



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

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CHARLES D. BAKER
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ECONOMIC DEVELOPMENT

JOHN C. CHAPMAN
UNDERSECRETARY

DANIEL R. JUDSON
COMMISSIONER OF INSURANCE

November 12, 2015

Francis Gaetani
10 Mendon Road
Sutton, Massachusetts 01590

RE: Francis Gaetani

Dear Mr. Gaetani:

I represent the Massachusetts Division of Insurance (“Division”) with regard to the above-captioned investigation. Pursuant to an investigation conducted by the Division’s Special Investigations Unit, the Division has cause to believe that you have violated the Massachusetts insurance laws set forth below by the conduct detailed in this settlement letter.

On or about August 10, 2011, you were indicted in the United States District Court for Massachusetts, for fraudulently selling self-funded health plans as fully covered health insurance plans while operating the business HMA Direct. The indictment alleged that you, while working with two co-defendants spoke to prospective customers on the phone and gave them false information concerning the health care policies they were considering purchasing. Subsequently, on September 30, 2014, you pled guilty to two counts of Wire Fraud (18 U.S.C. §1343) and later received a sentence of twelve months probation and \$29,810.46 in restitution.

The conduct described above is evidence of the following violations:

Being convicted of a felony in violation of M.G.L. c. 175, § 162R(a)(6). Such conduct may result in your insurance license being placed on probation, suspended, or revoked, pursuant to M.G.L. c. 175, § 162R(a), as well as the imposition of a fine up to \$1,000 for each and every violation as provided under M.G.L. c. 176D, § 7.

Having admitted or been found to have committed any insurance unfair trade practice or fraud in violation of M.G.L. c. 175, § 162R (a)(7). Such conduct may

result in your insurance license being placed on probation, suspended, or revoked, pursuant to M.G.L. c. 175 § 162R(a), as well as the imposition of a fine up to \$1,000 for each and every violation as provided under M.G.L. c. 176D, § 7.

Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in the Commonwealth or elsewhere, M.G.L. c. 175 § 162R(a)(8). Such conduct may result in your insurance license being placed on probation, suspended or revoked pursuant to M.G.L. c. 175 § 162R(a), as well as the imposition of a fine up to \$1,000 for each and every violation as provided under M.G.L. c. 176D, § 7.

The Division is authorized to issue an order requiring you to show cause why you should not be made to cease and desist from the above alleged conduct. If, after a public hearing, the Commissioner of Insurance finds that you did commit the alleged violations, he may impose a fine up to the amounts listed above, as well as a revocation of your Massachusetts insurance producer license pursuant to M.G.L. c. 175 § 162R(a) and c. 176D § 7.

The Division proposes to resolve this matter through a settlement if you agree to waive the right to a public hearing, pay a civil fine of \$1,500, agree to cease and desist from the above-alleged conduct and agree to a revocation of your license.

If you choose to accept the Division's offer, please sign the enclosed *Settlement Agreement* where indicated, and return it to my attention on or before **November 27, 2015**. Although this correspondence does not constitute the required statutory notice of a public hearing, if this matter is not resolved by **November 27, 2015**, the Division intends to file its Order to Show Cause and will notify you of the hearing date.

Thank you for your prompt attention to this matter. Should you have any questions or wish to discuss this matter further, I may be reached at (617) 521 – 7321 or via email at Matthew.Burke@state.ma.us.

Sincerely,

Matthew M. Burke
Counsel to the Commissioner



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SETTLEMENT AGREEMENT
Francis Gaetani – SIU Investigation #

This Settlement Agreement (“Agreement”) is made by and between the Commonwealth of Massachusetts Division of Insurance (“Division”), with offices at 1000 Washington Street, Boston, Massachusetts 02118 and Francis Gaetani (“Gaetani”) a resident licensed individual producer under the laws of the Commonwealth of Massachusetts (“Commonwealth”), with a mailing and home address of 10 Mendon Road, Sutton, MA 01590.

WHEREAS, Gaetani was licensed by the Division as a resident individual producer pursuant to M.G.L. c. 175 § 162H *et seq.*, until April 11, 2015 when it was terminated for nonrenewal; and

WHEREAS, the Commissioner of Insurance maintains jurisdiction over Gaetani pursuant to M.G.L. c. 175 § 162R(e); and

WHEREAS, an insurance producer licensed in the Commonwealth must uphold the standards in M.G.L. c. 175 § 162H *et seq.* and must comply with the Commonwealth’s insurance laws, including without limitation, those set forth in M.G.L. c. 175 and M.G.L. c. 176D; the Code of Massachusetts Regulations; and any other regulatory requirements; each of which give the Commissioner of Insurance review, approval, and enforcement authority over licenses; and

WHEREAS, the Division has conducted an investigation, and contends that the alleged acts and conduct of Gaetani as set forth in part in the Division’s correspondence **dated September 22, 2015**, a copy of which is attached and incorporated by reference and made a part of this Agreement, constitute grounds for revocation of Gaetani’s license; and

WHEREAS, if after a public hearing the Commissioner of Insurance (“Commissioner”), were to find sufficient evidence to determine that Gaetani did commit the alleged violations, the Commissioner could order the revocation of Gaetani’s insurance producer license(s) pursuant to M.G.L. c. 175, §162R(a) and c. 176D, and order Gaetani to pay a civil fine ; and

WHEREAS, Gaetani is aware of his rights to notice and to a public administrative hearing with respect to the alleged violations of Massachusetts insurance laws in these matters, and hereby waives those rights.

NOW THEREFORE, in consideration of the foregoing and the covenants, warranties, representations, and agreements contained herein, it is mutually agreed as follows:

1. Gaetani's insurance producer license is hereby permanently revoked as of **October 6, 2015** and shall be returned to the Division on that date. A copy of this signed Agreement must be returned to the Division by **October 6, 2015**.
2. Gaetani agrees to cease and desist from conducting the business of insurance, including selling, soliciting or negotiating insurance, holding himself out as a licensed insurance producer, or otherwise acting as an insurance producer as of **October 6, 2015**.
3. Gaetani agrees to pay a civil fine of **\$1,500** due sixty days after the signing of this settlement agreement.
4. As of **October 6, 2015**, Gaetani is prohibited from soliciting, aiding in the placement, continuation, or negotiation of insurance policies or taking any action which may lead any person or entity to believe that Gaetani is authorized in the Commonwealth to engage in the business of insurance in any capacity, including without limitation, acting as a licensed insurance producer, special insurance broker, public adjuster, insurance advisor, viatical loan provider, viatical broker, viatical settlement broker, viatical settlement provider, reinsurance intermediary broker, reinsurance intermediary manager, or any other licensed insurance professional.
5. In accordance with M.G.L. c. 175, §166B and the terms of this Agreement, Gaetani shall dispose of any and all interest (direct and indirect) he may have, including without limitation, as proprietor, partner, stockholder, officer, employee of any licensed insurance producer in the Commonwealth by **October 6, 2015**.
6. As of **October 6, 2015**, Gaetani is prohibited from owning, managing, directing or being an employee, consultant or independent contractor, partner, director or officer, paid or unpaid, of any insurance related business in the Commonwealth. Gaetani shall return to the Division any insurance producer license in his possession, custody or control.
7. Except as expressly set forth in this Agreement, the failure of the Division at any time to require strict performance by Gaetani of any terms, provisions, or conditions hereof shall in no way affect the right thereafter to enforce the same, nor shall the waiver by the Division of any breach of any of the terms, provisions, and conditions hereof be construed or deemed a waiver of any succeeding breach of any term, provision, or condition thereof.

7. In the event that the Division finds that there has been a breach of any provision of this Agreement, the Division may, in its discretion, pursue any and all legal remedies permitted by the Massachusetts insurance laws as well as any other appropriate law of the Commonwealth.
8. The provisions of this Agreement may be amended, modified, or expanded solely in writing by joint consent of the Division and Gaetani.

SIGNED:

Francis J. Gaetani

Commonwealth of Massachusetts
Division of Insurance
By: Matthew M. Burke
Counsel to the Commissioner

Dated: _____

Dated: _____