

RECEIVED
INSURANCE DEPARTMENT
04 JAN -6 PM 1:52

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
UNITED AMERICAN INSURANCE	:	Section 5(a)(2) of the Unfair
COMPANY	:	Insurance Practices Act, Act of
100 West Tenth Street	:	July 22, 1974, P.L. 589, No. 205
Wilmington, DE 19801	:	(40 P.S. § 1171.5)
	:	
	:	Title 31, Pennsylvania Code,
	:	Section 51.3(a)(b) and 51.35
	:	
Respondent.	:	Docket No. CO03-11-017

CONSENT ORDER

AND NOW, this *6th* day of *January*, 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 he has received proper notice of his rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 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 United American Insurance Company with a statutory office located at 100 West Tenth Street, Wilmington, Delaware 19801.
- (b) During all times relevant to the matters addressed in this Consent Order, Respondent was, and is, a stock company domiciled in Delaware, and licensed to conduct the business as an insurer in the Commonwealth of Pennsylvania.
- (c) In March, 2003, three captive agents of Respondent: Karen E. Dolan, Christopher F. Villwock and Craig J. Villwock, with the approval of their Branch Manager Pat Giachetti, placed an advertisement in the *Allentown*

Morning Call newspaper and used Respondent's toll free number as a contact point for coverage.

- (d) The toll free number, 877-901-6854, is registered to Respondent at a branch office located at 16101 Snow Road, Suite 204, Brookpark, Ohio 44142.
- (e) The advertisement failed to indicate the name of Respondent, and the individuals involved failed to notify Respondent about placing the advertisements.

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 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 his insurance business which is untrue, deceptive or misleading (40 P.S. § 1171.5).

(c) Respondent's activities described above in paragraphs 3(c) through 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).

(d) Respondent's violations of Section 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).
- (e) Title 31, Pennsylvania Code, Section 51.3, requires every company to, at all times, maintain complete control over the content, form and method of dissemination of all advertisements of its contracts. All such advertisements, regardless of by whom written, created or designed shall be the responsibility of the company whose contracts are being advertised.

Advertisements prepared by persons other than the company for which the advertisement is intended to be used shall, prior to its use, be approved in writing by an officer of the company.

- (f) Respondent's activities described above in paragraphs 3(c) through 3(e) constitute failing to have control over its advertisements, in violation of Title 31, Pennsylvania Code, Section 51.3.
- (g) Title 31, Pennsylvania Code, Section 51.35, requires the name of the actual insuring company to be clearly identified in all of its advertisements.
- (h) Respondent's activities described above in paragraphs 3(c) through 3(e) constitute failing to identify the company name in its advertisement, in violation of Title 31, Pennsylvania Code, Section 51.35.

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. This penalty shall be made payable to the Commonwealth of Pennsylvania, and 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.

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.

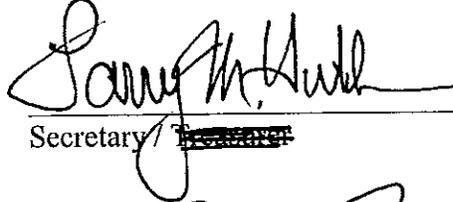
11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law contained herein, and this Consent

Order is not effective until executed by the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner.

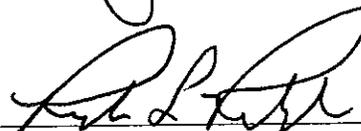
BY: UNITED AMERICAN INSURANCE
COMPANY, Respondent



~~President~~ / Vice President



Secretary / ~~Treasurer~~



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
M. Diane Koken
Insurance Commissioner