

Arkansas Insurance Department

Mike Beebe
Governor



Jay Bradford
Commissioner

January 30, 2009

Via Certified Mail Return Receipt No. 7003 1010 0000 9423 2820 and U.S. Mail

James Christopher Kesl
16404 N. 175th Circle
Surprise, Arizona 85388

LETTER OF REPRIMAND

Dear Mr. Kesl:

As we discussed in your December 11, 2008 Investigative Conference, the Department has concerns regarding your marketing and sales materials. Not only do the advertisements at issue fail to identify you as an insurance agent or producer, the advertisements actually vilify insurance agents. The yellow card states that senior citizens John and Mabel attacked their insurance agent out of "frustration and down right disgust" and refers to the couple's "ungrateful insurance agent." Your name is not even on the piece. The "Dirty Little Secret" flyer refers to agents using bait and switch tactics and criticizes the commission received by agents and companies. Such advertisements are clearly inappropriate, particularly when they fail to disclose that you are not an annuity expert, but rather an insurance agent yourself.

Additionally, a couple, named John and Mabel, is quoted on the yellow card. Pursuant to Rule 17, any testimonials or endorsements must be "genuine" and "represent the current opinion of the author." You admitted during our conference that John and Mabel are fictitious, rendering the marketing card a violation of Rule 17. The advertisements that are so critical of insurance agents are clearly misleading and, therefore, a violation of the Arkansas Trade Practices Act. Specifically, they are in violation of Ark. Code Ann. § 23-66-206(6) and (8)(F).

As we discussed, the Department recently issued Directive No. 2-2008, which addresses advertisements by life and annuity producers. I realize that the advertisements at issue here were circulated prior to this Directive, but it will work in conjunction with Rule 17 and make the disclosures required in advertising clearer. As stated in Directive No. 2-2008, any advertisement not properly identifying the producer as a licensed insurance producer is a violation of Rule 17. In the future, should you be granted a non-resident producer license in Arkansas, your advertising must meet the requirements of Directive No. 2-2008. All advertising, including business cards and letterhead, must properly identify you as a licensed insurance producer and list your Arkansas license number.

In view of the foregoing facts, please be advised that this **Letter of Reprimand** will be placed in your license file as a permanent record for referral should any other related complaints be received by this Department. Additionally, this **Letter of Reprimand** will be forwarded to the

National Association of Insurance Commissioners ("NAIC") for publication on the NAIC website. If you feel that this Letter of Reprimand is unjust or unwarranted, you may request an administrative hearing within thirty (30) days of your receipt of this correspondence.

Sincerely yours,

Amanda Capps Rose

Amanda Capps Rose
Associate Counsel
(501) 371-2820

ACR/

cc: J. Slocum Pickell
Fred Stiffler
Mary Coney
Joie Tester