



1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S.A. §101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order, and the Findings of Fact and Conclusions of Law contained herein, shall have the full force and effect of an Order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

#### FINDINGS OF FACT

3. The Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

(a) Respondent is Affinity Insurance Services, Inc. and maintains its address at 159 East County Line Road, Hatboro, Pennsylvania 19040.

(b) Respondent is, and at all times relevant hereto has been, a licensed insurance producer.

(c) During 2004, Calvin R. Johnson, a surplus lines licensee employed and acting on behalf of the Respondent, signed and submitted approximately 41 surplus

lines filings for policies that identified him as the retail and surplus lines producer of the policies.

- (d) Respondent submitted the 41 surplus lines filings as accommodations to the producing agency, Huntington T. Block Insurance Agency, Incorporated, which was also a corporate affiliate of Respondent.
- (e) The 41 surplus lines policies were issued by Columbia Casualty Company to provide liability coverage to nursing homes.
- (f) Respondent submitted documents, including insurance binders and marketing brochures, with the 41 surplus lines filings that showed the insurance was procured by three producers employed by Huntington T. Block Insurance Agency.
- (g) The three unlicensed producers employed by Huntington T. Block Insurance Agency were Patricia C. Phinney, Danielle C. Harris and Renee Serpico, none of which possessed Pennsylvania insurance licenses but interacted with the 17 retail producers.
- (h) The three unlicensed producers employed by Huntington T. Block Insurance Agency procured the surplus lines insurance from Columbia Casualty

Company on behalf of retail producers and agencies that were licensed in Pennsylvania.

- (i) On June 7, 2005, Calvin R. Johnson confirmed that he acted as an employee of Respondent to accommodate the surplus lines filings for Huntington T. Block Insurance Agency but did not interact with the 17 retail producers or the respective policyholders.
- (j) On June 7, 2005, Respondent asserted that the unlicensed producers who identified themselves on marketing brochures with Huntington T. Block Insurance Agency worked for Respondent in Washington, District of Columbia, to administer applications and insurance binders.
- (k) During 2004, Calvin R. Johnson, acting on behalf of Respondent, signed and submitted 10 surplus lines filings for policies issued by Lloyd's London under the name of TechShield, a division of Respondent.
- (l) TechShield was identified on the declarations for the Lloyd's London policies as the producer although it possessed Pennsylvania insurance licenses.
- (m) On June 7, Calvin R. Johnson acted on behalf of Respondent by signing and submitting the surplus lines filings, including the due-diligence affidavit, and confirmed that he did not participate in the procurement of the insurance.

- (n) On or about June 4, 2004, Calvin R. Johnson acted on behalf of Respondent by signing and submitting the surplus lines filing for Lloyd's London policy #AWC0010137 that was issued to Healthcare Marketing Communications, Bethlehem, Pennsylvania, through Seth Fleischer, an unlicensed retail producer employed by Aon Risk Services of Washington, District of Columbia.
- (o) On or about December 30, 2004, Calvin R. Johnson acted on behalf of Respondent by signing and submitting the surplus lines affidavit for Lloyd's London policy #IT-EO-04-0084 that was issued to Saint Clair Health Corporation, Oak Ridge, Pennsylvania, through Thomas O. McCurdy, an unlicensed retail producer employed by Insuretrust, Atlanta, Georgia, an unlicensed insurance agency.
- (p) During 2004, Calvin R. Johnson acted on behalf of Respondent by signing and submitting the surplus lines affidavit and due-diligence affidavit for Lloyd's London policy #CR0300057, effective February 26, 2004, that was issued to American Association for Cancer Research, Philadelphia, Pennsylvania, through Amy L. Doherty, an unlicensed retail producer employed by Respondent in Washington, District of Columbia.

## CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner concludes and finds the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Section 611-A(11) of Act 147 of 2002 prohibits a licensee from knowingly accepting insurance business which was sold, solicited or negotiated by a person who is not licensed as an insurance producer.
- (c) Respondent's activities described above in paragraphs 3(c) through 3(p) violates Section 611-A(11) of Act 147 of 2002 (40 P.S. § 310.11).
- (d) Section 611-A(20) of Act 147 of 2002 prohibits a licensee from demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the department that the licensee is worthy of licensure (40 P.S. § 310.11).
- (e) Respondent's activities described above in paragraphs 3(c) through 3(p) demonstrate lack of fitness, competence or reliability, in violation Section

611-A(20) of Act 147 of 2002.

- (f) Section 631-A(a) of Act 147 of 2002 prohibits a licensee from engaging in activities requiring a manager or exclusive general agent license without being licensed as a manager or exclusive general agent by the department.
  
- (g) Respondent's activities described above in paragraphs 3(c) through 3(p) violates Section 631-A(a) of Act 147 of 2002 (40 P.S. § 310.31).
  
- (h) Respondent's violations of Sections 611-A(11), (20) and 631-A(a) of Act 147 are punishable by the following, under Section 691-A of Act 147 of 2003 (40 P.S. § 310.91):
  - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
  - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
  - (iii) an order to cease and desist; and
  - (iv) any other conditions as the Commissioner deems appropriate.
  
- (i) Section 1609 of the Surplus Lines Act requires that within forty-five (45) days after insurance has been placed in an eligible surplus lines insurer, the surplus lines licensee shall file with the Department a written declaration of his lack of

knowledge of how the coverage could have been procured from admitted insurers.

(j) Respondent's activities described above in paragraphs 3(c) through 3(p) constitute failure to file a written declaration of lack of knowledge of how the coverage could have been procured from admitted insurers within forty-five (45) days after insurance has been placed.

(k) Section 1616 of the Surplus Lines Act stipulates that a surplus lines licensee may accept insurance from any broker duly licensed as to the kind or kinds of insurance involved.

(l) Respondent's activities described above in paragraphs 3(c) through 3(p) constitute accepting business from unlicensed brokers.

(m) Respondent's violations of Sections 1609 and 1616 of the Surplus Lines Act are punishable by the following, under Section 1625(b) of the Insurance Company Law:

(i) imposition of a penalty not exceeding \$1,000 for the first offense and \$2,000 for each succeeding offense.

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner orders and Respondent consents to the following:

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
  
- (b) Respondent shall pay a civil penalty of Forty Thousand Dollars (\$40,000.00) to the Commonwealth of Pennsylvania. This penalty shall be made payable to the Commonwealth of Pennsylvania, and directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment may be enclosed with the Consent Order, but must be paid in any event no later than thirty (30) days after the date of the Consent Order.
  
- (c) Respondent's certificates and licenses may be immediately suspended by the Department following its investigation and determination that (i) penalty or restitution payment has not been made, (ii) any terms of this Order have not been complied with, or (iii) any complaint against Respondent is accurate and a statute or regulation has been violated. The Department's right to act under this section is limited to a period of five (5) years from the date of this Order.

(d) Respondent specifically waives its right to prior notice of said suspension, but will be entitled to a hearing upon written request received by the Department no later than thirty (30) days after the date the Department mailed to Respondent by certified mail, return receipt requested, notification of said suspension, which hearing shall be scheduled for a date within sixty (60) days of the Department's receipt of Respondent's written request.

(e) At the hearing referred to in paragraph 5(d) of this Order, Respondent shall have the burden of demonstrating that it is worthy of a license.

(f) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 5(c) above, and Respondent either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that it is worthy of a license, Respondent's suspended certificates and licenses shall be revoked.

6. In the event the Deputy Insurance Commissioner finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein, the Department may pursue any and all legal remedies available, including but not limited to the following: The Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law; or, if

applicable, the Department may enforce the provisions of this Order in any other court of law or equity having jurisdiction.

7. Alternatively, in the event the Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

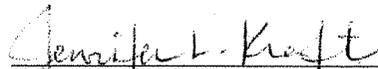
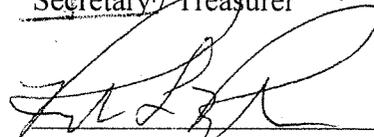
11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or the duly authorized Deputy

Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner.

BY: AFFINITY INSURANCE  
SERVICES, INC., Respondent



\_\_\_\_\_  
President / Vice President

  
\_\_\_\_\_  
Secretary / Treasurer

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RANDOLPH L. ROHRBAUGH  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania