

FILED



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Jeffrey L. Gingold  
206.223.7955  
gingold@lane-powell.com  
Patricia D. Petersen  
Chief Hearing Officer

November 29, 2010

VIA E-MAIL AND MESSENGER

State of Washington  
Office of Insurance Commissioner  
Hearings Unit  
Hon. Patricia D. Petersen, Chief Hearing Officer  
5000 Capitol Boulevard  
Tacoma, WA 98502



Attention: **Nicole Kelly**, Paralegal  
Email: [NicoleK@oic.wa.gov](mailto:NicoleK@oic.wa.gov)

Re: Demand for Hearing

Dear Judge Petersen:

I hope this letter finds you well. Please be advised that this firm represents Mark A. Jacobs. ("Mr. Jacobs").

Mr. Jacobs is named in Office of Insurance Commissioner ("OIC") Order to Cease and Desist No. 10-0163 (the "Order"), along with other named individuals and entities ("Respondents"). In pertinent part, the Order orders the Respondents to immediately cease and desist from:

- A. Engaging in or transacting unauthorized insurance in Washington;
- B. Seeking, soliciting, pursuing, continuing, and/or obtaining any unauthorized insurance business in Washington;
- C. Soliciting Washington residents to sell or purchase unauthorized insurance coverage;
- D. Soliciting Washington residents to purchase unauthorized insurance products;
- E. Offering Washington residents a form of insurance without complying with Washington Insurance Code requirements including those relating to solvency.

Hon. Patricia D. Petersen, Chief Hearing Officer  
November 29, 2010  
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We are requesting a hearing on behalf of Mr. Jacobs to challenge this action of the Commissioner as it relates to Mr. Jacobs, for the following reasons:

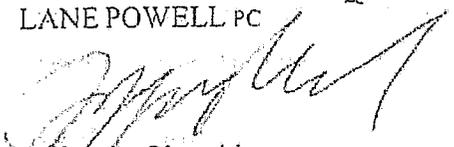
1. Mr. Jacobs respectfully denies that he has done the acts summarized in A-E, above.
2. Mr. Jacobs respectfully asserts that he operates a successful U.S. domestic and international captive consulting company outside the State of Washington, in compliance with applicable laws.
3. Mr. Jacobs respectfully asserts that he has no intention of developing captives in the State of Washington.
4. Mr. Jacobs respectfully asserts that his business is dependent upon his reputation for integrity and that being named by OIC in the Order will have a devastating effect on his business outside the State of Washington.

A copy of the contested order is enclosed.

Thank you in advance for your attention to this matter.

Sincerely,

LANE POWELL PC



Jeffrey L. Gingold  
Shareholder

JLG:af

Encl: Order No. 10-0163  
cc: Andrea Philhower, Esq.  
Staff Attorney, OIC

125304.0001/1938683.1

MIKE KREIDLER  
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON

Phone: (360) 725-7000  
www.insurance.wa.gov



OFFICE OF  
INSURANCE COMMISSIONER

In the Matter of

Doctor's and Surgeons Benefit Association;	)	No. 10-0163
Doctors and Surgeons Benefit Association,	)	
Segregated Insurance; Doctors and Surgeons	)	<b>ORDER TO CEASE</b>
Benefit Association, Captive Insurance Co.;	)	<b>AND DESIST</b>
Doctors Liability Captive Insurance Co.;	)	
Captive Services; Midwest Tax Link, Inc;	)	
	)	
<b>Unauthorized Entities, and</b>	)	
	)	
Mark A. Jacobs; Myron M. Persoff; and Jay D. Ellenby)	)	
	)	
<b>Principals</b>	)	

Pursuant to RCW 48.05.030, RCW 48.15.020, RCW 48.15.023, and RCW 48.17.060, the Office of the Insurance Commissioner ("OIC") orders the entities and the individuals named above and their officers, directors, trustees, agents, employees, and affiliates ("Respondents") to immediately cease and desist from:

- A. engaging in or transacting the unauthorized business of insurance in the State of Washington, including the collection or attempted collection of premium monies and the advertising of unauthorized insurance and unauthorized insurance-related products;
- B. seeking, soliciting, pursuing, continuing, and/or obtaining any unauthorized insurance business in the State of Washington and from participating, directly or indirectly, in any act of an insurance agent or insurance company in seeking, soliciting, pursuing, continuing and/or obtaining any unauthorized insurance business in the State of Washington;
- C. soliciting Washington residents to sell or purchase any unauthorized plan or policy or coverage for any form of insurance;
- D. soliciting Washington residents by e-mail, facsimile (fax), telephone, mail, or any other means to induce them to purchase any unauthorized form of insurance product.

- E. offering to Washington residents a plan or policy or coverage for any form of insurance without submitting to examination by the Insurance Commissioner to determine the organization and solvency of the person or the entity offering such insurance, and to determine whether or not such person or entity complies with the applicable provisions of the Insurance Code as required by Title 48 RCW.

**THIS ORDER IS BASED ON THE FOLLOWING:**

1. Violation of RCW 48.05.030, Certificate of Authority required; RCW 48.15.020, Solicitation by unauthorized insurer prohibited; and RCW 48.17.060, License required;

a.) On or about November of 2004 and continuing to approximately October of 2007, Respondents solicited at least one Washington resident and did sell a plan or policy or coverage for medical professional liability insurance to at least one Washington resident. Respondents have not applied for or been granted, a Certificate of Authority or license to act as an insurance agent or an insurer for this product in Washington. Respondents have not submitted to OIC any appropriate certificate, license, or other document issued by another agency of this state, any subdivision thereof, or the federal government permitting or qualifying Respondents to provide such coverage in this state. Respondents have also not registered with the OIC as risk retention or risk purchasing agents, nor have they transacted this insurance through a licensed surplus lines broker in this state.

b.) At least one Washington resident received invoices from Respondents for this coverage in Washington from approximately November of 2004 through approximately October of 2007. The declaration pages of each year's policies identify the Washington resident, with his Washington business address, as the insured.

Any violation of the terms of this Order by Respondents, their officers, directors, agents, or affiliates, will render the violator(s) subject to the full penalties authorized by RCW 48.02.080, 48.17.530, and all other applicable Code sections.

Respondents have the right to demand a hearing pursuant to chapters 48.04 and 34.05 RCW. This Order shall remain in effect subject to the further order of the Commissioner.

THIS ORDER IS EFFECTIVE IMMEDIATELY AND IS ENTERED at Tumwater, Washington, this 1<sup>st</sup> day of September, 2010.

MIKE KREIDLER  
Insurance Commissioner

By:   
Andrea L. Philhower  
Staff Attorney  
Legal Affairs Division  
Office of Insurance Commissioner  
State of Washington

CERTIFICATE OF MAILING

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein. On the date given below I caused to be served the foregoing ORDER TO CEASE AND DESIST on the following individuals via US Mail:

Doctors and Surgeons Benefit Association,  
Segregated Insurance  
RG Solomon Arcade, Suite 11  
Charlestown, Nevis, West Indies

Doctors and Surgeons Benefit Association,  
Captive Insurance Company  
RG Solomon Arcade, Suite 11  
Charlestown, Nevis, West Indies

Doctors and Surgeons Benefit Association  
C/O Fidelity Captive Management, Ltd.  
The Law Building, Suite 100  
The Valley  
Anguilla

Doctors Liability Captive Insurance Company  
Heritage Plaza, Main Street, Suite 206  
Charlestown, Nevis, West Indies

Captive Services  
605 East First Street, Suite 102  
Rome, Georgia 30161

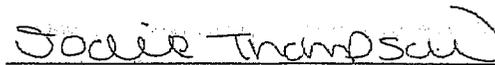
Midwest Tax Link, Inc.  
231 Scott Street, Ste. 3  
Covington, Kentucky 41011-1573

Mark A. Jacobs  
10 Glenlake Parkway NE  
Atlanta, Georgia 30328-3495

Myron M. Persoff, M.D.  
Mercy Outpatient Center  
3659 South Miami Avenue, Suite 4006  
Miami, Florida 33133

Jay D. Ellenby, M.D.  
2954 Adventura Boulevard  
Miami, Florida 33180

SIGNED this 1<sup>st</sup> day of September, 2010, at Tumwater, Washington.

  
Jodie Thompson