

1 CALIFORNIA DEPARTMENT OF INSURANCE
2 LEGAL DIVISION

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11 **BEFORE THE INSURANCE COMMISSIONER**
12 **OF THE STATE OF CALIFORNIA**

13 In the Matter of:

14 AGRICULTURAL CONTRACTING
15 SERVICES ASSOCIATION, INC. dba
16 AMERICAN LABOR ALLIANCE
17 WORKERS' COMPENSATION FUND &
18 TRUST, dba COMPONE USA, and
19 MARCUS ASAY,

20 Respondents.

File No. VA201600137

**ORDER TO CEASE AND DESIST
and NOTICE OF RIGHT
TO HEARING**

(Insurance Code § 12921.8)

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25 TO: AGRICULTURAL CONTRACTING SERVICES ASSOCIATION, INC. dba
26 AMERICAN LABOR ALLIANCE WORKERS' COMPENSATION FUND & TRUST, dba
27 COMPONE USA, and MARCUS ASAY
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1 **JURISDICTION AND PARTIES**

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3 1. The California Department of Insurance, (hereafter “Department”), brings this
4 matter against Agricultural Contracting Services Association, American Labor Alliance Workers’
5 Compensation Fund & Trust, CompOne USA, and Marcus Asay before the Insurance
6 Commissioner of the State of California, (hereafter “Insurance Commissioner”).

7 2. Agricultural Contracting Services Association is a non-profit corporation
8 domiciled in Nevada, registered in the State of California on February 10, 2010, under ID No.
9 C3283442 (hereafter “Respondent ACSA”). American Labor Alliance Workers’ Compensation
10 Fund & Trust and CompOne USA are both listed as separate dba for Respondent ACSA.

11 3. American Labor Alliance Workers’ Compensation Fund & Trust (hereafter
12 “Respondent ALA”) is not a separate registered entity with the State of California, although is it
13 registered as a MEWA with the U.S. Department of Labor. ALA is not registered as a MEWA
14 with the Department, pursuant to California Insurance Code section 742.20 *et seq.*, including, but
15 not limited to 742.23.

16 4. CompOne USA Interinsurance Services, Inc. is a corporation registered in the
17 State of Texas on September 25, 2015 under ID No. 802300057. CompOne USA is a division of
18 CompOne USA Interinsurance Services, Inc. (hereafter “Respondent CompOne”)

19 5. Marcus Asay (hereafter “Respondent Asay”), is the Co-founder, Chairman, and a
20 controlling person of Respondent ACSA, Respondent ALA, and Respondent CompOne.

21 6. Hereafter these Respondents shall be known collectively as “Respondents.”
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23 **FINDINGS & AUTHORITY**

24 7. Insurance Code § 12921.8(a) authorizes the Insurance Commissioner to issue a
25 Cease and Desist Order to a person who has acted in a capacity for which a license, registration,
26 permit, or Certificate of Authority from the Insurance Commissioner was required but not
27 possessed.
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8. Insurance Code § 12921.8 does not require the Insurance Commissioner to hold a hearing prior to issuing a Cease and Desist Order.

9. Insurance Code section 742.23 provides as follows:
- a) After December 31, 1995, a self-funded or partially self-funded multiple employer welfare arrangement shall not provide any benefits for any resident of this state without first obtaining a certificate of compliance pursuant to this article, provided, however, that if the commissioner has not issued or denied an application for a certificate of compliance within 180 calendar days of the date of the filing of the completed application, the commissioner shall not take any action against the applicant solely on the basis that the department has not granted the certificate of compliance.
 - b) The department may take regulatory action against a MEWA pursuant to all applicable provisions of this code during the period beginning on the effective date of this act and ending on the date on which the MEWA is certified under this article, at which time the provisions of this article shall apply.

10. Insurance Code section 700 provides as follows:
- a) A person shall not transact any class of insurance business in this state without first being admitted for that class. Except for the State Compensation Insurance Fund as authorized by Sections 11770 and 11778 to 11780.5, inclusive, admission is secured by procuring a certificate of authority from the commissioner. The certificate shall not be granted until the applicant conforms to the requirements of this code and of the laws of this state prerequisite to its issue.
 - b) The unlawful transaction of insurance business in this state in willful violation of the requirement for a certificate of authority is a public offense punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by fine not exceeding one hundred thousand dollars (\$100,000), or by both that fine and imprisonment, and shall be enjoined by a court of competent jurisdiction on petition of the commissioner.

1 11. Insurance Code section 1631 provides that “[u]nless exempt by the provisions of this
2 article, a person shall not solicit, negotiate, or effect contracts of insurance, or act in any of the
3 capacities defined in Article 1 (commencing with Section 1621) unless the person holds a valid
4 license from the commissioner authorizing the person to act in that capacity. The issuance of a
5 certificate of authority to an insurer does not exempt an insurer from complying with this article.”

6 12. Respondents are not currently licensed or authorized by the Insurance
7 Commissioner to act in any capacity regarding the transaction of insurance in California, and
8 during relevant periods herein, did not hold any license, Certificate of Authority, or permit ,
9 issued by the Insurance Commissioner, to act in any capacity regarding the transaction of
10 insurance in California.

11 13. From at least March 2016 to August 2016, Respondents have improperly solicited,
12 marketed, sold, and/or issued what they have represented to be workers compensation benefits to
13 employers and agents in California. Specifically, Respondents transacted workers compensation
14 insurance as an insurer and/or broker on the following instances:

15 (a) On or about March 31, 2016, Respondent CompOne USA issued a Certificate
16 of Liability Insurance, policy number WC2016-00506-06, listing Cen Cal Ag as
17 the insured and WestPac as the certificate holder. The Certificate of Liability
18 Insurance lists the Insurers as ALA, Travelers Casualty & Surety Co. and National
19 Union Fire Insurance Co. The policy period is listed as March 14, 2016 to March
20 21, 2017. Respondent Asay is listed as the “authorized representative” on the
21 Certificate of Liability Insurance and signed the certificate in that capacity. The
22 Certificate of Liability Insurance lists coverage for Workers’ Compensation and
23 Employers’ liability with \$1,000,000.00 as accident, employee and policy limits.
24 Neither Travelers nor National issued policy number WC2016-00506-06 nor any
25 other Workers’ Compensation policy in the name of Cen Cal Ag or WestPac.

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27 (b) On or about June 21, 2016, Respondent CompOne USA issued a Certificate of
28 Liability Insurance, policy number WC2016-00306-37, listing SPBY, Inc. dba

1 ServPro as the insured and DOSH – Asbestos Contractor Registration Unit as the
2 certificate holder. The Certificate of Liability Insurance lists the Insurer as
3 Travelers Casualty & Surety Co. The policy period is listed as June 21, 2016 to
4 June 21, 2017. Respondent Asay is listed as the “authorized representative” on the
5 Certificate of Liability Insurance and signed the certificate in that capacity. The
6 Certificate of Liability Insurance lists coverage for Workers’ Compensation and
7 Employees’ liability with \$1,000,000.00 limits for accident, employee and policy
8 limits. SPBY paid \$27,760.83 as a premium deposit to ALA, including \$750 for a
9 rating fee. SPBY was never advised of any additional rating fees. After
10 submitting the policy to the Department of Industrial Relations as part of SPBY’s
11 license renewal, the DIR rejected the policy, stating that it did not appear
12 legitimate. Travelers did not issue policy number WC2016-00306-37 or any other
13 Workers’ Compensation policies issued in the name of SPBY, Inc. dba ServPro.
14 SPBY was forced to obtain valid workers compensation coverage with another
15 carrier, but has not recovered any refund from Respondent ALA and/or
16 Respondent Asay.

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18 (c) On or about July 18, 2016, Respondent CompOne USA issued a Certificate of
19 Liability Insurance, policy number WC2016-005010-10, listing to Mold Solutions,
20 Inc. as the insured and Travelers Casualty & Surety Co. as the insurer. The policy
21 period is listed as April 1, 2016 to April 1, 2017. Respondent Asay is listed as the
22 “authorized representative” on the Certificate of Liability Insurance and signed the
23 certificate in that capacity. The Certificate of Liability Insurance lists coverage for
24 Workers’ Compensation and Employees’ liability with \$1,000,000.00 as accident,
25 employee and policy limits. Travelers did not issued policy number WC2016-
26 005010-10 or any other Workers’ Compensation policies issued in the name of
27 Mold Solutions, Inc.
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1 (d) On or about July 19, 2016, Respondent Asay and Respondent ALA offered to
2 provide Workers Compensation insurance to Tapatio Auto and Truck Dismantling
3 (Tapatio). The proposal provided to Tapatio quoted a deposit premium due of
4 \$15,236.46, including a rating fee of \$500.00.

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6 (e) On or about August 3, 2016, Respondent CompOne USA issued a Certificate
7 of Liability Insurance, policy number WC2016-005006-01, listing Ramone
8 Enterprises c/o Ruth Dias dba 7 Contracting as the insured and Terra Farming as
9 the certificate holder. The Certificate of Liability Insurance lists the Insurer as
10 Travelers Casualty & Surety Co. The policy period is listed as August 1, 2016 to
11 August 1, 2017. Respondent Asay is listed as the “authorized representative” on
12 the Certificate of Liability Insurance and signed the certificate in that capacity.
13 The Certificate of Liability Insurance lists coverage for Workers’ Compensation
14 and Employees’ liability with \$1,000,000.00 as accident, employee and policy
15 limits. Travelers did not issue policy number WC2016-005006-01 nor any other
16 Workers’ Compensation policies in the name of Terra Farming or Ramone
17 Enterprises.

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19 (f) On or about August 3, 2016, Respondent CompOne USA issued a Certificate
20 of Liability Insurance, policy number WC2016-005006-01, listing Ramone
21 Enterprises c/o Ruth Dias dba 7 Contracting as the insured and Lagomarsino
22 Group as the certificate holder. The Certificate of Liability Insurance lists the
23 Insurer as Travelers Casualty & Surety Co. The policy period is listed as August
24 1, 2016 to August 1, 2017. Respondent Asay is listed as the “authorized
25 representative” on the Certificate of Liability Insurance and signed the certificate
26 in that capacity. The Certificate of Liability Insurance lists coverage for Workers’
27 Compensation and Employees’ liability with \$1,000,000.00 as accident, employee
28 and policy limits. Travelers did not issue policy number WC2016-005006-01 nor

1 any other Workers' Compensation policies in the name of Lagomarsino Group or
2 Ramone Enterprises.

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4 14. Respondents, during the relevant period herein, did not have an insurance license,
5 permit, certificate, registration, or authorization to transact any insurance business for the
6 aforementioned policies, which is in direct contravention of California Insurance Code Sections
7 700, 742.23 and 1631.

8 15. The facts stated in paragraph 13 - 14 show Respondents are acting in a capacity for
9 which a license, registration, or certificate of authority from the commissioner is required but not
10 possessed. Specifically, Respondents are soliciting and marketing Workers Compensation
11 insurance coverages and issuing fraudulent insurance policies in California without authorization
12 to do so.

13 **ORDER TO CEASE AND DESIST**

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15 16. NOW THEREFORE, RESPONDENTS ARE HEREBY ORDERED to
16 immediately CEASE AND DESIST from acting as an insurance agent, producer, insurer, or any
17 other capacity in the State of California without a valid license, permit, or Certificate of Authority
18 to do so, including but not limited to transacting as a producer or insurer.

19 17. RESPONDENTS ARE FURTHER ORDERED TO immediately cease and desist
20 from the following:

- 21 a. Transacting insurance in the State of California in any capacity, including but not
22 limited to insurer, insurance agent, broker, or solicitor.
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24 b. Advertising or acting as an insurer, insurance agent, broker, or solicitor in the State
25 of California.
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27 c. Advertising or acting as an insurer, insurance agent, broker, or solicitor exempt
28 from regulation in the State of California.

- 1 d. Advertising, or participating in advertising, by newspaper, telephone book or
2 listing, mail, handout, business card, or by any other written or printed
3 presentation, or by telephone, radio, television, Internet, public outcry or
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5 proclamation, or in any other manner or means whatsoever, whether personally or
6 through others, that implies that they are licensed, permitted, or authorized, or are
7 engaged in the business of soliciting, negotiating, executing, delivering, or
8 furnishing insurance in the State of California in any manner.
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10 e. Receiving any money, commission, fee, rebate, payment, remuneration, or any
11 other valuable consideration whatsoever, in connection with any insurance
12 transactions.

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14 **NOTICE OF FINE**

15 PLEASE TAKE NOTICE that the Insurance Commissioner may, pursuant to Insurance
16 Code § 12921.8(a)(3)(B), impose a fine of up to five thousand dollars (\$5,000) for each day this
17 Order is violated.
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19 **NOTICE OF RIGHT TO HEARING**

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21 Insurance Code § 12921.8(c), provides in part, as follows:

22 “A person to whom a cease and desist order...has been issued, may,
23 within seven days after service of the order...request a hearing by filing
24 a request for the hearing with the commissioner.”


25 If you desire a hearing in this matter, your written request for a hearing must be received
26 within seven days after you are served with this Order. The seven day period begins on the day
27 after you are served with this Order, and if the seventh day falls on a weekend or holiday, the
28 deadline is extended to the next business day. Your written request for a hearing must be directed

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to: Teresa R. Campbell
Assistant Chief Counsel
California Department of Insurance,
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IN WITNESS THEREOF, I have set my hand and affixed my official seal, this
17th day of October, 2016.

DAVE JONES
Insurance Commissioner

By: 
TERESA R. CAMPBELL
Assistant Chief Counsel