit 29 was admitted.)

12 BY MR. YIEN:

13 Q. Mr. Jain, can you turn to Exhibit 10?

14 HEARING OFFICER EMMERMANN: Do you need a new  
15 binder?

16 THE WITNESS: I think, it's coming off.

17 HEARING OFFICER EMMERMANN: Mr. Jain, go ahead  
18 and just leave it on the side there. We'll get a new  
19 binder.

20 THE WITNESS: Yes, I have turned to that  
21 exhibit.

22 MS. GRIFA: Pardon me, Madam Hearing --

23 MR. LENHARD: We're missing 10 in our binder.  
24 Can you just explain what it is, Mr. Jain, or somebody.

25 MR. YIEN: 10 is titled Civil Action in

1 New Jersey, and there should be 21 pages.

2 MR. LENHARD: Is it the same complaint you  
3 previously referenced in Exhibit --

4 MS. GRIFA: 29.

5 MR. YIEN: No. One was the New Jersey Attorney  
6 General. This is a civil action in New Jersey.

7 MR. LENHARD: I know what you're talking about.  
8 Go ahead.

9 HEARING OFFICER EMMERMANN: Do we need to make  
10 a photocopy of the exhibit? Mr. Lenhard, do we need to  
11 make a photocopy of the exhibit?

12 MR. LENHARD: I know we have it. It's just  
13 somehow -- don't worry about it. We can keep going.

14 HEARING OFFICER EMMERMANN: Mr. Yien, please  
15 proceed.

16 BY MR. YIEN:

17 Q. Mr. Jain, have you looked through Exhibit 10?

18 A. Yes, I have. I have.

19 Q. And Exhibit 10 is titled Civil Action in  
20 New Jersey. It's a case, Amanda Kernahan,  
21 K-E-R-N-A-H-A-N, versus Home Warranty Administrator of  
22 Florida doing business as Choice Home Warranty. Is that  
23 document reflective of what your staff found during your  
24 investigation?

25 A. Yes, it is.

1 Q. And does it purport to be what it's title is, a  
2 civil action in New Jersey?

3 A. Yes, it is.

4 MR. YIEN: The Division would like to move that  
5 Exhibit 10 be entered into evidence.

6 MR. LENHARD: No objection.

7 MR. YIEN: Or admitted into evidence.

8 HEARING OFFICER EMMERMANN: No objection.  
9 Exhibit 10 is admitted.

10 (Exhibit 10 was admitted.)

11 HEARING OFFICER EMMERMANN: We'll get you a new  
12 binder.

13 BY MR. YIEN:

14 Q. Okay. So, Mr. Jain...  
15 Continuing?

16 HEARING OFFICER EMMERMANN: You may continue.

17 BY MR. YIEN:

18 Q. You had mentioned earlier that you had, you  
19 requested, or you received a complaint report from your  
20 staff. Is that true and correct?

21 A. That's right.

22 Q. Okay. And did anything stand out about that  
23 report that alarmed you or that you felt was cause for  
24 concern?

25 A. I'm sorry?

1 Q. Did anything about that report -- I apologize.  
2 Did anything about that report alarm you, or did you  
3 feel that there was anything about it that was cause for  
4 concern?

5 A. Are you talking about a specific exhibit here?

6 Q. No, I'm just talking in general about earlier  
7 you had mentioned that your consumer affairs staff had  
8 provided you a report.

9 A. Yes, so one of the things --

10 MR. LENHARD: Hold on. Can I get a foundation  
11 of the date of this report to help me on cross? You  
12 just said generically a report, Richard.

13 MR. YIEN: Right, yes. And, I believe, the  
14 witness had not mentioned what date that had.

15 MR. LENHARD: Well, before he describes the  
16 report, I'm going to object until you lay a foundation  
17 as to the date of the report and the author of the  
18 report.

19 MR. YIEN: Well, we were trying to do that, but  
20 then you objected to the narrative.

21 HEARING OFFICER EMMERMANN: Hold on one second.  
22 So my understanding is that the report, as you're using  
23 it, Mr. Yien, is just a discussion, not an actual  
24 physical report?

25 MR. YIEN: Right. It's not an exhibit,

1 admitted exhibit. Perhaps yet. I'm not sure what the  
2 witness is referring to, either. Right now, he's just  
3 talking about a report that he got from his consumer  
4 affairs.

5 MR. LENHARD: And I'm not trying to interrupt  
6 your exam. I'm just trying to, so I know how to ask  
7 questions, what type, is it an oral report or a written  
8 report, or something else?

9 MR. YIEN: Perhaps you could save that for  
10 cross-examination, because you'll have the opportunity  
11 to do that.

12 HEARING OFFICER EMMERMANN: Okay. So,  
13 Mr. Yien, please proceed. As of right now, the report  
14 that I understand is that it was just a discussion about  
15 the status of something. So if you could please proceed  
16 and explain, or, and provide testimony, get this  
17 clarified what Mr. Jain meant by the report.

18 BY MR. YIEN:

19 Q. Mr. Jain, can you please clarify what you meant  
20 by the report you had mentioned in your earlier  
21 testimony?

22 A. Just to clarify, it is not a singular report.  
23 I directed my staff to undertake research and  
24 investigation. During the course of several months,  
25 they provided me various reports. And as well as

1 consumer services. So when we say a report, it's  
 2 constituted of various consumer complaints that were  
 3 escalated to me, various media and news articles that  
 4 were forwarded to me by our public information officer,  
 5 as well as information that my staff was able to find  
 6 during their research over the Internet.

7 Q. And were there details about specific claims in  
 8 those reports?

9 A. There were some consumer service complaints  
 10 that when I reviewed, I noticed a trend that was  
 11 concerning to me with respect to our laws. And then  
 12 there were several concerns that arose from the reports  
 13 that my staff found during the research from some  
 14 organizations, such as Better Business Bureau and Ripoff  
 15 Reports and things like that, that raised significant  
 16 concern in my mind with respect to the safeguard of  
 17 Nevada public.

18 Q. Mr. Jain, can I have you turn to Exhibit 11?  
 19 Exhibit 11 is titled Nevada Complaints One and Two.  
 20 There are two complaints in Exhibit 11. The first one  
 21 encompasses pages one through three. And the latter,  
 22 the second one, are pages four through seven. Have you  
 23 looked through these pages, Mr. Jain?

24 A. Yes, I have.

25 Q. Are these the reports that your staff uncovered

1 as a result of your investigation?

2 A. These are complaints, from what I can see,  
3 these are formal complaints filed against Choice Home  
4 Warranty with the Division of Insurance.

5 MR. YIEN: Okay. The Division would like to  
6 move that Exhibit 11, Nevada Complaints One and Two, be  
7 admitted into evidence.

8 HEARING OFFICER EMMERMANN: Mr. Lenhard, do you  
9 have any objection?

10 MR. LENHARD: Just one second, please.  
11 You know what, no objection.

12 HEARING OFFICER EMMERMANN: Okay. Exhibit 11  
13 is admitted.

14 (Exhibit 11 was admitted.)

15 MR. LENHARD: Exhibit 11 is for the full 21  
16 pages; is that correct?

17 MR. YIEN: Exhibit 11 is actually only seven  
18 pages long.

19 MR. LENHARD: Okay. Now I have to look.

20 Okay. Thank you. Now I found Exhibit 10.  
21 Seven pages. Thank you.

22 MR. YIEN: May I continue, Madam Hearing  
23 Officer?

24 HEARING OFFICER EMMERMANN: Yes, please,  
25 Mr. Yien.

1 BY MR. YIEN:

2 Q. Mr. Jain, can you take a look at Division's  
3 Exhibit 24? Exhibit 24 is titled Nevada Complaint  
4 Number Three. I believe, it's similar in format to the  
5 exhibit we just entered. Is this what the Division  
6 purports it to be, Mr. Jain?

7 A. Yes.

8 Q. A Nevada complaint?

9 A. It is a formal consumer complaint against  
10 Choice Home Warranty with the Nevada Division of  
11 Insurance.

12 MR. YIEN: The Division would like to admit,  
13 move to admit Exhibit 24, Nevada Complaint Three, into  
14 evidence.

15 MR. LENHARD: No objection.

16 HEARING OFFICER EMMERMANN: Okay. Exhibit 24  
17 is admitted.

18 (Exhibit 24 was admitted.)

19 BY MR. YIEN:

20 Q. Mr. Jain, can I have you turn to Exhibit 38?  
21 And take a look at those documents. There's four of  
22 them. And it's titled Nevada Complaint Number Four.  
23 And is that document what the Division purports it to  
24 be, a Nevada consumer complaint?

25 A. Yes, it is.



1 MR. YIEN: The Division would like to move to  
2 admit Exhibit 38 into evidence.

3 MR. LENHARD: No objection.

4 HEARING OFFICER EMMERMANN: Okay. Exhibit 38  
5 is admitted.

6 (Exhibit 38 was admitted.)

7 BY MR. YIEN:

8 Q. Mr. Jain, you had also mentioned in your last  
9 question that you had discovered reports from the Better  
10 Business report or Ripoff Reports?

11 A. As part of my research, as well as research  
12 that my staff conducted, as well as our public  
13 information officer, there were various articles that  
14 were brought to my attention that were general articles  
15 at certain agencies, such as the Better Business Bureau,  
16 Ripoff Reports, things like that.

17 Q. Can you turn to Exhibit 9?

18 A. Yes.

19 Q. Is that the Better Business Bureau report you  
20 were, you're referring to?

21 A. That is.

22 MR. YIEN: The Division would like to move that  
23 Exhibit 9 be admitted into evidence.

24 HEARING OFFICER EMMERMANN: Mr. Lenhard, do you  
25 have any objection?

1 MR. LENHARD: Hang on just one second.

2 I'm not going to object to the admission, but I  
3 am going to object to the characterization. It looks  
4 like it's not BBB, but it's Ritax, Inc. Am I looking at  
5 the same document?

6 HEARING OFFICER EMMERMANN: Mr. Yien.

7 MR. YIEN: I believe, that's an advertisement  
8 on top of the page. It says "Reputation Report"; and  
9 right underneath it, it says "Choice Home Warranty,  
10 1090 King Georges Post Road, Building 10, Edison,  
11 New Jersey, 08837."

12 MR. LENHARD: I understand, but I don't --

13 MR. YIEN: So that's just an advertisement for  
14 something else that came up on the website.

15 MR. LENHARD: That may be, but what I -- I'm  
16 not objecting to the document, Mr. Yien, but I'm  
17 objecting to the characterization of being BBB. I don't  
18 see the term. I'm trying to find BBB on this document.

19 HEARING OFFICER EMMERMANN: Yes, Mr. Yien, just  
20 for clarification, I do see something that says "BCA."  
21 And if you look at the website, it says "checkBCA." Do  
22 you know what BCA stands for?

23 MR. YIEN: So it says "Business Consumer  
24 Alliance" on the bottom of page three. So, Your Honor,  
25 if it would be, if it's appropriate, can we retitle the

1 exhibit so that we can move to admit it into evidence?

2 HEARING OFFICER EMMERMANN: I just want it  
3 clear on the record what this is.

4 MR. YIEN: Yes.

5 HEARING OFFICER EMMERMANN: And to be sure.  
6 Because I'm not seeing anything that says "Better  
7 Business Bureau" on here. So I just want to know that a  
8 foundation's been laid and that this is something that  
9 actually is something Mr. Jain looked at.

10 MR. YIEN: Yes, of course. So on page three of  
11 three, in the middle, it says "Copyright 2017 Business  
12 Consumer Alliance." I suspect that that's what BCA  
13 means or refers to.

14 BY MR. YIEN:

15 Q. Mr. Jain, for the record, was this document one  
16 of the items that your staff uncovered as a result of  
17 your investigation?

18 A. I'm sorry?

19 Q. Was this document -- I'm not calling it a BB,  
20 Better Business report document. Was this document,  
21 titled Exhibit 9, one of the documents that your staff  
22 uncovered as a result of your investigation?

23 A. It is.

24 MR. YIEN: And, again, Madam Hearing Officer,  
25 if it's appropriate, I believe, it is incorrectly

1 labeled, this Better Business Bureau Report, in our  
2 proposed hearing exhibits.

3 HEARING OFFICER EMMERMANN: M-hm (affirmative).

4 MR. YIEN: If it's appropriate, can we retitle  
5 that?

6 HEARING OFFICER EMMERMANN: Yes, we can retitle  
7 that. I do want, if you can explain a little bit about  
8 what Business Consumer Alliance is for the record.

9 MR. YIEN: Okay. I'm not sure. So it looks  
10 like it's some sort of rating agency similar to --

11 HEARING OFFICER EMMERMANN: Does your witness  
12 maybe know?

13 MR. YIEN: Yeah, perhaps we can. Thank you.

14 BY MR. YIEN:

15 Q. Mr. Jain, can you comment on what you believe  
16 the Business Consumer Alliance to be?

17 A. It is my understanding that just like BBB, and  
18 it may be an arm of BBB, I do not remember, BCA, and  
19 there are several other consumer advocacy groups out  
20 there, who from time to time will review businesses, and  
21 they will rate businesses, their performances, complaint  
22 index, things like that.

23 HEARING OFFICER EMMERMANN: Are they a paid  
24 organization? How do they --

25 THE WITNESS: To my knowledge, I am -- I'm not

1 very familiar with the background of BCA. However, to  
2 my knowledge, they are not-for-profit organizations.

3 BY MR. YIEN:

4 Q. Mr. Jain, on their website, on page three, at  
5 the very bottom, is it a dot-com or a dot-org website;  
6 can you, right at the bottom?

7 A. It appears to be a dot-org website.

8 Q. So does that, in answering Madam Hearing  
9 Officer's question, does that make it more likely that  
10 they're an organization as opposed to a business?

11 A. Dot-org is a domain suffix that's offered to  
12 organizations typically.

13 HEARING OFFICER EMMERMANN: Okay. Well, just  
14 so that we have this, I have never heard of this  
15 organization. And so, for me, it's not about  
16 admissibility, because, I think, if it's something that  
17 you relied on, that it will be admitted. It's, to me, a  
18 question of who they are, what value do I give, what  
19 weight do I give to what they're saying.

20 MR. YIEN: Sure.

21 MS. GRIGORIEV: Madam Hearing Officer, may I  
22 chime in? I believe, it's a nonprofit organization.  
23 I'm reading from the website. Developed to monitor and  
24 report on business practices of companies. So it is  
25 private, it is nonprofit, for whatever it's worth.

1 HEARING OFFICER EMMERMANN: Thank you.

2 Okay. And so you said you don't, Mr. Lenhard,  
3 you said you don't have an objection?

4 MR. LENHARD: I haven't objected. I'll ask him  
5 some questions when I get a chance.

6 HEARING OFFICER EMMERMANN: Okay. So you have  
7 no objection to admitting it?

8 MR. LENHARD: No. No, Madam Hearing Officer.

9 HEARING OFFICER EMMERMANN: Thank you.

10 MR. LENHARD: With the clarification you made  
11 that it's BCA and not BBB.

12 HEARING OFFICER EMMERMANN: Right. Thank you.  
13 So Exhibit 9 is admitted.

14 (Exhibit 9 was admitted.)

15 MR. YIEN: And we have changed the title to be,  
16 for the record, BCA Report. Exhibit 9 is now BCA  
17 Report.

18 MR. LENHARD: That's fine.

19 BY MR. YIEN:

20 Q. Mr. Jain, what is the company rating on page  
21 one of that report?

22 A. The company rating noted on this page is F.

23 Q. Now, you had also mentioned that your staff  
24 also uncovered so-called Ripoff Reports?

25 A. That is correct.

1 Q. And can you tell the Hearing Officer what those  
2 are in general, what your understanding is?

3 A. The Ripoff Reports are generally, again, a type  
4 of consumer advocacy website. And the reports uncovered  
5 were not just from my staff. They were Ripoff Reports  
6 uncovered by my staff. They were reports through media  
7 that was forwarded to my attention by our public  
8 information officer. It's my understanding, and I do  
9 not recall, I apologize, but it's my understanding that  
10 there may have also been some communication from  
11 consumers providing the Division that saw these reports.

12 Q. Mr. Jain, can I have you take a look at  
13 Exhibit 14?

14 MS. GRIFA: Is this 14 through 16, or 18?

15 MR. YIEN: Yeah, I mean if you guys don't --  
16 you know, for the sake of time, I can do this as just a  
17 joint.

18 MR. LENHARD: I don't have any problem with you  
19 authenticating it as the three.

20 MR. YIEN: Okay. It's actually --

21 MR. LENHARD: In light of the previous rulings  
22 and my understanding how this is going to proceed, I'm  
23 not going to object to the three Ripoff Reports.

24 MR. YIEN: It's five.

25 MR. LENHARD: Five?

1 MR. YIEN: Yes.

2 MR. LENHARD: Okay. Well, I had the wrong  
3 number. Whatever the number of Ripoffs is.

4 MR. YIEN: Thank you, Mr. Lenhard.

5 BY MR. YIEN:

6 Q. Mr. Jain, can I have you, then, look at  
7 Exhibits 14 through 18? And are each of these reports  
8 what the Division purports them to be, reports from,  
9 filed by a Nevada consumer on Ripoff Reports, the  
10 website?

11 I'm sorry. So 18 is not actually a report  
12 filed. It's somebody's response to a report, which also  
13 is sort of its own complaint, just for the record. So  
14 it's a Ripoff -- 18 is titled Ripoff Report review by a  
15 Nevada consumer on October 12th, 2016.

16 A. Based on what I see in the report, they appear  
17 to be complaints of dissatisfaction found by Nevada  
18 consumers.

19 MR. YIEN: Madam Hearing Officer, I would like  
20 to move that Division's Exhibits 14 through 18 be  
21 admitted into evidence.

22 HEARING OFFICER EMMERMANN: So for my  
23 clarification of the report, I've got exhibits 14, 15,  
24 16 and 17. On the actual documents, on the top left, it  
25 says "Ripoff Report."



1 MR. YIEN: That's correct.

2 HEARING OFFICER EMMERMANN: On Exhibit 18, I  
3 don't see such a designation. I do see at the bottom it  
4 says "yelp.com." Are these -- they don't seem to be  
5 similar. So I want you to clarify that for me, please.

6 MR. YIEN: So Exhibit 18 -- why don't we first  
7 move to -- is it appropriate, Madam Officer, if we first  
8 move to admit exhibits 14 through 17 into evidence?

9 HEARING OFFICER EMMERMANN: Sure.

10 MR. LENHARD: I've already agreed to the Ripoff  
11 Reports.

12 MR. YIEN: Okay.

13 HEARING OFFICER EMMERMANN: So exhibits 14  
14 through 17 are admitted.

15 (Exhibits 14 through 17 were admitted.)

16 MR. YIEN: And for the record, it looks like  
17 it's my fault as opposed to my client's. But Exhibit 18  
18 looks to be a Yelp review, as opposed to a Ripoff Report  
19 that it's titled as. And that's based on the bottom, as  
20 Madam Hearing Officer points out, it's a yelp.com  
21 review, and with the David N. from Las Vegas, Nevada  
22 commenting on page one of two?

23 A. That is correct.

24 Q. Is this document one of the documents that your  
25 staff uncovered during your investigation, as a result?

1 A. Yes, it is.

2 MR. YIEN: The Division apologizes to opposing  
3 counsel and to the Hearing Officer that I've titled yet  
4 another exhibit incorrectly, and move that we can enter  
5 Exhibit 18, the yelp.com report, into evidence. And  
6 I've marked it Exhibit 18, Yelp.com Report, for the  
7 record. I've changed that because it's incorrectly  
8 titled.

9 HEARING OFFICER EMMERMANN: Mr. Lenhard, any  
10 objection?

11 MR. LENHARD: Certainly not.

12 HEARING OFFICER EMMERMANN: Exhibit 18 is  
13 admitted.

14 (Exhibit 18 was admitted.)

15 BY MR. YIEN:

16 Q. Mr. Jain, can I have you turn to Exhibit 25?  
17 Exhibit 25 is titled Nevada Service Provider Complaint.  
18 And I'm praying that that's what it is right now.

19 Mr. Jain, is that exhibit what the Division  
20 purports it to be, a Nevada service provider complaint?

21 A. This exhibit is a formal complaint to the  
22 Division against Choice by a consumer.

23 Q. I believe, it's a service provider complaint as  
24 opposed to a consumer complaint?

25 A. For the record, service providers are Nevada

1 consumers as well.

2 Q. Oh, I'm sorry. That's my fault.

3 A. Okay.

4 Q. But it's titled Service Provider Complaint. To  
5 clarify that, it's not somebody who had a CHW contract  
6 filing a complaint, but somebody servicing a CHW  
7 consumer, and, I think, it's corroborated by the  
8 Consumer Detail of Complaint?

9 A. I'm sorry. I do not see where it says a  
10 service.

11 Q. So it says "CHW refuses to pay for an  
12 outstanding invoicing" under Consumer Detail of  
13 Complaint, "after services were provided." Are you  
14 there? It's Exhibit 25, page one of two.

15 A. Yes, I am. I do not see page two, though. I  
16 only see page one. I missed page one, that's why.

17 MR. YIEN: I might be -- may I approach the  
18 witness?

19 HEARING OFFICER EMMERMANN: Yes.

20 BY MR. YIEN:

21 Q. I think, that page one is here. Page one is  
22 here.

23 A. Okay.

24 Q. And I'm pointing to the witness the Consumer  
25 Detail of Complaint.

1 A. Okay. That is correct.

2 MR. YIEN: The Division moves that Exhibit 25  
3 be entered into evidence.

4 HEARING OFFICER EMMERMANN: Mr. Lenhard, any  
5 objection?

6 MR. LENHARD: No. I'm sorry. No.

7 HEARING OFFICER EMMERMANN: Exhibit 25 is  
8 admitted.

9 (Exhibit 25 was admitted.)

10 BY MR. YIEN:

11 Q. Did you or your staff -- Mr. Jain, I apologize  
12 for the delay. Did you or your staff request to examine  
13 the reserve account?

14 A. Yes, we did.

15 Q. To be more specific, CHW, the respondent's  
16 reserve account?

17 A. We requested the reserve account at the time we  
18 received the renewal application. And to date, we have  
19 not received that information directly from CHW.

20 Q. And was it an email sent by your staff to  
21 request information about that reserve account?

22 A. It was an email sent by my staff, more than  
23 once.

24 Q. And can you turn to Exhibit 33?

25 A. Which one?

1 Q. Exhibit 33. Exhibit 33 is titled DOI  
2 Request -- DOI stands for Division of Insurance -- DOI  
3 Request to Examine Reserve Account?

4 A. Yes.

5 Q. Does that look like it's the document you sent,  
6 your staff sent to the respondent?

7 A. That is the document sent by my staff.

8 MR. YIEN: The Division would like to admit  
9 Division's Exhibit 33 into evidence.

10 MR. LENHARD: No objection.

11 HEARING OFFICER EMMERMANN: Exhibit 33 is  
12 admitted.

13 (Exhibit 33 was admitted.)

14 BY MR. YIEN:

15 Q. And the following page, I'm sorry, the  
16 following exhibit, 34, can you turn to that, Mr. Jain?

17 A. Yes.

18 Q. Is that the reserve account information  
19 provided to you from the respondent?

20 A. This appears to be the document that was  
21 provided by the respondent but not in response to our  
22 original request.

23 Q. So can you comment, was it incomplete, or was  
24 it -- these were the documents that were given to the  
25 Division? Can you comment on your answer?

1           A.    Two comments.   One, the document was not  
2 provided to us in response to my staff's request.   This  
3 eventually was provided to us through a subpoena request  
4 by counsel.   Second, the account itself does not contain  
5 an account number, as well as the name and address of  
6 the bank.   To me, it is incomplete.

7           MR. YIEN:   The Division would like to request  
8 that Exhibit 34 be entered into evidence.

9           HEARING OFFICER EMMERMANN:   Mr. Lenhard, any  
10 objection?

11          MR. LENHARD:   Not objecting to our bank  
12 records.

13          MR. YIEN:    I'm sorry?

14          MR. LENHARD:   I said we are not objecting to  
15 our bank records, Mr. Yien.

16          MR. YIEN:    Okay.

17          HEARING OFFICER EMMERMANN:   Exhibit 34 is  
18 admitted.

19               (Exhibit 34 was admitted.)

20 BY MR. YIEN:

21          Q.    Were you able to ascertain whether the  
22 respondent had enough reserves, from these documents,  
23 Mr. Jain?

24          A.    No, I was not.

25          Q.    Can you comment about what the purpose is for

1 the Division to have access to this reserve account?

2 A. The Nevada Legislature, for consumer protection  
3 purposes, enacted law that requires every service  
4 contract provider to maintain a 40 percent reserve  
5 account at all times, 40 percent on gross premiums. The  
6 purposes of the reserve account is if the service  
7 contract provider was to go into insolvency or had some  
8 other financial issues where they were unable to pay the  
9 claims for Nevada consumers who are participating in the  
10 contracts, if that inability existed, this account that  
11 we found, that can be used to make sure the Nevada  
12 claims, Nevada's claims are honored.

13 Q. And so is it safe to say if there's not enough  
14 money in that reserve account, does that make it  
15 dangerous to Nevada consumers?

16 A. If there is not sufficient money, that is  
17 verifiable by the Division, to ensure that Nevada claims  
18 are paid, then that is harmful to Nevada consumers who  
19 have paid premium in lieu for a promise of a contract  
20 which the entity may no longer be able to uphold. It  
21 is, in my opinion, it is a danger to Nevada public.

22 Q. So were you able to examine the account, as you  
23 requested, as you wished to examine it?

24 A. We have not been permitted to review the  
25 account as requested. Exhibit 34 that we just reviewed

1 is the only information that was provided to us last  
2 year. And as I mentioned, it was not provided  
3 willingly. It was provided only through subpoena.

4 Q. If you turn back to Exhibit 33, what did you  
5 request from the respondent in terms of the reserve  
6 account?

7 A. In Exhibit 33, and it was approved by me, for  
8 my staff, Mary Strong, we specifically cited the  
9 relevant statutory authority of the Commissioner, and we  
10 requested all bank accounts, including but not limited  
11 to records of all deposits, withdrawals, and  
12 end-of-cycle balances for each month for the past 12  
13 months. We specifically cited July 1, 2016 through  
14 July 1, 2017 to be the dates for which we wanted from,  
15 for the reserve account of HWAN, Inc. dba Choice Home  
16 Warranty.

17 The Commissioner further requested that the  
18 company provide an account number of the reserve account  
19 at the Chesapeake Bank: Please document whether the  
20 reserve account is solely dedicated to Nevada residents  
21 or if the funds are commingled with the funds or funds  
22 from all or other states.

23 Q. So did you receive -- I'm sorry. Did you  
24 testify that you did not receive the account number from  
25 the respondent?



1       A.    The information that was provided to us did not  
2 have an account number.  It had been redacted.

3       Q.    And did you receive any sort of statement from  
4 respondent as to whether or not that reserve account was  
5 solely dedicated to Nevada residents?

6       A.    No, we have not.

7       Q.    And then your question, as you had just stated,  
8 if the funds are commingled with other funds or funds  
9 from other states, was there anything about that  
10 Exhibit 34 in the documents that the respondent provided  
11 you that was cause for concern?

12       A.    There were two concerns that I had.  Let me  
13 get back to that exhibit.  And when I say "I," I  
14 discussed it with my staff as well.  Lacking an account  
15 number, there's no way for the Division to verify  
16 whether the account exists or not.  While the account  
17 did have HWAN as a name, it did not state that the  
18 account was for the purpose of Nevada consumers only.  
19 It did not clarify whether the account itself was made  
20 up of funds from Nevada businesses.

21           Furthermore, I was a little bit confused,  
22 because the account title stated Home Warranty  
23 Administrators of Nevada, yet there is documentation,  
24 when you look through some of these exhibits -- I don't  
25 know how many pages there are, 14 pages -- there appear

1 to be some commingling of funds between Choice Home  
2 Warranty as well as HWAN.

3 Q. Can you point out those specific instances, and  
4 take your time to look through those documents, where  
5 you talk about this commingling of funds through Home  
6 Warranty Administrator of Nevada and Choice Home  
7 Warranty?

8 A. May I speak on the pages as I go along?

9 Q. Yes, please do.

10 A. The first instance, but it doesn't refer to  
11 Choice Home Warranty, is on page five. There is a  
12 transaction on 11-4, November 4, transfer to Nevada  
13 Operating.

14 Page nine, there is a transaction, there are  
15 two different transactions, one on February 13th, one on  
16 February 21st. The February 13th transaction is  
17 transfer from CHW to Operating. The amount is in excess  
18 of \$6,600. On February 21st, there was a transfer to  
19 Nevada Operating again, in the amount of \$1,300.

20 Page 10, there's a transaction on March 10th,  
21 transfer from CHW Operating, and the amount is slightly  
22 above \$42,000.

23 Page 11, on April 10th, there was another  
24 transfer from CHW Operating just under \$14,000.

25 Page 12, on May 8th, there is a transaction,

1 transfer from CHW Operating, which is about \$36,000.

2 Page 13, there's a transaction June 6th,  
3 transfer from CHW Operating, \$350,000. There is also a  
4 transaction on the same page titled June 29th transfer  
5 from line of credit. It is in the amount of 730 --  
6 \$793,000.

7 And then, on page 14, there is a transaction  
8 dated July 12th, transfer from CHW Operating, slightly  
9 above \$75,000.

10 Q. What is the title, what is the -- can you state  
11 for the record the holder of the account -- I believe,  
12 it's on the top left corner -- and the address? I  
13 believe, they're consistent throughout these documents.

14 A. That is correct. And the name and address on  
15 all of these documents is Home Warranty Administrator of  
16 Nevada, Inc., 1090 King Georges Post Road, Edison,  
17 New Jersey, 08837.

18 Q. And the instances that you just testified to  
19 are instances where CHW and Home Warranty of Nevada send  
20 money either to or from one another; is that correct?

21 A. There were several instances that I testified  
22 where CHW, where based on the transaction, it appears  
23 that money was moved from CHW Operating to HWAN's  
24 account.

25 Q. And why is this commingling; why is this

1 suspect here, or why do you have concerns about it?

2 A. Under Nevada law, every service contract  
3 provider is supposed to maintain the reserve account  
4 independent of any other account. It has to be  
5 established in the state of Nevada, and it has to be  
6 used only for Nevada consumers. So it is a concern to  
7 me when another entity, Choice Home Warranty, has an  
8 undisclosed account which is being used to mingle the  
9 funds, commingle the funds between that entity and the  
10 service contract provider, HWAN dba Choice.

11 Furthermore, if an entity can move money into  
12 that account, the logic to me dictates an entity can  
13 move money out of that account. And that leaves Nevada  
14 consumers open to harm, when funds may not be  
15 sufficient, even though they appear to be sufficient,  
16 and the funds may not be sufficient to pay for  
17 outstanding liabilities for the service contract  
18 provider.

19 Q. Let me just reiterate. Did you say it causes,  
20 could cause harm to Nevada consumers?

21 A. It will cause harm to Nevada consumers if  
22 sufficient funds are not there.

23 Q. All right. Moving forward, did you or your  
24 staff provide a contract to be used by the respondent?

25 A. Can you repeat that?

1 Q. Did you or your staff approve a contract, do  
2 you guys have to approve a contract before a service  
3 provider can use them or sell them?

4 A. That is correct. Under Nevada law, each  
5 contract has to be reviewed and approved by my staff.

6 Q. And can I have you turn to Exhibit 35? Do you  
7 recognize this document?

8 A. Yes, I do.

9 Q. Exhibit 35 is titled CHW Contract Approved by  
10 DOI, Division of Insurance. Is this, is the copy that  
11 you have in front of you what the Division purports it  
12 to be, the approved contract by the Nevada Division of  
13 Insurance?

14 A. That is correct. I had an occasion to review  
15 it again and confirm it. This is the contract that was  
16 approved by the Division. In fact, at the bottom of the  
17 contract, there is wording, bottom right, HWA, slash, or  
18 hyphen, NV, hyphen, 07 two thousand -- 0711, which means  
19 this was approved in 2011.

20 MR. YIEN: All right. The Division would like  
21 to move that Exhibit 35 be admitted into evidence.

22 HEARING OFFICER EMMERMANN: Mr. Lenhard, do you  
23 have any objection?

24 MR. LENHARD: I got it from two sides here a  
25 second. I lost track of -- I can't concentrate on two

1 people at once. Will you please repeat the offer,  
2 Richard. I'm sorry.

3 MR. YIEN: Yes, of course. The Division's --

4 MR. LENHARD: Mr. Yien. I'm sorry.

5 MR. YIEN: I had just moved that the Division's  
6 Exhibit 35, titled CHW Contract Approved by DOI, be  
7 admitted into evidence.

8 MR. LENHARD: I'm not going to object to this  
9 exhibit. That's number 35.

10 HEARING OFFICER EMMERMANN: Exhibit 35 is  
11 admitted.

12 (Exhibit 35 was admitted.)

13 BY MR. YIEN:

14 Q. Okay. Moving on, Mr. Jain, did you get an  
15 opportunity to review the respondent's most recent  
16 renewal application?

17 A. Yes, I did.

18 Q. And did you consider that the application was  
19 complete?

20 A. No, I did not.

21 Q. And why so?

22 A. There are several reasons why the application  
23 is incomplete. And I will try to enumerate them and  
24 note why are they as such.

25 One reason the application was not complete is

1 it did not have the statutory security deposit that is  
2 mandated by Nevada law. As I had mentioned, the law had  
3 changed back in 2013. And the statutory mandatory  
4 security deposit required is 10 percent of unearned  
5 gross premium. And the Choice Home Warranty renewal  
6 application did not have a sufficient security deposit.  
7 They did not provide a check that would supplement it  
8 and bring them into compliance with the law. It was one  
9 of the first concerns that was identified.

10 The second concern that was identified is the  
11 falsification by Choice on question number four of the  
12 application. I don't remember the question number. I  
13 can I look at it if -- four or five, where they failed  
14 to disclose prior actions by other states or regulatory  
15 bodies in their applications to the Division. They  
16 responded no when evidence to the contrary existed.

17 Number three, that we were unable to respond to  
18 them or we decided that the application was incomplete,  
19 is there are several questions on the application  
20 pertain to disclosing the number of claims that the  
21 company had handled in the prior years in Nevada. That  
22 question and subsequent question, requesting the details  
23 of the claims, details of the complaints, was left  
24 blank.

25 And the last reason that we ended up not

1 renewing the application is due to the nonresponsiveness  
 2 and uncooperativeness of Choice. And there was a trend.  
 3 This all began in 2014. Repeatedly, my staff has had to  
 4 go back to Choice and ask them about updating the  
 5 security deposit. They were aware of the statutory  
 6 change. Yet every year there was a delay. When my  
 7 staff was -- when my staff did communicate with the  
 8 company and even requested phone calls, we did not get  
 9 the phone calls back. The same thing happened in 2016  
 10 renewal.

11 As a result, we had no choice but to deem the  
 12 application incomplete and not approve it.

13 Q. Okay. So if an application is incomplete,  
 14 then, does that mean they're operating with a  
 15 certificate still, or without a certificate, or?

16 A. Under Nevada Revised Statutes, under Chapter  
 17 690C, which is the service contract chapter, a  
 18 certificate of registration issued to a service contract  
 19 provider expires one year after it was issued. By law,  
 20 it automatically expires unless renewed. If any service  
 21 contract, in this case Choice, if they choose, if it  
 22 opted that their renewal was not processed because of  
 23 their failure to provide a complete application, the  
 24 certificate was not renewed, and any contracts issued  
 25 after that date would be illegal selling of contracts.



1 Q. Are you aware of any contracts sold after that  
2 date?

3 A. I am not personally aware of this. I know this  
4 information was requested.

5 Q. Okay. Part of the respondent's defense is  
6 that, I believe, in Mr. Lenhard's opening statement he  
7 had mentioned that the respondent had resolved a lot of  
8 the consumer complaints filed with the Division. Do you  
9 think that makes them suitable to do business in Nevada  
10 if they resolve all their complaints?

11 A. It is my understanding, reading their response,  
12 there were 80 complaints, and they claim that 11  
13 complaints were from people who did not have a contract  
14 with Choice. I reviewed at least one such complaint,  
15 and, I believe, it is part of Division Exhibit 25. That  
16 complaint was filed. As I mentioned before, every  
17 Nevada consumer, whether it be a contract holder or a  
18 vendor, has the ability to file a complaint if they  
19 believe that the claims-handling practices are  
20 questionable and their claims have not been paid.

21 It's not just that the complaints were  
22 reviewed, I mean resolved. I'm glad that they were  
23 resolved. However, the concern that we have is, when I  
24 directed my staff as part of my research and  
25 investigation to review the number of complaints against

1 Choice, it turned out that Choice, by far, had the  
2 highest number of complaints from among the 170-plus  
3 service contract providers licensed to do business in  
4 Nevada. That is a big red flag. That shows that on the  
5 surface, the company is not doing what they are  
6 contractually obligated to do. And that eventually  
7 harms the consumers.

8           If it is a service provider, for example, a  
9 plumber who comes in and tries to do some work, just for  
10 the sake of clarification, service contractor providers  
11 are the ones who pick the service providers themselves.  
12 So when a service provider is sent to a homeowner to fix  
13 an appliance or to take care of a broken pipe, things  
14 like that, if those service providers are, in turn, not  
15 paid by the contract provider, which is Choice in this  
16 case, then those service providers have two  
17 alternatives; they can file a complaint with the  
18 Division, which they do, and they can go and subrogate,  
19 try to subrogate the amount that they are owed from the  
20 contract holder. That, to me, is not in the best  
21 interest of Nevada public.

22           Q. So not only does the respondent not pay the  
23 contractor, but then now they have the service provider  
24 going after them for that?

25           A. That is correct. The service provider will

1 eventually go and seek remedies, from a court of law or  
2 otherwise, from the contract holder, which is the  
3 consumer, Nevada consumer.

4 Q. Mr. Jain, do you find that the respondent is  
5 suitable to conduct the business of -- their business in  
6 Nevada?

7 A. No, I do not. I have several concerns with  
8 respect to their financial condition, their refusal to  
9 cooperate with everybody, and the complaints that we are  
10 seeing, the overall negative information that we have  
11 seen and come across, both through media as well as  
12 other agencies and entities. All of that in totality  
13 raises severe concerns about the suitability to do  
14 business in Nevada. And I do not believe that they  
15 should be allowed to do business in Nevada, to protect  
16 Nevada public.

17 MR. YIEN: Madam Hearing Officer, I have no  
18 further questions for this witness.

19 HEARING OFFICER EMMERMANN: Okay. I want to  
20 clarify before we go into cross. When you called  
21 Mr. Jain up and you started going over the exhibits, I  
22 thought at first you were just going to go through to  
23 admit a bunch of them.

24 MR. YIEN: Right.

25 HEARING OFFICER EMMERMANN: And then, toward

1 the end, you started going into a little bit more  
2 testimony. I want to make sure there's no directs that  
3 you had intended to do on those initial exhibits that we  
4 didn't -- that I didn't hear.

5 MR. YIEN: I don't believe so. I believe, I  
6 just wanted them admitted in the record. Some of the  
7 other witnesses that we have will testify as to the  
8 contents of those exhibits and why they're relevant to  
9 the charge against the respondent.

10 HEARING OFFICER EMMERMANN: Okay. Thank you.

11 MR. YIEN: Thank you.

12 HEARING OFFICER EMMERMANN: All right.

13 Mr. Lenhard.

14 MR. LENHARD: Thank you.

15

16 CROSS-EXAMINATION

17 BY MR. LENHARD:

18 Q. Good morning, sir.

19 A. Good morning.

20 Q. If I don't speak loudly enough, please ask me  
21 to. I understand the hearing issue.

22 I want to take care of a couple housekeeping  
23 matters first. You have read both the original  
24 complaint and the amended complaint filed on behalf of  
25 the Department of Insurance; is that correct?

1 A. That is correct.

2 Q. Because you're involved in this, right?

3 A. That's correct.

4 Q. You know exactly what Mr. Yien has alleged on  
5 behalf of your department; is that a correct statement,  
6 sir?

7 A. That is correct.

8 Q. And you've approved what he has alleged on  
9 behalf of your department; is that correct, sir?

10 A. I did not hear you.

11 Q. You have approved what he is alleging, you  
12 agree with what he's alleging; fair enough?

13 A. I am provided facts as I testify.

14 Q. Okay. Okay. Can you tell me, based on your  
15 recollection -- by the way, you're free to review it --  
16 where there is any allegations concerning the reserve  
17 account in either Mr. Yien's original complaint or his  
18 amended complaint?

19 A. I do not remember that.

20 Q. It's not there, is it?

21 A. I do not remember that.

22 Q. All right. Fair enough. If I understand, you  
23 don't remember it -- well, strike that. Let's look at  
24 Exhibit 33. Mary Strong works for you?

25 A. She is one of my staff, yes.

1 Q. Okay. And that's a better way to put it. And  
2 did you instruct her on July 17 to send the email that's  
3 been marked as Exhibit 33 and admitted into evidence?

4 A. And what?

5 Q. And admitted into evidence?

6 A. Yes.

7 Q. Okay. Requesting this information, correct?

8 A. That is correct.

9 Q. And at the time it requested information, you  
10 knew that my clients were represented by counsel, me?

11 A. That is correct.

12 Q. Okay. And despite that fact, you didn't go  
13 through your counsel to ask him for discovery from my  
14 client's counsel, did you?

15 A. No, I did not.

16 Q. You went around the lawyers, correct?

17 A. Yes.

18 Q. All right. And you have no idea, as you sit  
19 here today, what my clients were advised by me on how to  
20 respond to this request with the pending revocation  
21 proceeding, did you, sir?

22 A. No, I do not.

23 Q. All right. And, in fact, you did get the bank  
24 records, didn't you, per a subpoena from Mr. Yien?

25 A. We got printouts that were purported to be bank

1 records, yes.

2 Q. Right. And there's a redaction on those  
3 printouts, isn't there?

4 A. That is correct.

5 Q. As you sit here today, you do not know who did  
6 that redaction, do you?

7 A. No, I do not.

8 Q. All right. You're an educated man. You  
9 certainly are aware of bank security regulations right  
10 now, aren't you?

11 A. No, I'm not educated on the finances.

12 Q. Is it true, is it not, that most banks, in  
13 releasing bank records, now redact the account number to  
14 protect the depositor?

15 A. It is possible, but --

16 Q. All right.

17 A. -- I'm not aware of it.

18 Q. You haven't inquired, either, have you?

19 A. No, I have not.

20 Q. So as you testified today about the redaction,  
21 you can't tell me whether these two gentlemen did it,  
22 whether this lawyer did it, or whether I did it or the  
23 bank did it, can you, sir?

24 A. No, I cannot.

25 MR. LENHARD: All right. Now, Ms. Grifa was

1 helping me. And which one's the bank records,  
2 Ms. Grifa?

3 BY MR. LENHARD:

4 Q. I want to be sure that we understand each  
5 other. Starting on page five.

6 HEARING OFFICER EMMERMANN: Of what exhibit?

7 BY MR. LENHARD:

8 Q. I'm sorry, 34. I'm getting ahead of myself.  
9 Let's look at page nine. It's the date -- the date of  
10 the account would be 3-3-17, and that's at least the  
11 date it's issued. There's activity that you referred  
12 to, transfer from CHW Operating. That's a transfer into  
13 the account, isn't it?

14 A. It reads "transfer from CHW Operating." So the  
15 assumption would be that it is being transferred into  
16 the specific bank account.

17 Q. And in this entirety of Exhibit 34, you didn't  
18 see a transfer out, did you?

19 A. No, I did not.

20 Q. All right. Before I go back through some of  
21 the exhibits that Mr. Yien walked you through, I would  
22 like to show you an exhibit. Is it Q? Our Exhibit Q.

23 Does he have our binders?

24 MR. YIEN: Oh, yeah, let me get that for you.

25 MR. LENHARD: Just rip it out and hand it to



1 him. Has he got it?

2 MR. YIEN: Yeah.

3 THE WITNESS: Did you say two?

4 MR. LENHARD: Q, Q as in quick.

5 BY MR. LENHARD:

6 Q. Do you have Exhibit Q in front of you?

7 A. Yes, I am looking at Exhibit Q.

8 Q. You know, I apologize for the size of these  
9 binders. It seems like staff in these cases, not the  
10 insurance company staff, my law firm, insists on doing  
11 these giant binders, and they are a nightmare to flip in  
12 and out of. So I share your pain.

13 Looking at Exhibit Q, it's dated July 8th,  
14 2014. Am I correct, sir, did I read that correctly?

15 A. Yes.

16 Q. To Scott J. Kipper, Commissioner of Insurance.  
17 My understanding, Mr. Kipper was one of the predecessors  
18 to the present Commissioner, Ms. Richardson?

19 A. That is correct.

20 Q. All right. From Derick Dennis, who's sitting  
21 here in the hearing room today; is that correct?

22 A. Yes.

23 Q. All right. And Mr. Dennis was tasked with  
24 getting a dba on file on behalf of HWAN, wasn't he?

25 A. Not quite.

1 Q. Well, okay. Let's look at the document: The  
2 company advised us that they have filed a dba under  
3 their name in Carson City. The dba name Choice Home  
4 Warranty was filed with the Carson City Clerk's Office  
5 on June 13, 2014 and with Washoe County on June 23,  
6 2014. Did I read that correctly?

7 A. Yes, you did.

8 Q. There's a notation on the side: This was at  
9 the request of the Division, recommend approval, E.A.  
10 Do you see that?

11 A. Yes, I do.

12 Q. Who's E.A.?

13 A. E.A. is my predecessor. She was a former  
14 employee of the Division, Elena Ahrens.

15 Q. All right. So Ms. -- is it Ahrens?

16 A. I'm sorry?

17 Q. Ms. Ahrens?

18 A. Elena Ahrens.

19 Q. Yes. Ms. Ahrens is recommending that the  
20 Division approve this dba?

21 A. That is correct.

22 Q. And this fellow sitting in the room here  
23 actually went back and forth in helping get the  
24 documents together so this dba could be properly filed;  
25 is that correct?

1 A. That is correct.

2 Q. And I'll bet this fellow sitting in the room is  
3 going to testify that my clients were pretty cooperative  
4 in that process. What do you think?

5 A. If he can, then he will.

6 Q. All right. So as of -- and I want to keep this  
7 date in mind -- mid July 2014 there's a dba on file.  
8 Okay? Let's kind of make a mental note. Now, let's go  
9 back and start working on some of the exhibits that  
10 Mr. Yien has put in front of you.

11 First is Exhibit Number 1. It's the California  
12 regulatory action. As a preface to that review, the  
13 licensee or the holder of the registration in this  
14 state, before the dba was filed, was HWAN; is that  
15 correct, sir?

16 A. That is correct.

17 Q. All right. Not Choice Home Warranty, correct?

18 A. That is correct.

19 Q. All right. After the dba was filed, which is a  
20 fictitious name certificate -- would you agree?

21 A. If you say so.

22 Q. Okay. I'll represent to you that's what it's  
23 called. It's not a case breaker, by any means. After  
24 July 8, after the dba is filed, the holder of the  
25 registration is HWAN dba CHW; is that correct, sir?

1 A. That is correct.

2 Q. All right. Now, let's go first to Exhibit  
3 Number 1. It's before the Insurance Commissioner of the  
4 State of California. Do you see that?

5 A. I do.

6 Q. And the title is In the Matter of Choice Home  
7 Warranty; is that correct, sir?

8 A. That is correct.

9 Q. I assume you or your staff have reviewed those  
10 documents prior to coming here today?

11 A. Yes, we have.

12 Q. It's true, is it not, that the word or words  
13 HWAN do not appear anywhere in this document?

14 A. That is correct.

15 Q. All right. If we can go next to Exhibit 3,  
16 before the Insurance Commissioner of Oklahoma. By the  
17 way, let's go back. The date of Exhibit 1 -- and, I  
18 believe, it's signed, so we're clear, it looks like  
19 January 2011. Do you see that back a couple pages, on  
20 page six?

21 A. January 6, 2011.

22 Q. Yeah. That's three years before the dba was  
23 filed, wasn't it?

24 A. That is correct.

25 Q. Now, let's go on to -- and I apologize for

1 hopping around on you -- to Exhibit Number 3. It's  
2 before the Insurance Commissioner of the State of  
3 Oklahoma, and it's a conditional administrative order  
4 filed February 7, 2014. Do you see that?

5 A. Yes, I do.

6 Q. Once again, the named party is Choice Home  
7 Warranty; is that correct?

8 A. No, it's not. It says "Choice Home Warranty,  
9 an unlimited service warranty association."

10 Q. All right. That's correct. Fair enough.  
11 That's fine. You will agree with me, will you not, in  
12 these 39 pages, the name HWAN does not appear anywhere,  
13 does it?

14 A. I do not remember every single word, but it  
15 would not surprise me if it was here or not. I can  
16 review it if you'd like me to.

17 Q. I really don't want to spend the time having  
18 you read through every page.

19 A. I'm sorry. I did not come prepared to testify  
20 to every name or that appear.

21 Q. Well, I understand that. But, I think, I have  
22 a right to know what you're basing your charges on. And  
23 you've been referring to these exhibits. And what I'm  
24 asking you is, can you tell me, one way or another, if  
25 the name HWAN appears in Exhibit 3; you can't, can you?

1       A.   HWAN does not appear as respondent in the  
2 document.

3       Q.   Okay.  And you can't -- so you and I are on the  
4 same page, you can't tell me if the word or the letters  
5 or the acronym, or whatever, HWAN appears anywhere on  
6 these 39 pages, can you, sir?

7       A.   I can read pretty quickly, if you would like me  
8 to.  But I cannot tell you.

9       Q.   You know what, I've got plenty of time.  If you  
10 want to do it, go ahead.

11      A.   Sure.

12           MR. LENHARD:  Madam Hearing Officer, my  
13 co-counsel's requesting a --

14           MS. GRIFA:  A comfort break.

15           MR. LENHARD:  A comfort break.

16           HEARING OFFICER EMMERMANN:  Would you like  
17 to --

18           THE WITNESS:  I would like to revise my answer.  
19 Or I can answer the question now.

20           HEARING OFFICER EMMERMANN:  Okay.  Let's answer  
21 the question, and then we'll take a comfort break.

22           MR. LENHARD:  That's fine.

23           HEARING OFFICER EMMERMANN:  All right.  Go  
24 ahead.

25           THE WITNESS:  The name HWAN does not appear on

1 this, because this is State of Oklahoma, not State of  
2 Nevada.

3 BY MR. LENHARD:

4 Q. That's fine. And HWAN's licensed, and it's a  
5 Nevada corporation, licensed in the State of Nevada,  
6 it's a Nevada corporation, isn't it?

7 A. Yes.

8 Q. Okay. We are going to do the same drill on  
9 Exhibit 8, which is the --

10 HEARING OFFICER EMMERMANN: I'm going to  
11 interrupt you here. Are we going to take a comfort  
12 break?

13 MR. LENHARD: No, I'm just alerting him if he  
14 wants to review it during the break.

15 HEARING OFFICER EMMERMANN: Are you comfortable  
16 with him reviewing it during the break?

17 MR. LENHARD: Of course. Of course.

18 HEARING OFFICER EMMERMANN: All right. So we  
19 will take, we'll take a seven-minute recess. It is  
20 11:02.

21 \* \* \* \* \*

22 (A recess was taken, 11:02 to 11:10 a.m.)

23 \* \* \* \* \*

24 HEARING OFFICER EMMERMANN: All right. Are we  
25 ready to proceed? Are you ready in Las Vegas?

1 MS. GRIGORIEV: Yes, we are.

2 HEARING OFFICER EMMERMANN: Okay. Thank you.

3 MS. GRIGORIEV: I am.

4 HEARING OFFICER EMMERMANN: All right.

5 BY MR. LENHARD:

6 Q. Mr. Jain, we left off with Exhibit 8, I  
7 believe, which is the Washington Final Order Terminating  
8 Proceeding, In the Matter of -- and, once again, the  
9 parties are named as respondents. Do you see that, sir?

10 A. I do.

11 HEARING OFFICER EMMERMANN: Can you tell me  
12 what exhibit you're on again?

13 MR. LENHARD: Exhibit 8. I'm sorry.

14 HEARING OFFICER EMMERMANN: Eight.

15 BY MR. LENHARD:

16 Q. The name HWAN doesn't appear there, does it?

17 A. No, it does not.

18 Q. As you sit here today -- it looks like this  
19 exhibit is, goodness, 32 pages -- you don't have any  
20 knowledge of the term or the name HWAN appearing on any  
21 one of these 32 pages, do you, sir?

22 A. No, it does not.

23 Q. Okay. Going back now -- I think, we went out  
24 of order -- to Exhibit 6, which is the New Jersey  
25 consent decree, I think, you referenced that a couple



1 times during your direct examination. Both the press  
2 release from the Office of the Attorney General as well  
3 as the Final Consent Judgment, do you have those in  
4 front of you?

5 A. Yes, I do.

6 Q. First of all, as to the press release from, it  
7 looks like Mr. Hoffman's office, the Acting Attorney  
8 General, you have read that press release prior to  
9 today?

10 A. Yes, I have.

11 Q. Is that fair? Nowhere in this press release is  
12 there the mention of HWAN, is there?

13 A. That is correct.

14 Q. Okay. And that's also true, is it not, of the  
15 multipage, I think, it's about 40 pages of the Final  
16 Consent Judgment; is that fair, HWAN is not mentioned?

17 A. No, it is not.

18 Q. Okay. I will say that Victor Mandalawi is. Is  
19 that fair?

20 A. That is correct.

21 Q. Okay. You had referenced to Exhibit 29, which  
22 is a South Carolina action, appears to be dated 2016.  
23 And it appears to be a lawsuit between a gentleman,  
24 Federspiel, and CHW Group dba Choice Home Warranty, as  
25 well as Mr. Mandalawi and Mr. Hakim. Do you see that?

1 A. Yes, I do.

2 Q. Once again, HWAN is not mentioned in the  
3 pleading or the summons, is it, sir?

4 A. No, it is not.

5 Q. So if I'm correct, so far in the exhibits  
6 you've reviewed, the various pleadings, consents,  
7 complaints, and so forth, from California, Oklahoma,  
8 Washington and, I believe, South Carolina, the name of  
9 the registrant in the State of Nevada does not appear;  
10 is that right, sir?

11 A. HWAN does not appear. Choice does.

12 Q. Okay. Now, there was also a reference to  
13 Exhibit 10, which is Not for Publication Without  
14 Approval of the Committee on Opinions. It's something  
15 from the Superior Court of New Jersey. I read it over  
16 the break. It has something to do with arbitration. Do  
17 you recall this document?

18 A. Yes, I do.

19 Q. All right. Once again, even though it only  
20 deals with arbitrations, it doesn't mention HWAN, does  
21 it?

22 A. It does not mention HWAN. It does mention HWA  
23 as well as Choice Home Warranty.

24 Q. Right. Right. HWA of Florida; is that right?

25 A. That's correct.

1 Q. All right. A long way from Nevada, right?

2 A. That's correct.

3 Q. All right. Let's start going through some of  
4 these complaints. I want to be sure I understand what  
5 you were looking at as part of your investigation. You  
6 were referencing --

7 A. I'm sorry. Which exhibit?

8 Q. Exhibit 11.

9 A. Okay.

10 Q. But before I get into Exhibit 11, there was  
11 some confusion about what was reported to you. And I  
12 understand, as part of your investigation, you were  
13 reviewing media accounts, complaints, representations by  
14 your investigators, the Ripoff -- I call it the  
15 Ripoffs -- and the BCA. Does that sound right?

16 A. That is correct.

17 Q. All right. So let's work our way through some  
18 of these things. Okay. When you rely on this type of  
19 third-party sources, you certainly engage in some  
20 investigation, don't you, to be sure they're accurate,  
21 right?

22 A. I'm not sure I understand what you mean.

23 Q. Well, let me ask you this. I'll commit the  
24 cross-examiner's sin. Tell me what you do to verify the  
25 accuracy of the media accounts.

1           A.    I can only testify that what we found, what my  
2 staff found and what was submitted as part of this  
3 complaint, I can testify to the fact that it is  
4 accurate, it is true. My staff work on my direction as  
5 well as myself.

6           Q.    Okay. And I appreciate that. I'm sure your  
7 staff's very hard-working. I'm sure they're honest  
8 people. I'm sure we're going to hear from them. But  
9 what I'm asking you, maybe you didn't understand my  
10 question. Let's try it again. When you review media  
11 reports as part of your investigative process, what do  
12 you do to verify the accuracy of the media reports? I'm  
13 asking you, sir.

14          A.    We do not do anything, at least I did not do  
15 anything to verify --

16          Q.    All right.

17          A.    -- the accuracy of what media was reported.

18          Q.    Fair enough. And, I think, you will agree with  
19 me, will you not, that occasionally the media just gets  
20 it wrong, fake news media?

21          A.    Occasionally, all of us get something that's  
22 wrong.

23          Q.    Okay. Now, on Ripoff Reports, you know, and I  
24 live in Las Vegas, I've seen this, this Ripoff. Okay.  
25 Have you ever -- and then I'll go back. Have you ever

1 spoken to or contacted the fellow who authors these  
2 Ripoff Reports?

3 A. No, I have not.

4 Q. Do you know if anybody in your staff sitting  
5 here --

6 A. I'm unaware.

7 Q. -- has contacted the fellow who authors these  
8 Ripoff Reports?

9 A. Not to my knowledge.

10 Q. So you can't vouch for the accuracy of the  
11 Ripoff Reports now, can you?

12 A. No, I cannot.

13 Q. Now let's go to Exhibit 11. Okay. Exhibit 11  
14 is, looks like a complaint dated July 16, 2014. Is this  
15 a form that's used by your department, sir; is this one  
16 of your forms?

17 A. It appears to be, from that year.

18 Q. Okay. How do I tell who is the investigator on  
19 it; is that on the second page, Staff Member? See at  
20 the bottom left-hand corner, Brown, Tanishia; I think,  
21 it's Tanishia Brown?

22 A. That is correct.

23 Q. Would she be the investigator?

24 A. She would be the assigned staff member.

25 Q. She would be the person who would have the most

1 independent and direct knowledge of the source data of  
2 this complaint, correct?

3 A. She is the person who the complaint was  
4 assigned.

5 Q. Okay. How do you tell on this complaint if  
6 there's a resolution? Because I see status open, status  
7 open. I guess, what I'm asking -- I'm kind of  
8 floundering here -- is how do you know if this complaint  
9 was resolved or not, ultimately; how can I tell from  
10 looking at this document?

11 A. The only way for me to know that this was  
12 resolved is to review our records and find a resolution  
13 there.

14 Q. Okay. Fair enough. And as you sit here today,  
15 you don't know if it was resolved satisfactorily to  
16 Ms. -- excuse me, Ms. Brown's -- not Brown, the  
17 complainant's, to the complainant's satisfaction; is  
18 that correct?

19 A. I cannot --

20 Q. Okay.

21 A. -- confirm that, yeah.

22 Q. And there's another complaint in here. It  
23 looks like it's closed March 18, 2015. It appears, it  
24 appears the staff member is Kim Kuhlman, if I look, page  
25 three, the middle.

1 HEARING OFFICER EMMERMANN: I'm sorry. What  
2 page?

3 MR. LENHARD: It looks like page three of four.

4 HEARING OFFICER EMMERMANN: Three of four.

5 BY MR. LENHARD:

6 Q. Yeah. It may be six of seven. There's two,  
7 there's two numbers there. I'm sorry. Do you see it?

8 A. That is correct, Kim Kuhlman was assigned the  
9 staff member.

10 Q. All right. And she says in comments "Reviewed  
11 file with Derick." I assume that's Derick Dennis? Any  
12 other Dericks in your department?

13 A. That is right.

14 Q. "I asked the company to reconsider and cover  
15 this claim as the complainant was not aware that he  
16 could provide evidence of previous coverage with no  
17 lapse to avoid the waiting period"; do you see that?

18 A. Yes, I do.

19 Q. She made a request to my client, right?

20 A. That is correct.

21 Q. And since the file is showing closed, can you  
22 assume that my client adhered to her request?

23 HEARING OFFICER EMMERMANN: If you don't  
24 understand the question, ask.

25 THE WITNESS: Yeah, can you repeat the

1 question?

2 BY MR. LENHARD:

3 Q. That's fair enough. The file is closed now.

4 Do you see that?

5 A. Yes, eventually it was.

6 Q. Okay. Do you know why the file was closed? Or  
7 would Ms. Kuhlman be the better person to ask the  
8 question?

9 A. On page seven --

10 Q. Okay. Thank you.

11 A. -- there's a disposition dated March 18, 2015  
12 that says "Compromise settlement, slash, resolve."

13 Q. Disposition amount \$500, do you see that?

14 A. Disposition amount is \$500.

15 Q. So that would indicate to you that Ms. Kuhlman  
16 worked out something with my client to the satisfaction  
17 of everybody, wouldn't it?

18 A. That is how I would interpret it.

19 Q. Exhibit 24 is a different form of complaint, so  
20 I want to make sure I understand it. It looks like a  
21 close date of November 2016, open date of October 2016.  
22 That's at the very top of the exhibit. Do you see that,  
23 sir?

24 A. That's correct.

25 Q. The complainant appears to be a lady named Mary



1 Greenlee. And I'm just trying to figure out. Can you  
2 tell me from looking at this whether there was a  
3 resolution? Just trying to read these.

4 A. On page two --

5 Q. Okay.

6 A. -- there is a notation, November 30, 2016, by  
7 Kim Kuhlman.

8 Q. Yes, sir.

9 A. Stating that the "Company responded upholding  
10 position" and "I requested the company provide the  
11 Division with an explanation and each out" -- I'm not  
12 sure what that means, maybe a typo, "each out" -- "reach  
13 out to the vendors to determine what type of service  
14 work was completed. Company changed their position and  
15 is paying claim up to the limits of policy."

16 Q. Okay. So the company resolved it through  
17 negotiations or at least discussions with Ms. Greenlee;  
18 is that correct?

19 A. That is correct.

20 Q. Okay. So it's a happy resolution.

21 MR. YIEN: Mr. Lenhard, Madam Hearing Officer,  
22 if I may, there's two things that just crossed my mind  
23 now, is that we do intend on calling Ms. Kuhlman.

24 MR. LENHARD: Oh, I know.

25 MR. YIEN: Okay. But the second part was also

1 Ms. Kuhlman is only available today.

2 MR. LENHARD: Right.

3 MR. YIEN: And I know we agreed to forego the  
4 rules of cross. But maybe, because we're coming up to  
5 the lunch hour, maybe if you don't finish with Mr. Jain  
6 or are unable to this afternoon, perhaps we can call  
7 Ms. Kuhlman.

8 MR. LENHARD: Whatever you want to do with  
9 that. I understood she's not available tomorrow. And  
10 I'm happy to go out of order, no problem.

11 HEARING OFFICER EMMERMANN: How much longer do  
12 you think you have with Mr. Jain?

13 MR. LENHARD: He covered a lot of ground. I  
14 have to cover a lot of ground. I'm sorry.

15 HEARING OFFICER EMMERMANN: But do you think  
16 that we will finish with Mr. Jain today?

17 MR. LENHARD: Oh, yes.

18 HEARING OFFICER EMMERMANN: Yes. Okay. And  
19 then --

20 MR. LENHARD: This is going longer than I  
21 expected already.

22 HEARING OFFICER EMMERMANN: Are you all okay  
23 with working into the lunch hour --

24 MR. LENHARD: Sure.

25 HEARING OFFICER EMMERMANN: -- until we finish

1 Mr. Jain, or would you prefer --

2 MR. LENHARD: I don't know that we'll get  
3 through with him that quickly. It's sometimes hard to  
4 predict.

5 HEARING OFFICER EMMERMANN: Okay. Well, let's  
6 see where we are at noon, and then we can see, maybe  
7 better assess, think through it, how to proceed.

8 MR. LENHARD: Sure.

9 HEARING OFFICER EMMERMANN: Thank you,  
10 Mr. Yien.

11 Please proceed.

12 BY MR. LENHARD:

13 Q. Exhibit 9, we already took care of the BCA  
14 issue. You had never -- look at Exhibit 9 real quickly.  
15 Prior to today, had you ever dealt with BCA?

16 A. I do not recall.

17 Q. You don't know, as you sit here today -- we all  
18 know who BBB is, Better Business Bureau?

19 A. Yes.

20 Q. All right. Certainly a trusted and  
21 well-respected entity, right; is that fair?

22 A. That's correct.

23 Q. You can't say that about BCA, because you don't  
24 know anything about them, do you?

25 A. I do not know about BCA. I don't know if they

1 are a division of BBB, if they're a separate entity,  
2 what their history is, no.

3 Q. All right. When you say whether they're a  
4 separate entity or a division of BBB, that's speculation  
5 on your part now, isn't it?

6 A. I'll make sure I check.

7 Q. Well, that's -- I expect you to. But you're  
8 speculating right now, aren't you? Is that a yes?

9 A. Like I said, I do not know.

10 Q. Okay. Exhibit 14 through 17, I believe, are  
11 the Ripoff Reports. I think, you've already testified  
12 that you personally have not reviewed the veracity of  
13 these reports and the veracity of the individual who's  
14 picture's in the lower left-hand corner, the fellow who  
15 drafts these reports. You personally have not checked  
16 his veracity; is that correct, sir?

17 A. That is correct.

18 Q. And you don't know whether your staff has  
19 checked up on just how reliable Mr. Ripoff is; is that  
20 right?

21 A. They have not checked on in terms of the  
22 reliability of speaking with the person or not.

23 Q. All right. Exhibit 25 appears to be, to me, a  
24 complaint from a vendor; is that right, a servicer?

25 A. That is correct.

1 Q. Okay. Now, a vendor is not an insured; is that  
2 right?

3 A. A vendor is not a contract holder, correct.

4 Q. Or an insurance holder?

5 A. Service contracts are not insurance.

6 Q. Well, fair enough. Do you feel, as you sit  
7 here, you've rendered some opinions, that your entity or  
8 your division has jurisdiction over vendor complaints  
9 with a registrant?

10 A. We have jurisdiction over any entity with  
11 respect to being able to voice our concerns when it  
12 comes to the business trend, our concerns with an entity  
13 that we license.

14 Q. If you turn to page two of this document, these  
15 are notes made by Ms. Brown on March 6th, 2014. She  
16 states, and I quote -- correct me if I've read this  
17 incorrectly -- "If there is further dispute regarding  
18 the late charges and/or other invoices not paid, you  
19 would need to take this up in a court of proper  
20 jurisdiction." Did I read that correctly?

21 HEARING OFFICER EMMERMANN: Where are you  
22 reading from, Mr. Lenhard?

23 MR. LENHARD: The top of the page on the  
24 right-hand side. You have an entry from Ms. Brown on  
25 March 6. You go over to the other side, "Sending close

1 letter"; then "Dear Mr. Opp"; are you with me?

2 MS. GRIGORIEV: Which exhibit is this? I'm  
3 sorry? Nine?

4 MR. LENHARD: 25.

5 MS. GRIGORIEV: Oh. Thank you.

6 BY MR. LENHARD:

7 Q. Is Ms. Brown wrong?

8 A. I'm sorry?

9 Q. Do you disagree with what Ms. Brown's telling  
10 Mr. Opp?

11 A. Yes, I do.

12 Madam Hearing Officer, may I further comment on  
13 that response?

14 HEARING OFFICER EMMERMANN: I'm sorry. On  
15 your -- hold off for your attorney to ask you questions  
16 like that on redirect, if he has any.

17 BY MR. LENHARD:

18 Q. While we're looking for an exhibit, Mr. Jain,  
19 you don't dispute that my clients submitted a renewal  
20 application in November 2016?

21 A. No, I do not.

22 Q. You disagree with the contents of what they  
23 said, but they did submit it; am I correct?

24 A. That is not completely accurate, no. My  
25 testimony was the application submitted was incomplete.

1 Q. All right. And as a result, since the  
2 application's incomplete, you treated my clients as not  
3 having a renewed registration; is that correct?

4 A. That is correct.

5 Q. And that's something that's of great concern to  
6 you, isn't it, that someone is now selling a product  
7 without any renewed registration, right?

8 A. That is correct.

9 Q. All right. And you're worried about the Nevada  
10 consumers; that's my understanding you said, right?

11 A. That is correct.

12 Q. All right. But, and correct me if I'm wrong,  
13 it wasn't until July 21st, 2017 that anybody from your  
14 department bothered to contact my client and tell them  
15 you're not renewed. Is that correct, sir?

16 A. That is correct.

17 Q. All right. And so we're clear, I'm referring  
18 to Exhibit II. Would you look at it, please.

19 MR. YIEN: It might be back here.

20 MS. GRIFA: I have an extra copy, if you know  
21 what it is. Is it II? Mr. Yien?

22 MR. YIEN: Okay. Thank you. Is that part of  
23 your original exhibits, or?

24 MS. GRIFA: The supplemental. We have it  
25 electronically. But we'll have a copy to you this

1 morning.

2 MR. YIEN: Okay.

3 BY MR. LENHARD:

4 Q. Do you have II in front of you, sir, or getting  
5 there?

6 A. Yes.

7 Q. Okay. So this is Mary Strong again. "From" at  
8 the address line; do you see that?

9 A. That is correct.

10 Q. And it's to Mr. Mandalawi, correct?

11 A. That is correct.

12 Q. Dated July 27, excuse me, July 21, 2017, looks  
13 like at 12:51, correct?

14 A. That is correct.

15 Q. All right. And you're copied, correct?

16 A. Yes.

17 Q. And did Ms. Strong -- well, Ms. Strong  
18 discussed this email with you before it was sent, didn't  
19 she?

20 A. That is correct.

21 Q. Of course, she did. And you instructed  
22 Ms. Strong to go ahead and send this directly to my  
23 client, correct?

24 A. That is correct.

25 Q. At the time you instructed her to advise my



1 client they no longer had a renewal, you knew they had  
2 counsel, didn't you?

3 A. I'm sorry?

4 Q. You knew that my client had a lawyer?

5 A. I believe so.

6 Q. It was represented before this department in  
7 the efforts to revoke their license, correct?

8 A. That is correct.

9 Q. And you didn't bother to copy his counsel, did  
10 you?

11 A. No, I did not.

12 Q. You didn't bother to copy your own counsel, did  
13 you, sir?

14 A. No, I did not.

15 Q. And this is -- if my dates are correct, the  
16 renewal should have been November 18, 2016; am I  
17 correct?

18 A. Yes.

19 Q. So we have December, January, February, March,  
20 April, May, June, well into July before your department  
21 gets around to letting my client know they're not  
22 renewed?

23 A. That's correct.

24 Q. All right. You had that document, you had that  
25 renewal in front of you for seven months and didn't

1   bother to tell my client that, according to you, they  
2   were selling their product inappropriately; isn't that  
3   correct?

4       A.   That is correct.

5       Q.   And, in fact, this letter went out one week  
6   before the first trial date.  Are you aware of that?

7       A.   No, I'm not.

8       Q.   Okay.  And so we're clear again, you have  
9   looked at the complaint on file, correct?

10      A.   Yes, I have.

11      Q.   And the complaint on file does not allege a  
12   violation for failure to properly renew, does it?  Am I  
13   correct?

14      A.   Yes.

15      Q.   It instead alleges a false statement in the  
16   renewal applications; isn't that correct, pursuant to  
17   chapter whatever?

18      A.   I cannot hear you.

19      Q.   Okay.  You can't hear me?

20      A.   No.

21      Q.   Oh, I'm sorry, sir.  I'm sorry.  The complaint  
22   that brings us all here together today, both the amended  
23   complaint and the original complaint, does not charge my  
24   clients with selling a product without the proper  
25   renewal, does it, sir?

1 A. To my recollection, it does not.

2 MR. LENHARD: Okay. Can I have just one  
3 second?

4 HEARING OFFICER EMMERMANN: Sure.

5 MR. LENHARD: You know, it moved faster than I  
6 thought. I'm done with the witness. Thank you.

7 HEARING OFFICER EMMERMANN: Okay. Before we --  
8 do you want to do redirect?

9 MR. YIEN: My redirect is short, if you want me  
10 to speed through it.

11 HEARING OFFICER EMMERMANN: Sure.

12 MR. YIEN: Yeah.

13

14 REDIRECT EXAMINATION

15 BY MR. YIEN:

16 Q. Mr. Jain, well, first off, as requested from  
17 the Hearing Officer on Exhibit 25, whether or not you  
18 wanted to clarify your answer, if you'd like to, you can  
19 right now.

20 A. Which exhibit?

21 Q. I think, it was 25. And Mr. Lenhard had asked  
22 you whether you agreed or not -- I don't recall the  
23 exact question -- with Tanishia Brown's. It's on page  
24 two of two, Exhibit 25. I don't, I actually don't  
25 recall the question or the answer. But if you wanted to

1 clarify something about that, you can. Or if you  
2 cannot, it's up to you.

3 A. Yes, I believe, the question was something on  
4 the lines of whether or not I agree with Ms. Brown's  
5 statement, the statement, I'll repeat it, "If there is  
6 further dispute regarding the late charges and/or other  
7 invoices not paid, you would need to take this up in a  
8 court of proper jurisdiction." My initial response was,  
9 no, I do not disagree with it. However, if you review  
10 the sentence itself, what Ms. Brown is instructing the  
11 complainant is, if the complainant has any further  
12 disputes with respect to late charges or any other  
13 invoices not paid, they do have remedy to take it up to  
14 the court of law for proper jurisdiction. There is no  
15 indication whether the late charges or any other  
16 outstanding invoices were pertaining to this claim or  
17 pertaining on the Choice's business of service contracts  
18 in this state.

19 I do not have any knowledge, neither did  
20 Ms. Brown, I presume, that whether or not there were any  
21 other outstanding invoices that this particular  
22 contractor or service provider had against Choice. I  
23 wanted to make sure I clarified that.

24 Q. Great. Thank you, Mr. Jain. Mr. Lenhard had  
25 asked you to go through some of these regulatory actions

1 to see if HWAN is mentioned in any of these. And I  
2 would like to go through the same ones to see if Victor  
3 Mandalawi had signed these documents. If I could have  
4 you turn to Exhibit 1, page 16 of 16.

5 A. Yes.

6 Q. Can you state for the record who signs that  
7 document?

8 A. It appears to be signed by one Victor  
9 Mandalawi.

10 Q. And what is his title there?

11 A. President.

12 Q. And who does he represent, the company listed  
13 on top?

14 A. Choice Home Warranty.

15 Q. Okay. And Exhibit 3, page 31 of 39. Do you  
16 see a signature there?

17 A. Yes, I do.

18 Q. Whose is it?

19 A. There's a signature by Victor Mandalawi.

20 Q. Okay. And what is his title there?

21 A. Representative of respondent.

22 Q. And for the record, the respondent is Choice  
23 Home Warranty, an unlicensed service warranty  
24 association?

25 A. That is correct.

1 Q. Okay. And then on Exhibit 6, page 30 of 43.

2 A. Yes.

3 Q. Do you see a signature there of Victor  
4 Mandalawi?

5 A. I see Victor Mandalawi, President, 1090 King  
6 Georges Post Road, Edison, New Jersey, 08837.

7 Q. Do you recognize that address?

8 A. Yes, I do.

9 Q. What do you recognize it as?

10 A. This is the same address, and I can confirm it  
11 before I move forward with it.

12 This address is identical to the address that  
13 exists for Home Warranty Administrator of Nevada, Inc.  
14 on the bank statements that were provided to the  
15 Division under subpoena.

16 Q. On cross, Mr. Lenhard pointed you out to an  
17 exhibit that showed that the Division of Insurance  
18 requested that the respondent file a dba. Do you have  
19 any knowledge about the background of why that happened?

20 A. Yes. As I had mentioned in my opening  
21 testimony, the Division received a consumer complaint in  
22 2013 against Choice Home Warranty. As part of their  
23 investigation, Division corresponded with and received  
24 responses from personnel from Choice Home Warranty.

25 At that point, the Division did not have any

1 knowledge of Choice Home Warranty being a licensed  
 2 service contract provider in this state. Subsequently,  
 3 it was discovered, through our investigator, that Choice  
 4 Home Warranty was also subject of disciplinary action by  
 5 State of Washington.

6 As we looked into it, we started getting more  
 7 and more complaints about Choice Home Warranty. At some  
 8 point, the Division staff reached out to Mr. Mandalawi  
 9 to inquire who this Choice Home Warranty is, because we  
 10 started looking at both their address as well as the  
 11 file and approved contract, the service contract. And  
 12 Choice Home Warranty appears on the Home Warranty of  
 13 Nevada Administrators -- Home Warranty Administrators of  
 14 Nevada, or HWAN, service contract that was approved by  
 15 the Division.

16 That led us to believe that Choice Home  
 17 Warranty and HWAN were doing business, including selling  
 18 of contracts under Choice name, in the state of Nevada.  
 19 There was some discussion that transpired between  
 20 Mr. Mandalawi as well as the Division, and that  
 21 discussion led Mr. Mandalawi to register Choice Home  
 22 Warranty as a dba with the Carson City Clerk's Office as  
 23 well as Washoe County Clerk's Office.

24 Once that was confirmed, Mr. Mandalawi or  
 25 Choice submitted or surrendered the certificate of

1 registration that was issued to HWAN. In response, a  
2 new certificate of registration was issued with the name  
3 HWAN dba Choice Home Warranty. That certificate had to  
4 be approved by the Commissioner. And that is why there  
5 was a memo that was presented in as part of this, as  
6 part of evidence.

7           Once that certificate was approved by the  
8 Commissioner, the certificate was mailed to  
9 Mr. Mandalawi's attention, and we did not hear back from  
10 him subsequently whether there was a concern with HWAN  
11 dba as Choice in Nevada or not.

12           Q. Okay. So let me get this straight, then.  
13 Choice Home Warranty, you were receiving complaints from  
14 consumers of Choice Home Warranty, and they were not  
15 licensed to do business in Nevada; is that correct?

16           A. That is correct. In fact, reviewing the  
17 documents that were disclosed as part of the, I believe,  
18 discovery, the first concern with Choice **selling** service  
19 contracts in the state of Nevada arose in 2011.

20           Q. Okay. And part of your response, too, is that  
21 Victor Mandalawi then came in to sort of get them  
22 legitimate, and so he at that time decided, or was  
23 perhaps persuaded by the Division, to register a dba as  
24 Choice Home Warranty; is that correct?

25           A. That is correct. At the point when we



1 discovered that Choice Home Warranty was illegally  
 2 selling service contracts in Nevada, and we're receiving  
 3 complaints against them, we initiated contact with  
 4 Mr. Mandalawi. And as part of that -- because the  
 5 Division was ready to take a C and D action against  
 6 Choice Home Warranty.

7 Q. What's a C and D?

8 A. Cease and desist order, for not being licensed  
 9 in the state of Nevada and selling service contracts.  
 10 At that point, I don't remember. This was about three  
 11 and a half years ago. At some point, there was a  
 12 discussion with Mr. Mandalawi. It was identified that  
 13 Choice and HWAN were one and the same entity, that  
 14 Choice was not selling illegally because HWAN was a  
 15 licensed entity in Nevada. And Mr. Mandalawi then chose  
 16 to register Choice in the state and surrendered the  
 17 certificate of registration and agreed to the new  
 18 certificate showing HWAN dba Choice.

19 Q. Did you just testify that you believe they are  
 20 one and the same entity; is that what you just said?

21 A. From every documentation that I have seen, from  
 22 the consumer complaints that we have seen, from the  
 23 dba's, from the service contract form that is out in the  
 24 market, from the email advertisements that we have heard  
 25 consumers receive, in fact, I have received them, there

1 is no doubt in my mind that Choice Home Warranty is the  
2 same entity as Home Warranty Administrators of Nevada.

3 MR. YIEN: I have no further questions.

4 HEARING OFFICER EMMERMANN: Any recross?

5 MR. LENHARD: Yeah. Yes. I'm sorry.

6

7 RECROSS-EXAMINATION

8 BY MR. LENHARD:

9 Q. Okay. Are you aware that HAWN is an  
10 incorporated entity in the State of Nevada?

11 A. No, I'm not.

12 Q. Have you ever reviewed the corporate records?  
13 Have you ever reviewed -- I'm sorry, sir. That's soft.  
14 Have you ever reviewed the corporate records of HWAN?

15 A. No, I have not.

16 Q. You have not reviewed the exhibits in this case  
17 that have been filed with the Hearing Officer which are  
18 the corporate records of the HWAN, have you?

19 A. I have not. I received them very late.

20 Q. All right. And you have not reviewed the  
21 corporate records of CHW Group, Incorporated either, have  
22 you?

23 A. No, I have not.

24 Q. So you have no knowledge, as you sit here  
25 today, that CHW Group, Incorporated is a corporation

1 according to the laws of the State of New Jersey; is  
2 that correct, sir?

3 A. That is correct.

4 Q. All right. And so when you render your opinion  
5 that they're one and the same, you're not taking into  
6 account the separate corporate filings in two separate  
7 states, are you, sir?

8 A. No, I am not. That is my professional opinion.

9 Q. I appreciate that. Now, you keep saying that  
10 you seem surprised that CHW was selling product in  
11 Nevada, right?

12 A. That is correct.

13 Q. All right. I want you to look at Exhibit EE.

14 A. Exhibit?

15 Q. EE. E as in elephant.

16 HEARING OFFICER EMMERMANN: Mr. Yien, could you  
17 check; I don't think your witness has that binder in  
18 front of him.

19 MS. GRIFA: He's got it.

20 MR. YIEN: Yes, he's got it.

21 Exhibit EE, is that what you said?

22 MR. LENHARD: Yes.

23 BY MR. LENHARD:

24 Q. Do you have EE in front of you, sir?

25 A. Yes, I do.

1 Q. Okay. Look at page -- first of all, page one  
2 of this document. It says "Filing Summary. Filing  
3 Information." Is that a form utilized by your  
4 department?

5 A. Not exactly the same format, but some of the  
6 information on this form matches what system we use.

7 MS. GRIFA: May we have a moment?

8 HEARING OFFICER EMMERMANN: Sure.

9 (There was a brief discussion off the record.)

10 BY MR. LENHARD:

11 Q. Can you tell me what SERFF is, S-E-R-F-F?

12 A. SERFF is an acronym for System for Electronic  
13 Form and Rate Filing.

14 Q. Something required by the State of Nevada,  
15 right?

16 A. This is what State of Nevada uses, right.

17 Q. All right.

18 A. It is not required of service contract  
19 providers.

20 Q. Filing outcome, towards the bottom, SERFF  
21 Status; do you see that?

22 A. Yes, I do.

23 Q. Closed; disposition date, August 26, 2011; do  
24 you see that?

25 A. That is correct.

1 Q. Above, filing status, closed, approved; do you  
2 see that?

3 A. Yes, I do.

4 Q. Turn the page. The next seven pages are what  
5 are being approved. Choice Home Warranty, America's  
6 choice in home warranty protection; did I read that  
7 correctly?

8 A. You're reading it accurately.

9 Q. Your department approved that page, correct?

10 A. Yes, it is.

11 Q. Okay. Turn the page. Your home service  
12 agreement. Now, the type gets small, and it gives me a  
13 headache, so. The first paragraph: Throughout this  
14 agreement, we, us and our refer to Home Warranty  
15 Administrator --

16 HEARING OFFICER EMMERMANN: Mr. Lenhard, for  
17 the sake of the court reporter --

18 MR. LENHARD: Slow down.

19 HEARING OFFICER EMMERMANN: -- could you read  
20 more slowly. Thank you.

21 BY MR. LENHARD:

22 Q. Throughout this agreement, the words we, us,  
23 and our refer to Home Warranty Administrator of Nevada;  
24 do you see that?

25 A. Yes, I do.

1 Q. The bottom of the page, Choice Home Warranty;  
2 do you see that?

3 A. I do.

4 Q. So your department, as of 2011, new darned good  
5 and well that there were forms being utilized and signed  
6 by consumers in the state that have the term Choice Home  
7 Warranty on it, didn't you?

8 A. Not exactly.

9 Q. Well, did I misread this, or was it approved?

10 A. No, you did not provide complete information.  
11 Your exhibit is not, it does not consist of accurate  
12 information.

13 Q. Okay. These are documents we received from  
14 your department.

15 A. I --

16 Q. I'm just telling you, I got them from your  
17 counsel. I didn't make these up.

18 A. Let me clarify. Page one, there is no name of  
19 the entity who filed this form. So it is unclear  
20 whether they were filed under HAWN or Choice.

21 Q. Well, all I can tell you is I've got CHW 73376.  
22 That's a Bates stamp number. Next in order is 73377.

23 A. I'm not looking at page two onwards. I'm  
24 looking at page one.

25 Q. Submission date July 19, '11, above filing

1 status. Are you telling me -- because, you know, I'll  
2 put on other evidence. Are you telling me that you  
3 don't think your department approved this contract; is  
4 that what you're sitting here telling me?

5 A. I'm telling you that my department approved  
6 this contract under this SERFF tracking number, BLNK,  
7 hyphen, 127328348. And what I'm telling you is page one  
8 does not show which company, which company that is  
9 licensed to do business in State of Nevada filed this  
10 document.

11 Q. Are you aware of any document in this state  
12 where CHW became licensed to do business in the state of  
13 Nevada, save and except the dba?

14 A. Outside of dba, no.

15 Q. Okay. So in 2011, when this is done, the only  
16 entity that had filed for registration was HWAN,  
17 correct?

18 A. That is correct.

19 Q. All right. So you're telling me you have a  
20 doubt as to whether this, it was HWAN that submitted  
21 this document? You think it's CHW who's not registered?

22 A. There is, on top right of page two of the  
23 exhibit, there is a little icon that says "Home Warranty  
24 Administrators." Yes, Choice Home Warranty does appear  
25 on the same document. Like you yourself read on page

1 three --

2 Q. Right.

3 A. -- throughout the agreement, throughout this  
4 agreement, the words we, us, our refer to Home Warranty  
5 Administrator of Nevada, Inc., HWA, 90 Washington  
6 Street, Bedminster, New Jersey. This was submitted, if  
7 I were to guess, and my staff can look at it, this was  
8 submitted by HWAN, which was a licensed entity.

9 Q. Which is all I've been asking. If you want to  
10 check over the noon hour or have one of these three  
11 individuals do that, I'm happy to do it, because, I  
12 think, what you're going to find is the entity that was  
13 making the application was HWAN. And this is the  
14 document that your department approved?

15 A. That is correct.

16 Q. Final question. You are aware, are you not,  
17 that Mr. Mandalawi is a corporate officer in CHW Group,  
18 Inc.?

19 A. Yes, I am.

20 MR. LENHARD: Thank you, sir.

21 HEARING OFFICER EMMERMANN: So give me a  
22 moment. I'm going to go over my notes. And, I think, I  
23 have a few questions for Mr. Jain.

24 MR. YIEN: I do have one last question, if I  
25 may.



1 HEARING OFFICER EMMERMANN: Okay. Go ahead.

2  
3 RE-REDIRECT EXAMINATION

4 BY MR. YIEN:

5 Q. Did Victor Mandalawi negotiate the resolution  
6 of CHW's complaints by allowing HWAN to register their  
7 dba?

8 A. It is my understanding the only person who  
9 communicated with the Division back then, in 2014, I  
10 believe, was Mr. Mandalawi.

11 Q. So if it is the case that these are two  
12 separate companies, does that show that Victor Mandalawi  
13 has control of both companies?

14 A. That is my understanding.

15 MR. YIEN: I have no further questions.

16 THE WITNESS: And, furthermore, having reviewed  
17 the South Carolina document that was submitted in  
18 evidence, it is clear, there's clear evidence as to how  
19 CHW separated or created a product called HWA, with the  
20 last letter of, or last word of HWA ending in the state  
21 in which they are. So it is asinine, in my opinion, for  
22 anybody to believe that there would be a complaint filed  
23 against HWAN or action taken against HWAN, ending  
24 Nevada, in any other state.

25 MR. YIEN: Thank you.

1 HEARING OFFICER EMMERMANN: Any re-recross?

2 MR. LENHARD: Well, at the risk of sounding  
3 asinine, I've got to follow up.

4 HEARING OFFICER EMMERMANN: Okay. Go ahead.  
5

6 RE-RECROSS-EXAMINATION

7 BY MR. LENHARD:

8 Q. All right. You've just said, in your opinion,  
9 Mr. Mandalawi controls CHW Group, Inc. Could you tell  
10 me who the corporate officers are of CHW Group, Inc.?

11 A. It is my understanding, based on some of these  
12 documentations that I have seen, including documentation  
13 from other states, that the two officers at CHW Group  
14 are Victor Mandalawi and Victor Hakim.

15 Q. Have you ever reviewed any of the corporate  
16 records of CHW Group, Inc.?

17 A. No, I have not.

18 Q. Any corporate minutes?

19 A. No, I have not.

20 Q. Any corporate contracts?

21 A. No, I have not.

22 Q. So if Mr. Hakim was to come in and testify that  
23 he is the controlling entity in CHW Group, Inc., you  
24 couldn't refute that, could you, based on your review of  
25 corporate documents?

1           A.    If the documents support it, then, no.

2           MR. LENHARD:   Thank you, sir.

3           HEARING OFFICER EMMERMANN:   All right.  It's my  
4 turn.  Mr. Jain, I just have a few questions.  And then  
5 after my questions, both counsel will have the  
6 opportunity to ask any additional questions clarifying  
7 what I'm asking.

8           My first question relates to when you talked  
9 about information requested regarding a reserve account.  
10 How does the Division generally request such information  
11 of licensees?

12           THE WITNESS:   Generally and over the years,  
13 pardon me, but over the years, because of changes in  
14 laws, changes in policies, we have amended our  
15 application, including renewal application.  However,  
16 there are two places where we requested information.  
17 First is as part of our renewal application.  And second  
18 is through an email.

19           HEARING OFFICER EMMERMANN:   The Division does  
20 not send any certified letter or anything like that?

21           THE WITNESS:   There is no such requirement in  
22 the law.  There's also no requirement in the law with  
23 respect to delivery confirmation.

24           HEARING OFFICER EMMERMANN:   You mentioned  
25 something about documents having been provided in

1 response to a subpoena. Do I have -- and this may be a  
2 question for counsel.

3 Do I have a copy of the subpoena that Mr. Jain  
4 was referring to in his testimony?

5 MR. YIEN: It should be in the record.

6 MR. LENHARD: If it's not in the record, I'm  
7 sure we'll turn it over, or he can turn it over, no  
8 problem.

9 HEARING OFFICER EMMERMANN: Okay. I just  
10 wanted to clarify whether it was a subpoena related to  
11 this hearing or if it was a separate subpoena issue.

12 MR. LENHARD: It was underneath the umbrella of  
13 this hearing.

14 HEARING OFFICER EMMERMANN: This hearing.  
15 Okay.

16 MR. LENHARD: Am I correct, Mr. Yien?

17 MR. YIEN: I believe so.

18 MR. LENHARD: Okay.

19 HEARING OFFICER EMMERMANN: I'd like to know  
20 how the certificate of registration works in comparison  
21 to other states. For example, producer licensing, which  
22 I know is not the subject today, but they have  
23 agreements with other states where they have  
24 reciprocity. How does -- does Nevada have this sort of  
25 reciprocity concept with other states as far as service

1 contracts?

2 THE WITNESS: As far as service contracts are  
3 concerned, there is no such thing as reciprocity with  
4 other states. So every service contract provider or  
5 every entity that wishes to sell service contracts in  
6 Nevada would have to submit an application to the State  
7 of Nevada. That application is reviewed for  
8 completeness, for supporting documentation, and a  
9 recommendation is made to the Commissioner through me.

10 Every entity, in a way, is an island of its  
11 own, and every state. Different states have different  
12 laws which regulate, or agency regulates these type of  
13 products. Some states, there may be no regulation.

14 Every state has requirements, that every state  
15 that does regulate, they have different requirements  
16 with respect to financial guarantee, to become  
17 registered. In Nevada, there are three forms of  
18 financial guarantee, a contractual liability insurance  
19 policy, a \$25,000 security deposit or 10 percent of  
20 unearned gross premium, whichever is higher, or if the  
21 holding company has equity, I believe, in excess of a  
22 hundred million dollars.

23 At the same time, in Nevada, there is a  
24 requirement for 40 percent, a reserve account to be  
25 opened with 40 percent of unearned gross premiums being

1 allocated in that account.

2           So we have some, Nevada has some of our own  
3 requirements, but there is no cooperation. The funds,  
4 the security deposits, the reserve deposits are  
5 exclusively for Nevada consumers. They are to be  
6 maintained exclusively with Nevada funds. If we were  
7 to, for example, receive a complaint from Florida  
8 against an entity that is not licensed here, or even if  
9 they are licensed here, we have to defer the complaint  
10 back to that state.

11           Nevada security deposit and reserve accounts  
12 are, our jurisdiction is with respect to Nevada service  
13 contract providers and Nevada consumers.

14           HEARING OFFICER EMMERMANN: You mentioned in  
15 your testimony something about a bank account. Are  
16 service contract registrants required to have a Nevada  
17 bank account, or does it matter where they have it?

18           THE WITNESS: So the bank account requirement  
19 primarily pertains to the 40 percent security, I'm  
20 sorry, reserve amount. And under Nevada law, that  
21 amount is to be maintained in the state of Nevada.

22           HEARING OFFICER EMMERMANN: Do service  
23 contractors, are they subject to examination?

24           THE WITNESS: I believe, they are subject to  
25 audits of their reserve account. I'm not certain about

1 examination of the likes that we undertake on insurance  
2 companies.

3 HEARING OFFICER EMMERMANN: So just for  
4 clarification, you're not sure if service contract,  
5 service contract providers are subject to examination  
6 subject to 679B(2), whatever?

7 THE WITNESS: They may not be subject to  
8 examination; I'm not sure. But they are subject to  
9 audits.

10 HEARING OFFICER EMMERMANN: Okay. And, then,  
11 who conducts the audits at the Division?

12 THE WITNESS: The Division would, either  
13 directly or through an independent third-party vendor.

14 HEARING OFFICER EMMERMANN: Is that your  
15 section that would conduct the audit?

16 THE WITNESS: My section would take the lead.  
17 I imagine other sections maybe may participate in those  
18 audits.

19 HEARING OFFICER EMMERMANN: What other section  
20 would be involved?

21 THE WITNESS: Corporate and Finance.

22 HEARING OFFICER EMMERMANN: Do service contract  
23 providers, are they subject to the RIRS reporting  
24 through the NAIC? RIRS is their regulatory -- okay.

25 THE WITNESS: I don't believe they are.

1 HEARING OFFICER EMMERMANN: And then NAIC is  
2 the National Association of Insurance Commissioners.

3 THE WITNESS: I do not believe they are.

4 HEARING OFFICER EMMERMANN: Okay. Those were  
5 my questions for now. I may have more, depending on how  
6 this hearing proceeds. So I want the parties to know  
7 that if I do have more questions of Mr. Jain, I will let  
8 you know, and we'll pull him back up.

9 But I want to know now, do you have any  
10 questions based on the questions that I asked of  
11 Mr. Jain?

12 MR. YIEN: I have one.

13 HEARING OFFICER EMMERMANN: Okay. Go ahead.

14 MR. YIEN: Do you care who starts?

15 MR. LENHARD: You can go ahead.

16

17 FURTHER REDIRECT EXAMINATION

18 BY MR. YIEN:

19 Q. Mr. Jain, did you just testify that the reserve  
20 account, that's to be Nevada, or did I hear that wrong?  
21 I'm not sure.

22 A. The reserve account, under Nevada law, the  
23 reserve account has to be maintained at a financial  
24 institution based in Nevada.

25 Q. And does the information about the bank account



1 that respondent provided to you show that that is the  
2 case, that the reserve account is in Nevada?

3 A. The bank statements that were provided to me or  
4 my team through the subpoena did not contain the bank  
5 name, address or any other information except a website.  
6 And going to the website, it is my understanding that  
7 the bank does not have a branch in Nevada. In fact, it  
8 appears to me, in going to the website, that the bank  
9 is exclusively located in New Jersey.

10 MR. LENHARD: Are you done?

11 MR. YIEN: I have no further follow-up  
12 questions.

13  
14 FURTHER RECROSS-EXAMINATION

15 BY MR. LENHARD:

16 Q. Didn't the law just change in 2017 requiring  
17 the reserve account to be maintained in Nevada?

18 A. That is correct, it did change.

19 Q. So in 2016, it could have been in New Jersey or  
20 Timbuktu, for that matter, right?

21 A. That is correct.

22 Q. All right. How many times has the department  
23 audited --

24 A. I'm sorry?

25 Q. How many times has your department audited the

1 reserve account of HWAN?

2 A. To my knowledge, never.

3 Q. Okay. How many times has your department  
4 audited the reserve account of AHS?

5 A. Of?

6 Q. American Home Shield?

7 A. To my knowledge, never.

8 MR. LENHARD: I was advised -- I'm sorry.  
9 Madam Hearing Officer, I was advised at the beginning of  
10 the hearing today, Mr. Jain would also be the 30(b)(6)  
11 witness that we had requested on the creation of the  
12 renewal forms. He was also, I believe, I understand, to  
13 be the 30(b)(6) on the investigation. He's testified  
14 extensively about the investigation. I have no need to  
15 go into that.

16 How do you want to handle the 30(b)(6) on the  
17 renewal forms? I could be prepared in a while to ask  
18 him questions about this. You know, they never really  
19 designated the 30(b)(6) until today. So I'm a little  
20 bit disadvantaged.

21 HEARING OFFICER EMMERMANN: Well, how much time  
22 do you think you would need to prepare?

23 MR. LENHARD: Maybe, well, I could get ready in  
24 10 minutes, I mean.

25 HEARING OFFICER EMMERMANN: Well, and I ask

1 because, Mr. Jain, will you be in the office tomorrow?

2 THE WITNESS: I am in the office this afternoon  
3 and tomorrow.

4 HEARING OFFICER EMMERMANN: So in worst case,  
5 then, you would have time tonight maybe to prepare?

6 MR. LENHARD: Sure. That would be fine. I  
7 mean I don't anticipate more than 10 or 15 minutes of  
8 questions on the subject.

9 HEARING OFFICER EMMERMANN: Okay. Do you have  
10 any more questions based on mine?

11 MR. LENHARD: No.

12 HEARING OFFICER EMMERMANN: Okay. And you said  
13 American Home Shield?

14 MR. LENHARD: Yes. They're another service  
15 contract that just recently had done an audit.

16 HEARING OFFICER EMMERMANN: Okay. All right.  
17 Thank you.

18 Okay. So, Mr. Jain, just as a reminder, please  
19 do not talk about your testimony today or any future  
20 thoughts with anybody until the final order is issued.

21 THE WITNESS: Yes.

22 HEARING OFFICER EMMERMANN: Please stay on  
23 standby through tomorrow. I'll let you know if it goes  
24 longer. But we may recall you for...

25 Well, you will recall Mr. --

1 MR. LENHARD: At some point, but we'll do it at  
2 his convenience. It'll be short.

3 HEARING OFFICER EMMERMANN: Okay. And then I  
4 may have you recalled based on questions based on what  
5 proceeds through the hearing.

6 And so you are excused for now.

7 THE WITNESS: Thank you.

8 HEARING OFFICER EMMERMANN: Thank you.

9 So it's 12:05. Are you all in the mood for  
10 lunch, or?

11 MR. LENHARD: Whatever you want to do.

12 HEARING OFFICER EMMERMANN: Let's take an hour  
13 for lunch.

14 I wanted to ask Mr. Chance, are you recording  
15 what's going on in here?

16 No. Okay. Since we have the court reporter,  
17 we usually don't allow external recording devices. I  
18 had it here just in case we have something that's, yes,  
19 a video that we can't capture.

20 So let's take an hour for lunch. And before we  
21 go, I wanted to double-check what exhibits we admitted  
22 were through Mr. Jain. Because, Mr. Lenhard, you had  
23 pointed out one or two that, I think, were, that were  
24 stipulated to at prehearing conference, but I want to  
25 make sure we covered everything. All right.

1 MR. LENHARD: I failed to offer EE. And  
2 counsel just advised me that I actually questioned  
3 about it without offering, which is somewhat improper.

4 Do you have an objection to EE?

5 MR. YIEN: I do not have any objection.

6 HEARING OFFICER EMMERMANN: I thought that the  
7 Division had stipulated to all of your exhibits up until  
8 the ones you provided to us today.

9 MR. LENHARD: And that was one of the ones.

10 HEARING OFFICER EMMERMANN: EE was one of the  
11 ones.

12 MR. LENHARD: Yes. It was my mistake.

13 HEARING OFFICER EMMERMANN: Okay. All right.  
14 So for today, through Mr. Jain, I have Exhibit 6, 1. We  
15 talked about X. So I have it on my list here, but not  
16 through Mr. Jain. Exhibit 3, 8, 13, 29, 10, 11, 24, 38,  
17 9, 14, 15, 16, 17, 18, 25, 33, 34, 35.

18 Am I missing any? Oh, wait. We discussed II  
19 and EE and Q.

20 Did I miss any other exhibits?

21 MR. YIEN: So I assume you're asking me. I  
22 just had marked them off as I was going, and I had also  
23 marked off the ones that opposing counsel had stipulated  
24 to. So I don't know if you've missed something that  
25 was -- I mean perhaps we can just go through the list

## **CERTIFICATE OF SERVICE**

Pursuant to NRAP 25(1)(b) and 25(1)(d), I, the undersigned, hereby certify that I electronically filed the foregoing **APPELLANT'S APPENDIX (VOLUME IV OF XIV)** with the Clerk of Court for the Supreme Court of Nevada by using the Supreme Court of Nevada's E-filing system on May 12, 2020.

I further certify that all participants in this case are registered with the Supreme Court of Nevada's E-filing system, and that service has been accomplished to the following individuals through the Court's E-filing System as indicated below:

**Via Electronic Filing System:**

Richard P. Yien  
Joanna N. Grigoriev

/s/ Joyce Heilich  
An Employee of Holland & Hart LLP