STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE REGULATION
LICENSING AND REGULATORY AFFAIRS

Before the Commissioner of Financial and Insurance Regulation

In the matter of:

American Benefit Concepts, Inc.
(*also d/b/a* ABC Solution and New Fidelity),
System ID: 0015773

Enforcement Case No. 11-11289

Jason E. Juberg
System ID: 0145569

Matt E. Harper
System ID: 0232821

Jose L. Garcia
System ID: 0158256

Senior Marketing Group LLC
System ID: 0090442

Respondents.
_____/

ORDER OF SUMMARY SUSPENSION
AND
OPPORTUNITY FOR HEARING

Issued and entered
On 5/11 2011
by Stephen R. Hilker
Chief Deputy Commissioner

Pursuant to Section 1242(4) of the Michigan Insurance Code, 1956 PA 218, as amended, MCL 500.1242(4) this matter now comes before the Chief Deputy Commissioner of the Office of Insurance Regulation upon a Petition for Summary Suspension of the insurance producer licenses held by American Benefit Concepts, Inc. ("ABC"), Jason Juberg ("Juberg"), Matt Harper ("Harper"), Jose Garcia ("Garcia") and Senior Marketing Group, LLC ("SMG").

FINDINGS OF FACT

Reasonable evidence exists to demonstrate the following:

1. Each Respondent holds an active Michigan insurance resident producer license with qualifications to transact insurance business in accident, health, life and variable annuities.

2. Juberg, Harper and Garcia are the sole shareholders of ABC, and serve as officers of the corporation. Garcia is also the managing member of SMG.

3. OFIR staff conducted the investigations of each Respondent and determined that Respondents ABC, Juberg and Harper were engaging in unlicensed securities activities in the state of Michigan.

4. OFIR's investigation of the Respondent's business activities showed that beginning in late 2007 and continuing through 2009, ABC, Juberg and Harper were brokering unregistered securities offered by Diversified Lending Group ("DLG"), Diversified Global Finance ("DGF") and Diversified Liquid Asset Holdings ("DLAH"), and Pinnacle Capital Fund ("Pinnacle") in violation of Michigan's Uniform Securities Act.

5. Respondent ABC, under Juberg and Harper's management, targeted insurance clients as prospective buyers of these investment products. The ideal investors targeted were seniors who were age 65 or older and had accumulated significant assets.

6. ABC, under Juberg and Harper's management, trained their employees and insurance agents to prey on a prospective investor's fear or greed. The agents recommended that investors liquidate safe, stable investments (and in some cases use home equity loans) to purchase securities that were not suitable for them. OFIR's investigation revealed that ABC agents solicited investors who were neither accredited nor sophisticated within the meaning of state and federal regulations.

7. Investors were solicited through in-home presentations and cold calling. Many seniors received multiple visits from ABC's agents in order to "close the deal" with respect to the purchase of certain investment products. Based on representations that the securities were safe and secure investments with 12-13% returns, investors purchased the securities.

8. Additionally, to legitimize the securities, ABC issued to some investors an ABC corporate guarantee to entice them to invest in some of the securities -- products already purported to be guaranteed as safe. The corporate guarantee promised to pay the investor any money lost on the investment. To date, ABC has not honored the corporate guarantees it issued.

9. Respondents ABC, Juberg, Harper, and its insurance agents brokered nearly $57 million in unregistered securities through ABC to more than 400 Michigan residents. They represented that they only received approximately $2.6 million in commissions; however,

OFIR believes they received much higher commissions that were later split with the selling agent.

10. In 2009 and 2010, federal agencies seized the assets of DLG, DGF, and DLAH in separate civil actions alleging that the investment schemes were frauds. Michigan consumers invested nearly $53 million through ABC with DLG, DGF and DLAH. It is unlikely they will ever recoup their losses.

11. In October 2010, ABC, Juberg and Harper agreed to a settlement of a class action lawsuit filed by Michigan investors for $4.6 million.

12. Subsequently, SMG and Garcia foreclosed on ABC's assets and acquired ABC's insurance client lists. SMG and Garcia appear to be using misleading and deceptive sales practices in order to switch ABC's insurance clients to SMG to generate business and commissions, and replacing policies that may not provide better coverage or benefits, or is even necessary to replace.

13. ABC, Juberg, Harper and Garcia are attempting to impede, hinder or otherwise compromise OFIR's pending administrative action by failing to provide OFIR with notice of the foreclosure proceedings, by failing to update OFIR with the status of ABC's management and day-to-day operations while the action remained open.

14. As a result, Respondents' conduct, either directly or indirectly, breaches the public's trust and confidence of the insurance industry as a whole, and their practices continue to put Michigan consumers in immediate danger.

CONCLUSIONS OF LAW

1. OFIR administers and regulates the Michigan Insurance Code (the "Insurance Code") 1956 PA 218, as amended, MCL 500.100 *et seq.*, and regulates the licensing and activities of individuals licensed under the Insurance Code.

2. Each named Respondent is currently licensed with OFIR and appointed with insurance companies.

3. OFIR has jurisdiction over the subject matter of the Petition.

4. The Respondents, as licensed insurance producer agents with full knowledge of this State's insurance laws, knew or should have known that the use of fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere violates Section 1239(1)(h) of the Insurance Code.

5. Section 1239(1)(h) is to be applied broadly and encompasses any business conduct (i.e., securities) and not just insurance related business.

6. The Respondents' past and present activities present a serious and immediate threat to the public's health, safety and welfare, and emergency action is clearly required to protect the public's interest.

7. ABC, Juberg andHarper have violated the public's trust and Section 1239(1)(h) of the Insurance Code by:

    a. using coercive and intimidating sales practices while engaged in the business of selling insurance and/or securities;

    b. using fraudulent practices to sell unlawful securities to insurance clients without being properly licensed;

    c. using fraudulent practices to sell unlawful securities to insurance clients where ABC, Juberg and Harper represented to have conducted a thorough due diligence review of investment products and did not do so;

    d. by using fraudulent practices to sell unlawful securities to insurance clients where ABC, Juberg and Harper issued a corporate guarantee to secure principal investments knowing ABC did not have a present or future ability to honor those guarantees;

    e. demonstrating incompetence when they sold unlawful securities to insurance clients where ABC, Juberg and Harper represented were not licensed to sell securities, and failed to contact OFIR to determine whether the securities had been registered or exempt, and did not determine if they needed to be licensed to sell securities;

    f. failing to inform OFIR of the status of ABC's insurance producer license knowing OFIR had a current action pending against ABC;

    g. failing to keep OFIR informed of ABC's business status, operations and management during open administrative proceedings.

8. SMG and Garcia have violated the public's trust and Section 1239(1)(h) of the Insurance Code by:

    a. using coercive and intimidating sales practices while engaged in the business of selling insurance;

    b. failing to inform OFIR of their acquisition of ABC's business and/or insurance producer license knowing OFIR had a current action pending against ABC;

    c. Failing to keep OFIR informed of ABC's business status, operations and management during open administrative proceedings.

9. ABC, Juberg and Harper have violated Section 1207(1) of the Insurance Code by receiving money from insurance clients to invest in fraudulent securities and giving investment advice without having the proper training and licenses to do so.

10. The Respondents have violated Section 1207(5) by using coercive, misleading and intimidating sales practices in order to sell securities and insurance to ABC's insurance clients through in-home solicitations and cold calling.

11. This continued activity exposes the general public to financial risks and harm and the Commissioner needs to take emergency action to protect the public by issuing an Order of Summary Suspension.

12. The immediate harm to the public presented by the continuing operation of the Respondents, as alleged, is much greater than the potential harm to Respondents, which might be occasioned by summary action against Respondents' license and authority. Specifically, individual insurance and securities consumers of both industries are at risk of continued substantial financial loss due to Respondents' failure to conduct their business activities ethically and honestly.

13. Due process requirements of the Michigan Insurance Code and the Administrative Procedures Act require that a licensee subject to summary disciplinary action be provided with an opportunity for immediate hearing. A summary suspension of Respondents' insurance producer licenses and authority is authorized by Section 92 of the Administrative Procedures Act of 1969, as amended, being MCL 24.292 and in Section 1242(4) of the Insurance Code, MCL 500.1242(4).

ORDER

Therefore, it is **ORDERED** that:

1. The insurance producer licenses and authority of Respondent Jason Juberg is hereby **SUMMARILY SUSPENDED**, effective upon service of this Order on Respondent Jason Juberg.

2. The insurance producer licenses and authority of Respondent Matt Harper is hereby **SUMMARILY SUSPENDED**, effective upon service of this Order on Respondent Matt Harper.

3. The insurance producer licenses and authority of Respondent Jose Garcia is hereby **SUMMARILY SUSPENDED**, effective upon service of this Order on Respondent Jose Garcia.

4. The insurance producer licenses and authority of Respondent American Benefit Concepts is hereby **SUMMARILY SUSPENDED**, effective upon service of this Order on Respondent American Benefit Concept's registered agent or any other person authorized to accept service.

5. The insurance producer licenses and authority of Respondent Senior Marketing Group is hereby **SUMMARILY SUSPENDED**, effective upon service of this Order on Respondent Senior Marketing Group's registered agent or any other person authorized to accept service.

6. If requested, a hearing on this matter shall be held within a reasonable time, but not later than 20 days after service of this Order, unless Respondents request a later date. The hearing shall address the following issues: a) the factual allegations set forth in the Staff's Petition for Summary Suspension, b) the continuation of this Order of Summary Suspension, c) the revocation of the insurance producer license of Respondents, and d) the assessment of such fines and restitution as may be authorized under the Insurance Code provisions applicable to this matter.

7. An administrative law judge from the State Office of Administrative Hearings and Rules shall preside over the hearing, if a hearing is requested.

8. A copy of this Order shall be served upon the Respondents immediately. This Order of Summary Suspension is effective upon the date of such service.

The Commissioner specifically retains jurisdiction of the matters contained herein and the authority to issue such further Order(s) as he shall deem just, necessary and appropriate.

RIGHTS AND PROCEDURES IN DIVISION OF INSURANCE HEARING

If requested, the hearing will be held under the legal authority and jurisdiction granted the Commissioner of Financial and Insurance Regulation by the Michigan Insurance Code and Uniform Securities Act, and in accordance with provisions of the Administrative Procedures Act of 1969, as amended ("APA"), MCL 24.201 et seq., Procedure for Conducting Hearings Held by the Commissioner of Financial and Insurance Regulation, Administrative Code 1979, R 500.2101 et seq., and other procedural provisions of Michigan law that are appropriate.

COUNSEL: A party has the right to be represented by counsel. If a party is represented, counsel is directed to file an appearance promptly with the administrative law judge. Appearances shall contain the counsel's full name, address, and telephone number. The address provided will be the official address for service of documents regarding this matter.
When a party chooses to proceed without counsel, he or she will be held to the same standards as an attorney, including a reasonable knowledge of the rules of evidence as applied in nonjury circuit court civil cases, applicable provisions of the APA, and other relevant laws and procedures.

FAILURE TO APPEAR: If a party fails to appear at the hearing, and the hearing, has not been adjourned, the party in attendance may be permitted to proceed with its case and the Commissioner may issue a decision without the participation of the absent party. Failure to appear may also result in a final decision entered against the Respondent by default. If so, the allegations in the Complaint will be taken as true. Substantial penalties for the alleged misconduct, including fines and license revocation, may be ordered.

ADJOURNMENTS: No hearing shall be adjourned or continued, except upon an order of the Commissioner or the administrative law judge. All motions and requests for an adjournment, or a continuance, shall be in writing and shall concisely state the reasons why an adjournment or continuance is necessary. No motion or request for an adjournment or a continuance will be considered unless it is filed at least 5 days prior to the hearing date, except upon order of the Commissioner or the administrative law judge. This exception will be granted only upon a showing, that for reasons not within the control of the party making, the motion or request, the motion or request could not be filed within the time limit.

DISCOVERY: The parties may wish to meet with each other to exchange information and materials relevant to the hearing. The offices of OFIR are available for this purpose. All records of a party relating to the subject matter of this hearing, which are not exempt from discovery, shall be made immediately available to every other party for inspection and copying.

MOTIONS: A party may file a motion with the administrative law judge at any stage in the case. All prehearing motions shall be in writing, shall be sent to each party with proof of service, and shall include the specific action requested and reasons for the action. A party may file a response to the motion within 7 days after receiving the motion.

EXHIBITS AND WITNESSES: A party has the right to call witnesses and to introduce physical and documentary evidence. Each party may cross-examine the witnesses called by the opposite party. An opportunity for redirect and recross-examination will also be provided. A party may submit rebuttal evidence. Each party may question or contest the admissibility of any exhibit. When an objection is raised to the admission or an exhibit, the grounds for the objection shall be stated.

DECISION AND APPEAL: Unless the Commissioner immediately proceeds to a final decision in accordance with Section 81 of the APA, MCL 24.281, the administrative law judge for a case will issue a Proposal for Decision when the hearing and transcripts are completed. The parties will usually be given 30 days to file exceptions to the Proposal for Decision. However, in cases involving summary suspension or matters of significant social and economic impact, the time period for filing exceptions may be shortened to meet the circumstances of a particular case. After the 30 days have elapsed, the Commissioner will issue a Final Decision. A Final Decision issued by the Commissioner may be appealed as provided in the applicable provisions of Michigan law.

OFFICE OF FINANCIAL AND INSURANCE REGULATION

Stephen R. Hilker
Chief Deputy Commissioner