

**NORTH CAROLINA DEPARTMENT OF INSURANCE  
RALEIGH, NORTH CAROLINA**

**STATE OF NORTH CAROLINA  
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER  
OF INSURANCE**

**IN THE MATTER OF )  
AFFINITY GROUP BENEFITS ASSOCIATION, )  
INC., SMART DATA SOLUTIONS, LLC, )  
NATIONAL TRADE BUSINESS ALLIANCE OF )  
AMERICA d/b/a NATIONAL ALLIANCE OF )  
ASSOCIATIONS, PROFESSIONAL BENEFITS )  
CONSULTANTS, INC., a.k.a. PBC DIRECT, )  
RICHARD H. BACHMAN, BART POSEY, OBED )  
KIRKPATRICK, THOMAS SULLIVAN, JAMES )  
M. DOYLE, CHRISTOPHER ASHIOTES, )  
ASSOCIATION OF FRANCHISE AND )  
INDEPENDENT DISTRIBUTORS, LLC, PAUL )  
OLZESKI, SPENCER AND ASSOCIATES, LLC, )  
BRUCE E. SPENCER, MARC MORROW, )  
REAL BENEFITS ASSOCIATION, DAVE CLARK, )  
AMERICAN TRADE ASSOCIATION, AND )  
AMERICANS FOR AFFORDABLE HEALTHCARE, )  
STEPHENS-MATTHEWS MARKETING, INC., AND )  
LARRY MATTHEWS )**

**Docket Number 1417**

**FINAL CONSENT  
CEASE AND DESIST  
ORDER**

**CONSENT CEASE AND DESIST ORDER**

This agreed Consent Order (the "Consent Order") is entered into on the 28<sup>th</sup> day of November 2008 (the "Effective Date") between the North Carolina Department of Insurance (the "Department") and The Association of Franchise and Independent Distributors, LLC ("AFID") and Paul Olzeski ("Olzeski"), hereinafter collectively referred to as "Respondents." The above named persons and entities may also be referred to collectively as the "Parties."

**JURISDICTION AND GENERAL FINDINGS**

The Department is charged with the authority and responsibility for the enforcement of the insurance laws of the State of North Carolina.

This administrative proceeding was instituted against Respondents on 15 August 2008 pursuant to an Amended Emergency Cease and Desist Order, Notice of Hearing, and Order to Produce Documents and Information.

Respondents stipulate and agree that this Consent Order shall not be construed as affecting the legal rights of any third party or other Respondent named in the 15 August 2008 Amended Emergency Cease and Desist Order, Notice of Hearing, and Order to Produce Documents and Information.

Respondents stipulate and agree that this Consent Order shall not be construed as affecting the rights of the Department to pursue administrative action against all other Respondents named in the 15 August 2008 Amended Emergency Cease and Desist Order, Notice of Hearing, and Order to Produce Documents and Information and any other person or entity that has engaged in any unlawful transaction or activity related to the matters and things set forth in this Consent Order and it is not the intent of the Department or the Respondents to release or discharge any person or entity not specifically identified in this Consent Order.

### FINDINGS OF FACT

1. Respondent AFID is a limited liability company co-owned and managed and operated by Paul Olzeski.

2. Respondent Olzeski holds non-resident Life Producer and Accident & Health or Sickness Producer agent licenses issued by the Department.

3. Stephens-Matthews Marketing, Inc. ("SMM") is an insurance agency located in Beverly, Ohio. SMM entered into a Broker Commission Agreement with AFID.

4. Through SMM and Olzeski, AFID enrolled at least twenty-four (24) members in a program offered through Real Benefits Association ("RBA"). These members were residents of the State of North Carolina. Respondents AFID and Olzeski allege that they were led to believe that RBA was organized under the rules and regulations governing the formation and operation of a union and was subject to The National Labor Relations Board, the Taft Hartley Act of 1947 and the Landrum's Griffin Act of 1959 and was therefore exempt from state regulation. RBA is operated by David L. Clark, Chairman, P. O. Box 74, Basking Ridge, NJ 07920. RBA furnished a Department of Labor File Number LM 543-076 and had a website [www.rbausa.com](http://www.rbausa.com).

5. AFID marketed its programs under various names, including "the One Advantage Plan," "One Advantage Program," Privilege Care, "Per4mance Health Plan," "Per4mance Plan," and "Per4mance Plan Plus" (hereinafter collectively referred to as "the One Advantage Plan"). The RBA union programs marketed and sold through SMM and Olzeski included a choice of major medical insurance or limited medical indemnity insurance, vision, dental, life, and disability insurance. The major medical insurance benefits, which are referred to as the Part B benefits of the One Advantage Plan, were purportedly made available to AFID members pursuant to an affiliation agreement between the Affinity Group Benefits Association, Inc. ["AGBAI"] and the RBA that allows RBA members to have access to insurance benefits under an insurance policy issued by Beema Insurance Company to AGBAI. Respondents received notice from the North Carolina Department of Insurance that in the opinion of the Department, the RBA program is not a valid union plan that may be exempt from state

regulation and Beema Insurance Company is not authorized to do the business of insurance in the State of North Carolina.

6. Respondents ceased doing business in North Carolina in July 2008 and sent notices of termination to all North Carolina residents who were enrolled as members. In the notices of termination, AFID stated that: (a) it had chosen to no longer do business in North Carolina, (b) it is no longer marketing membership in North Carolina, (c) the benefit program in which they enrolled is no longer available through AFID membership and all benefits will be terminated, and (d) AFID will no longer be deducting any monies from their accounts and their membership will remain in force through July 31, 2008.

### CONCLUSIONS OF LAW

1. Notice in this matter was timely and properly effected.
2. This matter is properly before the Commissioner of Insurance and the Commissioner has jurisdiction over the Parties and the subject matter pursuant to Article 28 of Chapter 58 of the General Statutes of North Carolina.
3. Respondents AFID and Olzeski have violated N.C. General Statutes § 58-28-5 and § 58-28-10.
4. Respondents AFID and Olzeski have violated N.C. General Statute § 58-33-95(a) by soliciting, negotiating or selling insurance in the State of North Carolina when they should have known that such insurance was not provided through an authorized insurer in the State of North Carolina.
5. Respondents AFID and Olzeski have violated N.C. General Statute § 58-28-45(a) by acting as agents for an insurer not authorized to transact insurance business in the State of North Carolina.
6. Under N.C. General Statute § 58-28-10, an assessment of thirty thousand (\$30,000.00) is warranted against Respondents AFID and Olzeski.
7. Respondents AFID and Olzeski consent to be bound by this Consent Order and understand that it has the same binding authority as a final Order of the Commissioner.
8. Respondents AFID and Olzeski expressly waive their rights to a hearing and to any further proceedings on this matter. They also expressly waive their right to seek judicial review or to otherwise challenge the validity of this Consent Order.
9. This written document contains the entire agreement between the Parties. There are no other oral or written agreements of any kind which alter or add to this agreement.

**IT IS THEREFORE, BY CONSENT, ORDERED** as follows:

1. AFID and Olzeski shall CEASE AND DESIST from violating N.C. Gen. Stat. §§ 58-28-5, 58-28-12, and 58-28-13 and shall cease and desist from acting directly or indirectly as an agent for, or otherwise representing or aiding in the solicitation, procurement or effectuation of insurance coverage issued by any insurer that is not authorized to transact insurance business in the State of North Carolina.

2. Respondent Olzeski will immediately and permanently surrender his North Carolina non-resident agents' insurance licenses in accordance with the Voluntary Surrender of Insurance Agents License forms which are attached to this Consent Order as Exhibits A and B.

3. AFID and Olzeski shall pay an assessment in the amount of thirty thousand dollars (\$30,000.00) for violation of N.C. General Statute § 58-28-10. AFID shall pay fifteen thousand dollars (\$15,000.00) and Olzeksi shall pay the remaining fifteen thousand dollars (\$15,000.00). AFID and Olzeski shall pay their respective shares by cashier checks made payable to the North Carolina Department of Insurance. The checks shall accompany this Consent Order when it is sent to the Department after AFID and Olzeksi sign this Consent Order. Upon receipt of this Consent by the Department, the Hearing Officer will sign this Consent Order.

4. This Consent Order shall become effective after the Department receives payment of the assessment from AFID and Olzeski and the Consent Order has been signed by the Parties and the Hearing Officer.

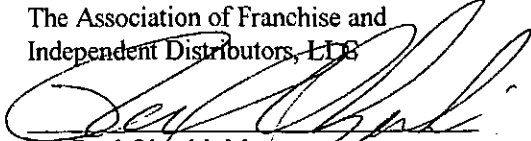
IN WITNESS WHEREOF, the parties have duly executed this Consent Order this 28<sup>th</sup> day of November, 2008.



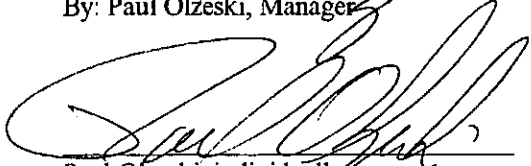
William K. Hale  
William K. Hale  
Hearing Officer and Special Counsel  
North Carolina Department of Insurance

**CONSENTED TO BY:**

The Association of Franchise and  
Independent Distributors, LLC


  
By: Paul Olzeski, Manager

10/28/08  
DATE

  
Paul Olzeski, individually

10/28/08  
DATE

NORTH CAROLINA DEPARTMENT  
OF INSURANCE

By   
Angela Ford  
Senior Deputy Commissioner

11-24-08  
DATE

EXHIBIT A

**Voluntary Surrender of Insurance Agent's License**

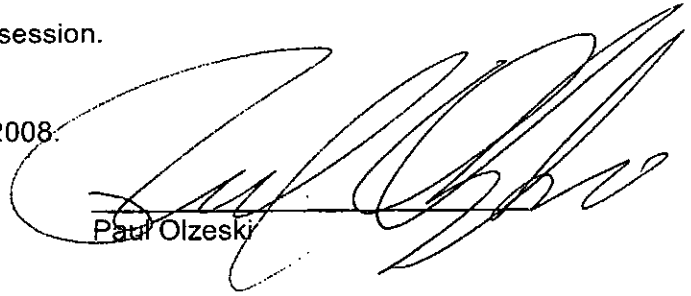
I, Paul Olzeski, hereby voluntarily and permanently surrender my North Carolina Life Producer agent's license. I understand and acknowledge that effective immediately I can no longer act as an insurance agent in North Carolina in any manner. I waive any right to a hearing concerning my license.

The original license is:

\_\_\_\_\_ attached.

is no longer in my possession.

Surrendered this the \_\_\_\_\_ day of November, 2008.



Paul Olzeski

Sworn to and subscribed before me

this the \_\_\_\_\_ day of November, 2008.

\_\_\_\_\_ (signature)

\_\_\_\_\_ (printed name)

Notary Public

My commission expires: \_\_\_\_\_

EXHIBIT B

**Voluntary Surrender of Insurance Agent's License**

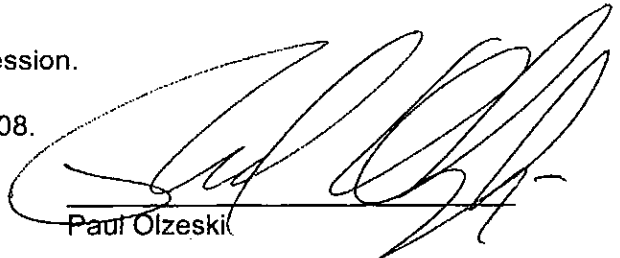
I, Paul Olzeski, hereby voluntarily and permanently surrender my Accident & Health or Sickness Producer agent's license. I understand and acknowledge that effective immediately I can no longer act as an insurance agent in North Carolina in any manner. I waive any right to a hearing concerning my license.

The original license is:

attached.

is no longer in my possession.

Surrendered this the \_\_\_\_\_ day of November, 2008.



Paul Olzeski

Sworn to and subscribed before me

this the \_\_\_\_\_ day of November, 2008.

\_\_\_\_\_ (signature)

\_\_\_\_\_ (printed name)

Notary Public

My commission expires: \_\_\_\_\_

**Congratulations! This is your insurance license. Some VERY IMPORTANT notices:**

- \* You shall not solicit insurance with this license UNLESS you have a valid contract (agent appointment) from an admitted insurance company.
- \* It is YOUR responsibility to verify that the company you are writing business for is an admitted insurance company in this State, and that the product and form have been approved in this State.
- \* You may only solicit for the kinds of insurance for which you are properly licensed AND for the insurance company for which you have a valid appointment.
- \* Your appointment(s) shall continue in effect as long as you are properly licensed and your appointing insurance company is authorized to transact business in this State.

<p><b>NC DEPARTMENT OF INSURANCE</b> VALID UNTIL CANCELLED, SURRENDERED, OR REVOKED</p>	<p><b>NC NOTICE OF CANCELLATION</b> Agent Name _____</p>
<p><b>PAUL JOHN OLZESKI</b> <small>is authorized to act as</small></p>	
<p><b>SURRENDERED</b></p>	
<p>_____ SIGNATURE</p>	
<p>TYPE 01-L</p>	

PAUL JOHN OLZESKI  
1 SOUTH LIMESTONE ST  
SUITE 301  
SPRINGFIELD, OH 45502

22 / 708  
1/2/07 11:58 am

**NORTH CAROLINA  
DEPARTMENT OF INSURANCE**

**PAUL JOHN OLZESKI**

**SURRENDERED**

**LIFE & HEALTH INSURANCE AGENT**

North  
City of

*Jim Long*  
Commissioner of Insurance

DECEMBER 18, 2006

RECEIVED AUG 25 2008

License No: 0003576386

North Carolina License

NPN: 3576386

PAUL JOHN OLZESKI

LICENSE TYPE  
Producer

LOA EFFECTIVE DATE	LICENSE FIRST ACTIVE DATE
12/18/2006	12/18/2006
1/18/2006	

PAUL JOHN OLZESKI  
1 SOUTH...  
ST...

# SURRENDERED

STATEMENT OF INSURANCE  
*James E. Long*  
 Commissioner Of Insurance

This license shall remain in effect until the expiration date unless cancelled, surrendered or revoked. Individuals who are licensed as Insurance Producers and/or Bail Bond licensees must complete continuing education and pay all applicable renewal fees as required by North Carolina administrative code prior to the expiration date.

North Carolina License

License No: 0003576386 NPN: 3576386

PAUL JOHN OLZESKI  
MAY 20, 1776

Who has fulfilled all of the conditions of eligibility imposed by the General Assembly and is hereby licensed by this State (in the capacity stated below) and granted a license. It shall be valid until...

LICENSE TYPE	LOA EFFECTIVE DATE	LICENSE FIRST ACTIVE DATE
Producer	12/18/2006	12/18/2006
	12/18/2006	

# SURRENDERED

APRIL 12, 1776  
DEPARTMENT OF INSURANCE

For questions regarding a license please contact the North Carolina Department of Insurance at: 919-807-6800

*James E. Long*  
Commissioner Of Insurance

**CERTIFICATE OF SERVICE**

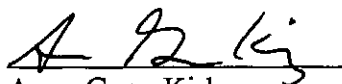
I HEREBY CERTIFY that on this day I have served the foregoing **FINAL CONSENT CEASE AND DESIST ORDER** by first class mail pursuant to Rule 4 of the North Carolina Rules of Civil Procedure addressed as follows:

Mr. Robert O. Crawford, III  
Attorney for Respondents AFID, Spencer & Associates, Paul Olzeski, and Bruce Spencer  
Landmark Center I  
4601 Six Forks Road, Suite 405  
Raleigh, NC 27609

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

Paul Olzeski  
701 Lakewood Drive  
Taylor Mill, KY 41015

This the 15<sup>th</sup> day of December, 2008.



Anne Goco Kirby  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629  
Telephone: (919) 716-6610  
North Carolina State Bar No. 13613  
E-mail: akirby@ncdoj.gov