

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE REQUEST FOR)
INFORMATION FROM CERTAIN PRODUCERS) ORDER
REGARDING CERTAIN COMPENSATION)
AND FEE ARRANGEMENTS)

This matter has been opened by the Commissioner of the Department of Banking and Insurance (“Commissioner”) pursuant to N.J.S.A. 17:1-8.1, 17:1-15e, 17:22A-26 et seq., and 17:29B-5, and all of the powers expressed or implied therein; and

IT APPEARING that the Department of Banking and Insurance (“Department”) has become aware of allegations in other states of certain fraudulent, anti-competitive and otherwise unlawful practices that have resulted in harm to consumers in the placement and issuance of insurance coverage; and

IT FURTHER APPEARING that various statutes and rules impose responsibilities and standards of conduct on producers regarding compensation and other arrangements between producers and insurers in their dealings with clients and insureds; and

IT FURTHER APPEARING that, on October 22, 2004, the Commissioner issued Bulletin No. 04-20, which emphasized to producers and insurers their responsibility to comply with various statutes and rules in this area, including, but not limited to, N.J.S.A. 17:22A-26 et seq. and N.J.A.C. 11:17 through 17D; and

IT FURTHER APPEARING that entities listed in Exhibit A, attached hereto and made a part hereof, are licensed as an insurance producer or are owned or controlled by a licensed producer, which do substantial business as a broker in this State; and

IT FURTHER APPEARING that in order for the Department to determine the extent of such practices in this State and ensure compliance with applicable law, the

Department believes it is necessary to require the entities listed in Exhibit A to provide information and documents as set forth in Exhibit B, attached hereto and made a part hereof, related to compensation and fee arrangements as set forth in Exhibit B.

THEREFORE, IT IS on this 1st day of November, 2004

ORDERED that:

1. The entities listed in Exhibit A shall provide information and documents regarding compensation and fee arrangements for acting other than as an agent for an insurer on a transaction governed by the agency contract with that insurer, as set forth in Exhibit B, attached hereto and made a part hereof. The information and documents required shall be provided no later than 30 days from the date of this Order and shall be mailed to:

Lee Barry, Assistant Commissioner
Office of Consumer Protection Services
New Jersey Department of Banking and Insurance
20 West State St.
P.O. Box 329
Trenton, NJ 08625-0329

(609) 292-5316 x50160;

2. The entities listed in Exhibit A shall provide the name of a person(s) familiar with the information and documents provided pursuant to this Order, who shall be available for follow-up interviews with the Department; and

3. Failure to comply with the terms of this Order shall result in penalties as authorized by law.

11/1/04
Date

/s/ Holly C. Bakke
Holly C. Bakke
Commissioner

EXHIBIT A

MARSH USA INC
ATTENTION: ROBERT MURPHY

MARSH USA INC
ATTENTION: PATRICK HENNESSY

MARSH USA INC
ATTENTION: JEFFREY FOX

MARSH USA INC
ATTENTION: JOSEPH AHEARN

MARSH USA INC
ATTENTION: ROBERT KELLY

MARSH USA INC
ATTENTION: CHARLES CLEMENT

MARSH USA INC
ATTENTION: RONALD MASSA

MARSH USA INC
ATTENTION: ALISON ALMQUIST

MARSH USA(UTAH)INC
ATTENTION: DAVID KNOOP

MARSH FINANCIAL SERVICES, INC
ATTENTION: ROBERT BEEG

MARSH PLACEMENT INC
ATTENTION: JOHN ROSARIO

MARSH USA INC
ATTENTION: NELSON AVERILL

MARSH USA INC
ATTENTION: PAUL MALONEY

MARSH USA INC
ATTENTION: JAMES MATHISON

MARSH USA INC
ATTENTION: KATHLEEN BRYANT

MARSH USA BENEFITS INC
ATTENTION: WILLIAM CLARK

INTERNATIONAL PLANNING ALLIANCE
ATTENTION: DAVID R. ALTER

NEW ENGLAND FINANCIAL OF NORTH JERSEY
ATTENTION: EDWARD P. BARRETT

FIRST JERSEY INSURANCE AGENCY
ATTENTION: FRANK A. REILLY

COMMERCE NATIONAL INSURANCE SERVICES
ATTENTION: GEORGE E. NORCROSS

COMMERCE NATIONAL INSURANCE SERVICES
ATTENTION: GEORGE E. NORCROSS

NEW ENGLAND FINANCIAL OF CENTRAL JERSEY
ATTENTION: GERALD J. LA MALFA

DIVERSIFIED HEALTH MARKETERS, INC.
ATTENTION: MICHAEL J. ROSE

SELECTIVE BENEFITS GROUP
ATTENTION: ANDREW S. BLUESTONE

FLEET INSURANCE SERVICES
ATTENTION: THOMAS J. SHARKEY

AXA ADVISORS
ATTENTION: ANTHONY SAGES

FIRST UNION INSURANCE SERVICES AGENCY
ATTENTION: ANTHONY D. FENTON

BOLLINGER, INC.
ATTENTION: JOHN A. WINDOLF

COASTAL FINANCIAL GROUP
ATTENTION: THOMAS J. TYSON

STONE FINANCIAL GROUP
ATTENTION: STEPHEN B. STONE

AON RISK SERVICES INC., OF NEW JERSEY
ATTENTION: VIVIAN P. DUFF

HILB ROGAL & HAMILTON
ATTENTION: CARL J. TIMPANARO

NORTHWESTERN BENEFIT SERVICES, INC.
ATTENTION: JOSEPH M. SAVINO

CAPACITY FINANCIAL SERVICES
ATTENTION: ROBERT G. LULL

PERSONAL LINES INSURANCE BROKERAGE
ATTENTION: STEPHEN J. PECK

LANGDON FORD FINANCIAL GROUP
ATTENTION: JOHN LANGDON

PROFESSIONAL FINANCIAL MANAGERS, INC.
ATTENTION: JAMES J. BRANCO

THE WHARTON GROUP
ATTENTION: DENNIS F. KLEIN

RUE INSURANCE
ATTENTION: WILLIAM M. RUE

STATFELD VANTAGE INSURANCE GROUP
ATTENTION: MARTIN F. STATFELD

HERBERT L. JAMISON & COMPANY
ATTENTION: JOHN O. MCDONALD

WILLIAM H. CONNOLLY & COMPANY
ATTENTION: WILLIAM H. CONNOLLY

NORTHWESTERN MUTUAL FINANCIAL NETWORK-THE MID ATLANTIC
GROUP
ATTENTION: MICHAEL P. KELLY

WILLIS OF NEW JERSEY, INC.
ATTENTION: GUTHRIE M. BURKE

INSURANCE RESOURCE BROKERAGE GROUP
ATTENTION: JAY BERGSTEIN

HIGHVIEW PLANNING
ATTENTION: MARTIN F. STATFELD

EXHIBIT B

“Your Company” means the entity to which this Order was issued as set forth in Exhibit A to this Order.

“Insurer” means any entity that holds a certificate of authority issued by any state to transact the business of insurance or to transact business as a health service corporation, hospital service corporation, medical service corporation or health maintenance organization authorized to issue health benefit plans.

Unless otherwise indicated, the following information must be provided only with respect to Your Company’s New Jersey insurance business during the time period January 1, 2003 to the date of this Order.

Each cover letter accompanying a production shall include an index that provides: (1) a description of the types of documents, and their contents; and (2) the Exhibit B question number(s) to which the respective documents are responsive.

1. Copies of each contract, or other evidence of a compensation or fee arrangement or any other type of agreement (including but not limited to producer agreements, placement service agreements, market service agreements, profit sharing arrangements, brokerage agreements, letters or memoranda of understanding, and verbal or unwritten agreements) the terms of which provide for remuneration paid to or received by Your Company and/or its licensed producers governing any transactions with insurers, except for contracts under the terms of which Your Company and its licensed producers received compensation, fees and remuneration for acting solely in the capacity of an appointed agent for an insurer and solely pursuant to the terms of an agency contract with such insurer. For each such contract, other evidence of compensation, fee arrangement or any other type of agreement, list the parties to the contract, including the insurer’s NAIC company code and the producer’s New Jersey producer license number (or, in absence of such number, the NAIC national producer number).
2. A list of all insurers from which: (a) Your Company and /or (b) Your Company’s employed or contracted licensed producers received or are due compensation. For each insurer listed, identify the insurer’s NAIC company code, set forth the amount of compensation received and/or receivable, broken out per producer (including Your Company), and broken out for compensation received solely in the capacity as an agent solely pursuant to the terms of an agency contract.
3. A list of all insurers, by name and NAIC company code, for which Your Company and your Company’s employed or contracted licensed producers are appointed as agents, broken out by producer, lines of authority, effective date and termination date.

4. A list of all licensed producers employed with or contracted by Your Company, the New Jersey producer license number of each such producer, and if not employed during the entire period from January 1, 2003 to date, the period of employment of each such producer.
5. Identify all business entities (including sole proprietorships) by, through or under which your company conducts the business of insurance in New Jersey. Specify the legal name of all such entities and all trade, alternate or fictitious names under which such entities operate, and provide the address, New Jersey producer license number, NAIC company code (if applicable) and NAIC national producer number (if applicable) of all such entities.
6. Identify all employees, officers and agents of Your Company whose responsibilities include obtaining or providing insurance quotes, bids or proposals. Where applicable, set forth the New Jersey producer license number and NAIC national producer number of all persons identified.
7. Has Your Company or any of its employees, officers or agents been requested to submit or requested the submission of a sham bid, cover bid, losing bid, "B" quote, or any other bid, price, quote or other proposal made for the purpose of having such bid, price, quote or other proposal declined, or for the purpose of having a competing bid, price, quote or other proposal appear more advantageous to the prospective insured. If so, identify such employees, officers or agents and provide all documentation related to the transaction. Where applicable, set forth the New Jersey producer license number and NAIC national producer number of all persons identified.
8. What specific steps has Your Company taken and what additional steps does Your Company plan to take to investigate whether Your Company, or any of its employees or producers, directly or indirectly participated in improper broker compensation arrangements, bid-rigging, tying or inappropriate steering activities? If Your Company has hired any outside investigators, auditors, legal counsel or other consultants in connection with such an investigation, please identify the vendor and describe the scope of the assignment.
9. Has Your Company, or any of its employees or producers, received any subpoenas, written requests for information or other inquiries from any governmental entity or litigant seeking information related to broker compensation arrangements? Please specify the particulars of all such requests.
10. Is Your Company, or any of its employees or producers, a party in any civil litigation, or the subject of any other regulatory inquiry or action, involving the alleged use of or involvement with improper broker compensation arrangements, bid-rigging, tying or inappropriate steering activities? If so, please identify the case caption, jurisdiction and status

for all such litigation and other regulatory action or inquiry occurring at any time since January 1, 1998.

11. Is Your Company, or any of its employees or producers, the subject of an investigation or named as a defendant in any document reciting criminal allegations after having waived indictment, or under any indictment that may allege or be related to issues involving improper broker compensation arrangements, bid-rigging, tying or inappropriate steering activities, or has Your Company or any of its producers entered a plea of guilty to such allegations? If so, please provide details and a copy of any such document or indictment.
12. Is anyone associated with Your Company aware of any transaction(s) in which an insurer was required to purchase reinsurance through Your Company or an affiliated entity as a condition of that insurer being selected to provide insurance coverage or awarded placement of an insurance policy? Please provide details of all such transactions.
13. Does Your Company have in place internal controls intended to prohibit certain activities, including bid rigging, tying arrangements or other inappropriate steering activities? If not, why not? If so, please provide the details of these internal controls.
14. Has Your Company reviewed its internal controls, including conflict of interest policy, to determine whether bid rigging, tying arrangements or other inappropriate steering activities would have been detected? If not, why not? If so, please provide the results of Your Company's review.
15. What is Your Company's record retention policy with respect to bids/quotes/illustrations that have been provided by its employees or producers acting as brokers?
16. Provide organizational charts for Your Company's brokerage business since January 1, 2003.
17. Provide all documents concerning any disclosure of Compensation Arrangements by Your Company or any of its employees or producers to clients.
18. Provide a list of employees primarily responsible for the negotiation, analysis and management of Compensation Arrangements since January 1, 2003.
19. Provide all documents concerning Your Company's tying or conditioning the award of insurance business to an insurance company to or upon the future employment of Your Company, any of its employees or producers, or any affiliated entity.
20. Provide all documents concerning loans by an insurer to Your Company, any of its employees or producers, or any affiliated entity.

21. Provide all documents concerning the receipt of stock or the option to purchase stock from an insurer by Your Company, any of its employees or producers, or any affiliated entity.

CERTIFICATION

I hereby certify that I have reviewed the attached documents and information submitted, that they are true and accurate copies of original documents, and I have obtained information from all necessary personnel as required to confirm the accuracy of the information filed for and on behalf of _____; and

(Name of Company)

that I am the _____ of such company and that I am

(Title)

authorized to execute and file such certification. I also certify that I relied on the individuals named below who participated in the information gathering, review and submission process (LIST NAME, TITLE and PHONE NUMBER for each individual listed). I further certify that I am familiar with the information filed and the contents thereof, and that the documents and information submitted are true to the best of my knowledge, information and belief.

(Signature) _____

(Type or print name beneath) _____

(Business Address) _____

(Phone number) _____

The following persons participated in the process of gathering, reviewing and/or submitting the attached information:

(attach additional page(s), if necessary)