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December 28, 2017

VIA U.S. MAIL POSTAGE PREPAID
AND E-MAIL (tomwelsh@orrick.com)

Thomas J. Welsh, Esq.
Orrick, Herrington & Sutcliffe LLP
400 Capitol Mall
Suite 3000
Sacramento, CA 95814-4497

Re: SIU Case No. 9187

Dear Mr. Welsh:

I represent the Massachusetts Division of Insurance (“Division”) with regard to the above-referenced investigation, by which the Division has cause to believe that YourPeople, Inc., dba Zenefits FTW Insurance Services (“Zenefits”) violated the Massachusetts insurance laws by the conduct detailed in this settlement letter.

BACKGROUND

1. Zenefits is a privately held company established in February 2013. Zenefits offers a cloud-based, software platform that small business customers can use in the administration of human resources, payroll, and employee benefits.¹ Through its software platform, Zenefits offers a host of services to small business employers, including insurance brokerage services. Zenefits’ insurance services include the sale of group life and accident and health insurance that its small business customers offer to their respective employees as well as property and casualty insurance to protect the direct interests of its small business customers. Zenefits employs individuals to make presentations to prospective customers of both its human resources services and the insurance products it offers through its insurance brokerage.
2. Since September 15, 2014, Zenefits has been licensed in the Commonwealth as a non-resident

¹ The background information in this settlement letter reflects the facts and business operations as they existed during the period covered by the Division’s investigation and may not reflect the manner in which Zenefits currently operates its insurance-related activities.

- business entity insurance producer.
3. In November 2015, Zenefits notified the Massachusetts Commissioner of Insurance (“Commissioner”) of ongoing licensing compliance violations. Zenefits also informed the Commissioner that it planned to conduct a review to assess the nature and magnitude of these licensing violations. To this end, Zenefits retained the services of PricewaterhouseCoopers (“PwC”) to prepare a report to assist in its internal licensing compliance review process.
 4. On March 1, 2016, Zenefits submitted to the Division a report which analyzed Zenefits’ licensing compliance for the period of January 1, 2014 through November 30, 2015. The report identified unlicensed insurance activities performed by Zenefits employees during the pertinent time period, but did not match specific employees to specific policies sold.
 5. Following receipt of Zenefits’ March 1, 2016 report, the Division requested that Zenefits prepare a report which examined its licensing compliance by matching each of the insurance policies that Zenefits sold with the employee responsible for said sale. Zenefits complied with the Division’s request and again engaged the services of PwC to assist it in preparing such a report. On June 1, 2016, Zenefits submitted a second report. This report analyzed Zenefits’ licensing compliance by matching its employees to the specific insurance policies sold in order to determine the employees’ licensing status at the time of sale.
 6. From January 2014 through November 2015, Zenefits employed individuals who solicited, negotiated and/or sold insurance policies to customers located in Massachusetts. According to Zenefits’ June 1, 2016 report, its employees sold, solicited and/or negotiated approximately 388 insurance policies to Massachusetts customers during the aforementioned time period. Of this total, approximately 375 insurance policies were sold, solicited and/or negotiated by employees who lacked the proper license in Massachusetts.
 7. Zenefits was directly responsible for the aforementioned unlicensed insurance sales performed by said employees. Zenefits hired these unlicensed employees to perform insurance transactions on its behalf and directly supervised said employees. Zenefits knew or should have known the licensing status of its employees and had a duty to ensure that employees who sold, solicited or negotiated insurance policies on its behalf were properly licensed.
 8. Additionally, Zenefits failed to ensure that its employees were either individually appointed with insurers or were appointed as subagents of Zenefits, thereby allowing them to conduct business under Zenefits’ appointments with insurers.

REMEDIA TION EFFORTS

9. Zenefits has taken extraordinary steps to report its past violations, remediate those violations, implement new controls to prevent the reoccurrence of violations, and to make fundamental changes in its corporate governance.
10. On November 24, 2015, Zenefits notified the Division that it had become aware of potential licensing violations associated with its operations in Massachusetts. On December 11, 2015, Zenefits provided notification that it had engaged PwC to provide an independent review of its insurance activities, the results of which were detailed in a report to the Division dated March 1, 2016 (“PwC Report”).
11. In addition to identifying instances of unlicensed and unappointed sales activity, the PwC Report outlines Zenefits’ new management controls and compliance infrastructure designed to prevent any recurrence of non-compliance with licensing and appointment statutes. Zenefits implemented new administrative and technical licensing controls to ensure that employees who transact insurance business with customers have appropriate resident and non-resident licenses. PwC tested the design of the new controls and determined that these controls are adequately designed to address the risk of sales activity being performed by agents without appropriate producer licensure. In the

third quarter of 2016, PwC reviewed the operation of the licensing controls and found that Zenefits' new systematic controls work effectively to prevent licensing non-compliance. Zenefits has provided these licensing controls as a free Salesforce application called Licensing+.

12. In addition, Zenefits has obtained non-resident Massachusetts insurance producer licenses for all current employees who sell, solicit or negotiate insurance in the Commonwealth. Further, Zenefits has mandated that all of its producers complete 52 hours of continuing education courses offered by the National Association of Health Underwriters ("NAHU"), including 12 hours of ethics training. Since early 2016, Zenefits employees have applied to the Division for insurance producer licenses and approximately 100 Zenefits employees are currently licensed as insurance producers in the Commonwealth. Zenefits requires its producers to engage in continuing education and ongoing training.
13. Further, Zenefits made a series of additional fundamental changes. Zenefits made changes to its top leadership by replacing its CEO and its head of sales, as well as creating the position of Chief Compliance Officer and establishing a compliance team. Zenefits also changed its corporate values to values more appropriate for a regulated company.
14. Zenefits has fully cooperated with the Division in the course of its investigation.

BASIS FOR ADMINISTRATIVE ACTION

15. Massachusetts law requires individuals and business entities who sell, solicit or negotiate insurance to be licensed as producers and appointed to an insurance company to act as an agent for that company. Specifically, M.G.L. c. 175, § 162I provides: "A person shall not sell, solicit or negotiate insurance in the commonwealth for any class or classes of insurance unless the person is licensed for that line of authority in accordance with sections 162H to 162X, inclusive" and M.G.L. c. 175, § 162S(a) provides: "An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer." In addition, M.G.L. c. 175, § 175 prohibits anyone without being licensed as an insurance producer from representing or holding himself "out to the public" as being licensed and permits "a fine of not less than ten nor more than one hundred dollars" for violations. M.G.L. c. 175, § 177 prohibits a licensed insurance producer from "directly or indirectly, pay[ing] or allow[ing] or offer[ing] or agree[ing] to pay or allow compensation or anything of value to any person...for acting in this commonwealth as an insurance producer, as defined in section 162H who is not then duly licensed as an insurance producer." Section 177 further provides that "[w]hoever knowingly violates any provision of this section shall be punished by a fine of not less than \$50 nor more than \$500."

M.G.L. c. 175, § 162R(a) authorizes the Commissioner to "place on probation, suspend, [or] revoke...an insurance producer's license or...may levy a civil penalty...for any 1 or more of the following causes: ...

- (2) violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance commissioner; ...
- (8) using fraudulent, coercive or dishonest business practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in the commonwealth or elsewhere; ...
- (12) knowingly accepting insurance business from an individual who is not licensed..."

Civil penalties under section 162R are governed by M.G.L. c. 176D, § 7, which allows for "a fine of not more than one thousand dollars for each and every act or practice."

16. The conduct described in paragraph 3 through 8 above, including by conducting or accepting business through individuals who were not properly licensed and lacked the appropriate appointments and by failing to ensure that all employees who submitted insurance applications were properly licensed and appointed, supports administrative action by the Division against Zenefits under the laws identified in paragraph 15 above. In addition, M.G.L. c. 176D, § 2 generally prohibits unfair or deceptive acts or practices in the business of insurance.

* * *

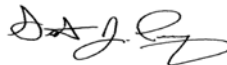
The Division is authorized to issue an order requiring Zenefits to show cause as to why it should not be made to cease and desist from the conduct alleged in paragraph 16 above. If, after a public hearing, the Commissioner finds that Zenefits did commit the alleged violations, he may impose fines up to the amounts listed above, and/or order that Zenefits' Massachusetts insurance producer license be placed on probation, suspended or revoked.

The Division proposes to resolve this matter through a settlement if Zenefits agrees to waive the right to a public hearing, agrees to cease and desist from the alleged improper conduct, agrees to provide the results of the nationwide compliance review that the California Department of Insurance will be conducting in the fall of 2018, and agrees to pay a fine of **\$300,000**. If Zenefits chooses to accept the Division's offer, please have an authorized individual sign this settlement letter where provided below and return it to my attention along with a check made payable to the Commonwealth of Massachusetts, no later than **January 15, 2018**.

Although this correspondence does not constitute the required statutory notice of a public hearing, if this matter is not resolved by **January 15, 2018**, the Division intends to file an Order to Show Cause.

Thank you for your attention to this matter. Should you have any questions or wish to discuss this matter further, please do not hesitate to contact me at (617) 521-7471.


Sincerely,



Scott J. Peary
Chief Enforcement Counsel

ACCEPTED AND AGREED:

YourPeople, Inc., dba Zenefits FTW Insurance Services

DocuSigned by:

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By: (Print Name) Joshua Stein
Title: General Counsel & Corporate Secretary
Date: 1/16/2018