STATE OF ARIZONA FILED

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STATE OF ARIZONA

DEPT. OF INSURANCE BY

DEPARTMENT OF INSURANCE

In the Matter of:)	
)	Docket No. 97A-235-INS
BRAD JOHN LASTOVICA)	
)	CONSENT ORDER
Respondent)	
)	

John Lastovica ("Respondent") violated the provisions of Title 20, Arizona Revised Statutes.

Respondent wishes to resolve this matter without the commencement of formal proceedings, and admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

The State of Arizona, Department of Insurance ("Department"), has received evidence that Brad

FINDINGS OF FACT

1. Respondent is, and was at all material times, licensed in Arizona to transact life and disability insurance business as an agent, Arizona license number 36638, which license expires December 31, 1997.

COUNT I

2. In April 1996, Respondent provided a customer with sales material entitled "Benefits Comparison" purporting to compare coverages offered by American National Insurance Company ("American") and PFL Life Insurance Company. Respondent is an authorized agent of American. American did not authorize the use of the so-called "Benefits Comparison" utilized by Respondent.

3. The advertising utilized by Respondent compared dollar amounts of claims paid, but failed to accurately reflect all relevant facts within the meaning of A.A.C. R20-6-201(G).

COUNT II

- 4. On or about June 17, 1996, Respondent contacted Toni Palmisano, office manager for the medical office of Antonio A. Toraya, M.D., soliciting her to purchase a group association health insurance plan for employees through United Benefit Life Insurance Company ("United"). Ms. Palmisano advised Respondent that the employees' current plan was an employer paid plan and that she was not interested in a plan which required employees to pay any of the premium themselves.
- 5. Respondent faxed the employer pages 1, 4, and 5 from a United brochure. Respondent also faxed to the employer a form entitled "Important Notice and Disclaimer Statement." The disclaimer stated, in part, that the employee certifies that no portion of the premium or benefits of the health insurance plan will be paid by a small employer. Respondent advised Palmisano not to worry about the disclaimer, to have the employees sign the form and to have the employer designate the premium payments as "benefit disbursements."
- 6. Respondent never provided Palmisano with the remainder of the United brochure or any other documents disclosing the limitations and exclusions under the United policy, as required by A.A.C. R20-6-201(C)(2) and R20-6-201(E).
- 7. The United plan was not designed to replace employer sponsored group insurance and employees were not supposed to sign the disclaimer form if the information was not accurate.

COUNT III

8. In January 1996, Respondent moved from his residence at 14643 S. 23rd Street, Phoenix, Arizona to 3830 E. Lakewood Parkway, #1098, Phoenix, Arizona. Respondent failed to notify the Department of his change of address as required pursuant to A.R.S. §20-313.

CONCLUSIONS OF LAW

- 1. The Director has jurisdiction over this matter.
- 2. Respondent's conduct with respect to advertising materials used in the solicitation and sale of insurance constitutes a violation of A.A.C. R20-6-201(C)(2), A.A.C. R20-6-201(E) and A.A.C. R20-6-201(G).
- 3. Respondent's conduct constitutes a failure to give prompt written notice to the Director of any change of address, within the meaning of A.R.S. §20-313.
- 4. Respondent's conduct constitutes the wilful violation of, or wilful noncompliance with, any provision of this title, or any lawful rule, regulation or order of the Director, within the meaning of A.R.S. §20-316(A)(2).
- 5. Respondent's conduct constitutes a conduct of affairs under the license showing the licensee to be incompetent or a source of injury and loss to, or repeated complaint by, the public or any insurer within the meaning of A.R.S. §20-316(A)(7).
- 6. Grounds exist for the Director to suspend, revoke, or refuse to renew Respondent's insurance license, issue an order to cease and desist, impose a civil penalty upon Respondent, and/or order restitution, pursuant to A.R.S. §§20-316(A), 20-316(C), and 20-456.

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ORDER

IT IS ORDERED THAT:

- 1. Respondent's license is suspended for a period of fifteen (15) days, effective immediately.
- 2. Respondent shall pay a civil penalty in the amount of \$500 to the Director payable upon ntry of this Order, for remission to the State Treasurer for deposit in the State General Fund.
- 3. Respondent shall cease and desist from the practice of using advertising materials that fail to disclose the limitations and exclusions under any policy of insurance.

DATED AND EFFECTIVE this 24 day of December, 1997.

JOHN A. GREENE Director of Insurance

CONSENT TO ORDER

- 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and Order.
- 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and dmits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusions of Law and order.
- 3. Respondent is aware of his right to notice and a hearing at which he may be represented by counsel, present evidence and cross examine witnesses. Respondent irrevocably waives his right to such notice and hearing and to any court appeals relating to this Consent Order.
- 4. Respondent states that no promise of any kind or nature whatsoever, except as expressly contained in this Consent Order, was made to him to induce him to enter into this Consent Order and that he has entered into this Consent Order voluntarily.

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1	5. Respondent acknowledges that the acceptance of this Consent Order by the Director is					
2	solely to settle this matter against him and does not preclude any other agency, officer or subdivision of					
3	this state from instituting civil or criminal proceedings as may be appropriate now or in the future.					
4						
5	1-123/97 Brad Lastura					
6	Date Brad John Lastovica					
7	Caning of the foregoing mailed					
8	Copies of the foregoing mailed this 24th day of December, 1997, to:					
9	Brad John Lastovica					
10	3830 E. Lakewood Parkway, #1098 Phoenix, AZ 85044					
11	American National Insurance Company One Moody Plaza					
12	Galveston, TX 77550-7999 United Benefit Life Insurance Company					
13	3909 Hulen Street Fort Worth, TX 76107					
14	Charles R. Cohen, Deputy Director					
15	John D. Gagne, Assistant Director Maureen Catalioto, Licensing Supervisor					
16	Arizona Department of Insurance					
17	2910 N. 44th Street, Suite 210 Phoenix, AZ 85018					
18	Ruston					
19	Curvey Walters Burton					
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