

New York State Department of Financial Services

ISSUED: April 25, 2017

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES TAKES DISCIPLINARY ACTIONS AGAINST COMPANIES, AGENTS, BROKERS & ADJUSTERS

The New York State Department of Financial Services has taken disciplinary action against the following licensees. Those categorized as stipulations have been agreed to by the licensee. Department actions that result from Department hearings are subject to judicial review and possible stay of enforcement.

INSURANCE COMPANIES

LICENSEE	ADDRESS	PENALTY
Combined Life Insurance Company of New York	13 Cornell Road Latham, NY 12110	\$23,740 fine Respondent will correct the violations cited herein and demonstrate to the Department's satisfaction that it has taken the necessary corrective action within six months from the date of Respondent's signing of this Stipulation & Consent Order. Respondent will also take all necessary steps to comply with the New York Insurance Law and Regulations with respect to its insurance products in the future.
Respondent, for the period from January, 2011 through December, 2014, failed to notify the agents terminated for cause by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier; used an electronic application that had not been filed with and approved by the Department; and, used a claim form that did not have the fraud warning statement immediately above the space provided by the signature of the person executing the claim. [Stipulation approved February 24, 2017.]		

LICENSEE	ADDRESS	PENALTY
<p>Globe Life Insurance Company of New York f/k/a First United American Life Insurance Company</p>	<p>1020 Seventh North Street Liverpool, NY 13088</p>	<p>\$538,375 fine Respondent will correct the violations cited herein and demonstrate to the Department's satisfaction that it has taken the necessary corrective action within three months from the date of Respondent's signing of this Stipulation & Consent Order. Respondent will also take all necessary steps to comply with the New York Insurance Law and Regulations with respect to its insurance products in the future.</p>
<p>Respondent, for the period from January, 2006 through December, 2008, failed to maintain the minutes for all of its board of directors and board committee meetings at its principal office in this state; failed to disclose in its direct mail solicitation that the prospective purchaser has the right to receive, upon request, a buyer's guide and a policy summary prior to delivery of the policy, and provide a policy summary upon delivery of the policy; failed to fully disclose to whole life and term life policyholders that unless payment is made on or before the date when due or within the specified grace period thereafter, the policy shall terminate or lapse except as to the policyholder's right to any cash surrender value or nonforfeiture benefit or send a written notice to New York policyholders within six months after termination or lapse stating the type and amount of automatic nonforfeiture benefit in force; failed to provide a paid-up nonforfeiture benefit as the default nonforfeiture option in cases where the premium was past due and the policyholder had not elected the reduced paid-up or extended term insurance paid-up nonforfeiture benefit options; used a medical authorization release form without obtaining prior approval for the form; used a medical authorization release form that requires the disclosure of an applicant's entire medical record, in connection with the Medicare supplement insurance application process; required applicants to authorize the disclosure of their entire medical history as part of the application process, which is contrary to New York open enrollment rules for any Medicare supplement policy or certificate; failed to provide a copy of all advertisements for their Medicare supplement insurance to the superintendent, prior to their use; and, tied the sale of the Reserve Fund Annuity to the Medicare Supplement High Deductible F+ policy without specifically mentioning the annuity in the Medicare supplement policy provisions. [Stipulation approved February 24, 2017.]</p>		

LICENSEE	ADDRESS	PENALTY
The United States Branch of the Independent Order of Foresters	789 Don Mills Road Toronto, Ontario M3C 1T9 Canada	<p>\$10, 545 fine</p> <p>Respondent will correct the violations cited herein and demonstrate to the Department's satisfaction that it has taken the necessary corrective action within six months from the date of Respondent's signing of this Stipulation & Consent Order. Respondent will also take all necessary steps to comply with the New York Insurance Law and Regulations with respect to its insurance products in the future</p>
<p>Respondent, for the time period 2012 to 2014: failed to provide proof that the insurer whose coverage was being replaced was furnished with a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy, and the completed Disclosure Statement, or failed to provide such information within 10 days of receipt of the application; failed to maintain copies of: any proposal, including the sales material used in the sale of the proposed life insurance policy, the important notice regarding replacement, and the signed and completed Disclosure Statements; failed to issue a revised Disclosure Statement in cases where the policy issued differed from the policy applied for; failed to file with the superintendent, within 30 days, a statement of the facts relative to the producer's termination for cause, and failed to provide, within 15 days after notification has been sent to the superintendent, a copy of the statement filed with the superintendent to the producers that were terminated for cause; failed to place</p>		

the fraud warning statement on its claim form immediately above the space provided for the signature of the person executing the claim statement; and, failed to pay the required interest on funds disbursed as policy loans and surrendered policies. [Stipulation and Consent Order Approved February 24, 2017.]

LICENSEE	ADDRESS	PENALTY
United States Life Insurance Company in the City of New York	175 Water Street New York, NY 10038	\$873, 918 fine Respondent will correct the violations cited herein and demonstrate to the Department's satisfaction that it has taken the necessary corrective action within three months from the date of Respondent's signing of this Stipulation & Consent Order. Respondent will also take all necessary steps to comply with the New York Insurance Law and Regulations with respect to its insurance products in the future
<p>Respondent, for the time period 2003 to 2007: failed to maintain its individual declined, withdrawn and NTO policies in a manner that is readily available and easily accessible to the superintendent; used policy forms which were not approved by the Department and used a policy form which was modified from the version approved by the Department; used a policy form that is misleading as to the true identity of the insurer; used application forms for accident and health insurance without the required fraud warning</p>		

statement and incorrectly used fraud warning statements in life insurance applications;
used a provision other than one contained in the policy, which could affect the rights of the policyholder;
used an application containing a discretionary clause that is unfair and prejudicial to the interests of policyholders;
included language in the policy form that allows the Company to contest material statements made in the application beyond the two year contestable period limit;
Respondent, for the time period 2008 to 2011 :
failed to provide all affected policyholders with an annual notification demonstrating that the policy contained a cash surrender value;
failed to provide disclosure statements to its prospective annuitants for equity index annuities that met each of the requirement referenced therein; and,
failed to pay medical claims received via paper within forty-five days of receipt of proof of the claim. [Stipulation and Consent Order Approved February 24, 2017.]

LICENSEE	ADDRESS	PENALTY
The Variable Annuity Life Insurance Company	2929 Allen Parkway Houston, TX 77019	<p>\$25,000 fine</p> <p>Respondent will correct the violations cited herein and demonstrate to the Department's satisfaction that it has taken the necessary corrective action within one month from the date of Respondent's signing of this Stipulation & Consent Order. Respondent will also take all necessary steps to comply with the New York Insurance Law and Regulations with respect to its insurance products in the future</p>
<p>Respondent, for the time period 2003 to 2007: failed to examine the "Disclosure Statement," and ascertain that it is accurate and meets the requirements of the Insurance Law and Department Regulation; failed to furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed annuity contract, and the completed "Disclosure Statement" within ten days of receipt of the application; and, failed to maintain a copy of the authorization letter signed by the applicant. [Stipulation and Consent Order Approved February 24, 2017.]</p>		

AGENT AND BROKERS HEARINGS

LICENSEE	ADDRESS	PENALTY
Buffalo Bail Bonds Agency Inc. (Bail Bond Agent)	523 Glenwood Avenue Buffalo, NY 14208	\$11,450 fine See summary below
George Adu-Gyamfi (Sublicensee)	Same as above	
<p>Respondents willfully permitted an individual who was previously convicted of a felony to participate in the business of insurance. Respondents offered an inducement to the making of insurance to certain persons by allowing them to delay paying part of the premium for posting a bail bond until after the bail bond was posted with the court. Respondents also submitted bail affidavits required by the New York Criminal Procedure Law to the City Court of Buffalo that contained untrue information regarding the amount of premium paid. Respondents also failed to issue numbered receipts for premium paid in connection with the issuance of bail bonds and failed to obtain the signatures of the persons paying the premium on the receipts. [Order issued February 7, 2017.] Respondents filed an Article 78 proceeding with the Supreme Court of the State of New York, Erie County on March 14, 2017. The Supreme Court granted a stay on March 14, 2017, enjoining the enforcement of the penalty, pending the hearing and determination of the proceeding.</p>		

STIPULATIONS

Region: Albany

LICENSEE	ADDRESS	PENALTY
Kimberly A. Gerighty (Broker, Life Broker and Agent- License Applications Pending)	79 W. 8th Avenue Gloversville, NY 12078	\$1,500 fine
<p>Respondent failed to disclose on her renewal applications for her broker and life broker licenses that she was the subject of a criminal prosecution and she failed to notify the Superintendent within 30 days of the initial pretrial hearing date that she was the subject of a criminal prosecution. [Stipulation approved February 15, 2017.]</p>		

Region: Nassau

LICENSEE	ADDRESS	PENALTY
Baldev S. Srichawla (Agent)	601 Colonade Road West Hempstead, NY 11552	\$1,500 fine
<p>Respondent failed to disclose that he was convicted of a crime on his original and renewal applications for an agent's license. [Stipulation approved February 9, 2017.]</p>		

Region: New York

LICENSEE	ADDRESS	PENALTY
Nickolaos Gratseas (Independent Adjuster)	244-66 136 Road Rosedale, NY 11422	\$750 fine
Respondent failed to disclose in his relicensing application for an independent adjuster's license that his license to act as an independent adjuster was revoked by the State of New York, Insurance Department on or about January 17, 2008. [Stipulation approved January 13, 2017.]		

Region: Westchester

LICENSEE	ADDRESS	PENALTY
Juan E. Cabrera (Agent)	54 Lovell Street Somers, NY 10589	\$1,250 fine
Respondent failed to disclose on his renewal application for his agent's license that he was the subject of an administrative action by the State of New Jersey Department of Banking and Insurance and failed to notify the Department of the aforementioned New Jersey action within thirty days. [Stipulation approved March 1, 2017.]		

Region: White Plains

LICENSEE	ADDRESS	PENALTY
Orthonet LLC (Independent Adjuster)	1311 Mamaroneck Avenue White Plains, NY10605	\$2,500 fine
Theresa N. Marcucci (Sublicensee)	Same as above	
Respondents failed to report to the Superintendent within thirty days of the final disposition of the matter that Respondent Orthonet was fined by the Connecticut Insurance Department in 2015 and in 2012. Respondents also failed to disclose the 2012 Connecticut fine in two of Respondent Orthonet's license applications. [Stipulation approved February 6, 2017.]		

Region: Out of State

LICENSEE	ADDRESS	PENALTY
Amir Abramov (Agent and License Pending – Life Settlement Broker)	3830 S. Highway Melbourne Beach, FL 32951	\$500 fine
In July of 2008, Respondent failed to report to the Superintendent within thirty days a matter then pending in a court of Essex County in the State of New Jersey, which was subsequently ordered expunged in August of 2015. [Stipulation approved February 15, 2017.]		

LICENSEE	ADDRESS	PENALTY
Bruce F. Burns (Agent)	1514 Richter Drive Batavia, IL 60510	\$500 fine
Respondent failed to report to the Superintendent within thirty days of the final disposition of the matter that an administrative action was taken against him by the State Corporation Commission of the Commonwealth of Virginia. [Stipulation approved March 1, 2017.]		

LICENSEE	ADDRESS	PENALTY
David A. Hertl (Agent)	6919 Stemen Road Pickerington, OH 43147	\$1,250 fine
Respondent failed to disclose on his original application for an agent’s license that he was the subject of an administrative action by the New York Stock Exchange and he failed to notify the Department within thirty days that he was the subject of an administrative action by the State of Ohio. [Stipulation approved March 1, 2017.]		

LICENSEE	ADDRESS	PENALTY
Holly Ann Sultze (Agent)	226 North Outagamie Street Appleton, WI 54914	\$750 fine
Respondent failed to disclose in her renewal application for an agent’s license that the California Department of Insurance denied Respondent’s application for an unrestricted broker-agent license and issued to Respondent, in lieu of an unrestricted license, a restricted license on certain terms and conditions. [Stipulation approved February 14, 2017.]		