

1 Respondent on behalf of Antar Torres ("Torres") in an effort to
2 obtain a health insurance policy for Torres.

3 3. Allan explained to Respondent that Torres had
4 undergone knee surgery approximately three years prior, that his
5 knee was beginning to bother him again and that he needed health
6 insurance.

7 4. Respondent assured Allan that he could obtain
8 coverage through FHP, that FHP would cover Torres' pre-existing
9 condition and that coverage would be effective July 1, 1994.

10 5. On or about June 10, 1994, Respondent went to the
11 Torres' residence. Although Torres was not at home, Respondent
12 had Torres' wife, Susan, sign an application for a health
13 insurance policy for Torres through FHP.

14 6. Respondent, knowingly allowed Susan Torres to sign
15 the FHP application and medical questionnaire on behalf of Torres.

16 7. On page three of the medical questionnaire in the
17 agent information section, the question is asked, "Did you see
18 the applicant and did you ask each question in the application
19 exactly as set forth?" Respondent answered "Yes" to the
20 questions.

21 8. Prior to Susan Torres signing the FHP application,
22 she asked Respondent if FHP had any pre-existing condition
23 exclusions because her husband needed to go to the doctor.

24 9. Respondent represented to Susan Torres that FHP had
25 no pre-existing condition exclusions.

26 10. Subsequently, Torres went to the doctor several

1 times for his knee problems.

2 11. On or about July 15, 1994, FHP contacted Torres and
3 informed him that FHP declined coverage due to pre-existing
4 conditions.

5 12. On or about July 21, 1994, Torres received a letter
6 from FHP declining and rescinding all coverages due to failure to
7 disclose the pre-existing condition on his application.

8 13. FHP subsequently returned premium payments made by
9 Torres to him.

10 CONCLUSIONS OF LAW

11 1. The Director has jurisdiction over this matter.

12 2. Respondent misrepresented the terms of a policy
13 issued, in violation of A.R.S. § 20-443(1).

14 3. Grounds exist for the Director to enter an Order of
15 Cease and Desist against Respondent and to impose a civil penalty
16 of not more than \$1,000 for each act or violation but not to
17 exceed an aggregate penalty of \$10,000 dollars unless the person
18 intentionally violates an act or practice, in which case the
19 Director may impose a civil penalty of up to \$5,000 for each act
20 or violation but not to exceed an aggregate penalty of \$50,000 in
21 any six month period, pursuant to A.R.S. § 20-456(A) and
22 20-456(B).

23 4. Respondent's conduct described above constitutes a
24 conduct of affairs under his license showing him to be
25 incompetent or a source of injury and loss to the public or any
26 insurer, in violation of A.R.S. § 20-316(A)(7).

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CONSENT TO ORDER

1. The undersigned acknowledges that he has read the foregoing Findings of Fact, Conclusions of Law and Order and is aware of his right to an administrative hearing in this matter and has waived same.

2. The undersigned admits the jurisdiction of the Department and admits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusions of Law and Order.

3. The undersigned states that no promises were made to him to induce him to enter into this Consent Order and declares that he has entered into this Consent Order voluntarily.

4. The undersigned acknowledges that acceptance of this Consent Order is for the purpose of settling this litigation as against him and does not preclude the Department, or any other agency or officer of this State, or subdivision thereof, from instituting other civil or criminal proceedings as may be appropriate now or in the future.

5. The undersigned waives all rights to challenge such Findings of Fact, Conclusions of Law and Order on appeal or otherwise, and agrees to be bound by the foregoing Order.

Date: Feb-22-95



DONALD KRAUS, Respondent

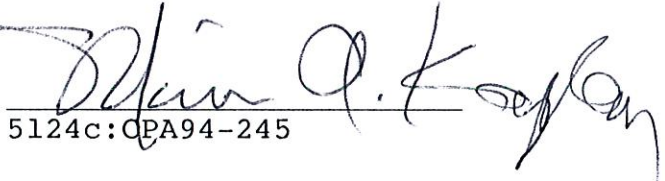
1 COPY of the foregoing mailed this
24th day of February, 1995, to:

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