

Before the Insurance Commissioner
Of the State of Arkansas

IN THE MATTER OF AMERICAN TRADE ASSOCIATION,
REAL BENEFITS ASSOCIATION, SMART DATA SOLUTIONS,
SERVE AMERICA ASSURANCE, LTD., BEEMA-PAKISTAN
COMPANY LTD., BART POSEY, RICHARD BACHMAN, OBED
KIRKPATRICK, ASSOCIATION OF FRANCHISE AND
INDEPENDENT DISTRIBUTORS, LLC

RESPONDENTS

AID NO. 2010-013A

FINAL CEASE AND DESIST ORDER

Now on this day the matter of American Trade Association, Real Benefits Association, Smart Data Solutions, Serve America Assurance, LTD., Beema-Pakistan Company LTD., Bart Posey, Richard Bachman, Obed Kirkpatrick, Association of Franchise and Independent Distributors, LLC, Insurance Resource Group, Inc., and Association of Independent Managers, Inc. ("Respondents") is taken under consideration by Lenita Blasingame, Chief Deputy Insurance Commissioner and Hearing Officer duly designated by Jay Bradford, Insurance Commissioner for the State of Arkansas ("Commissioner"), with the Arkansas Insurance Department (the "Department") appearing through Managing Attorney, Booth Rand, and from the facts, matters and other items before her, the Hearing Officer finds as follows:

RECOMMENDED FINDINGS OF FACT

1. The Commissioner has jurisdiction to bar persons or entities engaged in unauthorized insurance transactions with residents of this State pursuant to Ark. Code Ann. § 23-65-101(a)(1). Ark. Code Ann. § 23-65-101(a)(1) states that no person or entity shall act as an agent or broker or otherwise represent any insurer, or any other person or entity engaged in the solicitation, negotiation, or effectuation of insurance, fixing of rates, investigation or adjustment of losses, collection of premiums, or in any other manner in the transaction of insurance with respect to subjects of insurance resident, located, or to be performed in this State, if that person or entity is not authorized or licensed by the State Insurance Department for those purposes.

2. Ark. Code Ann. § 23-65-101(b)(1)(A) provides that the Commissioner may summarily order a person or entity to cease and desist from unauthorized insurance transactions in which such person or entity has not complied with requirements of this section or any other provision of the Arkansas Insurance Code. The Arkansas Insurance Code requires in Ark. Code Ann. § 23-63-201 that no person shall transact insurance in this State without a subsisting certificate of authority issued to it by the Commissioner. Under the above referenced provisions, a person or entity may not act as a health insurer with residents of this State without gaining the requisite certificate of authority or license to act as a health insurer.

3. On or about January 28, 2010, the Commissioner issued Arkansas Insurance Department Order # AID-013 against Respondents which alleged that Respondents were engaged in the sale or administration of unauthorized health insurance in this State. The Order required Respondents to immediately cease and

desist in the sale and administration of unauthorized health insurance offered, sold or administered by Respondents to residents in this State. The Order also required a number of the Respondents to provide an accounting and other documentation to the Department related to the sales and collection of premium from the sale of unauthorized health insurance to residents of this State. On or about February 2, 2010, the Department mailed the Order and a Notice of Public Hearing (“NOPH”) to addresses of Respondents gathered by the Department during an investigation and review of other state insurance department actions. The NOPH and the Order were mailed by certified mail to Respondents setting for an administrative hearing the Cease and Desist Order in AID # 2010-013 requiring the Respondents to show cause why a final Cease and Desist Order should not be entered. The NOPH advised the Respondents of the allegations made in the Order and set the date and time of an administrative hearing for February 23, 2010, at 10:00 A.M., in the first floor hearing room of the Department.

4. A hearing was held at the date and time as specified in the NOPH.

5. During the hearing, the Hearing Officer admitted the following documents into the administrative record:

A. Designation of Hearing Officer by the Commissioner.

B. A copy of a February 17, 2010, letter mailed to Lorraine Flassi regarding Association of Independent Managers Insurance Resource Group and Jason Lee, a resident Arkansas Producer, and Hubert M. and Paula Reed, certificate holders in a variety of Respondent health insurance, association plans.

C. A copy of Arkansas Insurance Department Emergency Cease and Desist Order and Order to Show Cause, No. 2010-013.

D. A copy of Arkansas Insurance Department Notice of Hearing (“NOPH”) mailed by certified mail and regular U.S. Mail to Respondents on February 2, 2010.

E. Arkansas Insurance Department certified mail return receipt information #7003 1010 0000 9423 1182, addressed to Serve America Assurance, LTD.

F. Certified mail return receipt information evidencing receipt of NOPH and Order by American Trade Association, Real Benefits Association, Obed Kirkpatrick; Association of Franchise & Independent Distributors, LLC; Association of Independent Managers, Inc., American Trade Association, Smart Data Solutions, Obed Kirkpatrick; Richard Bachman and Insurance Resource Group, Inc.

G. Certified mail return receipt information to Bart Posey and Beema-Pakistan.

H. Copies of thirty-nine (39) warning or notice letters Arkansas Insurance Department letters dated December 3, 2009, addressed to Arkansas consumers regarding American Trade Association.

I. Certification of physical mailout by Mary Coney, investigator for the Legal Division of the Arkansas Insurance Department, evidencing that the thirty-nine (39) letters were mailed to Arkansas consumers regarding American Trade Association.

J. A copy of Arkansas Insurance Department news release titled “Insurance Scam Leaves Some Without Insurance” dated December 17, 2009.

K. Copies of various state insurance department Cease and Desist Orders issued against Respondents received from the Oklahoma Insurance Department related to the activities of the American Trade Association.

L. A copy of a letter, dated December 8, 2009, from Multi-Plan addressed to SDS, LLC, Rick Bachman, related to a health plan or plans.

M. A copy of a letter from the Arkansas Insurance Department, License Division, dated May 19, 2003, addressed to Bart S. Posey, Sr., with attached electronic application for licensure.

N. A copy of a consumer complaint filed at the Arkansas Insurance Department by Hubert Reed with supporting documentation.

O. A copy of Hubert Reed's health plan information furnished to the Department by Ms. Sherri L. Lattimer, counsel for Mr. Reed.

P. A copy of a letter dated February 12, 2010, with supporting documentation from a Mr. Wayne De Lawler, Jr., attorney for Association for Independent Managers, Inc.

Q. A copy of a letter by the Arkansas Insurance Department, dated February 16, 2009, to a Ms. Judith Nicholson regarding American Trade Association.

R. A copy of Arkansas Insurance Department Notice of Investigative Conference dated February 5, 2010, addressed to a Mr. Jason M. Lee, resident Arkansas Producer, mailed to Mr. Lee by certified return receipt mail and regular mail.

S. A copy of certified mail return receipt information evidencing receipt of Notice of Investigative Conference by Jason M. Lee, dated February 6, 2010.

T. A copy of Association of Independent Managers and other association health plan summary and benefits marketing and contracts furnished by Jason M. Lee related to the health plans participated in by Mr. Hubert Reed.

U. A copy of the Arkansas Insurance Department complaint form received and processed by the Arkansas Insurance Department Consumer Service Division filed by Hubert Reed against a variety of Respondent associations.

V. A copy of a Cease and Desist Order issued by Connecticut Insurance Department Docket No. CA-09-72, as certified by the Connecticut Insurance Department.

W. Copies of additional state insurance department Cease and Desist Orders against several of the Respondents for the sale of unauthorized health insurance from the states of Indiana, Michigan, Nebraska, North Carolina, Ohio, Oklahoma and Washington.

X. A copy of an Emergency Cease and Desist Order against one or more of the Respondents issued by the Indiana Department of Insurance, related to the unauthorized sale of health insurance.

Y. A copy of a Statement of Charges against one or more of the Respondents issued by the Indiana Department of Insurance related to the unauthorized sale of health insurance.

6. During the hearing, the Hearing Officer also received and admitted oral testimony from Ms. Mary Coney, Investigator for the Legal division of the Arkansas Insurance Department and Mr. Bob Alexander, Attorney Specialist with the Arkansas Insurance Department. Ms. Coney testified as to the authenticity of the previously described and admitted documents, as well as testified as to the Arkansas Insurance Department process and mailings of the notices and order in this matter to Respondents. Mr. Alexander testified as to the nature of the health insurance plan

schemes offered or administered by the Respondents, as well as testified and confirmed that Arkansas residents had participated in several of the unauthorized health plan association schemes, described in AID Order 2010-013, as offered by the one or more of the Respondents.

7. The hearing officer finds that the Department provided reasonable notice to the following Respondents of AID Order # 2010-013 and the NOPH which notified Respondents of the date and time of the hearing: American Trade Association, Bart Posey, Richard Bachman, Obed Kirkpatrick, Real Benefits Association, Smart Data Solutions, Serve America Assurance, LTD., Beema-Pakistan Company and Association of Franchise and Independent Distributors, LLC. Due to the unauthorized schemes used by several of the Respondents and their use of names similar to other valid associations or licensed insurance entities, receiving notice of the various administrative processes issued in this matter was an association entity, "Association For Independent Managers," (Emphasis Added) of 523 South 59th Street, in St. Petersburg Florida, which is not subject to this Order, nor is the "Insurance Resource Group", 111 Eighty Ave., New York, NY 10011. Subsequent investigation revealed that the Respondent "Association of Independent Managers" and its administrative entity Respondent "Insurance Resource Group," is located in Valhalla, New York.

8. None of the Respondents appeared or testified in the hearing. In the absence of any countervailing testimony or materials offered and admitted into the record by Respondents, the allegations and findings in AID Order # 2010-013 were undisputed. Under Ark. Code Ann. § 23-65-101(b)(2)(D), "the person or entity named in

the cease and desist order shall have the burden of proving that the actions, methods, or practices described in the order are not in violation of the Arkansas Insurance Code.”

CONCLUSIONS OF LAW

1. After consideration of the written documents and testimony received and admitted in the hearing, as presented by the Department, and the absence of any explanation or defense as to the allegations or findings described in AID Order # 2010-013, the hearing officer concludes that based on the administrative record in the hearing, the Respondents were engaged in the sale and administration of unauthorized health plans in violation of Ark. Code Ann. § 23-65-101(a)(1) and other statutory requirements as previously alleged in AID Order # 2010-013.

RECOMMENDATIONS OF THE HEARING OFFICER

Upon consideration of the evidence of record, the hearing officer recommends that the foregoing Findings be adopted and that the previously issued conclusions and findings, including the cease and desist requirements issued in Arkansas Insurance Department Emergency Order AID # 2010-013, be adopted and incorporated by reference in this Order as a permanent and final Cease and Desist Order. The hearing officer further recommends that the Department issue and serve a subsequent Emergency Cease and Desist Order against the Association of Independent Managers

and the Insurance Resource Group at new addresses of those entities as gathered in additional investigation by the Arkansas Insurance Department.



LENITA BLASINGAME
HEARING OFFICER &
CHIEF DEPUTY INSURANCE COMMISSIONER
ARKANSAS INSURANCE DEPARTMENT

CERTIFICATION

I, Jay Bradford, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law and Recommendations were made by and under my authority and supervision by Lenita Blasingame, Hearing Officer and Chief Deputy Insurance Commissioner, for the Department in this proceeding. I hereby adopt the Hearing Officer's Findings and Recommendations in full, as set forth herein.

IT IS SO ORDERED this 6th day of April, 2010.



JAY BRADFORD
INSURANCE COMMISSIONER
ARKANSAS INSURANCE DEPARTMENT