

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 )  
Lockton Affinity, LLC, Reference No. )  
9026721 )

CONSENT ORDER

TO: Lockton Affinity, LLC  
10895 Lowell Ave., Suite 300  
Overland Park, KS 66210

This matter, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Lockton Affinity, LLC (“Lockton Affinity”), may have violated certain provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Lockton Affinity is currently licensed as a nonresident insurance producer pursuant to N.J.S.A. 17:22A-34, with various lines of authority including surplus lines; and

WHEREAS, Lockton Affinity is subject to the provisions of the New Jersey Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 to -48 (“Producer Act”), and the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 to 11:17D-2.8; and

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

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(17), an insurance producer shall not knowingly facilitate or assist another person in violating any insurance laws; and

WHEREAS, pursuant to N.J.S.A. 17:22A-29 and N.J.A.C. 11:17A-1.4(a) , a person shall

not sell, solicit or negotiate insurance in this State unless the person is licensed for that line of authority in accordance with the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-28, "solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.3(d), no licensed insurance producer shall permit or allow any unlicensed person to transact the business of an insurance producer; and

WHEREAS, pursuant to N.J.A.C. 11:17A-1.4(b), selling, soliciting or negotiating an insurance contract includes, but is not limited to, urging or advising any prospective purchaser to buy any particular policy or to insure with any particular company and disseminating information as to coverages in general or for any particular policy; and

WHEREAS, pursuant to N.J.A.C. 11:17B-3.1(b), any insurance producer charging a fee to an insured or prospective insured shall first obtain from the insurer or prospective insured a written agreement, which shall be separate and apart from all other agreements and applications, and shall contain the following provisions and no other provisions: (1) a clear statement of the amount of the fee to be charged and the nature of the service to be provided therefor; (2) a statement that such fees are not a part of the premium charged by the insurance company and that such fees can be charged only if the insured or prospective insured so consents in writing; (3) a clear statement as to whether a commission will be received from the purchase of insurance; and (4) the signature of the insured or prospective insured and the date of execution of the agreement; and

WHEREAS, pursuant to N.J.A.C. 11:1-34.6(b)(1), health insurance, with certain exceptions, cannot be written by surplus lines insurers; and

WHEREAS, pursuant to N.J.S.A. 17B:17-4, "health insurance" is a contract or agreement whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to bodily

**injury, disablement, sickness, death by accident or accidental means of a human being, or because of any expense relating thereto, or because of any expense incurred in prevention of sickness, and includes every risk pertaining to any of the enumerated risks; and**

**WHEREAS, in April 2017 the National Rifle Association (“NRA”) launched the Carry Guard Program, which offers firearms training, emergency hot line assistance, a free one-year NRA membership, a subscription to NRA Carry Guard magazine and the ability to purchase Carry Guard self-defense insurance; and**

**WHEREAS, the NRA is not licensed as an insurance producer in New Jersey; and**

**WHEREAS, from April 19, 2017 to December 14, 2017 there was a single Carry Guard website maintained and hosted by the NRA that described the Carry Guard program and solicited for the Carry Guard insurance program; and**

**WHEREAS, the NRA sent emails directly to NRA members soliciting the purchase of Carry Guard insurance; and**

**WHEREAS, the single Carry Guard website maintained and hosted by the NRA and the emails sent by the NRA soliciting Carry Guard insurance in 2017 constitute solicitations of insurance by an entity not licensed as an insurance producer, in violation of N.J.S.A. 17:22A-29, N.J.A.C. 17:22A-40a(2) and (17), N.J.A.C. 11:17A-1.4 (a) and (b), and N.J.A.C. 11:17A-1.3(d); and**

**WHEREAS, the Carry Guard self-defense insurance is offered by a surplus lines insurer and includes benefits for health insurance, specifically reasonable first-party expenses incurred for psychological counseling support, in violation of N.J.A.C. 11:1-34.6(b)(1); and**

**WHEREAS, the Carry Guard program has three cost items: (1) a Carry Guard membership fee collected by Lockton Affinity on behalf of the NRA, (2) an insurance premium, and (3) an administrative fee charged and retained by Lockton Affinity; and**

WHEREAS, Lockton Affinity did not execute a separate fee agreement with the New Jersey Carry Guard certificate holders for the administrative fee retained by Lockton Affinity separate and apart from all other agreements and applications in violation of N.J.A.C. 11:17B-3.1(b); and

WHEREAS, 322 Carry Guard certificates, representing aggregate premium of approximately \$104,000, were issued to New Jersey residents through June 30, 2019; and

WHEREAS, Lockton Affinity, in compliance with the Department's investigation, has addressed the aforementioned findings and admits and agrees to take responsibility for those violations; and

WHEREAS, this matter should be resolved upon the consent of the parties without resort to a formal hearing on the aforementioned violations;

NOW, THEREFORE, IT IS on this *5<sup>th</sup>* day of *September*, 2019;

ORDERED AND AGREED, that Lockton Affinity shall pay a fine of one million dollars (\$1,000,000); and

IT IS FURTHER ORDERED AND AGREED, that said fine shall be paid by certified check, cashier's check, money order or electronic funds transfer made payable to the "State of New Jersey, General Treasury"; and

IT IS FURTHER ORDERED AND AGREED, that Lockton Affinity shall take the necessary steps to prevent any future solicitation of insurance by unlicensed persons or entities for insurance products for which Lockton Affinity is the producer; and

IT IS FURTHER ORDERED AND AGREED, that the sanctions of this Consent Order are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of the public health, safety, and welfare, and are not intended to constitute debts which may be limited or discharged in a bankruptcy proceeding; and

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

  
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Marlene Caride  
Commissioner

CONSENTED AS TO FORM, CONTENT, AND ENTRY:

  
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Lockton Affinity, LLC

Dated: September 3, 2019