

MAY 23 2018

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

In the Matter of the Unauthorized	)	SUMMARY ORDER
Insurance Activities of	)	TO CEASE AND DESIST
	)	
PROACTIVE INDEMNITY	)	AND NOTICE OF RIGHTS
CORPORATION,	)	
AKA PROACTIVE FINANICAL CORP.,	)	
AKA CONTINGENT CARGO.CO,	)	
	)	CAUSE NO. I-96
Unauthorized Entities,	)	
	)	
and	)	
	)	
JOSH CAPELLO,	)	
	)	
Individual Respondent.	)	

The Department of Insurance (herein the "Department"), by and through its Director, Bruce R. Ramge, upon Petition for Cease and Desist filed by Department counsel, Robert M. Bell, hereby orders Proactive Indemnity Corporation, aka Proactive Financial Corp., aka Contingent Cargo.Co, and Josh Capello (collectively "Respondents") to immediately CEASE AND DESIST issuing, making, providing, administering, selling or offering, either directly or indirectly, insurance benefits in the State of Nebraska which are not insured by an insurer licensed to transact insurance in the state. Specifically, pursuant to Neb. Rev. Stat. § 44-2002, NOTICE IS HEREBY GIVEN:

1. The Director of Insurance is charged with enforcement of the insurance laws of the State of Nebraska. See, Neb. Rev. Stat. § 44-101 et seq., including unauthorized activities of insurers;
2. Neb. Rev. Stat. § 44-2002(2) defines an insurer to include all corporations, associations, partnerships, and individuals engaged as principals in the business of insurance;
3. Neb. Rev. Stat. § 44-303 provides that an insurer must obtain a certificate of authority before transacting the business of insurance in the State of Nebraska;

4. Neb. Rev. Stat. § 44-4050 prohibits the sale, solicitation, or negotiation of insurance in Nebraska unless licensed pursuant to the Insurance Producers Licensing Act.
  
5. The Unauthorized Insurers Act, Neb. Rev. Stat. § 44-2002, provides that “[i]t shall be unlawful for any insurer to transact insurance business in this state, as set forth in subsection (2) of this section without a certificate of authority from the director.” Subsection (2) provides that “[t]he following acts in this state effected by mail or otherwise by or on behalf of an unauthorized insurer shall constitute the transaction of an insurance business in this state . . . :
  - (a) The making of or proposing to make, as an insurer, an insurance contract;
  - (b) 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;
  - (c) The taking or receiving of any application for insurance;
  - (d) The receiving or collection of any premium, commission, membership fees, assessments, dues, or other consideration for any insurance or any part thereof;
  - (e) The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state;
  - (f) Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of any person or insurer in the solicitation, negotiation, procurement, or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or 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. This subsection shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the capacity of

an insurance manager or buyer in placing insurance on behalf of such employer;

- (g) The transaction of any kind of insurance business specifically recognized as transacting an insurance business within the meaning of the statutes relating to insurance; or
- (h) The transacting or proposing to transact any insurance business in substance equivalent to any of the provisions of subdivisions (a) through (g) of this subsection in a manner designed to evade the provisions of the statutes;”

6. The Respondents are not licensed or registered as insurers, producers in the State of Nebraska;

7. Following an investigation into this matter, the Department has reasonable cause to believe that Respondents engaged, either directly or on behalf of an unauthorized insurer, in the business of transacting insurance in the state without a license and are violating and have violated Neb. Rev. Stat. § 44-2002(a), (c) – (h) in that:

- a. On or about December 12, 2013, the California Department of Insurance issued a Cease and Desist Order against Proactive Indemnity Corporation, aka Contingent Cargo Co., and Umer M. Masood, aka Josh Capello and Ahmed Badrus Salam, aka Josh Capello for transacting the business of insurance without licenses.
- b. On or about September 24, 2016, the Oregon Department of Consumer and Business Services, Division of Financial Regulation issued a Cease and Desist Order against Proactive Indemnity Corporation, Proactive Financial Services, and Contingentcargo.co for violations of Oregon law related to the transaction of insurance business without the proper licenses.
- c. On or about May 9, 2018, the Insurance Fraud Prevention Division of the Department received a fraud referral from the International Regulatory Affairs of Lloyd’s regarding the activities of Proactive Indemnity Corporation of Los Angeles, California. According to the referral, Proactive Indemnity Corporation issued insurance coverage purporting to be underwritten by Lloyd’s. However, Lloyd’s has not ever granted Proactive Indemnity Corporation any authority to write or bind coverage on behalf of underwriters at Lloyd’s. Additionally, Lloyd’s identified a Nebraska business as a potential victim.

- d. On or about May 16, 2018, Charles Starr, Division Chief of the Department's Insurance Fraud Prevention Division, interviewed a Nebraska consumer regarding the purchase of insurance made through the website of Proactive Financial Corp., contingentcargo.co. The consumer identified Josh Capello as his agent and provided Investigator Starr with policy information, email correspondence, and copies of premium payments. The consumer also told Investigator Starr that Mr. Capello denied a claim when a claim was filed.
8. The acts and conditions set forth above are unlawful and constitute violations of the Unauthorized Insurers Act and fall within the purview of the Department's authority to exercise powers authorized by law including the issuance of a summary order to cease and desist such activities pursuant to Neb. Rev. Stat. § 44-2003(2);
9. The Unauthorized Insurers Act, Neb. Rev. Stat. § 44-2002(3)(a) provides that "[t]he failure of an insurer transacting insurance business in this state to obtain a certificate of authority shall not impair the validity of any act or contract of such insurer and shall not prevent such insurer from defending any action at law or suit in equity in any court of this state, but no insurer transacting insurance business in this state without a certificate of authority shall be permitted to maintain an action in any court of this state to enforce any right, claim, or demand arising out of the transaction of such business until such insurer shall have obtained a certificate of authority";
10. And, finally, that Neb. Rev. Stat. § 44-2002(3)(b) provides "[i]n the event of failure of any such unauthorized insurer to pay any claim or loss within the provisions of any insurance contract, any person who assisted or in any manner aided directly or indirectly in the procurement of such insurance contract **shall be liable** to the insured for the full amount of the claim or loss in the manner provided by the provisions of such insurance contract." (Emphasis added).

WHEREFORE, pursuant to the Nebraska Insurance Code, specifically Neb. Rev. Stat. § 44-2003(2), I, Bruce R. Ramge, do hereby find that the continued transaction of insurance by Respondents without a Certificate of Authority or appropriate producer licenses issued by the Department of Insurance, are violations of the Nebraska Insurance Code and, as such, constitute an immediate danger to the public welfare by placing the public in grave harm so as to necessitate this immediate issuance of an Order.

ACCORDINGLY, IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED that Respondents shall immediately CEASE AND DESIST from transacting the business of insurance in this State including acting or holding themselves out as insurers exempt from regulation in this State or insurance producers, either directly or indirectly, whether under Respondents' own names or any other name whatsoever used by any Respondent individually.

IT IS ORDERED that Respondents shall forthwith notify each and every Nebraska resident of the cessation of all insurance business because Respondents are unlicensed, that no additional premium funds or consideration will be accepted by Respondents from said Nebraska residents.

IT IS FURTHER ORDERED that Respondents shall add a disclaimer to any and all websites advertising Respondents products or services that said products and services "are not available in the State of Nebraska."

IT IS FURTHER ORDERED that Respondents and/or any person(s) who assisted or in any manner aided directly or indirectly in the procurement of such insurance contract shall be liable to the insured(s) for the full amount of the claim or loss in the manner provided by the provisions of such insurance contract.

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NOTICE OF RIGHTS

A hearing on this matter may be requested in writing within ten (10) business days after receipt of this Order as authorized under Neb. Rev. Stat. § 44-2003(2). If a hearing is requested, the Director shall schedule a hearing within ten (10) business days after receipt of the request.

Dated this 23 day of May, 2018.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE,



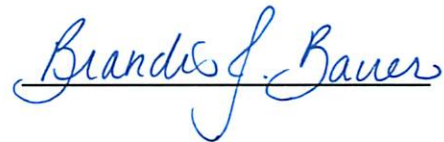
BRUCE R. RAMGE  
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing SUMMARY ORDER TO CEASE AND DESIST was served upon Respondents by certified mail, return receipt requested and by electronic mail, on this 23 day of May, 2018, to the following:

Proactive Indemnity Corporation,  
aka, Proactive Financial Corp.,  
aka Contingent Cargo.Co  
8721 Santa Monica Blvd  
Los Angeles, CA 90069  
info@contingentcargo.co

Josh Capello  
8721 Santa Monica Blvd  
Los Angeles, CA 90069  
jc@contingentcargo.co

Handwritten signature of Brande J. Bauer in blue ink, underlined.