

**BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel. KIM)
HOLLAND, Insurance Commissioner,)
)
 Petitioner)
v.)
)
CAPITOL MORTGAGE PROTECTION)
)
 Respondent.)

FILED
JAN - 7 2009
INSURANCE COMMISSIONER
Case No. 08-1901-UNI OKLAHOMA

APPLICATION FOR EMERGENCY CEASE AND DESIST ORDER

The Oklahoma Insurance Department (“Department”), through counsel makes application for an Emergency Cease and Desist Order against Capitol Mortgage Protection, referred to as Respondent or “Capitol”. The following information is offered in support:

RESPONDENT AND SERVICE

Respondent solicits the sale of life and disability insurance by direct mail for the purpose of paying a mortgage in the event of death of the mortgagor or paying monthly mortgage payments in the event of disability to the mortgagor. Respondent lists an address of 5301 10th Ave. N, Greenacres, FL 33463-9924.

JURISDICTION

The Insurance Commissioner has jurisdiction over this matter pursuant to the Oklahoma Insurance Code, 36 O.S. §§ 101 through 7004, specifically pursuant to Article 6 - Authorization of Insurers, 36 O.S. §§ 601, et seq.; the Oklahoma Producer Licensing Act, 36 O.S. §§ 1435.1, et seq.; the Unauthorized Insurance Business Act, 36 O.S. §§ 6103.1, et seq.; and the Unfair Practices and Frauds Act, 36 O.S. §§ 1204, et seq.

NATURE OF THIS ACTION

The Department received a complaint from Brian W. Pierson, Senior Vice President and General Counsel for BancFirst, an Oklahoma chartered bank headquartered in Oklahoma City. Pierson informed the Department that numerous bank customers complained they had received solicitations by mail to purchase insurance (“Exhibit A”). The solicitations lead customers to believe the bank is responsible for the proposals. However, the bank has no connection with the solicitations or any entity responsible for the solicitations. The bank alleges the solicitations are in violation of the Oklahoma Unfair Practices and Frauds Act.

ALLEGATIONS OF FACT

In addition to the summary above, the Department alleges as follows:

1. The Department received a complaint that Oklahoma residents and customers of BancFirst were solicited to purchase insurance by deceptive use of the banks name. Included with the complaint was a letter addressed to a bank customer in Coweta, Oklahoma. The letter identified the lender as “Bancfirst” which was visible as part of the recipients address through the window envelope. A disclaimer was included at the bottom of the letter was not visible through the window of the envelope.

2. The letter was captioned “IMPORTANT MORTGAGE INFORMATION” followed by the apparent command “COMPLETE AND RETURN IMMEDIATELY”. The letter stated the loan amount of the customer’s mortgage and the date the mortgage was closed. The letter advised, “Review the following details regarding the available Mortgage Protection Program for your new loan.” “This program protects your family from losing the home in foreclosure due to your death or disability.”

3. Review of Department records determined Capitol Mortgage Protection is not licensed as an agency nor is it admitted as an insurer. No other agency or company soliciting the sale of insurance was disclosed in the solicitation letters. The solicitation was not approved by the bank.

ALLEGED VIOLATIONS OF LAW

1. Respondent's actions fall within the definition of "doing an insurance business in this State," in violation of 36 O.S. §§ 6103.2 and 6103.3.

2. Respondent's solicitation: utilize the name of an unaffiliated financial institution; solicit the purchase of insurance; fails to state the name of an licensed agency or admitted insurer, creates the impression the financial institution is making the solicitation, all contrary to 36 O.S. § 1204(13).

3. Respondent has acted as an Insurance Producer without being licensed in violation of 36 O.S. §§ 1435.1, et seq.

4. Respondent has engaged in a course of conduct designed to circumvent and avoid regulatory oversight by the Commissioner, in violation of 36 O.S. § 6103.1.

5. The alleged conduct is an immediate danger to the public or is causing or can reasonably expected to cause significant, imminent and irreparable public injury.

RELIEF REQUESTED

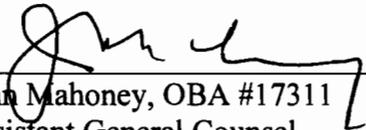
The Insurance Commissioner is requested to immediately without notice or hearing issue an Emergency Cease and Desist Order under authority of 36 O.S. § 6103.5, ordering Respondent and their agents, affiliates, employees, and other representatives, both current and successor, whether named or unnamed herein, to cease and desist from all activities related to doing unauthorized insurance business in this state, including:

1. The making of or proposing to make an insurance contract;
2. Marketing, promoting, advertising, or otherwise distributing solicitations for insurance;
3. The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety;
4. The taking or receiving of any application for insurance;
5. Maintaining any agency or office where any acts in furtherance of an insurance business are transacted, including but not limited to:
 - a. execution of contracts of insurance with citizens of this or any other state,
 - b. maintaining files or records of contracts of insurance,
 - c. processing of claims, or
 - d. receiving or collection of any premiums, commissions, membership fees, assessments, dues or other consideration for any insurance or any part thereof;
6. The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state;
7. Directly or indirectly acting as an agent for, or otherwise representing or aiding on behalf of another, any person or insurer in:
 - a. solicitation, negotiation, procurement or effectuation of insurance or renewals thereof,
 - b. dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts,

- c. inspection of risks,
 - d. fixing of rates or investigation or adjustment of claims or losses,
 - e. transaction of matters subsequent to effectuation of the contract and arising out of it, or
 - f. in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state;
8. Contracting to provide indemnification or expense reimbursement in this state to persons domiciled in this state or for risks located in this state, whether as an insurer, agent, administrator, trust, funding mechanism, or by any other method;
9. The doing of any kind of insurance business specifically recognized as constituting the doing of an insurance business within the meaning of the statutes relating to insurance;
10. The doing or proposing to do any insurance business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of the statutes; or
11. Any other transactions of business in this state that utilize the name of an unaffiliated financial institution and creates the impression the financial institution is making the solicitation.

In addition, the Commissioner is requested, notwithstanding the above requested orders, to order Respondents to pay all unpaid claims and to order any further relief which may be deemed appropriate and which is authorized by law, whether or not specifically requested herein.

Respectfully submitted on this 7th day of January, 2009.


John Mahoney, OBA #17311
Assistant General Counsel
Oklahoma Insurance Department
P.O. Box 53408
Oklahoma City, Oklahoma 73152
Telephone: (405) 521-2746
Facsimile: (405) 522-0125

CERTIFICATE OF MAILING

I, John Mahoney, hereby certify that a true and correct copy of the above and foregoing Application for Emergency Cease and Desist Order was mailed via certified mail with postage prepaid and return receipt requested on this 8 day of January, 2009, to:

Capitol Mortgage Protection
5301 10th Ave. N
Greenacres, FL 33463-9924

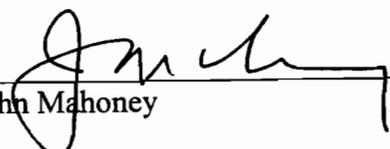
Certified No.

and that a copy was mailed to:

NAIC/RIRS
Postmaster 33463
Florida Insurance Commissioner

and that a copy was hand-delivered to:

OID Financial Division
OID Agents Licensing Division
OID Anti-Fraud Unit


John Mahoney

IMPORTANT MORTGAGE INFORMATION

COMPLETE & RETURN IMMEDIATELY

Loan Amount: \$300,000 No. of Years: 25 Closing Date: 10/10/2008 File #: S0372WAGON

Lender: Bancfirst
 Address: William W Andersen
 10635 S 305th East Ave
 Coweta, Oklahoma 74429



Review the following details regarding the available Mortgage Protection Program for your new loan. This program protects your family from losing the home in foreclosure due to your death or disability.

- ✓ DEATH BENEFIT - Pays off the loan in the event of your death (*natural causes or accidental*).
- ✓ DISABILITY OPTION - Pays your monthly mortgage payment if you become disabled.
- ✓ UNEMPLOYMENT OPTION - Pays your premium payments if you become involuntarily unemployed.
- ✓ MONEY BACK OPTION - Refunds 100% of your money back if coverage is never used.

Transferable if you refinance, purchase a new home, or pay off early.

Return this form in the postage-paid envelope for complete details.

DO NOT CUT DO NOT CUT DO NOT CUT

Fill Out Completely

Spouse does NOT have to be on the loan in order to qualify

BORROWER

SPOUSE / CO-BORROWER

Name: _____

Name: _____

Age: _____ HT/WT: _____' _____" _____ lbs

Age: _____ HT/WT: _____' _____" _____ lbs

Used any tobacco products in the past 12 months: Yes No

Used any tobacco products in the past 12 months: Yes No

Home: (_____) _____ - _____

Cell: (_____) _____ - _____

Work: (_____) _____ - _____

Work: (_____) _____ - _____

Best time to reach you...

Best time to reach you...

Our calling shifts (check one): EASTERN TIME ZONES

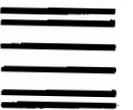
Our calling shifts (check one): EASTERN TIME ZONES

11am-1pm 2pm-4pm 7pm-9pm

11am-1pm 2pm-4pm 7pm-9pm

Print the name of the person that completed this form: _____ Date responded: ____/____/____

Coverage is underwritten & serviced by various top-rated insurance carriers. Qualification & available options will vary based on many risk factors. Protection offered by an independent brokerage agency, which is not affiliated with any lending institution; information obtained through public record.



BUSINESS REPLY MAIL

FIRST-CLASS MAIL

PERMIT NO. 2055

GREENACRES FL

POSTAGE WILL BE PAID BY ADDRESSEE

CAPITOL MORTGAGE PROTECTION
5301 10TH AVE N
GREENACRES FL 33463-9924

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

