

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of Banking)
and Insurance, State of New Jersey, to fine)
the insurance license of Gallagher Benefit) CONSENT
Services, Inc., Reference No. 0216059.) ORDER

To: Gallagher Benefit Services, Inc.
c/o Jennifer Ryder
2 Pierce Place
Itasca, IL 60143

This matter, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Gallagher Benefit Services, Inc. ("GBS"), licensed as a nonresident business entity insurance producer, pursuant to N.J.S.A. 17:22A-34, may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Gallagher Benefit Services, Inc. ("Respondent") is subject to the provisions of New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 et seq.; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a (2) an insurance producer shall not violate any insurance laws, or violate any regulation, subpoena or order of the Commissioner or of another state's insurance regulator; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a (8) an insurance producer shall not use fraudulent, coercive, or dishonest practices, or demonstrate incompetence,

untrustworthiness or financial irresponsibility in the conduct of insurance business in this State; and

WHEREAS, pursuant to N.J.A.C. 11:2-11.1(c)3, an advertisement shall include prepared sales talks, presentations and material for use by agents, brokers, and solicitors and representations made by agents, brokers, and solicitors in accordance therewith; and

WHEREAS, pursuant to N.J.A.C. 11:2-11.3(a), words, phrases or illustrations shall not be used in a manner which misleads or has the capacity and tendency to deceive as to the extent of any policy benefit payable, loss covered or premium payable; and

WHEREAS, pursuant to N.J.A.C. 11:2-11.3(b), an advertisement relating to any policy benefit payable, loss covered or premium shall be sufficiently complete and clear as to avoid deception or the capacity and tendency to deceive; and

WHEREAS, pursuant to N.J.A.C. 11:2-11.3(c), when an advertisement refers to any dollar amount, period of time for which any benefit is payable, cost of policy, or specific policy benefit or the loss for which such benefit is payable, it shall also disclose those exceptions, reductions and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity and tendency to mislead or deceive; and

WHEREAS, pursuant to N.J.A.C. 11:2-11.5, all information required to be disclosed shall be set out conspicuously and in close conjunction with the statements in which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading; and

WHEREAS, pursuant to N.J.A.C. 11:17-2.8(a), licensees shall file with the Department by hard copy or electronic means a branch office registration form within 30 days before business is first conducted there; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.6(a), each place of business maintained by an insurance producer for the purpose of transacting the business of insurance shall be under the direct supervision of an insurance producer; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.6(b), any insurance business conducted at a branch office shall be the responsibility of both the licensed producer assigned to that office and the insurance producer that registered the branch office; and

WHEREAS, pursuant to N.J.A.C. 11:17C-2.6(b), all records, books, and documents required to be maintained by the provisions of this chapter shall, upon his or her request, be produced for examination by the Commissioner or his or her duly authorized representatives; and

IT APPEARING, that on and between November 1, 2012 through March 28, 2014, Respondent failed to register four branch offices conducting insurance business in the State of New Jersey, in violation of N.J.S.A. 17:22A-40a (2) and (8), N.J.A.C. 11:17A-1.6 (b) and N.J.A.C. 11:17-2.8(a); and

IT FURTHER APPEARING, that between November 2012 and July 2013, Respondent failed to supervise employees in the presentation of group health insurance plans. Respondent's employees, CS and CT, failed to provide GC and TC a complete and full representation of the out-of-network benefits payable under a group health insurance policy thereby misleading GC and TC, in violation of N.J.S.A. 17:22A-40a (2)

and (8), N.J.A.C. 11:17A-1.6 (a) and (b), N.J.A.C. 11:2-11.1(c)3, N.J.A.C. 11:2-11.3(a), (b) and (c), N.J.A.C. 11:2-11.5; and

IT FURTHER APPEARING, that on April 29, 2014, Respondent failed to provide copies of all communications between Respondent and GC and TC as requested, specifically two email communications which included the presentation material provided to GC and TC, in violation of N.J.S.A. 17:22A-40a (2) and (8), and N.J.A.C. 11:17C-2.6(b); and

IT FURTHER APPEARING that the Respondent:

- 1) Has admitted responsibility for the aforementioned violations; and
- 2) Has cooperated with the Department of Banking and Insurance's ("Department") investigation; and
- 3) Has paid restitution to GC and TC for harm resulting from the inaccurate description of out-of-network benefits; and

IT FURTHER APPEARING, that cause does exist under N.J.S.A. 17:22A-40(a) and N.J.S.A. 17:22A-45c to impose a fine; and

IT FURTHER APPEARING, that the Respondent has waived its right to a hearing on the aforementioned violations and consented to the payment of a fine in the amount of \$5,000.00; and

IT FURTHER APPEARING, that this matter should be resolved upon the consent of the parties without resort to a formal hearing; and

NOW, THEREFORE, IT IS on this 5TH day of SEPTEMBER 2014,

ORDERED AND AGREED, that the Respondent shall pay a fine in the amount of \$5,000.00; and

IT IS FURTHER ORDERED AND AGREED, that said fine shall be paid by certified check, cashier's check or money order made payable to the State of New Jersey,

General Treasury in one payment of \$5,000.00 due and payable immediately upon the execution of this Consent Order by Respondent; and


IT IS FURTHER ORDERED AND AGREED, that the signed Consent Order together with the payment of \$5,000.00 shall be remitted to:

New Jersey Department of Banking and Insurance
ATTN: Virgil Dowlin, Chief of Investigations
9th Floor, Consumer Protection Services, Enforcement
P O Box 329
Trenton, New Jersey 08625

IT IS FURTHER ORDERED AND AGREED, that in the event full payment of the fine is not made, the Commissioner may exercise any and all remedies available by law, including but not limited to, recovery of any unpaid penalties in summary proceedings, in accordance with the penalty enforcement law, N.J.S.A. 2A:58-10 et seq.; and

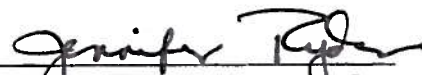
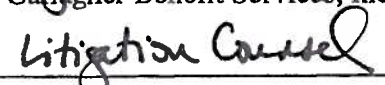
IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute a final resolution of the violations contained herein.

IT IS FURTHER ORDERED AND AGREED, that the Respondent shall cease and desist from engaging in the conduct that gave rise to this Consent Order.

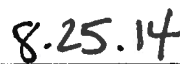


Peter L. Hart
Acting Director of Insurance

Consented to as to
Form, Content and Entry

By: 
Gallagher Benefit Services, Inc.


Title



Date