

misrepresentations or engaged in lack of candor; whether BOI willfully or repeatedly violated section 258 of the Act and the related Commission rules by changing consumer's preferred carriers without their authorization; whether BOI willfully or repeatedly failed to file a Registration Statement in violation of section 64.1195 of the Commission's rules; whether BOI willfully or repeatedly discontinued service without Commission authorization; whether the BOI's blanket section 214 authorization should be revoked; and whether specific Commission authorization should be required for BOI, or the principal or principals of BOI, to provide any interstate common carrier services in the future.

C. Conclusion

23. In light of the totality of the information now before us, an evidentiary hearing is warranted to determine whether the continued operation of BOI as a common carrier would serve the public convenience and necessity within the meaning of section 214 of the Act. Further, due to the egregious nature of BOI's apparently unlawful activities, BOI will be required to show cause why an order to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission should not be issued. In addition, consistent with our practice in revocation proceedings, the hearing will also address whether a forfeiture should be levied against BOI.

Ordering Clauses

24. Pursuant to sections 4(i) and 214 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 214, the principal or principals of Business Options, Inc. are directed to show cause why the operating authority bestowed on Business Options, Inc. pursuant to section 214 of the Communications Act of 1934, as amended, should not be revoked.

25. Pursuant to section 312(b) of the Communications Act of 1934, as amended, 47 U.S.C. 312(b), the principal or principals of Business Options, Inc. are directed to show cause why an order directing them to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission should not be issued.

26. The hearing shall be held at a time and location to be specified by the Chief Administrative Law Judge in a subsequent order. The ALJ shall apply the conclusions of law set forth in this

Order to the findings that he makes in that hearing, upon the following issues:

(a) to determine whether Business Options, Inc. made misrepresentations or engaged in lack of candor;

(b) to determine whether Business Options, Inc. changed consumers' preferred carrier without their authorization in willful or repeated violation of section 258 of the Act and sections 64.1100–1190 of the Commission's rules;

(c) to determine whether Business Options, Inc. failed to file Form FCC 499–A in willful or repeated violation of section 64.1195 of the Commission's rules;

(d) to determine whether Business Options, Inc. discontinued service without Commission authorization in willful or repeated violation of section 214 of the Act and sections 63.71 and 63.505 of the Commission's rules;

(e) to determine, in light of all the foregoing, whether Business Options, Inc.'s authorization pursuant to section 214 of the Act to operate as a common carrier should be revoked;

(f) to determine whether, in light of all the foregoing, Business Options, Inc., and/or its principals should be ordered to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission;

27. The Chief, Enforcement Bureau, shall be a party to the designated hearing. Both the burden of proceeding and the burden of proof shall be upon the Enforcement Bureau as to issues (a) through (f) inclusive.

28. To avail themselves of the opportunity to be heard, the principal or principals of Business Options, Inc., pursuant to section 1.91(c) of the Commission's rules, shall file with the Commission within 30 days of the mailing of this Order to Show Cause and Notice of Opportunity for Hearing a written appearance stating that a principal or other legal representative from Business Options, Inc. will appear at the hearing and present evidence on the matters specified in the Show Cause Order. If Business Options, Inc. fail to file a written appearance within the time specified, Business Options, Inc.'s right to a hearing shall be deemed to be waived. In the event that the right to a hearing is waived, the Presiding Judge, or the Chief, Administrative Law Judge if no Presiding Judge has been designated, shall terminate the hearing proceeding as to that entity and certify this case to the Commission in the regular course of business, and an appropriate order shall be entered.

29. If it is determined that BOI has willfully or repeatedly violated any

provision of the Act or the Commission's rules cited in the Order to Show Cause and Notice of Opportunity for Hearing, it shall be further determined whether an Order for Forfeiture shall be issued pursuant to section 503(b) of the Communications Act of 1934, as amended, in the amount of no more than: (a) \$80,000 for each unauthorized conversion of complainants' long distance service in violation of 47 U.S.C. 258 and 47 CFR 64.1120; (b) \$3,000 for the failure to file a sworn statement or a Registration Statement in violation of a Commission directive and 47 CFR 64.1195; and (c) \$120,000 for the unauthorized discontinuance of service to a community in violation of 47 U.S.C. 214 and 47 CFR 63.71 and 63.505.

30. This document constitutes a notice of opportunity for hearing pursuant to section 503(b)(3)(A) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b)(3)(A), for the potential forfeiture liability outlined above.

31. *It is further ordered* that a copy of this order to show cause and notice of opportunity for hearing shall be sent by certified mail, return receipt requested, to Kurtis Kintzel, President and Chairman of the Board of Business Options, Inc., 8380 Louisiana Street, Merrillville, Indiana 46410–6312.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested