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PA INSURANCE DEPARTMENT
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ADMINISTRATIVE HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
ROBERT W. ZELNICK	:	Section 611-A(7) of Act 147 of
240 Johnston Drive	:	2002 (40 P.S. § 310.11(7))
Bethlehem, PA 18017	:	
	:	Title 31, Pennsylvania Code,
	:	Sections 51.33 and 51.35
	:	
Respondent.	:	Docket No. CO04-05-011

CONSENT ORDER

AND NOW, this 24th day of June, 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 Robert W. Zelnick, and maintains his address at 240 Johnston Drive, Bethlehem, Pennsylvania 18017.
- (b) At all relevant times herein, Respondent has been a licensed Pennsylvania resident insurance agent.
- (c) On or about February 2, 2004, Respondent posted flyers/advertisements addressing Zinc and Horsehead Industries, Inc.'s retirees for a "Free Breakfast and Medicare Meeting" at Bert's Steakhouse & Restaurant, Palmerton, Pennsylvania.

- (d) Respondent's flyers reflected the topic of the meeting on February 10, 2004, would be Medicare updates and supplements, and prescriptions, and asserted that attendees could get the "right plan at the right price".
- (e) Respondent's flyers contained information regarding individuals under the age of 65, including full coverage for individuals/families, optional dental and prescription (\$15 co-pay and 50% discount for brand names), and contained the quotation "Better prices versus the Blues".
- (f) Respondent failed to identify the insurance carriers associated with the insurance plans that attendees could purchase.
- (g) On February 6, 2004, Respondent agreed to cancel the February 10, 2004 "Free Breakfast and Medicare Meeting".

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(7) of Act 147 of 2002 prohibits a licensee from using fraudulent, coercive or dishonest practices or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business (40 P.S. § 310.11).

(c) Respondent's activities described above in paragraphs 3(c) through 3(g) violates Section 611-A(7) of Act 147 of 2002.

(d) Respondent's violations of Sections 611-A(7) 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.

(e) Title 31, Pennsylvania Code, Section 51.33 requires if a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will

vary with the amount of the benefits selected. When an advertisement refers to various benefits which may be contained in two or more policies, other than group master policies, the advertisement shall disclose that such benefits are provided only through a combination of such policies.

- (f) Respondent's activities described above in paragraphs 3(c) through 3(g) violate Title 31, Pennsylvania Code, Section 51.33.
- (g) Title 31, Pennsylvania Code, Section 51.35 requires the name of the actual insuring company shall be clearly identified in all of its advertisements, and the contracts advertised shall be identified by form number or other identification, to clearly identify the contract advertised.
- (h) Respondent's activities described above in paragraphs 3(c) through 3(g) violate 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.

(e) At the hearing referred to in paragraph 5(d) of this Order, Respondent shall have the burden of demonstrating that he 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 he 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.

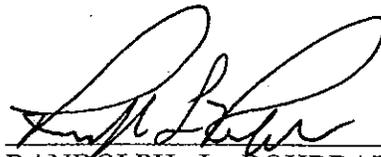
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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:



ROBERT W. ZIELNICK, Respondent



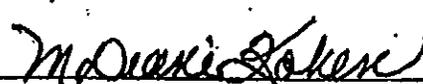
RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

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