

CONSENT ORDER No. E15-84

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)
Hospitality Supportive Systems,)
LLC, Reference No. 1513860.)
_____)

CONSENT ORDER

TO: Hospitality Supportive Systems, LLC
760 West Sproul Road
Suite 301
Springfield, PA 19064

This matter, having been opened to the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon information that Hospitality Supportive Systems, LLC ("HSS" or "Respondent") violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent is subject to the provisions of the New Jersey Insurance Producer Licensing Act ("Producer Act"), N.J.S.A. 17:22A-26 et seq., and the New Jersey Risk Retention Act ("Risk Retention Act"), N.J.S.A. 17:47A-1; and

WHEREAS, Respondent HSS is currently licensed as a non-resident business entity insurance producer in the State of New Jersey pursuant to N.J.S.A. 17:22A-32; and

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

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(8), an insurance producer shall not use fraudulent, coercive or dishonest practices, or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of the insurance business; and

WHEREAS, pursuant to N.J.S.A. 17:17-12, no person by himself, or by his brokers, agents, solicitors, surveyors, canvassers or other representatives of whatever designation, nor any such broker, agent, solicitor, surveyor, canvasser, or other representative, shall solicit, negotiate or effect any contract of insurance of any kind, including all kinds of insurance described in chapters seventeen to thirty-three of this Title (N.J.S.A. 17:17-1 et seq.), including on any property or thing, or on the life, health or safety of any person, or receive any premium, commission, fee or other payment thereon, or in any manner, directly or indirectly, transact the business of insurance of any kind whatsoever, within this State, unless specifically authorized under the laws of this State; and

WHEREAS, pursuant to N.J.S.A. 17:47A-2 and N.J.A.C. 11:2-36.2, "Purchasing Group" is defined as any group which: has as one of its purposes the purchase of liability insurance on a group basis;

purchases such insurance only for its group members and only to cover their similar or related liability exposure; is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations; and is domiciled in this or any other state; and

WHEREAS, pursuant to N.J.S.A. 17:47A-7f, no purchasing group with members located in this State shall solicit business in this State, nor shall any person solicit, negotiate or effect a contract of insurance or accept any fee or commission on a risk located in this State which is to be effected through a purchasing group unless the purchasing group is notified by the Commissioner that it is registered pursuant to the provisions of this section; and

WHEREAS, pursuant to N.J.S.A. 17:47A-8b, no purchasing group doing business in this State shall purchase or maintain any insurance covering its members located in this State which provides for a deductible or a self-insured retention applicable to the group as a whole, unless the deductible or self-insured retention is the sole responsibility of the individual members of the purchasing group; and

WHEREAS, pursuant to N.J.S.A. 17:47A-11b and N.J.A.C. 11:2-36.7(b), failure of a purchasing group doing business in this State

to comply with the provisions of the Risk Retention Act, N.J.S.A. 17:47A-1 et seq., may, after notice and an opportunity for a hearing, result in the revocation or suspension of its registration in this State. As an alternative or in addition to any other penalty, the Commissioner may impose a fine of up to \$5,000 for the first violation, and for each subsequent violation, a fine not to exceed \$10,000, and in appropriate circumstances may order the restitution of moneys owed to any person and reimbursement of the costs of investigation and prosecution; and

IT APPEARING, that on or about February 25, 2015, the Department was notified that HSS was operating as an unregistered purchasing group; and

IT FURTHER APPEARING, that on or about March 19, 2015, HSS admitted that it was not registered with New Jersey as a purchasing group, and that it issued purchasing group members in New Jersey certificates of insurance for a group policy held by HSS; and

IT FURTHER APPEARING, that HSS entered into Master service Agreements with purchasing group members which stated that "HSS's policy has a Self Insured Retention of \$10,000.00 per occurrence. HSS is responsible for funding the retention. HSS has a client self insured retention (SIR) in the amount of \$5,000.00 per occurrence"; and

IT FURTHER APPEARING, that HSS admitted that it sold 127 purchasing group policies to New Jersey resident businesses from January 1, 2014 through April 1, 2015, prior to HSS' registration with New Jersey as a risk purchasing group; and

IT FURTHER APPEARING, that HSS subsequently registered with the Department as a New Jersey Purchasing Group; and

IT FURTHER APPEARING, that Respondent HSS retained risk by selling New Jersey resident businesses coverage with a self-insured retention covered in part by HSS, and in part by individual members of the purchasing group as the insured business, in violation of N.J.S.A. 17:47A-8b and N.J.S.A. 17:22A-40a(2); and

IT FURTHER APPEARING, that by retaining risk through covering all or part of the self-insured retentions of insureds, Respondent HSS acted as an unauthorized insurer, in violation of N.J.S.A. 17:17-11, N.J.S.A. 17:17-12, and N.J.S.A. 17:22A-40a(2); and

IT FURTHER APPEARING, that Respondent HSS sold 127 New Jersey resident businesses liability insurance through a purchasing group not registered in this State, constituting 127 separate violations of N.J.S.A. 17:47A-7f, and N.J.S.A. 17:22A-40a(2); and

IT FURTHER APPEARING, that all the above conduct demonstrates incompetence by an insurance producer in the conduct of insurance business, in violation of N.J.S.A. 17:22A-40a(2), and (8); and

IT FURTHER APPEARING, that cause does exist under N.J.S.A. 17:22A-40a and N.J.S.A. 17:22A-45c for the imposition of a fine upon Respondent HSS for the violations described above; and

IT FURTHER APPEARING, that Respondent HSS admits and agrees to take responsibility for the aforementioned violations of the Producer Act, Risk Retention Act, and Department regulations; and

IT FURTHER APPEARING, that Respondent HSS has waived its' right to a hearing on the above violations and consented to the payment of a fine totaling \$160,000.00; and

IT FURTHER APPEARING, that this matter should be resolved upon the consent of the parties without resort to a formal hearing; and

IT FURTHER APPEARING, that good cause exists to enter into this Consent Order; and

NOW, THEREFORE, IT IS on this 28th day of July, 2015

ORDERED AND AGREED, that Respondent HSS admits to the violations of the Producer Act, Risk Retention Act, and Department regulations as described above; and

IT IS FURTHER ORDERED AND AGREED, that Respondent HSS shall pay civil penalties in the amount of \$160,000.00 for the violations of the Producer Act, Risk Retention Act, and Department regulations admitted to herein; and

IT IS FURTHER ORDERED AND AGREED, that said civil penalties of \$160,000.00 shall be paid by certified check, cashier's check or money order made payable to the "**State of New Jersey, General Treasury,**" due and payable immediately upon the execution of this Consent Order by Respondents; and

IT IS FURTHER ORDERED AND AGREED, that this signed Consent Order together with the payment of \$160,000.00 shall be remitted to:

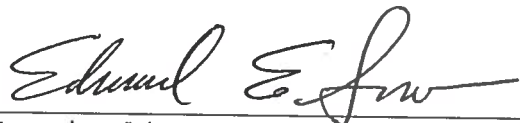
Ryan S. Schaffer, Deputy Attorney General
State of New Jersey, Division of Law
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 117
Trenton, New Jersey 08625

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 contained herein against Respondent HSS.



Peter L. Hartt
Acting Commissioner of Banking and Insurance

Consented to as to Form, Consent and Entry:



Hospitality Supportive Systems, LLC
By Edward E. Snow

Date: 7-27-15



Wendy F. Tucker, Esq.
Attorney for Respondents

Date: 7-27-15

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY

Date: July 27, 2015



Ryan S. Schaffer
Deputy Attorney General
Attorney for the New Jersey
Department of Banking and
Insurance