

JAN 27 2005

DEPT OF INSURANCE  
BY 

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

In the Matter of:

No. 04A-210-INS

**MATTHEW NATHAN ROSE,**

**FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND ORDER**

Respondent.

On December 23, 2004, the Arizona Department of Insurance ("Department") issued a Notice of Hearing in the above-captioned matter, a copy of which is attached and incorporated by this reference. The Notice required Matthew Nathan Rose ("Respondent") to provide a written answer to the allegations set forth in the Notice within twenty days of the issuance of the Notice. As of this date, Respondent has failed to file an answer.

On January 27, 2005, counsel for the Department filed a Request for Default and Proposed Findings of Fact, Conclusions of Law and Order. As of this date, Respondent has not responded to the Department's request. Pursuant to A.A.C. R20-6-106(D), a party that fails to file an answer within the time provided shall be deemed to be in default and one or more of the allegations in the Notice of Hearing may be deemed to be admitted.

**FINDINGS OF FACT**

1. Notice was proper.
2. Respondent is in default.
3. The allegations in the Notice are deemed admitted.

**CONCLUSIONS OF LAW**

1. The conduct alleged in the Notice constitutes grounds for the Director to suspend, revoke or refuse to renew Respondent's license to transact insurance in Arizona, pursuant to A.R.S. § 20-295(A).

...

...

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**ORDER**

IT IS ORDERED:

1. The insurance license held by Respondent is revoked, effective upon the issuance of this Order.

2. The hearing set for February 9, 2005, at 9:00 a.m. shall be vacated.

DATED this 27<sup>th</sup> day of January, 2005.

  
\_\_\_\_\_  
CHRISTINA URIAS, Director  
Arizona Department of Insurance

COPY of the foregoing mailed this 27<sup>th</sup> day of January, 2005, to:

Lewis D. Kowal, Administrative Law Judge  
Office of Administrative Hearings  
1400 West Washington, Suite 101  
Phoenix, Arizona 85007

Mary E. Kosinski  
Assistant Attorney General  
127t West Washington  
Phoenix, Arizona 85007

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

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

Matthew Nathan Rose  
12805 W. Corrine Drive  
El Mirage, AZ 85335  
Respondent

  
\_\_\_\_\_  
887297; CPA04-321

PAD / CPA  
DEC 27 2004  
RECEIVED

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

STATE OF ARIZONA  
FILED

DEC 23 2004

DEPT OF INSURANCE  
BY         

In the Matter of:

**MATTHEW NATHAN ROSE**

Respondent.

No. 04A-210-INS

**NOTICE OF HEARING**

PLEASE TAKE NOTICE that pursuant to the provisions of Arizona Revised Statutes ("A.R.S.") §§ 20-161 through and including 20-165, 41-1092 *et seq.* through and including 41-1066, and 41-1092.01, the above-captioned matter will be heard before the Director of Insurance of the State of Arizona (the "Director") or her duly designated representative, on the   9th   day of  February , 2005, at 9:00 a.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona 85007 (the "Hearing").

Motions to continue this matter shall be made in writing to the Administrative Law Judge not less than fifteen (15) days prior to the date set for hearing. A copy of any motion to continue shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of Administrative Hearings.

A.R.S. § 20-164(B) entitles any person affected by this Hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence, to examine witnesses, to present supporting evidence in support of his interests, and to have subpoenas issued by the Administrative Law Judge to compel attendance of witnesses and production of evidence.

If Respondent is represented by counsel, the attorney shall be licensed to practice law in the State of Arizona or, if Respondent is an insurer, they may be represented by a corporate officer, pursuant to A.R.S. § 20-161(B)

...



1 Questions concerning this Notice of Hearing should be directed to Assistant Attorney  
2 General Mary E. Kosinski, (602) 542-8830, 1275 West Washington Street, Phoenix, Arizona  
3 85007-2926.

4 Pursuant to A.R.S. §41-1092.07(E), a clear and accurate record of the proceedings will be  
5 made by a court reporter or by electronic means. Any party that requests a transcript of the  
6 proceeding shall pay the cost of the transcript to the court reporter or other transcriber.

7 **NOTICE OF APPLICABLE RULES**

8 On January 23, 1992, the Arizona Department of Insurance adopted A.A.C. R20-6-101  
9 through R20-6-115, setting forth the rules of practice and procedure applicable in contested cases  
10 before the Director of Insurance. The hearing will be conducted pursuant to these rules.

11 PURSUANT TO A.A.C. R20-6-106, RESPONDENT SHALL FILE A WRITTEN  
12 ANSWER WITHIN 20 DAYS AFTER ISSUANCE OF THIS NOTICE OF HEARING AND  
13 SHALL MAIL OR DELIVER A COPY OF THE ANSWER TO THE ASSISTANT ATTORNEY  
14 GENERAL DESIGNATED ABOVE. THE ANSWER SHALL STATE RESPONDENT'S  
15 POSITION OR DEFENSE AND SHALL SPECIFICALLY ADMIT OR DENY EACH  
16 ASSERTION IN THE NOTICE OF HEARING. ANY ASSERTION NOT DENIED SHALL BE  
17 DEEMED TO BE ADMITTED. ANY DEFENSE NOT RAISED IN THE ANSWER SHALL BE  
18 DEEMED WAIVED. IF AN ANSWER IS NOT TIMELY FILED, RESPONDENT SHALL BE  
19 DEEMED IN DEFAULT AND THE DIRECTOR MAY DEEM THE ALLEGATIONS ARE  
20 TRUE, AND TAKE WHATEVER ACTION IS APPROPRIATE, INCLUDING SUSPENSION,  
21 REVOCATION, DENIAL OF A LICENSE, OR RENEWAL OF A LICENSE, IMPOSITION OF A  
22 CIVIL PENALTY AND/OR ORDER RESTITUTION TO ANY PARTY INJURED.

23 PERSONS WITH DISABILITIES MAY REQUEST REASONABLE  
24 ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR  
25 ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR ACCOMMODATIONS  
26 SHOULD BE MADE AS EARLY AS POSSIBLE TO ALLOW TIME TO ARRANGE THE

1 ACCOMMODATIONS. IF YOU REQUIRE ACCOMMODATIONS, PLEASE CONTACT THE  
2 OFFICE OF ADMINISTRATIVE HEARINGS AT (602) 542-9826.

3 The allegations supporting this Notice of Hearing are as follows:

4 1. Matthew Nathan Rose ("Rose") is currently and was at all material times licensed as a  
5 resident Life and Accident/Health producer, Arizona license number 155616, which expires on June  
6 30, 2005.

7 2. Rose's residence and business address of record with the Department is 4849 E.  
8 Roosevelt, #1120, Phoenix, Arizona 85008.

9 3. On June 3, 2004, the Department received a complaint from Blue Cross/Blue Shield  
10 of Arizona ("BCBSAZ") alleging that Rose made untruthful remarks about BCBSAZ and its  
11 individual insurance products. BCBSAZ provided the Department with an e-mail sent by Rose to  
12 John Antanies dated May 10, 2004 showing that Rose made untrue statements regarding the rate  
13 increases of BCBSAZ policies when compared to National Association for the Self-Employed  
14 ("NASE") policies.

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

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

22 6. On July 8, 2004, the Department spoke with Jeanne Duke, Vice President, Product  
23 Development of UGA Association of Field Services ("UGA"), a division of MEGA. She stated that  
24

25  
26 

---

<sup>1</sup> MEGA provides the coverage offered by NASE.



1 MEGA has a standard training procedure in which they stress the importance of not comparing  
2 coverages of other companies to consumers.

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

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

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

14 10. On September 24, 2004, the Department contacted John Antanies regarding the e-  
15 mail sent to him by Rose on May 10, 2004. John Antanies provided BCBSAZ with Rose's e-mail  
16 after he purchased a policy with BCBSAZ.

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

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

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

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

4           15.     Respondent's conduct, as alleged above, constitutes an unfair trade practice,  
5 a violation of A.R.S. § 20-442.

6           16.     Respondent's conduct, as alleged above, constitutes misrepresentations and false  
7 advertising of policies, a violation of A.R.S. § 20-443.

8           17.     Respondent's conduct, as alleged above, constitutes misrepresentation in the sale of  
9 insurance, a violation of A.R.S. § 20-443.01(A).

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

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

14          20.     Respondent's conduct, as alleged above, constitutes failure to notify the director in  
15 writing within 30 days of any change in a residential or business address, in violation of A.R.S. § 20-  
16 286(C)(1).

17          21.     Respondent's conduct, as alleged above, constitutes the violation of any provision of  
18 Title 20, or any rule, subpoena or order of the Director, within the meaning of A.R.S. § 20-  
19 295(A)(2).

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

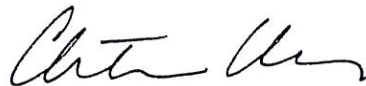
23           WHEREFORE, if after hearing the Director finds that one or more of the above-described  
24 allegations are supported by the evidence, the Director may suspend, revoke or refuse to renew  
25 Respondent's resident Life and Accident/Health producer's license, and/or impose a civil penalty,  
26 pursuant to A.R.S. §§ 20-295(A) and (F).



1 Pursuant to A.R.S. § 20-150, the Director of Insurance delegates the authority vested in the  
2 Director of Insurance of the State of Arizona to the Director of the Office of Administrative  
3 Hearings or her designee to preside over the hearing of this matter as the Administrative Law Judge,  
4 to make written recommendations to the Director of Insurance consisting of proposed findings of  
5 fact, proposed conclusions of law, and a proposed order. This delegation does not include delegation  
6 of the authority of the Director of Insurance to make the order on hearing or other final decision in  
7 this matter.

8 Pursuant to A.R.S. § 41-1092.01, your hearing will be conducted through the Office of  
9 Administrative Hearings, an independent agency. Please find enclosed a copy of the procedures to  
10 be followed.

11 DATED this 22<sup>nd</sup> day of December, 2004.

12  
13 

14 \_\_\_\_\_  
Christina Urias, Director  
Arizona Department of Insurance

15  
16 COPY of the foregoing mailed this  
23rd of December, 2004, to:

17 Lewis D. Kowal, Administrative Law Judge  
18 Office of Administrative Hearings  
1400 W. Washington, Suite 101  
19 Phoenix, Arizona 58007

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

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



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

2 Matthew Nathan Rose  
12805 W. Corrine Drive  
3 El Mirage, AZ 85335  
Respondent

4  
5   
6 880105; CPA04, 521

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26