

NEW YORK STATE DEPARTMENT
OF FINANCIAL SERVICES

In the Matter of

PHYSICIANS' RECIPROCAL INSURERS

**ORDER PURSUANT TO NEW YORK
INSURANCE LAW ARTICLE 61**

Preliminary Statement

The New York State Department of Financial Services (the "Department") conducted an examination of Physicians' Reciprocal Insurers ("PRI") (the "Examination"). As a result of the Examination, and in furtherance of the Superintendent's authority to protect the interests of policyholders and the safe and sound operation of insurance carriers in this State, this Order is hereby issued.

The Examination revealed that the attorney-in-fact for PRI, Administrators for the Professions, Inc. ("AFP"), repeatedly and consistently breached fiduciary and other duties to PRI, and mismanaged PRI, failing to adequately protect the interests of the company's subscribers.

Specifically, the Examination determined that AFP and its top executives -- including its CEO and owner, Anthony J. Bonomo -- disregarded sound actuarial principles when setting PRI's loss reserves, and then tried to cover it up by seeking to silence outside auditors and employees who objected to this misconduct.

Moreover, the Examination further determined that Anthony Bonomo engaged in self-dealing by using PRI to make so-called "charitable" donations that benefitted him personally, by promoting his own reputation and ego -- and not because of any benefit to PRI, or the genuine

needs of the organization. One example: Bonomo, a big fan of baseball, caused PRI to contribute \$90,000 to one organization, which funded a recreational baseball field that was named after Bonomo. Bonomo also caused PRI to contribute over \$130,000 to a university, which named a baseball field after his father, the “William J. Bonomo Memorial Field.”

What’s more, the overwhelming majority of these purported “charitable” contributions made by PRI, at AFP’s direction, were never specifically approved by PRI’s Board, as required.

The Examination also revealed that AFP repeatedly mismanaged PRI to benefit AFP and Bonomo at PRI’s expense; and that AFP violated other provisions of New York law, including the anti-gifting provisions of Executive Law § 94(13)(a).

As a result of the Department’s Examination and other actions, PRI’s Board appointed a Special Committee to begin addressing AFP’s mismanagement and self-dealing, and to put PRI on stronger footing. Recent actions by the Board include installation of a Chief Restructuring Officer to assist in the day-to-day operations of PRI and improve its fiscal and business operations. In coordination with PRI’s Board, the Department is taking additional steps to cause improvement to the finances of PRI and enhance the effectiveness of its operations, in order to protect the interests of policyholders and put PRI on a path to more sound financial and business practices.

In furtherance of the objectives of the safe, sound and competent operation of PRI, and having determined that good cause exists, the Superintendent hereby **ORDERS**, pursuant to Article 61 of the New York Insurance Law (including, but not limited to, Sections 6102, 6105 and 6106), that the authority for AFP to act as the attorney-in-fact for PRI, or any of PRI’s parents, subsidiaries or affiliates, is withdrawn and revoked, **effective immediately**.

Further, the Superintendent hereby **ORDERS** that all non-subscriber members of the Board of Governors of PRI (*e.g.*, any officers, employees or others associated with AFP) are

immediately prohibited and barred from participation in the affairs of the Board of Governors forthwith, and shall be replaced in a timely fashion pursuant to the subscriber's agreement and by-laws of PRI and New York law.

Further, the Superintendent hereby **ORDERS** that AFP shall, pursuant to the terms of the Management Agreement (as defined herein), fully cooperate in the orderly transition of the management of the affairs of PRI to a successor attorney-in-fact, to be appointed by PRI and approved by the Superintendent, in order to facilitate the safe, sound and competent operation of PRI, and protect its subscribers and policyholders, including, but not limited to, by making available to PRI and any successor attorney-in-fact all books, records and information belonging to PRI (including, but not limited to, electronically-stored information); and by taking no action to impede or impair in any way the business or operations of PRI now or in the future.

Accordingly, the Superintendent hereby **ORDERS** that AFP fully and immediately comply with the terms of the Management Agreement that require AFP to:

- (a) Cooperate to facilitate the transfer of operations to the successor Attorney-in-Fact of PRI and its subscribers; and
- (b) Cooperate with PRI towards the end that there will be an orderly transfer of management services functions in respect to PRI's business to a new Attorney-in-Fact. (Management Agreement ¶ 10.D.(a), (b).)

THE DEPARTMENT'S FINDINGS

Background

1. PRI is a New York domiciled reciprocal insurer, as defined in Insurance Law § 107(a)(37). As a reciprocal, PRI's policyholders engage in the business of inter-insurance on the reciprocal plan.

2. In accordance with Article 61 of the Insurance Law, each policyholder must also be a subscriber to the reciprocal.

3. PRI provides professional and general liability coverage to physicians, dentists, hospitals, and other health care professionals and facilities within New York State.

4. Pursuant to a declaration executed and approved in accordance with Insurance Law §§ 6102(b)(7) and 6105(h), PRI's subscribers elected a board of governors and authorized the board "to supervise and control the attorney-in-fact and to control the investments of the assets of the reciprocal insurer, and such other powers as may be conferred by the articles of association and the subscriber's agreement."

5. Pursuant to Insurance Law § 6101(b), an attorney-in-fact is "a person designated and appointed by subscribers to a reciprocal insurer to act for and bind the subscribers in all transactions relating to or arising out of the operations of a reciprocal insurer, subject to limitations as may be lawfully provided."

6. No entity may act as the attorney-in-fact for a New York reciprocal without obtaining authorization from the Superintendent: ***"No person shall act in the capacity of an attorney-in-fact for a subscriber whose risk is located in this state or for a reciprocal licensed to do business in this state, unless such person is authorized as such by the superintendent."*** Insurance Law § 6105(c).

7. AFP is a New York for-profit corporation organized in 1981. It was appointed as the attorney-in-fact and manager of insurance operations for PRI, pursuant to Insurance Law Article 61 and a management agreement dated December 17, 1981 (the “Management Agreement”), with the approval of the then superintendent.

8. As the attorney-in-fact for PRI, AFP is responsible for providing PRI with underwriting, administrative, and investment management services, and is compensated in accordance with the Management Agreement.

9. AFP is owned by Anthony J. Bonomo through AJB Ventures Inc., a subchapter S corporation, in which all voting shares are controlled by Bonomo.

10. AFP’s senior management consists of Anthony Bonomo, Chief Executive Officer; Gerald Dolman, President; and Carl Bonomo, Chief Operating Officer. Pursuant to the Management Agreement (¶ 8), and as permitted by the Insurance Law (§ 6105(h)), all three executives also serve as members of PRI’s Board of Governors (the “Executive Board Members”). Anthony Bonomo has been a member of PRI’s Board for approximately 20 years.

11. As required by Insurance Law § 6105(h), the remaining six board members are physicians who are reciprocal subscribers.

12. All members of PRI’s Board of Governors owe fiduciary duties to PRI and its subscribers.

13. Likewise, AFP, as the attorney-in-fact for PRI, owes PRI and its subscribers fiduciary duties. AFP owes additional duties and obligations to PRI and its subscribers pursuant to law and the Management Agreement.

The Department's Examination of PRI

14. The Department has conducted an examination of PRI covering the period January 1, 2010 to December 31, 2014 (the "Examination"). In connection with the Examination, the Department obtained at least 5,000 documents from PRI.

15. Also in furtherance of the Examination, the Department conducted 16 Examinations Under Oath; gathered additional information about PRI relevant to the period from January 1, 2015 to the present; and obtained pertinent information from other sources, including but not limited to, publicly-available materials.

Licensing of PRI and Approval of AFP's Management Agreement

16. On July 22, 1981, PRI applied to become a reciprocal insurer pursuant to the Insurance Law (under Ins. L. § 411(2), subsequently recodified as Ins. L. § 6102 (b), (c).) PRI submitted specific details about AFP, the proposed attorney-in-fact, including the names of its directors and officers and its by-laws, as required by statute.

17. On November 6, 1981, the Superintendent of Insurance approved PRI's license application, pursuant to which AFP became authorized to act as the attorney-in-fact for PRI.

18. On December 17, 1981, AFP and PRI entered into the original Management Agreement. The Management Agreement provides that AFP is responsible for providing PRI with underwriting, administrative, and investment management services. With the exception of activity by PRI's board of governors, AFP acts for PRI in all respects, as PRI has no officers or employees of its own. (*See, e.g.*, Management Agreement ¶¶ 1-2.) All documents and information associated with PRI's operations belong to PRI. (*See id.* ¶ 4.)

19. Since 1981, PRI and AFP have amended the Management Agreement four times. The Superintendent of Insurance authorized AFP to continue acting as attorney-in-fact, and approved the original Management Agreement and each amendment, in the Superintendent's

sole regulatory discretion. The Management Agreement's term currently expires on December 31, 2017.

20. From January 1, 1999 to December 31, 2001, the Management Agreement provided that AFP would receive as compensation 13 percent of PRI's direct written premium, plus 10 percent of PRI's net income (or less 10 percent of PRI's net loss) for each calendar year.

21. Additionally, the Management Agreement provided that a stated percentage of the salaries of AFP employees, and certain other operating expenses, may be billed directly to PRI by AFP in the execution of these services. Specifically, the Management Agreement permitted AFP to "chargeback" to PRI certain expenses, including a percentage of payroll costs for work conducted by AFP's claims, legal, and education departments.

22. On January 1, 2002, the parties amended the Management Agreement to provide that AFP's compensation would no longer be based in part on the net profit or loss of PRI; instead AFP would receive a straight 13 percent of PRI's direct written premium. Additionally, the Management Agreement now provided that 50 percent of the costs attributable to AFP's Risk Management Department would be a permissible chargeback as well.

23. On May 25, 2010, the parties again amended the Management Agreement to modify AFP's compensation, such that AFP now receives 15 percent of the first \$200 million of PRI's direct written premium; 12 percent of the next \$100 million; and 8 percent of the next \$300 million.

24. From the revenues obtained by AFP, Anthony Bonomo pays himself an annual salary of approximately \$3 million. This is in addition to distributions he may receive as AFP's majority owner and controlling shareholder.

25. Since 1981, AFP's Management Agreement with PRI has been and remains AFP's sole source of revenue.

26. PRI has no employees. Rather, under the Management Agreement, AFP employees, including the Executive Board Members, are supposed to carry out and oversee the underwriting, administrative, and investment management obligations on behalf, and for the benefit, of PRI.

AFP and the Executive Board Members Breached Fiduciary and Other Duties, Engaged in Misconduct, and Violated New York Law in Its Operation of PRI

AFP and the Executive Board Members Breached Fiduciary and Other Duties By Seeking to Silence Outside Auditors and Employees Who Objected to Improper Conduct When Valuing Investments and Setting Loss Reserves

27. An important responsibility of AFP is its performance of analyses utilizing underwriters, actuaries and auditors to ensure proper underwriting and standards for policies that PRI offers each year, in a manner consistent with the sound fiscal management of PRI.

28. To achieve responsible fiscal management and comply with the Insurance Law, PRI must set its reserves in an aggregate amount to satisfy known and unknown claims, as well as meet the expenses necessary to adjust or settle such claims. (*See* Ins. L. § 1303.)

29. Likewise, PRI must reasonably value its assets, so that its financial condition can be determined fairly and accurately. (*See, e.g.*, Ins. L. § 1414.)

30. In order to mask PRI's true financial condition, Bonomo and AFP repeatedly caused PRI to set its reserves at inadequate levels, and to inaccurately value its assets, despite clear evidence that such levels and valuations were insufficient. Bonomo and AFP caused this to be done, in all likelihood, to ensure that the Department continued to approve the Management Agreement between PRI and AFP upon renewal, and to continue its overall authorization for AFP to serve as PRI's attorney-in-fact – thereby enriching AFP at PRI's expense.

31. For example, in 2009, AFP established a net loss reserve for PRI of approximately \$1.2 billion. This was \$407 million less than the net loss reserve recommended

by PRI's independent actuary. In other words, AFP caused PRI to understate its loss reserve by approximately 30 percent.

32. In light of this variance, PRI's 2009 Annual Statement noted that, ***“[t]he Company's independent actuary has deemed the Company's reserves to be inadequate as of December 31, 2009, although management [AFP] believes that the Company's reserves to be reasonable.”***

33. Similarly, in February 2010, FTI Consulting, engaged by PRI as an independent consultant, stated that the 2010 reserves set by PRI's management ***“[a]re not consistent with reserves computed in accordance with accepted actuarial standards and principles.”***

34. In response to these statements of independent parties, AFP and the Executive Board Members caused the termination of both an outside auditor, and an accounting employee of AFP, because of their objections to the improper conduct carried out by AFP and the Executive Board Members in setting PRI's loss reserves, and in valuing certain investments carried on PRI's books.

35. From approximately 2008 to 2010, Marcum LLP served as the independent outside auditor for PRI. Marcum experienced great difficulty in obtaining information from AFP concerning the value of certain of PRI's investments. Part of this difficulty arose from the refusal of one of the investment managers hired by AFP, Barry Bekkedam, to cooperate with Marcum in obtaining such information.

36. Additionally, Marcum strongly disagreed with the estimate of net loss reserves that AFP and the Executive Board Members caused PRI to adopt.

37. As a consequence, Marcum determined that it was obligated to issue a qualified audit opinion. In its opinion dated May 26, 2010, Marcum stated:

We were unable to obtain information to support the estimated losses and loss adjustment expense in the amount of \$1.211 billion and estimated fair value of other invested assets in the amount of \$50 million as reported in the accompanying statutory statements of assets, liabilities, policyholders' surplus and other funds as of December 3, 2009, nor were we able to satisfy ourselves about the amounts reported in the accompanying statutory financial statements for incurred losses and loss adjustments, net income and statutory policyholders' surplus the year then ended.

38. Because Marcum issued a qualified audit – thereby inviting unwanted scrutiny of AFP's mismanagement – Anthony Bonomo determined to fire Marcum and replace it with a firm that, in Bonomo's view, might be more amenable to AFP's efforts to misstate the loss reserves and asset valuation. Accordingly, AFP recommended to the PRI Board that Marcum be replaced, and this occurred the following year.

39. Additionally, when, in 2010, a member of AFP's accounting staff in good faith objected to the estimate of net loss reserves set by AFP, the AFP Executive Board Members sought to quiet the employee by denying the employee a bonus and ultimately terminating the employee.

40. Moreover, it appears that AFP had caused Marcum to replace PRI's previous outside auditor in or about 2008, because the previous auditor also had objected to the manner in which AFP caused PRI to calculate its loss reserves.

AFP and the Executive Board Members Breached Fiduciary and Other Duties and Engaged in Self Dealing By Using PRI to Make Numerous So-Called "Charitable" Contributions Benefiting AFP and its Executive Board Members -- Not PRI

41. The Management Agreement between AFP and PRI provides that PRI shall bear the cost of certain itemized expenses incurred by AFP in conducting PRI's operations. Those expenses include "[c]haritable and political contributions, *as specifically authorized by the Board of Governors.*" The Management Agreement requires that "[a]ll other expenses not itemized above are to be borne by [AFP]." (Mgmt. Agmt. ¶ 7.K.(f).)

42. The Department's Examination revealed that, since 2006, AFP has caused PRI to spend very substantial sums on charitable contributions without seeking any approval by the Board, let alone the specific authorization required. Since 2006, AFP caused PRI to expend approximately \$3.6 million of corporate funds on such contributions. However, during that time, AFP sought specific approval from the Board for only about \$250,000 of this amount (at most). AFP thus violated fiduciary and other duties, and the Management Agreement, by causing PRI to make approximately \$3.35 million in unauthorized charitable contributions – many of which benefitted Anthony Bonomo personally.

43. Indeed, a significant portion of these so-called “charitable” contributions were directed by and/or approved by Anthony Bonomo, and designed purely to promote the self-interest, reputation and ego of Anthony Bonomo.

44. For example, the Department's Examination revealed that over \$2 million in charitable donations made by PRI between 2006 and 2015 were for the benefit of organizations and family members directly linked to AFP senior executives Anthony Bonomo, Carl Bonomo or Gerry Dolman.

45. For example, for the period 2009 through 2015:

- a. AFP caused PRI to donate \$90,000 to the GAELS foundation, an organization founded by Anthony Bonomo, which was used to fund sports-related activities and, notably, a sports field with Bonomo's name on it.
- b. AFP caused PRI to donate \$95,000 to Our Lady of Mt. Carmel, a church which had been attended by Anthony Bonomo's family. Among other things, this “donation” apparently was used to secure the Church as a filming location for a movie called “The Brooklyn Banker,” which was made by a cousin of Anthony Bonomo.
- c. AFP caused PRI to donate \$130,250 to Adelphi University, which named a baseball field after Mr. Bonomo's father, the “William J. Bonomo Memorial Field.” Mr. Bonomo's son played on the Adelphi baseball team.

- d. AFP caused PRI to donate \$186,500 to the New York Institute of Technology. Bonomo is a member of the “President’s Forum,” a group of major donors who have exceeded \$1.5 million in donations. Additionally, AFP caused PRI to donate \$7,500 to NYIT Athletics, where Mr. Bonomo’s son was a member of the coaching staff.
- e. AFP caused PRI to donate \$95,250 to St. John’s University. Mr. Bonomo received both his undergraduate and law degrees from St. John’s.
- f. AFP caused PRI to donate \$31,000 to Saint Mary’s Church in Manhasset, New York, which Mr. Bonomo and his family have attended since 1999.
- g. AFP caused PRI to donate \$21,000 to Cabrini College and its athletic programs. Mr. Bonomo’s daughter attended Calibri College and played on the women’s basketball and lacrosse teams.
- h. AFP caused PRI to donate \$12,250 to the Dante Foundation, an organization where Mr. Bonomo and a cousin are both board members.

46. Moreover, Mr. Bonomo caused the vast majority of these self-dealing-style “charitable” contributions to be made at a time that Bonomo and AFP’s management caused PRI to be running a significant net loss in its reserves.

AFP and the Executive Board Members Breached Fiduciary and Other Duties By Mismanaging PRI’s Business In Order to Enrich Themselves

47. As noted above, under the Management Agreement AFP’s compensation was based principally (and later exclusively) on the amount of premium written, rather than on measures of PRI’s fiscal performance. Thus, there was every incentive for AFP to write as many policies as possible, regardless of the risks and costs to PRI.

48. Due to the emphasis at AFP on generating premiums written, the Department’s Examination uncovered evidence that AFP failed to conduct sufficient diligence concerning the fiscal impact on PRI of some potential subscribers, before AFP caused PRI to enter into insurance contracts with the subscribers. Once a relationship was established, moreover, it appears there was little or no monitoring of the loss ratios of the business being written by PRI under AFP’s direction.

AFP and the Executive Board Members Breached Fiduciary and Other Duties By Selecting and Recommending Unqualified Advisors and Cronies for Investment Advisory Contracts

49. The Department's Examination also determined that AFP and the Executive Board Members breached fiduciary and other duties by selecting and recommending unqualified advisors and cronies for PRI's investment advisory contracts.

50. For example, in 2004, while serving as AFP's President, Anthony Bonomo engaged Barry Bekkedam of Ballamor Capital for AFP, and then recommended Bekkedam to PRI's Board to fill the position of Investment Advisor to PRI.

51. Prior to engaging Bekkedam, Bonomo utterly failed to conduct any due diligence on Bekkedam or Ballamor. Although one of Bonomo's principal responsibilities as the President of AFP was the oversight of investment management services, Bonomo failed to (a) discuss investment methodologies, (b) discuss risk management processes, (c) obtain copies of procedures or policies from Ballamor, (d) discuss insurance coverage of Ballamor, (e) discuss risk measurement and reporting systems of Ballamor, (f) discuss internal compliance and audit programs, or (g) discuss prior investment performance of investments recommended by Bekkedam.

52. Upon the recommendation of AFP's President, PRI retroactively ratified the engagement of Ballamor to manage PRI's investment portfolio. Consequently, Bekkedam became responsible for managing almost a billion dollars of PRI investments.

53. Subsequently, due to the poor guidance of Bekkedam, by 2009 or 2010, PRI suffered portfolio losses of approximately \$135 million. Among other things, Bekkedam had recommended a number of exotic investments apparently unsuitable for PRI. As a result, PRI terminated its engagement of Bekkedam and Ballamor in 2010.

54. In 2016, in a different matter, a federal jury convicted Bekkedam of fraud, conspiracy and false statements arising out of fraudulent statements made by Bekkedam to obtain an infusion of cash from the federal TARP program into a bank Bekkedam had co-founded.

55. After PRI terminated its engagement of Bekkedam in 2010, it was necessary for it to find a replacement to continue the management of PRI's investments. Anthony Bonomo, who now served as the Chief Executive Officer of AFP and maintained responsibility for oversight of investment management services, solicited the principal of Triton Capital Management ("Triton") to act as PRI's investment advisor. Bonomo knew the principal because both Bonomo's and the principal's daughters played together on the same youth basketball team in Nassau County.

56. Despite the significant financial losses PRI suffered under the guidance of Ballamor Capital, AFP once again completely failed to conduct any of the necessary due diligence on Triton or its principal -- instead relying on a recommendation from Bonomo, its CEO, based purely on his personal relationship.

57. For example, AFP failed to (a) discuss investment methodologies, (b) discuss risk management processes, (c) obtain copies of procedures or policies from Triton, (d) discuss insurance coverage of Triton, (e) discuss risk measurement and reporting systems of Triton, (f) discuss internal compliance and audit programs of Triton, or (g) discuss prior investment performance of investments recommended by Triton.

58. Nor does it appear AFP sought to interview any other investment firms. And AFP did not advise PRI's Board of Governors that Triton lacked experience in advising other institutional investors. Further, AFP negotiated the fees that PRI was to pay, doing no

independent review or research as to whether the amount paid to Triton was appropriate. Nonetheless, AFP recommended Triton to PRI, and PRI followed the recommendation.

59. Moreover, in August 2006, AFP caused PRI to enter into an investment advisory agreement with another investment advisory firm (the “Additional Investment Advisor”). There is no record that this advisory agreement was ever discussed with or approved by PRI’s Board. Moreover, the advisory fee paid to the Additional Investment Advisor appeared (a) well in excess of market rates for such services, and (b) designed to help retain PRI’s large annual premium from an institutional subscriber of PRI (since the Additional Investment Advisor sat on the Board of the institutional subscriber), and not because the services of the Additional Investment Advisor were actually needed by PRI.

***AFP and the Executive Board Members Breached
Fiduciary and Other Duties By Intentionally Dissipating and Wasting
PRI Assets and Abusing the Management Agreement***

60. The Department’s Examination also determined that AFP and the AFP Executive Board Members repeatedly and intentionally dissipated and wasted PRI assets, and abused the terms of the Management Agreement to their advantage at the expense of PRI.

61. As noted, the Management Agreement provides for AFP to be reimbursed by PRI for specific expenses paid by AFP on PRI’s behalf, including certain salaries and related payroll costs of personnel in AFP’s claims, legal, risk management and education departments.

62. Nonetheless, employees were not instructed to keep track of the percentages of the time they spent performing services for PRI or AFP. No real effort was made to determine the appropriate percentage of expense belonging to PRI. Consequently, PRI apparently paid a greater amount of expenses than it should have.

63. Further, AFP caused PRI to engage in improper rebates, contracts and bookkeeping in order to obtain and retain a large annual premium from an institutional

subscriber. Among other things, Anthony Bonomo verbally promised the institutional subscriber a rebate on this large premium under certain conditions.

64. Moreover, because rebates to policy holders are (with limited exceptions) a violation of the Insurance Law, Anthony Bonomo apparently sought to disguise the rebate as a “charitable contribution” to an affiliate of the institutional subscriber.

65. Another example of AFP’s abuse of the Management Agreement, and a violation of fiduciary duties, arises out of AFP’s failure to refund approximately \$4 million in overpayments made by PRI to AFP under the Management Agreement.

66. The compensation provision of the Management Agreement states in part:

AFP shall be paid monthly in advance based on direct written premiums, and such payments shall be computed based on the then most current estimate available of PRI’s annual direct written premium. Each monthly payment shall be based on 1/12 of the estimated annual direct written premium. Semiannually, the estimates used for the prior six months shall be compared to the actual direct written premium recorded in PRI’s financial statement filed with the New York Insurance Department. ***If the payments made to AFP based upon the estimates exceed the payments that would have been made based on actual direct written premiums, AFP shall promptly refund PRI the net balance due,*** or if the payments made to AFP based upon the estimates are less than the payments that would have been made based upon actual direct written premiums, PRI shall promptly pay to AFP the net balance due. (Emphasis Supplied.)

67. Payments PRI made to AFP in 2014 and 2015 exceeded the payments that would have been made based on the actual direct written premium in the amount of approximately \$4 million. However, AFP has improperly retained these payments rather than promptly refunding them to PRI, in violation of contractual and fiduciary obligations, and despite PRI’s demand for their return.

AFP Violated Executive Law § 94(13)(a)

68. On December 27, 2016, AFP entered into a “Substantial Basis Report and Settlement Agreement” with the New York State Joint Commission on Public Ethics, pursuant to

which it paid \$70,000 to resolve that Commission's investigation (the "Settlement Agreement"). In the Settlement Agreement, AFP "acknowledge[d] to be true" facts that demonstrate that AFP committed a violation of the anti-gifting provisions set forth in Executive Law § 94(13)(a).

A Special Committee of the Board Begins to Takes Remedial Steps In Response to the Department's Examination

69. As a result of the Department's Examination, in Fall 2016, PRI's Board appointed a Special Committee (which excluded Anthony Bonomo, Carl Bonomo and Gerry Dolman) to address issues arising from the Examination. Consequently, the Special Committee acted to hire a Chief Restructuring Officer (the "CRO") to assist in the day-to-day operations of PRI and improve its fiscal and business operations, and put it on a positive path for the future.

70. Due to the ongoing involvement of the CRO at PRI, the 2016 annual statement filed by PRI on March 1, 2017, for the first time since 2009 set a net loss reserve that appears to be consistent with best industry practices.

71. Specifically, PRI's 2016 financial statement states:

After reflecting the credit, the booked reserves are within the appointed actuary's estimated range and both management and the appointed actuary believe the \$1.4 billion of booked reserves on a discounted basis make a reasonable provision in the aggregate for all unpaid loss and loss adjustment expense obligations of the Company under the terms of its contracts and agreements.

72. In coordination with PRI's Board, the Department is taking additional steps to cause improvement to the finances of PRI and enhance the effectiveness of its operations, to protect existing and future policyholders, and to strengthen New York's medical malpractice insurance market.

CONCLUSION

In light of the above findings, along with other evidence developed during the Department's Examination of PRI, the Superintendent has determined to withdraw and revoke the authorization of AFP to act as the attorney-in-fact for PRI. The Superintendent has determined that, in order to continue the safe, sound and competent operation of PRI, and to protect its subscribers, PRI shall immediately approve a new attorney-in-fact to control the management operations of PRI.

Accordingly:

IT IS HEREBY ORDERED that, pursuant to Article 61 of the Insurance Law, including, but not limited to, Insurance Law §§ 6102, 6105 and 6106, the Superintendent hereby withdraws and revokes AFP's authority to act as the attorney-in-fact for PRI, or any parent, subsidiary or affiliate thereof, **effective immediately**.

IT IS FURTHER ORDERED, that all non-subscriber members of the Board of Governors of PRI (*e.g.*, any officers, employees or others associated with AFP) are immediately prohibited and barred from participation in the affairs of the Board of Governors forthwith, and shall be replaced in a timely fashion pursuant to the subscriber's agreement and by-laws of PRI and New York law.

IT IS FURTHER ORDERED, that AFP shall, pursuant to the terms of the Management Agreement, fully cooperate in the orderly transition of the management of the affairs of PRI, including, but not limited to, the orderly transition to the successor attorney-in-fact, in order to facilitate the safe, sound and competent operation of PRI and to protect its subscribers and policyholders, including, but not limited to, by making available to PRI and the successor attorney-in-fact all books, records and information belonging to PRI, including, but not limited

to, electronically-stored information. Specifically, and without limitation, the Management Agreement provides that AFP shall immediately and continuing as requested by PRI:

- (a) Cooperate to facilitate the transfer of operations to the successor Attorney-in-Fact of PRI and its subscribers; and
- (b) Cooperate with PRI towards the end that there will be an orderly transfer of management services functions in respect to PRI's business to a new Attorney-in-Fact. (Management Agreement ¶ 10.D.(a), (b).)

By Order of the Superintendent, this ____ day of July, 2017.
New York, New York

MARIA T. VULLO
Superintendent of Financial Services