

MAY 03 2010

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

In the Matter of the Unauthorized)	SUMMARY ORDER TO
Insurance Activities of)	CEASE AND DESIST
)	
SERVE AMERICA ASSURANCE, LTD.,)	AND NOTICE OF RIGHTS
BEEMA-PAKISTAN COMPANY, LTD.,)	
AMERICAN TRADE ASSOCIATION,)	CAUSE NO.: I-82
SMART DATA SOLUTIONS, LLC,)	
REAL BENEFITS ASSOCIATION,)	
PREMIER HEALTH CARE,)	
AFFINITY GROUP BENEFIT)	
ASSOCIATION, INC., and)	
ASSOCIATION OF FRANCHISE &)	
INDEPENDENT DISTRIBUTORS,)	
)	
Unauthorized Entities,)	
)	
and)	
)	
BART POSEY,)	
COLIN YOUELL,)	
WILLIAM WORTHY II,)	
OBED KIRKPATRICK,)	
RICHARD BACHMAN,)	
DAVID L. CLARK,)	
SAIFUDDIN AHMED,)	
ANGIE POSEY, and)	
LINDA KIRKPATRICK,)	
)	
Individual Respondents.)	

The Department of Insurance (herein the "Department"), by and through its Director, Ann M. Frohman, upon Petition for Cease and Desist filed by Department counsel, Joel F. Green, hereby orders Serve America Assurance, LTD., Beema-Pakistan Company LTD., American Trade Association, Smart Data Solutions, LLC, Real Benefits Association, Premier Health Care, Affinity Group Benefit Association, Inc., Association of Franchise & Independent Distributors, Bart Posey, Colin Youell, William Worthy II, Obed Kirkpatrick, Richard Bachman, David Clark, Saifuddin Ahmed, Angie Posey, and Linda Kirkpatrick (collectively "Respondents") to immediately CEASE AND DESIST issuing, making, providing, selling or offering, either directly or indirectly, insurance benefits in the State of Nebraska which are not insured by

an insurer licensed to transact insurance in the state. Specifically, pursuant to NEB. REV. STAT. § 44-2002 and § 44-8315, NOTICE IS HEREBY GIVEN:

1. That the Director of Insurance is charged with enforcement of the insurance laws of the State of Nebraska. See, NEB. REV. STAT. § 44-101 ET SEQ., including unauthorized activities of insurers;
2. That NEB. REV. STAT. § 44-2002(2) defines an insurer to include all corporations, associations, partnerships, and individuals engaged as principals in the business of insurance;
3. That NEB. REV. STAT. § 44-5802(6) defines a third party administrator to mean a person who directly or indirectly solicits or effects coverage of, underwrites, collects charges or premiums from, or adjusts or settles claims on residents of this state . . . in connection with life insurance, sickness and accident insurance, . . . ;
4. That NEB. REV. STAT. § 44-8303(6) defines a discount medical plan organization to mean an entity that, in exchange for fees, dues, charges, or other consideration, provides access for discount medical plan members to providers of medical or ancillary services and the right to receive medical or ancillary services from those providers at a discount.
5. That NEB. REV. STAT. § 44-303 provides that an insurer must obtain a certificate of authority before transacting the business of insurance in the State of Nebraska;
6. That NEB. REV. STAT. § 44-5812 provides that no person shall act as, offer to act as, or hold himself or herself out to be a third party administrator in this state without a valid certificate of authority as a third party administrator issued by the Director of Insurance;
7. That NEB. REV. STAT. § 44-8306(1) provides that no entity shall conduct business in or from this state as a discount medical plan organization without a valid certificate of registration as a discount medical plan organization issued by the Director of Insurance;
8. That NEB. REV. STAT. § 44-201(4) defines sickness and accident insurance to mean insurance against loss or expense resulting from the sickness of the insured, from bodily injury or death of the insured by accident, or both, and every insurance pertaining thereto;
9. That the Unauthorized Insurers Act, NEB. REV. STAT. § 44-2001 ET SEQ., provides that “[i]t shall be unlawful for any insurer to transact insurance business in this state, as set forth in subsection (2) of this section without a certificate of authority from the director.” Subsection (2) provides that

“[t]he following acts in this state effected by mail or otherwise by or on behalf of an unauthorized insurer shall constitute the transaction of an insurance business in this state . . . :

- (a) The making of or proposing to make, as an insurer, an insurance contract;**
- (b) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety;**
- (c) The taking or receiving of any application for insurance;**
- (d) The receiving or collection of any premium, commission, membership fees, assessments, dues, or other consideration for any insurance or any part thereof;**
- (e) The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state;**
- (f) Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of another any person or insurer in the solicitation, negotiation, procurement, or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located, or to be performed in this state. This subsection shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance on behalf of such employer;**
- (g) The transaction of any kind of insurance business specifically recognized as transacting an insurance business within the meaning of the statutes relating to insurance; or**
- (h) The transacting or proposing to transact any insurance business in substance equivalent to any of the provisions of subdivisions (a) through (g) of this subsection in a manner designed to evade the provisions of the statutes”;**

10. That the Respondents are not licensed as insurers, third party administrators, discount medical plan organizations or producers in the State of Nebraska;
11. That following an investigation into this matter, the Department of Insurance has reasonable cause to believe that Respondents are engaged as a medical discount plan organization without a certificate of registration and/or are engaged, either directly or on behalf of an unauthorized insurer, in the business of transacting insurance in the state without a license, in particular, are violating and have violated NEB. REV. STAT. § 44-2002(a), (c) – (g) and § 44-8306 in that:
 - (a) Respondents have acted in concert to sell a bundled product consisting of insurance and medical care discount products to Nebraska residents. Respondents have caused this product to be advertised and sold to Nebraska consumers and have issued and underwritten insurance and transacted insurance in Nebraska affecting subjects located wholly or in part in Nebraska and to be performed in Nebraska, including plans or policies of coverage for health insurance and accidental death and disability insurance coverage covering Nebraska residents.
 - (b) In October 2007, Respondents sold or caused to be sold a health care benefits package, which included certain insurance components, to Nebraska resident, Jane M. Frickel and Rodney D. Frickel. From October 2007 to August 2009, the Frickels paid \$369.51 a month in premium to Respondents. In August of 2009, the Frickels received notice that a portion of the health care benefits package was no longer available and that the premium was reduced to \$101.52 a month.
 - (c) In December 2009, Respondents sold or caused to be sold a health care benefits package, which included certain insurance components, to Nebraska resident, Michael E. Kroeger. Mr. Kroeger paid \$494.00 in premium to Respondents.
 - (d) In October 2009, Respondents sold or caused to be sold a health care benefits package to Nebraska residents, Sharon R. Rogers and Thomas Rogers, which included certain insurance components. The Rogers paid \$554.00 in premium to Respondents.
 - (e) Respondents have caused their product to be marketed to individuals in Nebraska through various internet websites including:
www.sdsfirst.com, www.agbai.org, www.atafirst.com,
www.myatabenefits.com, www.premierhealthcareonline.com and
www.rbausa.com.

- (f) Respondents have caused their product to be marketed to individuals in Nebraska through unsolicited “fax-blasting” and other means. For example, unsolicited faxes representing their product as “health care” tout “group benefits” with “no annual deductibles” as prices between \$199 per month for individuals and \$369 for families, leading consumers to believe they are purchasing comprehensive health coverage. Representative is the facsimile sent to Nebraska consumers listing the “benefits” for this health care as follows:
- Primary Care, Specialist or Chiropractic Care - \$25 at time of visit
 - Hospitalization – Daily Hospital Confinement, ICU, Clinics & Urgent Care
 - Prescription Drugs – Huge Savings on Name Brand & Generic Drugs
 - Accidental Injury – Covers \$25,000 per incident – AD&D - \$50,000
 - Dental – Office visits, X-rays, cleanings, root canals, etc.
 - Vision & Hearing – Up to 60% savings
 - Diagnostic Lab, X-Ray, MRI, EKG, CT Scan

The facsimile also states:

Did Your Insurance Company Drop You?
Pre Existing Conditions OK... You Will Be Enrolled!

- (g) The facsimile fails to disclose the identity of the sender and the identity or domicile of any insurer authorized to transact the business of insurance in Nebraska. Based on such written solicitation and the solicitation on various websites, consumers are led to believe that the product offered constitutes comprehensive health insurance.
- (h) Within the past 18 months, Respondents have been and continue to be the subjects of Emergency Cease and Desist Orders filed by several states upon determination by various state regulatory authorities that such Respondents were illegally transacting the business of insurance without a license or required licenses in said states. Those states issuing Cease and Desist Orders include but are not limited to Arkansas, Connecticut, Florida, Indiana, Kansas, Maine, Michigan, Missouri, Montana, New Hampshire, New Jersey, North Carolina, Ohio, Oklahoma and Washington.
- (i) The State of Washington Office of Insurance filed an Order to Cease and Desist entitled In the Matter of SERVE AMERICAN ASSURANCE, LTD., BEEMA-PAKISTAN COMPANY LTD., AMERICAN TRADE ASSOCIATION, SMART DATA SOLUTIONS, LLC, REAL BENEFITS ASSOCIATION, Unauthorized Entities, and BART POSEY, COLIN YOUELL, WILLIAM WORTHY II, OBED KIRKPATRICK, RICHARD

BACHMAN, DAVID CLARK, SAIFUDDIN ADMED, Individual Respondents, No. 10-0001, alleging in part that Respondents engaged in the unauthorized business of insurance in the State of Washington by the submission of unsolicited fax-blasting. The Order to Cease and Desist filed by the State of Washington Office of Insurance was finalized and remains in effect subject to further Order of the Insurance Commission of the State of Washington.

- (j) The unsolicited facsimile submitted to consumers in the State of Washington and to consumers in other states is identical in content and language to the facsimile provided to Nebraska consumers as set forth in Section 11(f) of this document.
12. That the aforementioned acts described in Paragraph 11 are unlawful and constitute violations of the Unauthorized Insurers Act, the Third Party Administrator Act, the Discount Medical Plan Organization Act and fall within the purview of the Department's authority to exercise powers authorized by law including the issuance of a summary order to cease and desist such activities pursuant to NEB. REV. STAT. § 44-2003(2) and § 44-8315;
13. That the Unauthorized Insurers Act, NEB. REV. STAT. § 44-2002(3)(a) provides that "[t]he failure of an insurer transacting insurance business in this state to obtain a certificate of authority shall not impair the validity of any act or contract of such insurer and shall not prevent such insurer from defending any action at law or suit in equity in any court of this state, but no insurer transacting insurance business in this state without a certificate of authority shall be permitted to maintain an action in any court of this state to enforce any right, claim, or demand arising out of the transaction of such business until such insurer shall have obtained a certificate of authority;
14. And, finally, that NEB. REV. STAT. § 44-2002(3)(b) provides that "[i]n the event of failure of any such unauthorized insurer to pay any claim or loss within the provisions of any insurance contract, any person who assisted or in any manner aided directly or indirectly in the procurement of such insurance contract *shall be liable* to the insured for the full amount of the claim or loss in the manner provided by the provisions of such insurance contract." (Emphasis added).

WHEREFORE, pursuant to the Nebraska Insurance Code, specifically NEB. REV. STAT. § 44-2003(2), § 44-5812, § 44-8315 and § 44-4045, I, Ann M. Frohman, do hereby find that the continued transaction of insurance by Respondents without a Certificate of Authority, appropriate third party administrator certificate of authority, appropriate discount medical plan organization certificate of registration or appropriate producers

license issued by the Department of Insurance, are violations of the Nebraska Insurance Code and, as such, constitute an immediate danger to the public welfare by placing the public in grave harm so as to necessitate this immediate issuance of an Order.

ACCORDINGLY, IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED that Respondents shall immediately CEASE AND DESIST from transacting the business of insurance in this State including acting or holding themselves out as insurers exempt from regulation in this State, third party administrators, or insurance producers, either directly or indirectly, whether under Respondents' own names or any other name whatsoever used by any Respondent individually.

IT IS ORDERED that Respondents shall forthwith notify each and every Nebraska resident of the cessation of all insurance business because Respondents are unlicensed, that no additional premium funds or consideration will be accepted by Respondents from said Nebraska residents.

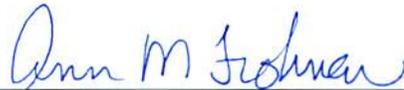
IT IS FURTHER ORDERED that Respondents shall add a disclaimer to any and all websites advertising Respondents products or services that said products and services "are not available in the State of Nebraska."

NOTICE OF RIGHTS

A hearing on this matter may be requested in writing within ten (10) business days after receipt of this Order as authorized under NEB. REV. STAT. § 44-2003(2). If a hearing is requested, the Director shall schedule a hearing within ten (10) business days after receipt of the request.

Dated this 3rd day of May, 2010.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,



ANN M. FROHMAN
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing SUMMARY ORDER TO CEASE AND DESIST was served upon Respondents by certified mail, return receipt requested, on this 3rd day of May, 2010, to the following:

Serve America Assurance, Ltd.,
Beema-Pakistan Company Ltd.
Colin Youell
William Worthy II
Saifuddin Ahmed
PO Box 5626
Karachi, Pakistan 74000
and
412-427 Muhammadi House, I.I,
Chendrigar Road
Karachi, Pakistan 74000
and
117 Winding Oak Way
Blythewood, S.C. 29016

American Trade Association
Obed Kirkpatrick
Linda Kirkpatrick
Richard Bachman
4676 Highway 41 North
Springfield, TN 37172
and
400 Memorial Blvd.
Springfield, TN 37172

Smart Data Solutions, LLC
Bart Posey
Angie Posey
4676 Highway 41 North
Springfield, TN 37172

Real Benefits Association
David L. Clark
118A Fulton Street
PO Box 138
New York, NY 10038

Affinity Group Benefit Association, Inc.
Obed Kirkpatrick
537 Devereux Place
Concord, NC 28025
and
4676 Highway 41 North
Springfield, TN 37172

Premier Health Care
2332 Galiano Street
2nd floor suite 2007
Coral Gables, Florida 33134

Association of Franchise & Independent Distributors
Paul Olzeski
One South Limestone Street, Suite 301
Springfield, Ohio 45502

