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INSURANCE DEPARTMENT
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ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
RICHARD P. PETRUSO 3606 Lansing Way Erie, PA 16506	:	40 P.S. §§ 310.11(6), (7), (20) and 310.95
	:	
Respondent.	:	Docket No. ~~CO10-10-018~~ CO10-12-018

CONSENT ORDER

AND NOW, this 16th day of May, 2011, this Order is hereby issued by the Insurance Department 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.

3. Without admitting the allegations of fact and conclusions of law, Respondent neither admits nor denies that he violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

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

(a) Respondent is Richard P. Petruso and maintains his residence at 3606 Lansing Way, Erie, PA 16506.

(b) Respondent has an active resident producer individual license # 292852 that expires on August 31, 2012.

(c) Respondent is a representative of the Robert J. Stillwell Agency, Inc., 1009 N. Bethlehem Pike, Spring House, PA 19477.

(d) On or about October 15, 2008, Jed Karpinski of Ritter Insurance Marketing, 4800 Linglestown Road, Harrisburg, PA, sent literature regarding the AIM Health Plans (AIM) to the Robert J. Stillwell Agency, Inc.

(e) On or about January 30, 2009, Gary L. Karns, identifying himself as National Sales Manager, AIM Health Plans (AIM), holding a non-resident individual

producer license, faxed to the Robert J. Stillwell Agency, Inc., literature and supporting documentation regarding a defined benefit health insurance plan managed by Insurance Reource Group (IRG), 20 Madison Avenue, Valhalla, New York.

(f) The AIM literature indicates enrollment is made by sending payment and application to 20 Madison Avenue, Valhalla, new York, the same address as IRG.

(g) The AIM literature does not contain the name of any insurance company purportedly providing coverage.

(h) In order for an association to be bona fide under the Untied States Department of Labor's guidelines within the meaning of Section 3(5), it is supposed to be organized as a trade group or similar organization, not solely for the purpose of supplying health benefits. AIM was organized for providing health insurance. Therefore, AIM is and was not recognized as a bona fide group by the federal or state government.

(i) After Respondent received the AIM literature and supporting documentation from Karns, Respondent failed to show due diligence to determine if AIM was a bona fide group and to further perform due diligence by verification that coverage actually existed.

(j) On or about June 1, 2009, Respondent, as a representative producer for the Robert J. Stillwell Agency, Inc. met with a PA consumer and sold this individual AIM coverage.

(k) The consumer solicited by Respondent incurred medical costs during 2010 which had not been paid.

(l) As a result of Respondent's solicitation, the consumer had outstanding medical bills in the amount of $2,732.25.

CONCLUSIONS OF LAW

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

(a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.

(b) 40 P.S. § 310.11(6) prohibits a licensee or an applicant from committing any unfair insurance practice or fraud.

(c) 40 P.S. § 310.11(7) prohibits a licensee or an applicant from using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business.

(d) 40 P.S. § 310.11(20) 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.

(e) Respondent's activities described above in paragraphs 4(i) through 4(l) violate 40 P.S. §§ 310.11(6), (7) and (20).

(f) Respondent's violations of Sections 310.11(6), (7) and (20) are punishable by the following, under 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.

(g) 40 P.S. § 310.95 holds an insurance agent personally liable on all contracts of insurance made through any company not authorized to do business in this Commonwealth.

(h) Respondent's activities described above in paragraphs 4(i) through 4(l) constitute transacting insurance business within this Commonwealth through a company not authorized to do business and violate 40 P.S. § 310.95.

(i) Respondent's violation of 40 P.S. § 310.95 makes the insurance producer personally liable for all contracts issued through the unauthorized company.

ORDER

6. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department 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's certificates and licenses may be immediately suspended by the Department following its investigation and determination that (i) any terms of this Order have not been complied with, or (ii) 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.

(c) Respondent specifically waives his 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.

(d) At the hearing referred to in paragraph 6(c) of this Order, Respondent shall have the burden of demonstrating that he is worthy of a license.

(e) In the event Respondent's certificates and licenses are suspended pursuant to paragraph 6(b) 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.

7. In the event the Insurance Department 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.

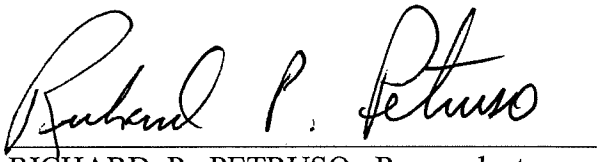
8. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, 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.

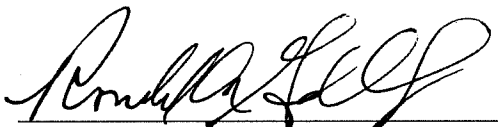
10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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

BY: 

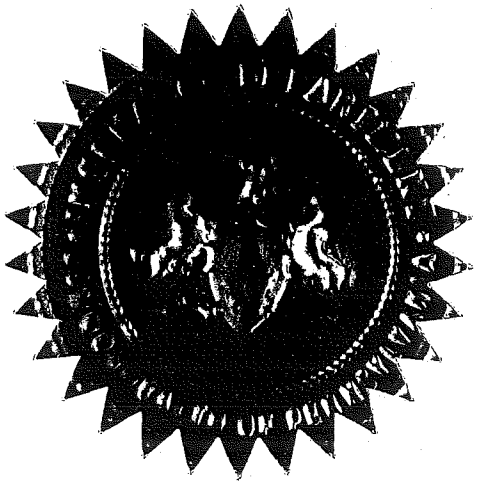
RICHARD P. PETRUSO, Respondent



COMMONWEALTH OF PENNSYLVANIA
By: RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner

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 27th day of April, 2011, Ronald A. Gallagher, 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.

Michael F. Consedine
Insurance Commissioner