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ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
AMBROSE FINANCIAL GROUP, INC. 100 Baltimore Pike, Route 1, Suite 110 Chadds Ford, PA 19317	:	Sections 611-A(20) and 647-A of Act 147 of 2002 (40 P.S. §§ 310.11 and 310.47)
	:	Sections 5(a)(1)(i) and 5(a)(2) of the Unfair Insurance Practices Act, Act of July 22, 1974, P.L. 589, No. 205 (40 P.S. §§ 1171.5)
	:	Title 31, Pennsylvania Code, Sections 87.7, 87.35 and 87.42
Respondent.	:	Docket No. CO04-01-017

CONSENT ORDER

AND NOW, this 15th day of April, 2004, this Order is hereby issued by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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. § 101, et seq., or other applicable law.

(d) Two parts of the plan, the Supplemental Executive Retirement Plan, and the Action Plan, used the following terms: investing, invest, investment and investments.

(e) The terms referenced in paragraph (d) above were used in the financial plan to describe a Pacific Life Insurance Company Flexible Premium Variable Life insurance policy.

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(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).

(c) Respondent's activities described above in paragraphs 3(d) and 3(e) violate Section 611-A(20) of Act 147 of 2002.

(d) Section 647-A(1) of Act 147 of 2002 (40 P.S. § 310.47) prohibits producers from misrepresenting the terms of policies and future dividends.

(e) Respondent's activities described above in paragraphs 3(d) and 3(e) constitute misrepresenting the terms of policies and future dividends and violate Section 647-A of Act 147 of 2002 (40 P.S. § 310.47).

(f) Respondent's violations of Sections 611-A(20) and 647-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (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 each violation of the Act;

(iii) an order to cease and desist; and

(iv) any other conditions as the Commissioner deems appropriate.

(g) Section 5(a)(1)(i) of the Unfair Insurance Practices Act prohibits persons from misrepresenting the benefits, advantages, conditions or terms of any insurance policy (40 P.S. § 1171.5).

(h) Respondent's activities described above in paragraphs 3(d) and 3(e) constitute misrepresenting the benefits, advantages, conditions or terms of any insurance policy and violate Section 5(a)(1)(i) of the Unfair Insurance Practices Act (40 P.S. § 1171.5).

(i) Section 5(a)(2) of the Unfair Insurance Practices Act prohibits persons from making, issuing, publishing or circulating in any manner an advertisement, announcement or statement containing any representation or statement with respect to the business of insurance or with respect to any person in the conduct of insurance business which is untrue, deceptive or misleading (40 P.S. § 1171.5).

(j) Respondent's activities described above in paragraphs 3(d) and 3(e) constitute making, issuing, publishing or circulating in any manner an advertisement, announcement or statement containing any representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business which is untrue, deceptive or misleading and violate Section 5(a)(2) of the Unfair Insurance Practices Act (40 P.S. § 1171.5).

(k) Respondent's violations of Sections 5(a)(1)(i) and 5(a)(2) of the Unfair Insurance Practices Act are punishable by the following, under Sections 8, 9, and 11 of the Act (40 P.S. §§ 1171.8, 1171.9, and 1171.11):

(i) order requiring Respondent to cease and desist from engaging in such violation and/or, if such violation is a method of competition, act or practice defined in Section 5 of this Act, suspension or revocation of Respondent's license(s);

(ii) commencement of an action against Respondent for the following civil penalties:

(1) for each method of competition, act or practice defined in Section 5 and in violation of the Act which Respondent knew or reasonably should have known was such a violation, a penalty of not more than five thousand dollars ($5,000.00) for each violation, not to exceed an aggregate penalty of fifty thousand dollars ($50,000.00) in any six month period;

(2) for each method of competition, act or practice defined in Section 5 and in violation of this Act which Respondent did not know nor reasonably should have known was such a violation, a penalty of not more than one thousand dollars ($1,000.00) for

each violation, not to exceed an aggregate penalty of ten thousand dollars ($10,000.00) in any six month period;

(3) for each violation of an Order issued by the Commissioner pursuant to Section 9 of the Act, while such Order is in effect, a penalty of not more than ten thousand dollars ($10,000.00).

(l) Title 31, Pennsylvania Code, Section 87.7, prohibits the use of the terms "investment" or "investment plan" or other similar terms in connection with a policy of life insurance or an annuity contract in a context which would mislead a purchaser of a policy to believe that he will receive something other than a life insurance policy or annuity contract.

(m) Respondent's activities described above in paragraphs 3(d) and 3(e) constitute use of investment language in conjunction with an insurance product, in violation of Title 31, Pennsylvania Code, Section 87.7.

(n) Title 31, Pennsylvania Code, Section 87.35, prohibits an agent or broker including in any sales presentations, proposed answers to be used in response to questions from a prospect designed to avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation.

(o) Respondent's activities described above in paragraphs 3(d) and 3(e) constitute inclusion of prepared responses designed to avoid a clear statement that life insurance was the subject matter of the presentation, in violation of Title 31, Pennsylvania Code, Section 87.35.

(p) Title 31, Pennsylvania Code, Section 87.42, prohibits an agent, broker or company from making a reference to a policy of life insurance misrepresenting the true nature of the policy.

(q) Respondent's activities described above in paragraphs 3(d) and 3(e) constitute misrepresenting the true nature of the policy of life insurance, in violation of Title 31, Pennsylvania Code, Section 87.42.

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 One Thousand Dollars ($1,000.00) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made by certified check or money order, payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1311 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 payment has not been made, or (ii) any other 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 three (3) 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: ______________________________
THOMAS K. AMBROSE, on behalf of
AMBROSE FINANCIAL GROUP, INC.,
Respondent

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RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The Administrative Code of 1929

AND NOW, this 29 day of April, 2002, Randolph L. Rohrbaugh, Deputy Insurance Commissioner, is hereby designated as the Commissioner's duly authorized representative for purposes of entering in and executing Consent Orders. This delegation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.

M. Diane Koken
Insurance Commissioner