

STATE OF ARIZONA  
FILED

MAR 23 2005

DEPT OF INSURANCE  
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STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

In the Matter of:  
  
**MATTHEW NATHAN ROSE**  
  
Respondent.

No. 04A-210-INS  
**CONSENT ORDER**

On December 23, 2004, the State of Arizona, Department of Insurance (the "Department"), issued a Notice of Hearing in the matter of Matthew Nathan Rose ("Rose"). On January 27, 2005, the Director of the Department of Insurance (the "Director") entered Findings of Fact, Conclusions of Law and Order, finding Rose in default, ordering revocation of his insurance license, and vacating the administrative hearing. Rose appealed the default order. On February 10, 2005, the Director entered an Order Setting Aside Default and Setting Matter for Hearing. Rose wishes to waive his right to a hearing and resolve this matter. Rose admits the following Findings of Fact are true and consents to the entry of the following Conclusions of Law and Order.

**FINDINGS OF FACT**

1. Matthew Nathan Rose ("Rose") is currently and was at all material times licensed as a resident Life and Accident/Health producer, Arizona license number 155616, which expires on June 30, 2005.
2. Rose's residence and business address of record with the Department is 4849 E. Roosevelt, #1120, Phoenix, Arizona 85008.
3. On June 3, 2004, the Department received a complaint from Blue Cross/Blue Shield of Arizona ("BCBSAZ") alleging that Rose made untruthful remarks about BCBSAZ and its individual insurance products. BCBSAZ provided the Department with an e-mail sent by Rose to John Antanics dated May 10, 2004 showing that Rose made untrue statements regarding the rate increases of BCBSAZ policies when compared to National Association for the Self-Employed ("NASE") policies.

1           4.       On June 9, 2004, the Department sent a letter to Rose asking that he respond to the  
2 allegations and issues raised by the BCBSAZ complaint and to provide documentation to support the  
3 statements made in the May 10, 2004 e-mail to John Antanies.

4           5.       On July 1 and 7, 2004, Rose represented to the Department that all the statements  
5 made in his e-mail were the result of information and documentation he received in training from  
6 NASE. Rose further represented that he had only solicited for The MEGA Life and Health  
7 Insurance Company ("MEGA")<sup>1</sup>.

8           6.       On July 8, 2004, the Department spoke with Jeanne Duke, Vice President, Product  
9 Development of UGA Association of Field Services ("UGA"), a division of MEGA. She stated that  
10 MEGA has a standard training procedure in which they stress the importance of not comparing  
11 coverages of other companies to consumers.

12           7.       On July 23, 2004, the Department received a letter from Rose wherein he attempted  
13 to explain each untruthful comment referenced in the BCBSAZ complaint. Rose also provided  
14 printed information he received during his training with NASE but did not provide any  
15 documentation to support the statements made in his May 10, 2004 e-mail to John Antanies.

16           8.       On August 20, 2004, the Department received a copy of the training materials used by  
17 UGA to train its Arizona agents. A portion of the materials covers advertising guidelines and unfair  
18 and deceptive trade practices.

19           9.       On September 16, 2004, the Department contacted Rose informing him of its  
20 investigatory conclusions and that he needed to update his address with the Department. Rose's  
21 current residential and business address is: 12805 W. Corrine Drive, El Mirage, Arizona 85335.  
22 Rose has not executed a change of address form with the Department.

23           10.      On September 24, 2004, the Department contacted John Antanies regarding the e-  
24 mail sent to him by Rose on May 10, 2004. John Antanies provided BCBSAZ with Rose's e-mail

25 \_\_\_\_\_  
26 <sup>1</sup> MEGA provides the coverage offered by NASE.

1 after he purchased a policy with BCBSAZ.

2 11. On October 7, 2004, the Department received further information from BCBSAZ in  
3 response to its request stating that they received a copy of Rose's e-mail from Tony Lehrman, an  
4 independent broker with a group in Tucson, Arizona.

5 12. BCBSAZ rate filings made with the Department, effective May 10, 2004, show rate  
6 increases far below the increase alleged by Rose.

7 13. On October 14, 2004, MEGA provided the Department with further information  
8 regarding Rose and its position with regard to Rose's e-mail to John Antanies on May 10, 2004.  
9 MEGA provided the applicable product brochures for the health benefit plans Rose likely provided  
10 to John Antanies. MEGA states that Rose's representation regarding MEGA rate increases is an  
11 inaccurate advertisement and not approved by MEGA.

12 14. On October 5, 2004, Rose contacted the Department in response to a request for  
13 further information stating that the plan he offered John Antanies was the Gold Program but was  
14 unclear which particular riders had been discussed.

15 **CONCLUSIONS OF LAW**

16 1. The Director has jurisdiction over this matter.

17 2. Respondent's conduct, as alleged above, constitutes false or deceptive advertising of  
18 insurance in the form of a letter, a violation of A.R.S. § 20-444(A).

19 3. Respondent's conduct, as alleged above, constitutes using disparaging comparisons or  
20 statements, a violation of Arizona Administrative Code ("A.A.C.") R20-6-201(J).

21 4. Respondent's conduct, as alleged above, constitutes failure to notify the director in  
22 writing within 30 days of any change in a residential or business address, in violation of A.R.S. § 20-  
23 286(C)(1).

24 5. Respondent's conduct, as alleged above, constitutes the violation of any provision of  
25 Title 20, or any rule, subpoena or order of the Director, within the meaning of A.R.S. § 20-  
26 295(A)(2).

1 6. Grounds exist to suspend, revoke or refuse to renew Respondent's resident Life and  
2 Accident/Health producer's license and/or impose a civil penalty, pursuant to A.R.S. §§ 20-295(A)  
3 and (F).

4 **ORDER**

5 **IT IS ORDERED:**

6 1. Respondent Rose shall cease and desist making any misrepresentation, false  
7 advertising or disparaging comparison regarding insurance in any form.

8 2. The Arizona Resident Life and Accident/Health Producer License of Respondent  
9 Matthew Nathan Rose, License Number 155616, is hereby suspended for a period of fourteen (14)  
10 days from the entry of this Consent Order.

11 3. Respondent Rose shall pay a civil penalty in the amount of one thousand dollars  
12 (\$1,000.00) to the Director, for remission to the State Treasurer for deposit into the State General  
13 Fund, due six months from the entry of this Consent Order.

14 4. The administrative hearing in this matter, currently scheduled for March 24, 2005, at  
15 9:00 a.m., at the Office of Administrative Hearings, is hereby vacated.

16 DATED AND EFFECTIVE this 23<sup>rd</sup> day of March, 2005.

17  
18  
19 *for* Christina Urias  
20 Christina Urias, Director  
Arizona Department of Insurance

21 **CONSENT TO ORDER**

22 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and  
23 Order.

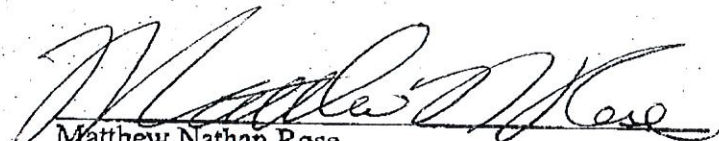
24 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and  
25 admits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusions of Law  
26 and Order.

1 3. Respondent is aware of his right to notice and a hearing at which he may be  
2 represented by counsel, present evidence and cross-examine witnesses. Respondent irrevocably  
3 waives his right to a hearing and to any court appeals relating to this Consent Order.

4 4. Respondent states that no promise of any kind or nature, except as expressly  
5 contained in this Consent Order, was made to him to induce him to enter into this Consent Order,  
6 and that he has entered into this Consent Order voluntarily.

7 5. Respondent acknowledges that the acceptance of this Consent Order by the Director  
8 is solely to settle this matter against him and does not preclude any other agency, officer or  
9 subdivision of this state from instituting civil or criminal proceedings as may be appropriate now or  
10 in the future.

11 3/23/05  
12 Date

  
Matthew Nathan Rose

13  
14  
15 COPY of the foregoing mailed this  
16 23 of March, 2005, to:

17 Allen Reed, Administrative Law Judge  
18 Office of Administrative Hearings  
1400 W. Washington, Suite 101  
Phoenix, Arizona 85007

19 Catherine M. O'Neil, Consumer Legal Affairs Officer  
20 Scott Greenberg, Chief Operating Officer  
Arnold Sniegowski, Investigations Supervisor  
21 Bob Hill, Investigator  
Arizona Department of Insurance  
22 2910 N. 44th Street, Suite 210  
Phoenix, Arizona 85018

23 Mary E. Kosinski, Assistant Attorney General  
1275 West Washington Street  
24 Phoenix, Arizona 85007  
25 Attorney for the Arizona Department of Insurance.

26 ...

1 AND COPY MAILED SAME DATE by  
2 Certified Mail, Return Receipt Requested, to:

3 Matthew Nathan Rose  
4 12805 W. Corrine Drive  
5 El Mirage, AZ 85335  
6 Respondent



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