

RECEIVED
INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA
ADMIN HEARINGS OFFICE

2007 DEC -4 AM 11:04

IN RE:	:	VIOLATIONS:
	:	
FAMILY DIRECT INSURANCE	:	Section 5(a)(2) of the Unfair
SERVICES, INC.	:	Insurance Practices Act, Act of
870 Glenn Drive	:	July 22, 1974, P.L. 589, No. 205
Folsom, CA 95630	:	(40 P.S. § 1171.5(a)(2))
	:	
Respondent.	:	
	:	
	:	
	:	
	:	Docket No. CO07-10-004

CONSENT ORDER

AND NOW, this 3rd day of DECEMBER, 2007, 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.

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.

3. Without admitting or denying the Findings of Fact and Conclusions of Law contained herein, Respondent denies that it violated Pennsylvania insurance laws.

FINDINGS OF FACT

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

(a) Respondent is Family Direct Insurance Services, Inc., which maintains its address at 870 Glenn Drive, Folsom, CA 95630.

(b) At all relevant times, Respondent held a valid Nonresident Business Entity Insurance Producer license in Pennsylvania.

(c) Between 2004 and 2006, Respondent mailed numerous lead pieces for mortgage insurance to Pennsylvania consumers that were deceptive and misleading.

(d) Prior to mailing the lead pieces, Respondent submitted the lead pieces to the various insurance companies on behalf of which Respondent did business and obtained the companies' approval of the same.

(e) Respondent asserts that it did not know nor reasonably should have known that it was in violation of Pennsylvania insurance law.

CONCLUSIONS OF LAW

5. 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(a)(2)).

- (c) Respondent's activities described above in paragraph 4(c) 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(a)(2)).
- (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(2) of the Act (40 P.S. §§ 1171.8, 1171.9, and 1171.11(2)):
- (i) an 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 the Act, suspension or revocation of Respondent's license(s);
 - (ii) commencement of an action against Respondent for civil penalties as follows: 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.

ORDER

6. 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. 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. Fraser, 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 insurance 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 two (2) years from the date of this Order.

(d) Respondent specifically waives the 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 6(d) of this Order, Respondent shall have the burden of demonstrating that he is worthy of continued licensure.

(f) In the event Respondent's license(s) are suspended pursuant to paragraph 6(c) above, and Respondent either fails to request a hearing within thirty (30) days or at the hearing fail to demonstrate that he is worthy of a license, Respondent's suspended license(s) shall be revoked.

7. 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.

8. 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.

9. 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.

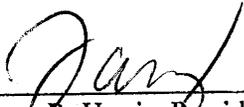
10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

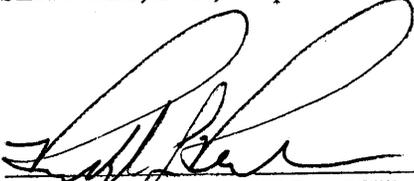
11. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

12. 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:


James R. Harris, President, on behalf of
FAMILY DIRECT INSURANCE
SERVICES, INC., Respondent


RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania