IN THE DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION STATE OF MISSOURI

In Re:	)	
	)	
Kevin W. Louderback	)	
	)	
Serve at:	)	
	)	
3831 W. Creekside Ct. Sringfield, MO 65802	)	
	)	
Sheila G. Atchley **and** **Stephen J. Atchley**	)	
	)	
Serve at:	)	
	)	
3823 W. Creekside Ct. Springfield, MO 65802	)	**Case No. 070518314C**
	)	
Justin R. Barnes	)	
	)	
Serve at:	)	
	)	
4334 S. Timbercreek Ave. Apt. 99 Battlefield, MO 65619	)	
	)	
C.A.A.P., **C.A.A.P. & Associates** **and** **Premier Financial Services**	)	
	)	
Serve at:	)	
	)	
512 N. West Bypass Springfield, MO 65802	)	

STATEMENT OF CHARGES

The Division of Consumer Affairs of the Department of Insurance, Financial Institutions and Professional Registration, by and through counsel, requests the Director of the Department

of Insurance, Financial Institutions and Professional Registration to issue a cease and desist order and order payment of a monetary penalty based on the following statement of charges:

Facts Pertinent to All Counts

1. At all times mentioned herein, Kevin W. Louderback ("Louderback") was a licensed insurance producer (license #PR339355) in the state of Missouri. Louderback's insurance producer license is currently active and in good standing.

2. At all times mentioned herein, Sheila G. Atchley ("S.G. Atchley") was a licensed insurance producer (license #PR370336) in the state of Missouri. S.G. Atchley's insurance producer license is currently active and in good standing.

3. At all times mentioned herein, Stephen J. Atchley ("S.J. Atchley" was a licensed insurance producer (license #PR370337) in the state of Missouri. S.J. Atchley's insurance producer license is currently active and in good standing.

4. At all times mentioned herein, Justin R. Barnes ("Barnes") was a licensed insurance producer (license #PR381080) in the state of Missouri. Barnes' insurance producer license is currently active and in good standing.

5. At all times mentioned herein, Citizens for Aids Assistance and Prevention (and the registered fictitious name Citizens for Aids Assistance and Prevention & Associates, hereinafter collectively referred to as "CAAP"), was a domestic non-profit corporation (charter #N00562196) properly filed with the Missouri Secretary of State. CAAP has never been issued a business entity insurance producer license.

6. At all times mentioned herein, Premier Financial Services ("Premier") was a licensed business entity insurance producer (license #AG8019240) in the state of Missouri. Premier's business entity insurance producer license is currently active and in good standing.

7. The duties of the Director of the Missouri Dept of Insurance, Financial Institutions and Professional Registration ("Director") pursuant to Chapters 374 and 375, RSMo, include the supervision, regulation, and discipline of insurance producers and business entity insurance producers licensed to operate and to do business in the state of Missouri.

8. All statutory citations herein are to Revised Statutes of the State of Missouri, Cumulative Supplement 2005, unless otherwise noted.

Count I

9. On or about August 1, 2005, Louderback contracted with UnitedHealth Care Insurance Company ("UnitedHealth Care") to provide small employee group plan insurance to CAAP. The policy language stated that small employee group plans are for employers with 2 to 50 employees. At the time this contract was executed between Louderback and UnitedHealth Care, CAAP had approximately 2 employees.

10. By April of 2007, CAAP consisted of approximately 700 employees, the majority of which were eligible for Medicaid benefits through the state of Missouri. These benefits were part of the Health Insurance Premium Payment ("HIPP") program that would cover premium costs for Medicaid recipients.

11. Between the approximate dates of August 1, 2005 and May 1, 2007, Louderback, S.G. Atchley, S.J. Atchley, and Barnes, as representatives of CAAP and Premier, submitted insurance applications for employees to both UnitedHealth Care and HIPP. Information contained in these applications varied significantly between those submitted to UnitedHealth Care and HIPP.

12. As a result of the variance in information stated in the aforementioned insurance applications, higher amounts for premiums were submitted to HIPP from those stated by

UnitedHealth Care. This difference in premium amounts resulted in HIPP being excessively and improperly billed by more than seven hundred thousand dollars ($700,000) for approximately six hundred (600) CAAP employees.

13. The aforementioned conduct by Louderback, S.G. Atchley, S.J. Atchley, and Barnes, as representatives of CAAP and Premier, constitutes intentional misrepresentation of the terms of an actual or proposed insurance contract or application for insurance per § 375.141.1(5), RSMo.

14. The aforementioned conduct by Louderback, S.G. Atchley, S.J. Atchley, and Barnes, as representatives of CAAP and Premier, constitutes fraudulent or dishonest practices and demonstrates incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere per § 375.141.1(8), RSMo.

15. The aforementioned conduct by Louderback, S.G. Atchley, S.J. Atchley, and Barnes, as representatives of CAAP and Premier, constitutes stealing, per § 570.030.1, as each of the aforementioned individuals appropriated funds belonging to HIPP for the purpose of depriving HIPP thereof, without consent or by means of deceit.

Count II

16. On or about March 29, 2007, HIPP paid Louderback, S.G. Atchley, S.J. Atchley and Barnes, as representatives of CAAP and Premier, approximately five hundred thirty-eight thousand, five hundred sixty-seven dollars ($538,567) as part of Medicaid coverage for insurance premiums for certain CAAP employees.

17. By May 10, 2007, Louderback, S.G. Atchley, S.J. Atchley and Barnes, as representatives of CAAP and Premier, had not forwarded the aforementioned funds to UnitedHealth Care.

18. The aforementioned conduct by Louderback, S.G. Atchley, S.J. Atchley, and Barnes, as representatives of CAAP and Premier, constitutes improper withholding, misappropriating or converting of moneys or properties received in the course of doing insurance business per § 375.141.1(4), RSMo.

19. The aforementioned conduct by Louderback, S.G. Atchley, S.J. Atchley, and Barnes, as representatives of CAAP and Premier, constitutes fraudulent or dishonest practices and demonstrates incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere per § 375.141.1(8), RSMo.

20. The aforementioned conduct by Louderback, S.G. Atchley, S.J. Atchley, and Barnes, as representatives of CAAP and Premier, constitutes a violation of 20 CSR 700-1.140(2)(D) because the HIPP funds were not remitted within thirty days from the date of receipt.

Count III

21. The Division of Consumer Affairs realleges and expressly incorporates the allegations contained in paragraphs 9–12.

22. The aforementioned conduct by Louderback, S.G. Atchley, S.J. Atchley, and Barnes, as representatives of CAAP and Premier, constitutes the making of false or fraudulent statements or representations on or relative to an application for a policy, for the purpose of obtaining a fee, commission, money, or other benefit from an insurer, agent, agency, broker or other person as defined by § 375.936(7), RSMo (2000).

23. Between the approximate dates of August 1, 2005 and May 1, 2007, Louderback, S.G. Atchley, S.J. Atchley, and Barnes, as representatives of CAAP and Premier, knowingly made, published, disseminated, circulated or placed before the public, directly or indirectly, an

advertisement, announcement, representation or statement regarding an agreement for insurance as part of employment with CAAP that consisted of an inducement to such insurance. This inducement, which specifically referenced an offer of free food, was not plainly expressed in the insurance contract.

26. The aforementioned conduct by Louderback, S.G. Atchley, S.J. Atchley, and Barnes, as representatives of CAAP and Premier, constitutes a rebate as defined by § 375.936(9) (2000).

27. The aforementioned conduct by Louderback, S.G. Atchley, S.J. Atchley, and Barnes, as representatives of CAAP and Premier, constitutes unfair trade practices, as defined by § 375.934, RSMo (2000), because each incidence was committed in conscious disregard of §§ 375.930 to 375.948, RSMo (2000), or each incidence was committed with such frequency to indicate a general business practice to engage in that type of conduct.

28. Section 374.046, RSMo (2000), authorizes the Director to issue cease and desist orders whenever it appears to him upon competent and substantial evidence that any person is acting in violation of any law of this state or any rule or regulation promulgated by the Director relating to the business of insurance.

29. Section 374.280, RSMo (2000), authorizes the Director to order a forfeiture to the state of Missouri a sum not to exceed one hundred dollars for each violation by any person, partnership, or corporation knowingly violating any provision of chapters 374, 375, 376, 377, 378 and 379, RSMo.

RELIEF

WHEREFORE, the Consumer Affairs Division of the Department of Insurance requests that the Director issue an order granting the following relief:

1. A cease and desist order pursuant to § 374.046, RSMo, prohibiting Louderback, S.G. Atchley, S.J. Atchley, Barnes, CAAP and Premier from violating §§ 375.141, 375.934, and 570.030, RSMo, and 20 CSR 700-1.140(2)(D);

2. A monetary penalty of one hundred dollars ($100) pursuant to § 374.280, RSMo, for each and every violation of the provisions of chapters 374, 375, 376, 377, 378 and 379 knowingly committed by Louderback, S.G. Atchley, S.J. Atchley, Barnes, CAAP and Premier; and

3. Such other relief as the Director deems just in this proceeding.

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