

MAY - 8 2013

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY 

In the Matter of:

**MN HOME WARRANTY CORP., dba
CAPITAL HOME SHIELD,**

Respondent.

No. 13A-057-INS

ORDER TO CEASE AND DESIST

The Arizona Department of Insurance ("Department") has received evidence that Respondent has unlawfully offered or issued service contracts in the State of Arizona and engaged in unfair trade practices. Accordingly, the Director of Insurance of the State of Arizona (the "Director") makes the following Findings of Fact and Conclusions of Law and enters the following Order pursuant to A.R.S. §§ 20-1095.09(B).

FINDINGS OF FACT

1. MN Home Warranty Corp. ("MN Home") is a Florida corporation¹ that, at all times material, did not hold a permit with the Department as a service company.
2. MN Home is not exempt from the permit requirement.
3. MN Home's address of record with the Florida Department of State, Division of Corporations is: 2221 NE 164th St., Suite 1135, North Miami Beach, Florida, 33160.
4. Nathaniel Ben-Yacob is MN Home's sole Director and Statutory Agent.

WASHINGTON ORDER TO CEASE AND DESIST

5. On or about October 6, 2010, the State of Washington, Office of Insurance Commissioner filed an Order to Cease and Desist, In the Matter of MN Home Warranty

¹ The Florida Department of State, Division of Corporations reports that MN Home is currently inactive as a corporation.

1 Corp., dba Capital Home Shield and Capital Home Shield.COM, Unauthorized Entities,
2 Docket No. 10-0186 ("Washington Order").

3 6. The Washington Order listed MN Home Warranty's address as: 2221 NE
4 164th St., Suite 1135, North Miami Beach, Florida 33160.

5 **FLORIDA ORDER TO CEASE AND DESIST**

6 7. On or about January 26, 2011, the Florida Office of Insurance Regulation filed
7 an Order to Cease and Desist, In the Matter of Capital Home Shield, Case No. 111719-10
8 ("Florida Order"). The Florida Order was sent to Capital Home Shield and Patrick W. Gates
9 as President and CEO.

10 .8. The Florida Order listed the address for Capital Home Shield as: 2221 NE
11 164th Street, suite 1135, North Miami Beach, Florida 33060.

12 **UTAH ORDER TO CEASE AND DESIST**

13 9. On or about September 15, 2011, the Insurance Commissioner of the State of
14 Utah filed a Cease and Desist Order, MN Home Warranty Corp. dba Capital Home Shield,
15 Marc A. Kadoch and Nathaniel Ben-Yacob, Respondents, Docket No. 2011-195 PC ("Utah
16 Order").

17 10. The Utah Order listed the address of MN Home Warranty as 2221 NE 164th
18 St., Suite 1135, North Miami Beach, Florida 33160.

19 11. Although unregistered, based on the Washington, Florida and Utah Orders,
20 Capital Home Shield appears to be the dba for MN Home.

21 12. MN Home dba Capital Home Shield advertises through its website:
22 www.capitalhomeshield.com which lists its CEO and President as Patrick W. Gates.

23 **KRAMER COMPLAINT**

24 13. On October 6, 2011, Jeanne Kramer ("Kramer") filed a Complaint with the
25 Department stating that MN Home dba Capital Home Shield failed to pay for repairs to her
26

1 air conditioning unit and failed to return her calls ("Kramer Complaint"). The Kramer
2 Complaint states that on or about July 21, 2010, MN Home dba Capital Home Shield
3 issued a two-year home warranty service contract to Kramer. Kramer paid for the contract
4 in full in the amount of \$574.00. Kramer paid \$6,315.49.00 to replace her air conditioning
5 unit. Kramer is asking for return of the payment she made for the contract totaling \$574.00
6 and for the \$6,315.49 she paid to replace her air conditioning unit.

7 **CONCLUSIONS OF LAW**

- 8 1. The Director has jurisdiction over this matter.
- 9 2. Respondent's conduct, as alleged above, constitutes offering and issuing
10 service contracts without a permit, within the meaning of A.R.S. § 20-1095.01(A).
- 11 3. Respondent is not exempt from the permit requirement, within the meaning of
12 A.R.S. § 20-1095.02(A).
- 13 4. Service company contracts issued by Respondent are enforceable and valid
14 contracts, within the meaning of A.R.S. §20-1095.05.
- 15 5. Respondent's conduct, as alleged above, constitutes the failure to perform
16 the services promised under the service contract within a reasonable time and in a
17 competent manner, which is an unfair trade practice within the meaning of A.R.S. § 20-
18 1095.09(A)(4).
- 19 6. Grounds exist for the Director to order Respondent to cease and desist its
20 violations pursuant to A.R.S. § 20-1095.09(B).

21 **ORDER**

22 **IT IS THEREFORE ORDERED:**

- 23 1. Respondent shall immediately cease and desist from offering or soliciting
24 warranty service contract applications, taking or proposing to make any warranty service
25 contract, taking or receiving any application for warranty service contracts, taking or
26 collecting any payment, fees, commission, or any other consideration for any warranty

1 service contract, issuing or delivering warranty service contracts to residents of this state,
2 or otherwise offering or issuing service contracts to Arizona residents by any means
3 including through an online website.

4 2. Respondent shall pay all valid claims arising out of acts covered by any and
5 all service contract issued by it to Arizona residents, including the contract issued to
6 Jeanne Kramer, for so long as such claims may legally be brought against the contract
7 holders.

8 3. This Order shall become effective immediately and shall remain in full force
9 and effect until otherwise stayed, modified, vacated or set aside.

10 4. Respondent shall, within forty-five (45) days of receipt of this Order, furnish
11 the Department with a complete listing, to include contact information, of all Arizona
12 residents and business who have purchased policies or service contracts sold by
13 Respondent and that Respondent reports to the Department all premiums collected or
14 charged for policies they sold covering Arizona risks.

15 **NOTICE OF OPPORTUNITY FOR HEARING**

16 Pursuant to Title 20 of the Arizona Revised Statutes, Respondent is hereby notified
17 that it may request a hearing pursuant to A.R.S. § 20-161 to contest the order to cease and
18 desist. Such a request must be in writing and received at the following address within thirty
19 (30) days from the date hereof:

20 Arizona Department of Insurance
21 2910 North 44th Street, Suite 210
22 Phoenix, Arizona 85012
23 ATTN: Director's Office
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