

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Marc Walters
System ID No. 0639331

Enforcement Case No. 13-11742

Respondent.

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Issued and entered
on 6/19, 2013
by **Annette E. Flood**
Chief Deputy Director

**ORDER TO CEASE AND DESIST WITH STATEMENT OF FINDINGS
AND NOTICE OF OPPORTUNITY FOR HEARING**

Pursuant to Section 251 of the Michigan Insurance Code (Code), MCL 500.251, and after reviewing evidence of the conduct described in the attached Statement of Findings; and

WHEREAS, the Director of the Department of Insurance and Financial Services finds that immediate action is necessary and appropriate in the public interest for the protection of the public health, safety, and welfare and consistent with the purposes fairly intended by public policy and provisions of the Code;

IT IS THEREFORE ORDERED THAT:

1. The Respondent shall immediately **CEASE AND DESIST** from all activities in violation of the Code as described in the Statement of Findings.
2. A copy of this Order shall be immediately served upon Respondent. As to any Respondent, this Order shall be effective upon the date of service.
3. Respondent will have 30 calendar days after the service of this Order to contest it by requesting a hearing. Within 10 calendar days after receiving the request, the hearing process shall commence. This Order shall remain in effect until further order of the Director. Any request for a hearing should be addressed to the Department of Insurance and Financial Services, Attention: Tracy Janousek, Hearings Clerk, P.O. Box 30220, Lansing, MI 48909-7720 or faxed to 517-373-1224.
4. Any such hearing held shall address the following issues:
 - a. The facts set forth in the Statement of Findings.

- b. The continuation of the Order to Cease and Desist.
 - c. Restitution to be paid by the Respondents.
5. If a hearing is requested, an administrative law judge from the Michigan Administrative Hearing System shall preside over any such hearing.
 6. The Director retains jurisdiction of the matters contained herein and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate.
 7. Pursuant to Section 251(6) of the Code, MCL 500.251(6), a person who violates or otherwise fails to comply with an Order to Cease and Desist is subject to one or more of the following:
 - a. Payment of a civil fine of not more than \$1,000 for each violation not to exceed an aggregate civil fine of \$30,000. However, if the person knew or reasonably should have known the conduct was in violation of the cease and desist order, the person shall be subject to a civil fine of not more than \$25,000 for each violation not to exceed an aggregate civil fine of \$250,000.
 - b. Suspension or revocation of the person's license or certificate of authority.
 - c. Complete restitution, in the form, amount, and within the period determined by the Director, to all persons in Michigan damaged by the violation or failure to comply. MCL 500.251(6).


Annette E. Flood
Chief Deputy Director

Dated: 10/19/13

**STATE OF MICHIGAN
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Before the Director of the Department of Insurance and Financial Services

In the matter of:

Marc Walters
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STATEMENT OF FINDINGS

1. Pursuant to Executive Order 2013-1 all authority, powers, duties, functions, and responsibilities of the Commissioner of the Office of Financial and Insurance Regulation have been transferred to the Director of the Department of Insurance and Financial Services (DIFS).
2. Pursuant to Section 251(1) of the Code, MCL 500.251, the Director is empowered to issue a cease and desist order if the Director finds any of the following:
 - (a) A person is conducting transactions of insurance for which a certificate of authority is required by this act without having obtained a certificate of authority.
 - (b) A person is acting as an insurance agent, solicitor, adjuster, or counselor without a license as required by this act.
 - (c) A person is engaged in an act or practice in the business of insurance for which authority from or notification to the commissioner is required by this act and the person has not received authority or given notification.
 - (d) A person authorized to engage in the business of insurance under this act is engaged in conduct that presents an immediate danger to public health, safety, or welfare. MCL 500.251(1).
3. Under Section 1201a of the Code, it is a violation for a person to sell, solicit, and negotiate insurance in this state for any line of insurance without first obtaining a license or qualification for that line. MCL 500.1201a(1).
 - a. "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers. MCL 500.1201(k).

- b. “Sell” means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company. MCL 500.1201(l).
 - c. “Solicit” means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company. MCL 500.1201(m).
4. Under Section 1208a of the Code, an insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. MCL 500.1208a(1).
5. Respondent, Marc Walters, DOB May 22, 1977, is a Florida licensed resident producer (P241207). DIFS Staff received information about possible unlicensed activity by Respondent. A review of DIFS’ records revealed that Respondent is not licensed under the Code.
6. American Medical and Life Insurance Company (AMLI) is an insurer authorized by a certificate of authority issued by the Department Insurance and Financial Services (DIFS)¹, to transact insurance in the state of Michigan, effective July 8, 2008. AMLI’s Certificate of Authority in Michigan is currently suspended until March 23, 2015. Respondent has never been appointed by AMLI.
7. Premier Health Plans, Inc. (Premier) is an active licensed, non-resident producer agency in the state of Michigan, with Accident and Health qualifications, effective January 5, 2011. Premier was licensed during all relevant times; however, Premier was not appointed by AMLI to sell its insurance products.
8. Craig Steven Bernstein is an active licensed non-resident producer agent in the state of Michigan with Accident and Health, and Life qualifications, effective January 29, 2010. Mr. Bernstein was appointed by AMLI from April 1, 2011 through March 22, 2012. Mr. Bernstein is the designated responsible licensed producer (DRLP) for Premier Health Plans, Inc. Mr. Bernstein, through Premier’s attorney, provided to DIFS staff a spreadsheet listing Respondent as one of his sub-agents and an AMLI agent agreement signed by Respondent. However, although Mr. Bernstein held a Michigan non-resident insurance producer license and an AMLI appointment when his sub-agent (Respondent) sold insurance to Michigan citizens, the Code had required Respondent to be licensed in Michigan and appointed by AMLI to sell insurance products to Michigan citizens. Respondent was neither licensed in Michigan nor appointed by AMLI.
9. Axis Financial Corporation (Axis) is a for-profit corporation engaged in the business of selling, marketing and servicing insurance policies through licensed insurance agents in states where it is licensed to do so. However, Axis is neither licensed in Michigan nor appointed by AMLI to sell its insurance products. The marketing services agreement between Axis and AMLI provides that Axis will assist AMLI in connection with the

¹ Effective March 18, 2013, all authority, duties, powers, functions and responsibilities of the Commissioner of the Office of Financial and Insurance Regulation (OFIR) transferred to the Director of the Department of Insurance and Financial Services (DIFS) pursuant to Executive Order 2013-1.

- distribution of its products by providing administrative marketing support services via Axis' agent/broker distribution network. Axis contracted with Premier to use its agents (Bernstein's sub-agents) to sell limited benefit health insurance plans (underwritten by AMLI) to Michigan citizens who were already or would be required to become members of the Consumer Assistance Services Association (CASA) in order to be eligible to purchase the limited benefit health insurance plans. AXIS and Premier packaged and marketed the plans under the name of "Premier Health Memberships."
10. On or about January 1, 2011, Axis entered into a Program Manager Marketing Services Agreement with AMLI to act as program manager for AMLI for the purpose of marketing and distributing AMLI insurance products in Michigan. A second Program Manager agreement was entered into between Axis and AMLI on January 14, 2012. Both agreements provided for a 3% program manager commission and a 10% representative commission allowance for each sale of AMLI insurance.
 11. On or about February 16, 2011, Axis entered into an agreement with Premier for the purpose of marketing and selling AMLI's guarantee issue limited indemnity medical health insurance plans and non-insurance products to members of CASA. The agreement provided that Axis would pay Premier specified commissions for each sale of packaged Premier Health Plans and \$84.00 of a "one-time processing fee" of \$99.00 (also referred to as an enrollment fee, collected from the clients who would then become "members" of CASA so as to be eligible for the group plans).
 12. Premier and Axis then packaged and marketed the guarantee issue limited indemnity medical health insurance plans (underwritten by AMLI) and non-insurance products, known together as "Premier Health Memberships," to Michigan citizens who were already or would be required to become members of CASA.
 13. On March 23, 2012, DIFS ordered AMLI to Cease and Desist allowing unappointed agencies and other unlicensed, unappointed marketing entities (Program Managers) to sell its products in the state of Michigan.
 14. After an investigation, DIFS Staff concluded that Respondent violated the insurance laws of this state.
 15. Specifically, DIFS Staff found that between May 1, 2011, and June 1, 2011, Respondent, acting as a sub-agent of Bernstein, violated MCL 500.1201a(1) by selling two Premier Health Plan insurance certificates to Michigan citizens without being licensed, and without holding a qualification as an Accident and Health producer in Michigan as the Code requires.
 16. Respondent violated MCL 1208a(1) by acting as an agent of AMLI without first becoming an appointed agent of that insurer. The evidence also shows he was aware that he was required to be appointed by AMLI.

17. Respondent violated MCL 500.1240(2) by accepting a commission, service fee, or other valuable consideration for selling, soliciting, or negotiating insurance without first becoming licensed in Michigan and appointed by AMLI as required by the Code
18. By selling two Premier Health Plan insurance certificates to Michigan citizens without being licensed and without holding a qualification as an Accident and Health producer in Michigan as the Code requires, acting as an agent of AMLI without first becoming an appointed agent of that insurer, and by accepting a commission, service fee, or other valuable consideration for selling, soliciting, or negotiating insurance without first becoming licensed in Michigan and appointed by AMLI as required by the Code, Respondent violated MCL 500.1201a(1), MCL 500.1208a(1), and MCL 500.1240(2) of the Code.
19. Based on the aforementioned findings, Respondent is acting as an insurance agent, without a license as required by the Code.