



NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
ONE STATE STREET
NEW YORK, NEW YORK 10004

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In the Matter of, :

THE SIGNAL AGENCY, LP, AN ASSURANT COMPANY :

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CONSENT ORDER

WHEREAS, the New York State Department of Financial Services (the “Department”) investigated whether The Signal Agency, LP, (“Respondent”), an indirect subsidiary of Assurant, Inc., complied with the requirements of the New York Insurance Law and other applicable laws and regulations related to the sale of wireless communications equipment insurance (“wireless insurance”) (the “Investigation”);

WHEREAS, Respondent acts as an insurance producer, assisting wireless communications equipment vendors (“wireless vendors”), who offers wireless insurance including, but not limited to, mobile phone and tablet insurance;

WHEREAS, Respondent assists wireless vendors by packaging programs, placing insurance with underwriters, and designing written consumer materials, such as brochures, which must be made readily available to prospective buyers and contain disclosures required by New York law;

WHEREAS, Respondent failed to provide adequate notices as required by Insurance law § 2131 and other applicable notices, including the producer compensation disclosure notice under 11 NYCRR 30 (“Regulation 194”), which resulted in, among other things, bundling because the brochure did not make consumers aware of the ability to purchase a separate service contract and receive a discount on insurance;

WHEREAS, Respondent was on notice that these practices violated New York law since at least January 3, 2018, when the Department published Circular Letter No. 1 (the “Guidance”) regarding the sale of wireless insurance and service contracts and which expressly noted that these practices were impermissible;

WHEREAS, Respondent’s offerings also included a program that contained a group identity theft insurance policy underwritten by an unauthorized insurer; and

WHEREAS, Respondent failed to comply with relevant laws and regulations both before the Department published the Guidance and for some time after;

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

FINDINGS

The findings of the Department are as follows:

Relevant Entities

1. The Signal Agency, LP is a property/casualty agent licensed by the Department, that offers wireless insurance in New York. The Signal Agency, LP, is an indirect subsidiary of Assurant, Inc.

Insurance Law and Regulations

2. Wireless vendors may sell, per a limited license under the Insurance Law, insurance to cover wireless communications equipment like consumers' mobile phones. The then Governor signed into law amendments to New York Insurance Law § 2131 in 2003 to authorize the Superintendent to issue limited insurance agent licenses to wireless vendors who would otherwise require licensing as insurance agents or insurance brokers. Section 2131 requires wireless vendors to provide certain brochures and other written materials to prospective consumers, and to provide training materials to the persons selling the insurance. The brochures and other written materials, training materials, and insurance policy forms are subject to review and approval by the Department, and the rates are filed with and subject to review and approval by the Department in accordance with Insurance Law Article 23.

3. In particular, Insurance Law § 2131(e)(2) requires wireless vendors to make readily available to a prospective consumer at each location where wireless communications equipment agreements are executed, brochures or other written materials that: 1) summarize, clearly and correctly, the material terms of insurance coverage, including the identity of the insurer and the insurance agent through which the limited licensee places business; 2) disclose that these policies may provide a duplication of coverage already provided by a homeowners' or other insurance policy; 3) state that the consumer is not required to purchase the insurance in order to purchase or lease wireless communications equipment; 4) describe the process for filing a claim in the event the consumer elects to purchase coverage; 5) set forth the price, deductible, benefits, exclusions and conditions or other limitations of the policies; 6) disclose that the employees of the limited licensee are not qualified or authorized to evaluate the adequacy of the consumer's existing coverages, unless otherwise licensed; and 7) state that the consumer may

cancel the insurance at any time and any unearned premium will be refunded in accordance with applicable law. Pursuant to Insurance Law § 2131(f), any brochures or other written materials used in connection with the wireless insurance must include disclosure of the claims filing process, premium, deductible amounts and limits, which must be prominently displayed in the brochure with at least 12-point type bold headings. The brochures must be written in a clear and coherent manner and, whenever practicable, must use words with common and everyday meaning.

4. The Department promulgated Regulation 194 on January 25, 2010 and the regulation took effect on January 1, 2011. The regulation addresses the potential conflicts of interest that may arise due to the incentive-based compensation an insurer pays to insurance brokers and insurance agents, including limited licensed insurance agents (collectively, “insurance producers”). Regulation 194 requires an insurance producer to make certain disclosures to an insurance customer about the producer’s role in the transaction and its compensation arrangement with insurers.

5. Regulation 194 applies to a wireless vendor in its role as limited licensed insurance agent when selling consumers wireless insurance policies. Wireless vendors generally will obtain the insurance through fully-licensed insurance producers. Thus, the producers’ involvement typically will also render the wireless vendors subject to Regulation 194.

6. In the years following Regulation 194’s promulgation, the Department identified violations of the Insurance Law and regulations promulgated thereunder in the wireless insurance industry, and in 2018 issued the Guidance to insurers, registered service contract providers, and insurance producers. The Guidance specified a number of known improper practices occurring in connection with the sale in New York of wireless insurance and service contracts.

7. The Guidance for the industry identified the following as improper practices: 1) impermissibly tying wireless insurance with the sale of a service contract or other non-insurance benefit; 2) deviating from rates filed with the Department; 3) compensating unlicensed employees of an insurance agent licensed under Insurance Law § 2131 based upon the sale of insurance; 4) failing to comply with Insurance Law § 3425 or 3426 for individual policies, and § 3449 for group policies; and 5) failing to give all of the notices required by Insurance law § 2131 and other applicable notices, including the required producer compensation disclosure notice under Regulation 194.

8. Additionally, Insurance Law § 2131 only authorizes a limited license for offering particular types of insurance. A limited licensee offering a kind of insurance not specified in § 2131 will run afoul of Insurance Law § 2102, which states that “No person, firm, association or corporation shall act as an insurance producer... in this state without having authority to do so by virtue of a license issued and in force pursuant to the provisions of [the Insurance Law].” Notably, § 2131 does not permit a limited licensee to sell group identity theft insurance.

9. Insurance Law § 1113(a)(7) does authorize burglary and theft insurance, including for losses and expenses resulting from identity theft, and Insurance Law § 3451 stipulates the requirements for identity theft group insurance policies. Section 3451(a)(2) states that “An identity theft group insurance policy, and certificates offered thereunder, may be issued only by an authorized insurer.” Additionally, under § 3451 such policies may only be issued to particular kinds of persons or entities, including to “a business that sells services or products designed to prevent, or to minimize the effects of stolen identity events.” In that case, § 3451(a)(3)(F) states that “the business shall be deemed to be the policyholder, where the policy insures the persons that purchase the services or products.”

Insufficient Disclosures and Other Deficiencies

10. Respondent assists wireless vendors in selling wireless insurance.

11. Specifically, Respondent, among other duties, creates the brochures that are available for review in wireless vendor retail locations and distributed to consumers in New York, and also creates the training materials provided to persons selling the wireless insurance in New York.

12. Brochures that Respondent prepared for its wireless vendor included disclosures that did not meet the requirements of Insurance law § 2131 in multiple ways. For example, disclosures related to a service contract bundled with insurance were not clear as to whether consumers received any additional benefit from purchasing the two together as a bundle instead of purchasing them separately. Another example is that Respondent's brochures did not adequately explain how the consumer would receive a premium discount for third-party service contracts. Moreover, in materials provided to consumers, Respondent's producer compensation disclosures did not comply with Regulation 194.

13. The brochures contained additional deficiencies, namely they: 1) impermissibly bundled wireless insurance with the sale of a service contract or other non-insurance benefit because of a failure to properly disclose the availability of the discount; and 2) included a program that contained group identity theft insurance underwritten by an unauthorized insurer. These are discussed further below.

14. After publication of the Guidance, Respondent continued to use brochures and training materials that failed to fully comply with Regulation 194 and various sections of the Insurance Law but began attempting to come into compliance within six months.

15. Respondent worked with the Department to correct deficiencies in its brochures and training materials. Respondent cooperated with the Department and fixed the issues prior to the conclusion of the Department's investigation.

16. Insurance Law § 2324(a) prohibits any licensed insurance producer from directly or indirectly giving or offering to give any valuable consideration or inducement that exceeds \$25 that is not specified in the policy or contract. Such a producer violates § 2324 if it ties the sale of insurance to non-insurance, such as a service contract. Insurance must always be offered on a stand-alone basis and there cannot be a difference in insurance benefits or costs when insurance is sold on a stand-alone basis or together with a service contract or other non-insurance benefit.

17. Respondent offered bundles that included insurance and service contracts. In some cases the language in Respondent's brochures failed to adequately explain that a consumer who bought a third-party service contract would receive the same discount the consumer would have received if the consumer had bought the bundled service contract.

Aiding Unauthorized Insurance

18. A global identity protection and fraud detection company (herein, "ID PROTECTION COMPANY-1") sells an identity theft and monitoring service to consumers to protect against identity theft events. As part of the identity theft and monitoring service, ID PROTECTION COMPANY-1 also offers group fraud reimbursement insurance coverage, which reimburses consumers up to \$1 million for "financial losses, expenses, and legal costs incurred by the subscriber as a result of identity theft."

19. An American global computer security software company (herein, "SECURITY COMPANY-1") provides identity theft software that tracks vulnerabilities on consumers'

electronic devices. It sells this software standalone and as a package with ID PROTECTION COMPANY-1's identity theft and monitoring service and group fraud reimbursement coverage. The combined product is labeled as an Identity Theft Protection Program ("IDTPP").

20. The group fraud reimbursement coverage offered in the IDTPP was underwritten by a company that is not licensed to issue insurance in New York.

21. Even if the coverage had been offered by a New York-licensed insurer, it was issued as a group policy to ID PROTECTION COMPANY-1, not SECURITY COMPANY-1, the company that sells services or products designed to prevent, or to minimize the effects of stolen identity events. As such, it did not comply with the requirements of Insurance Law § 3451.

22. When Respondent was informed that the IDTPP was unlicensed insurance, Respondent began to work with the Department to ensure a compliant offering.

23. By offering the IDTPP from an unaffiliated entity as part of its device protection bundle, Respondent violated Insurance Law § 2117, which prohibits acting for or aiding unauthorized insurers.

Violations

24. The Department finds that Respondent violated Sections 2117, 2131, and 2324 of the Insurance Law, and Regulation 194.

AGREEMENT

IT IS HEREBY UNDERSTOOD AND AGREED, by Respondent and the Department, that:

Injunctive Relief

25. Respondents have represented that they have corrected the deficiencies identified in this consent order and shall comply with the New York Insurance Law and regulation provisions specified in paragraph 24, as well as all other applicable laws and regulations.

Monetary Penalty

26. No later than ten (10) business days after the Effective Date of this Consent Order, Respondent shall pay a penalty of two million eight hundred thousand dollars (\$2,800,000) to the Department. The payment shall be made by wire transfer in accordance with the Department's instructions.

27. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification, including but not limited to payment made pursuant to any insurance policy referenced in this consent order, or from any of its parents, subsidiaries, or affiliates, with regard to any or all of the amounts payable pursuant to this Consent Order.

28. Respondent shall 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 monetary penalty paid pursuant to this Consent Order.

Other Provisions

29. Respondent submits to the authority of the Superintendent of Financial Services of the State of New York (the "Superintendent") to effectuate this Consent Order.

30. Respondent shall submit to the Department annual affidavits of compliance with the terms of this Consent Order for a period of six (6) years commencing from the Effective Date of this Consent Order.

31. If the Department believes Respondent to be in material breach of this Consent Order, the Department will provide written notice to Respondent and Respondent must, within ten business days of receiving such notice, or on a later date if so determined in the Department's sole discretion, appear before the Department to demonstrate that no material breach has occurred or, to the extent pertinent, that the breach is immaterial or has been cured.

32. Respondent's failure to make the required showing within the designated time period as set forth in paragraph 31 of this Consent Order shall be presumptive evidence of Respondent's material breach. Upon a finding by the Department that Respondent has breached this Consent Order, the Department has all the remedies available to it under all applicable laws and may use any evidence available to it in connection with any ensuing hearings, notices, orders or other remedies that are available.

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

34. Upon the Department's request, Respondent shall provide all documentation and information reasonably necessary for the Department to verify compliance with this Consent Order.

35. Respondent represents and warrants, through the signature below, that the terms and conditions of this Consent Order are duly approved, and the execution of this Consent Order is duly authorized.

Notices

36. All written communications to any party pursuant to this Consent Order shall be directed as follows.

For the Department:

Eugene Frenkel
Associate Counsel, Enforcement
New York State Department of Financial Services
One State Street
New York, NY 10004-1511

Matthew Tyler Quinones, Esq.
Excelsior Fellow, Enforcement
New York State Department of Financial Services
One State Street
New York, NY 10004-1511

For the Respondent:

Robyn S. Crosson
Vice President
Regulatory Affairs, Lifestyle
One Chase Manhattan Plaza, #41
New York, NY 10005

37. 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.

38. Respondent waives its right to further notice and hearing in this matter as to any allegations of past violations by the Department's Consumer Protection and Financial Enforcement Division up to and including the Effective Date of this Consent Order and agree that no provision of this Consent Order is subject to review in any court or tribunal outside of the Department.

39. This Consent Order is binding on the parties, as well as any successors and assigns. This Consent Order does not bind any federal or other state agency or any law enforcement authority.

40. The Consent Order may not be altered, modified, or changed unless in writing signed by the parties hereto.

41. The Consent Order shall be enforceable and remain in effect unless stayed or terminated in writing by the Superintendent or her designee.

42. This Consent Order constitutes the entire agreement between the Department and Respondent and supersedes any prior communication, understanding, or agreement, whether written or oral, concerning the subject matter of this Consent Order.

43. 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.

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

45. Upon the parties' execution of this Consent Order, the Department will discontinue the Investigation as to and against Respondent solely with respect to the practices set forth herein during the Relevant Period. No further action will be taken by the Department's Consumer Protection and Financial Enforcement Division against Respondent for the conduct set forth in this Consent Order provided they comply with the terms of the Consent Order.

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

47. Except with regard to the enforcement of this Consent Order, Respondent's consent to the provisions of this Consent Order does not bar, estop, waive, or otherwise prevent Respondent from raising any defenses to any action taken by any federal or state agency or department, or any private action against Respondent.

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 or her designee (the "Effective Date").

(The remainder of this page is intentionally blank.)

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

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

By: 
R. Bruce Wells
Associate Counsel
Consumer Protection & Financial Enforcement Division

August 19, 2020

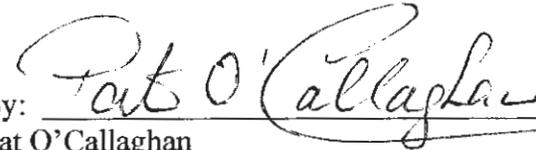
By: 
Christopher B. Mulvihill
Deputy Superintendent
Consumer Protection & Financial Enforcement Division

August 19, 2020

By: 
Katherine A. Lemire
Executive Deputy Superintendent
Consumer Protection & Financial Enforcement Division

August 19, 2020

THE SIGNAL AGENCY, LP

By: 
Pat O'Callaghan
President
The Signal d/b/a The Signal Agency, LP
A Commonwealth of Pennsylvania limited partnership
By its General Partner, Signal GP, LLC

August 19, 2020

THE FOREGOING IS HEREBY APPROVED. IT IS SO ORDERED.


LINDA A. LACEWELL
Superintendent of Financial Services

August 19, 2020