

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
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In the Matter of:

YourPeople, Inc., d/b/a Zenefits FTW Insurance Services
Respondent.

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CONSENT ORDER

WHEREAS the Superintendent of Financial Services of the State of New York (the “Superintendent”) commenced an investigation, pursuant to Section 404 of the Financial Services Law, of YOURPEOPLE, INC., d/b/a ZENEFITS FTW INSURANCE SERVICES (“Zenefits” or “Company”);

WHEREAS the New York State Department of Financial Services (the “Department” or “DFS”) investigated concerns that Zenefits violated the New York Insurance Law by allowing the unlicensed solicitation, negotiation, or sale of insurance policies in New York (the “Investigation”);

WHEREAS the Investigation revealed that Zenefits permitted employees to do insurance business in New York by soliciting, negotiating and selling insurance policies without required licenses, and that the company failed to record and maintain records necessary to verify compliance with the New York Insurance Law and failed to enact adequate compliance controls and employee training programs;

NOW, THEREFORE, the Department and Zenefits are willing to resolve the matters cited herein in lieu of proceeding by notice and a hearing.

FINDINGS

The findings of the Department's Investigation are as follows:

Background

1. Zenefits is a Delaware corporation with its principal place of business at 303 Second Street, North Tower, Suite 401, San Francisco, CA 94107.
2. Zenefits' principal business activity is providing an online platform for small- to mid-sized businesses that integrates human resources, payroll and benefits functions. As part of its services, Zenefits offers insurance brokerage services for the purchase of group property, casualty, health, and life insurance policies for employees.
3. Zenefits has held and continues to hold licenses to act as an insurance agent for life, accident and health, and property and casualty insurance policies in New York since 2014.
4. In November 2015, Zenefits reported to DFS that it had learned that Zenefits employees had engaged in insurance business in New York without being properly licensed. Zenefits further represented to the Department that it had retained a national accounting firm to review its sale, negotiation, and solicitation of insurance policies and its licensing compliance practices.
5. In a report submitted to DFS dated March 1, 2016, Zenefits acknowledged that the company engaged in repeated violations of the New York Insurance Law. Zenefits employees had acted as insurance brokers in New York without proper licensure. In many cases, employees were licensed in another state to act as a broker but had not obtained a non-resident insurance license as required of non-residents doing insurance business in New York. In a smaller number of cases, employees were acting as insurance brokers without any license in any state.

6. An internal review of Zenefits' compliance issues revealed a further issue with the improper creation, distribution and use of software designed to evade broker licensing education requirements. Zenefits retained a national law firm to investigate that issue.

7. The Company has represented to the Department that in response to its significant compliance failures, it has: (i) appointed a Chief Compliance Officer and built a compliance program and team; (ii) replaced the Chief Executive Officer Parker Conrad and several other executives; (iii) reconstituted its Board of Directors from a board controlled by Parker Conrad to a board in which two-thirds of voting seats are not held or controlled by management; (iv) developed licensing controls which have since been provided industry-wide via a free open-source app for others; and (v) used a national accounting firm to produce reports on past licensing compliance history as well as to evaluate the design and functioning of Zenefits' new licensing controls.

Unlicensed Insurance Sales in New York

8. As Zenefits significantly grew its business in 2014 and 2015, the Company failed to enact adequate compliance programs and controls to ensure that insurance business was being conducted by properly licensed individuals. In fact, there were employees acting as insurance brokers without proper licensure and some Zenefits supervisors were aware of that compliance failure. In some cases, the Company submitted applications for broker licenses but allowed employees to solicit, negotiate and sell insurance policies in New York before a license was granted. In addition, in certain cases Zenefits employees without proper licensure solicited new clients to transfer the broker of record on clients' existing insurance policies to a Zenefits representative.

9. Zenefits also failed in some cases to maintain complete records identifying which employee sold, negotiated, or solicited a particular insurance policy. Zenefits has represented to the Department that, with respect to several hundred insurance policies issued and delivered in New York, it does not have adequate records to identify which employees sold those insurance policies. Without these records, Zenefits cannot confirm whether those policies were sold by properly licensed insurance brokers.

10. Pursuant to New York Insurance Law § 2102, no person shall act as an insurance broker by soliciting, negotiating, or selling an insurance policy in New York without a license issued by the Department. Nevertheless, from September 2014 through January 2016, insurance policies were sold, solicited and negotiated in New York by Zenefits employees who were not properly licensed to do insurance business in New York.

11. Zenefits also paid employees using a number of frequently changing ad hoc systems to pay commissions and other compensation and did not keep records of some of those payments. Those payments, at least in part, were based on the sale of insurance policies.

12. Zenefits' failure to track or record fully the payment of commissions and other compensation, including bonus payments, to employees engaged in the solicitation, negotiation or sale of insurance policies hindered the Department's ability to determine whether any payments in connection with the sale of an insurance policy were paid to unlicensed employees who provided product demonstrations to clients. Accordingly, the Department believes that there likely are more unlicensed insurance transactions by Zenefits' employees in New York than Zenefits' existing records indicate.

13. In 2013, Zenefits' then-CEO Parker Conrad wrote software (the "macro") that allowed users to disable protections on online insurance broker education courses that ensured

that users actually completed the number of hours of training required by the State of California. The macro allowed users to keep the online course timer running even if the user was not actively engaged in the course program or even at the computer.

14. A review of Zenefits' employee emails shows that the macro was sent or received by 112 employees, including employees who engaged in insurance business in New York. Zenefits has represented to the Department that the total number of employees who actually used the macro is not ascertainable.

15. Insurance brokers who are licensed by a state other than New York may not sell policies providing coverage in New York unless they first obtain a New York non-resident broker license. Applicants for a New York non-resident license must have a valid insurance broker license in their home state.

16. Applicants for an insurance broker license in California are required to certify in their application, under penalty of perjury, that they have completed 52 hours of education courses. Zenefits has represented to the Department that the Company and its consultants are unable to determine whether employees who installed the macro on their computers and/or shared it with other employees did, in fact, use the macro to evade licensing education requirements in California. Accordingly, the Department cannot be assured that employees who were granted non-resident licenses in New York based upon certified completion of their California education requirements were validly licensed in New York.

17. In November 2016, Zenefits represented to the Department that as of that time, all employees soliciting, negotiating or selling insurance in New York had obtained valid insurance broker licenses. Further, Zenefits represented that it had instituted controls that would prevent its employees from soliciting, negotiating, or selling insurance in New York without being properly

licensed, and that the Company had improved its data systems to be able to track brokers on a “per policy” basis.

18. Zenefits has further represented to the Department that the Company is retraining all of its employee brokers with a minimum of 52 hours of National Association of Health Underwriters education, including not only employees present during the period of conduct described in this Consent Order but also all future new employee brokers.

Violations

19. Based on the forgoing conduct and practices, Zenefits engaged in fraudulent and dishonest practices and demonstrated incompetence and untrustworthiness, which are grounds for revocation of Zenefits’ licenses pursuant to New York Insurance Law § 2110(a) and constitute unfair and deceptive acts and practices in violation of New York Insurance Law § 2403.

AGREEMENT

IT IS HEREBY UNDERSTOOD AND AGREED by Zenefits and all of its subsidiaries, affiliates, successors, assigns, agents, representatives and employees, that:

Injunctive Relief

20. Zenefits shall take all necessary actions to ensure that all employees and contractors acting as insurance producers in New York, including employees and contractors who solicit clients to transfer the broker of record on an insurance policy to a Zenefits representative, are properly licensed to engage in such activities.

21. Zenefits shall take all necessary actions to ensure that employees and contractors licensed to do insurance business in New York have completed all training and education required to obtain and maintain their licensed status.

22. Zenefits shall retrain all of its employee brokers with a minimum of 52 hours of National Association of Health Underwriters (or comparable provider's) education, including not only employees present during the period of conduct described in this Consent Order but also all future new employee brokers. Zenefits shall require all such employee brokers to complete the 52 hours of training by the later of (i) April 30, 2017 or (ii) 18 months after beginning employment with Zenefits. Zenefits shall provide documentation of such retraining to DFS on or before June 15, 2017.

23. Zenefits shall comply with all New York Insurance laws, and with all Department regulations and Circular Letters.

24. Zenefits shall track and maintain records of the name and insurance license status of all insurance producers for all insurance policies solicited, negotiated, sold, issued and delivered in New York or providing coverage in New York for at least six years after the date the policy is no longer in force.

25. Zenefits shall maintain records of all compensation paid to employees and contractors engaged in soliciting, negotiating, or selling insurance policies sold in or providing coverage in New York for at least six years after the date the policy is no longer in force.

26. Zenefits will submit an affidavit of compliance to the Department six months and one year from the Effective Date of this Consent Order and annually for the two years thereafter, verifying that for all Zenefits' business activities in and to New York:

- a. Zenefits employees and contractors acting as insurance producers in New York, including employees and contractors soliciting clients to transfer the broker of record on an insurance policy to a Zenefits representative, are properly licensed to engage in such activities; and
- b. Zenefits employees and contractors licensed to do insurance business in New York have completed training and education required in the state in which they have their resident licenses.

27. Zenefits shall cooperate in good faith with any investigation and enforcement action the Department may pursue in connection with Parker Conrad's conduct in this matter.

Civil Penalty

28. Zenefits shall pay a civil penalty of ONE MILLION AND TWO HUNDRED THOUSAND DOLLARS (\$1,200,000) to the Department no later than 10 days after the Effective Date of this Consent Order. The payment shall be in the form of a wire transfer in accordance with the Department's instructions.

Other Relief

29. Zenefits submits to the authority of the Superintendent to effectuate this Consent Order. Zenefits will comply with the New York Financial Services and Insurance laws and every other applicable New York law.

Breach of the Consent Order

30. If Zenefits defaults on its monetary obligations under this Consent Order, the Superintendent may terminate this Consent Order in her sole discretion, upon ten days' written notice. In the event of such termination, Zenefits expressly agrees and acknowledges that this Consent Order shall in no way bar or otherwise preclude the Superintendent or the Department from commencing, conducting or prosecuting any investigation, action or proceeding, however denominated, related to the Consent Order, against Zenefits, or from using in any way statements, documents or other materials produced or provided by Zenefits prior to or after the date of this Consent Order including, without limitation, such statements, documents or other materials, if any, provided for purposes of settlement negotiations.

31. In the event that the Department believes Zenefits to be materially in breach of this Consent Order ("Breach") in a manner not covered by Paragraph 30, the Department will provide written notice to Zenefits and Zenefits must, within ten days from the date of receipt of said notice, or on a later date if so determined in the sole discretion of the Superintendent, appear before the Department and shall have an opportunity to rebut the evidence, if any, of the Department that a Breach has occurred and, to the extent pertinent, demonstrate that any such Breach is not material or has been cured.

32. Zenefits understands and agrees that failure to appear before the Department to make the required demonstration within the specified period as set forth in Paragraph 31 of this Consent Order is presumptive evidence of a Breach thereof. Upon a finding of Breach, the Superintendent has all the remedies available to her under New York law and may use any and all evidence available to the Superintendent in connection with all ensuing hearings, notices, orders and other remedies that are available.

Other Provisions

33. Nothing in this Consent Order shall be construed to prevent any consumer from pursuing any right or remedy at law.

34. Nothing in this Consent Order shall be construed to prevent further disciplinary action against an individual holding a license issued by the Department for violations involving conduct not specifically addressed in the Department's findings herein, except nothing herein shall be construed to prevent any further action against Parker Conrad.

35. Nothing in this Consent Order shall be construed to prevent the Department from denying a license or license renewal to any individual involved in conduct addressed in the Department's findings herein except that such license or license renewal shall not be denied solely on the basis of the conduct specifically addressed in the Department's findings herein.

36. Zenefits shall not seek or accept from any non-Respondent reimbursement or indemnification with regard to any or all of the amounts payable pursuant to this Consent Order, including, but not limited to, payment made pursuant to any insurance policy.

37. Zenefits agrees that it will not claim, assert, or apply for a tax deduction or tax credit with regard to any U.S. federal, state, or local tax, directly or indirectly, for any portion of the civil penalty paid pursuant to this Consent Order.

38. The Department has agreed to the terms of this Consent Order based on, among other things, representations made to the Department by Zenefits, either directly or through its counsel or consultants, and the Department's own factual Investigation. To the extent that representations made by Zenefits, either directly or through its counsel or consultants, are later found to be materially incomplete or inaccurate, this Consent Order is voidable by the Superintendent in her sole discretion.

39. Zenefits and its representatives agree that all communications between Zenefits and its representatives on the one hand, and the Department on the other, during settlement discussions shall remain confidential and shall not be disclosed to third parties except (a) for such disclosures to Zenefits' attorneys, directors, or employees made in the ordinary course of business to effectuate this Consent Order or (b) disclosures Zenefits or any of its representatives is compelled by law to so disclose, but only if, to the extent lawful, Zenefits or its representatives gives prompt written notice of that fact to the Department prior to disclosure so that the Department may request a protective order or other remedy to prevent or limit such disclosure, and thereafter Zenefits or its representatives may disclose only such portion of the confidential information which it is legally obligated to disclose.

40. Upon the request of the Department, Zenefits shall provide all documentation and information reasonably necessary for the Department to verify compliance with this Consent Order.

41. Zenefits represents and warrants, through the signatures below, that the terms and conditions of this Consent Order are duly approved, and execution of this Consent Order is duly authorized.

42. All notices, reports, requests, and other communications to any party pursuant to this Consent Order shall be in writing and shall be directed as follows:

If to the Department:

New York Department of Financial Services
One State Street
New York, New York 10004-1511
Attention: Max Dubin, Special Counsel

If to Zenefits:

Zenefits
303 Second Street, North Tower,
Suite 401
San Francisco, CA 94107
Attention: Joshua Stein, General Counsel

43. This Consent Order and any dispute thereunder shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.

44. Zenefits waives all rights to further notice and hearing in this matter as to any allegations of past violations up to and including the Effective Date of the Consent Order and agrees that no provision of the Consent Order is subject to review in any court or tribunal outside the Department.

45. This Consent Order may not be amended except by an instrument in writing signed on behalf of all the parties to this Consent Order.

46. This Consent Order constitutes the entire agreement between the Department and Zenefits and supersedes any prior communication, understanding or agreement, whether written or oral, concerning the subject matter of this Consent Order. No inducement, promise, understanding, condition, or warranty not set forth in this Consent Order has been relied upon by any party to this Consent Order.

47. In the event that one or more provisions contained in this Consent Order shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Consent Order.

48. This Consent Order may be executed in one or more counterparts, and shall become effective when such counterparts have been signed by each of the parties hereto and So Ordered by the Superintendent of Financial Services or her designee (the "Effective Date").

49. Upon execution by the parties to this Consent Order, the Department will discontinue the Investigation as to and against Zenefits solely with respect to the practices set forth herein through the Effective Date. No further action will be taken by the Department against Zenefits for the conduct set forth in this Consent Order provided Zenefits complies fully with the terms of the Consent Order.

WHEREFORE, the signatures evidencing assent to this Consent Order have been affixed hereto on the dates set forth below.

DEPARTMENT OF FINANCIAL SERVICES

By: _____

JOY FEIGENBAUM
Executive Deputy Superintendent
Financial Frauds and Consumer Protection
Division

April __, 2017

YOURPEOPLE, INC., d/b/a ZENEFITS FTW
INSURANCE SERVICES on behalf of itself and all
of its subsidiaries,

DocuSigned by:
Joshua Stein
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By: _____

JOSHUA STEIN
General Counsel

April 6, 2017

THE FOREGOING IS HEREBY APPROVED.
IT IS SO ORDERED.

Dated: New York, NY

April __, 2017

MARIA T. VULLO
Superintendent of Financial Services

WHEREFORE, the signatures evidencing assent to this Consent Order have been affixed hereto on the dates set forth below.

DEPARTMENT OF FINANCIAL SERVICES

By: 
JOY FEIGENBAUM
Executive Deputy Superintendent
Financial Frauds and Consumer Protection
Division

April 7, 2017

YOURPEOPLE, INC., d/b/a ZENEFITS FTW
INSURANCE SERVICES on behalf of itself and all
of its subsidiaries,

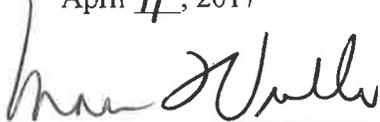
By: _____
JOSHUA STEIN
General Counsel

April __, 2017

THE FOREGOING IS HEREBY APPROVED.
IT IS SO ORDERED.

Dated: New York, NY

April 11, 2017



MARIA T. VULLO
Superintendent of Financial Services