1 2	CALIFORNIA DEPARTMENT OF INSURANCE LEGAL DIVISION Teresa R. Campbell, State Bar No. 162105 Harry J. LeVine, State Bar No. 105972 California Department of Insurance 45 Fremont St., 21 <sup>st</sup> floor San Francisco, CA 94105 Telephone: (415) 538-4126		
3			
128			
4			
5	Facsimile: (415) 904-5490 Email: harry.levine@insurance.ca.gov		
6	Attorneys for the California Department of Insurance		
7			
8	BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA		
9			
10			
11			
12	In the Matter of the Licenses and Licensing	CDI File No.	
13	Rights of:		
14 15	HEALTH PLAN INTERMEDIARIES HOLDINGS, LLC,	ORDER TO SHOW CAUSE AND NOTICE OF HEARING	
16		(Insurance Code §§ 790.03 and 790.05); and	
17	Respondent.	LL ADDALE ADDALE ADDAL	
18			
19			
20			
21	The California Department of Insurance (CDI) alleges that:		
22		Ι	
23	FACTUAL BACKGROUND		
24	A. Respondent Health Plan Intermediaries Holdings, LLC (Health Plan Intermediaries)		
25	holds, and at all times relevant hereto held, a non-resident accident and health agent license issued		
26	by the Insurance Commissioner of the State of California (Insurance Commissioner) and holds,		
27	and at all times relevant hereto held, a non-resident certificate of registration as an administrator		
28	issued by the Insurance Commissioner (collectively, the Licenses.)		

-1-

B. Health Plan Intermediaries transacts business under one or more of the fictitious
 business names HII Insurance Solutions and LLC, HII Administrators, LLC, and it previously
 transacted business under the fictitious business names Health Innovations Insurance Agency,
 LLC. The foregoing fictitious business names were approved for use by the Insurance
 Commissioner. The CDI is informed and believes that Health Plan Intermediaries also transacts,
 or transacted, business under the fictitious business name Health Insurance Innovations and
 HIIquote.com, neither of which were approved for use by the Insurance Commissioner.

8 C. The CDI is informed and believes that Health Plan Intermediaries is engaged in the
9 business of marketing health insurance policies on behalf of insurers that are authorized to
10 transact insurance in California and for which Health Plan Intermediaries has an agency
11 appointment. The health insurance policies marketed by Health Plan Intermediaries include
12 policies that do not meet the minimum essential coverage requirements of the Affordable Care
13 Act (ACA.)

D. The CDI is informed and believes that Health Plan Intermediaries conducts its
marketing and solicits the purchase of health insurance policies by California residents, including
policies that do not meet the minimum essential coverage of the ACA (Non-ACA Policies),
through unsolicited automated telephone calls, commonly referred to as "robo-calls." The
Insurance Commissioner is informed and believes that Health Plan Intermediaries also markets
and solicits the purchase of health insurance policies through a website identified as
www.hiiq.com.

E. At all times relevant hereto, Health Plan Intermediaries did not have an agency
appointment with any insurance company affiliated with Anthem, CIGNA Health & Life
Insurance Company or UnitedHealthcare Insurance Company.

- 24
- 25

## MARKETING PRACTICE STATUTES

Π

A. Insurance Code §§790 *et seq.* define practices that constitute unfair methods of
competition or unfair or deceptive acts or practices in the business of insurance. Insurance Code
§790.01 provides that §§790.00 *et seq.* apply to various persons, including life-agents, broker-

-2-

1	agents, and "all other persons engaged in the business of insurance." Health Plan Intermediaries		
2	is a person subject to §§790 et seq.		
3	B. Insurance Code §790.03 defines the following as unfair methods of competition and		
4	and unfair and deceptive acts or practices in the business of insurance:		
5 6	statement misrepresenting the terms of any policy issued or to be issue or the benefits or		
7			
8	(b) Making or disseminating or causing to be made or disseminated before the public in this state, in any newspaper or in any other manner or means whatsoever, any statement containing any assertion, representation, or statement with respect to the		
9 10	business of insurance which is untrue, deceptive, or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue, deceptive, or misleading.		
11	C. Insurance Code §790.035 provides that any person who engages in any unfair method		
12	of competition or any unfair or deceptive act or practice defined in §790.03 is liable to the state		
13	for a civil penalty not to exceed \$5,000 for each act, or, if the act or practice was willful, a civil		
14	penalty not to exceed ten \$10,000 for each act.		
15	III		
16	UNFAIR AND DECEPTIVE ACTS		
17			
	A. On August 20 and 21, 2018, Janice R. received six robo-calls from Health Plan		
18	A. On August 20 and 21, 2018, Janice R. received six robo-calls from Health Plan Intermediaries that identified the recorded speaker as "Anne" and which purported to offer a		
	Intermediaries that identified the recorded speaker as "Anne" and which purported to offer a		
19	Intermediaries that identified the recorded speaker as "Anne" and which purported to offer a "special enrollment opportunity" to purchase health insurance from insurers it identified as		
19 20 21	Intermediaries that identified the recorded speaker as "Anne" and which purported to offer a "special enrollment opportunity" to purchase health insurance from insurers it identified as "Anthem," "Aetna," "CIGNA" and "UnitedHealthcare." Each robo-call invited Janice R. to		
19 20 21	Intermediaries that identified the recorded speaker as "Anne" and which purported to offer a "special enrollment opportunity" to purchase health insurance from insurers it identified as "Anthem," "Aetna," "CIGNA" and "UnitedHealthcare." Each robo-call invited Janice R. to "press 1" to speak to a representative. Janice R. pressed "1" on two occasions and spoke with a		
<ol> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> </ol>	Intermediaries that identified the recorded speaker as "Anne" and which purported to offer a "special enrollment opportunity" to purchase health insurance from insurers it identified as "Anthem," "Aetna," "CIGNA" and "UnitedHealthcare." Each robo-call invited Janice R. to "press 1" to speak to a representative. Janice R. pressed "1" on two occasions and spoke with a representative of Health Plan Intermediaries.		
<ol> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> </ol>	Intermediaries that identified the recorded speaker as "Anne" and which purported to offer a "special enrollment opportunity" to purchase health insurance from insurers it identified as "Anthem," "Aetna," "CIGNA" and "UnitedHealthcare." Each robo-call invited Janice R. to "press 1" to speak to a representative. Janice R. pressed "1" on two occasions and spoke with a representative of Health Plan Intermediaries. B. On August 21, 2018, Janice R. spoke with McKenzie D. who offered a health		
<ol> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> </ol>	Intermediaries that identified the recorded speaker as "Anne" and which purported to offer a "special enrollment opportunity" to purchase health insurance from insurers it identified as "Anthem," "Aetna," "CIGNA" and "UnitedHealthcare." Each robo-call invited Janice R. to "press 1" to speak to a representative. Janice R. pressed "1" on two occasions and spoke with a representative of Health Plan Intermediaries. B. On August 21, 2018, Janice R. spoke with McKenzie D. who offered a health insurance policy from "Consolicare." McKenzie then represented to Janice R. that Consolicare		
<ol> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> </ol>	Intermediaries that identified the recorded speaker as "Anne" and which purported to offer a "special enrollment opportunity" to purchase health insurance from insurers it identified as "Anthem," "Aetna," "CIGNA" and "UnitedHealthcare." Each robo-call invited Janice R. to "press 1" to speak to a representative. Janice R. pressed "1" on two occasions and spoke with a representative of Health Plan Intermediaries. B. On August 21, 2018, Janice R. spoke with McKenzie D. who offered a health insurance policy from "Consolicare." McKenzie then represented to Janice R. that Consolicare was the name of a group insurance preferred provider organization policy offered by an insurer		
<ol> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> <li>27</li> </ol>	Intermediaries that identified the recorded speaker as "Anne" and which purported to offer a "special enrollment opportunity" to purchase health insurance from insurers it identified as "Anthem," "Aetna," "CIGNA" and "UnitedHealthcare." Each robo-call invited Janice R. to "press 1" to speak to a representative. Janice R. pressed "1" on two occasions and spoke with a representative of Health Plan Intermediaries. B. On August 21, 2018, Janice R. spoke with McKenzie D. who offered a health insurance policy from "Consolicare." McKenzie then represented to Janice R. that Consolicare was the name of a group insurance preferred provider organization policy offered by an insurer identified as "Chubb." The Insurance Commissioner is informed and believes that McKenzie		

-3-

1 transact health insurance in California, however, do not sell health policies in California that 2 comply with the minimum essential coverage requirements of the ACA.

3

C. On August 21, 2018, Janice R. spoke with Jeffrey S., who misrepresented to Janice R. 4 that he held a health agent license issued by the Insurance Commissioner. Jeffrey S. 5 misrepresented to Janice R. that he could sell her an individual health insurance policy called 6 "Multiplan" from "Chubb" that met the minimum essential coverage requirements of the ACA. 7 Jeffrey S. then misrepresented to Janice R. that he could sell her an individual health insurance policy from "Aetna" that met the minimum essential coverage requirements of the ACA. The 8 Aetna insurance companies that are authorized to transact health insurance in California do not 9 sell individual ACA-complaint policies in California. Jeffrey S. then misrepresented to Janice R. 10 that "Anthem," "Aetna," "UnitedHealthcare" and "CIGNA" are all part of the "Chubb" group of 11 12 insurance companies.

13 D. On August 20 or 21, 2108, Wendy H. spoke with Vanessa who offered her an individual health insurance policy package that included the following: a policy called 14 15 Consolicare that was purportedly offered by United Healthcare, a preferred provider organization policy offered by "American Financial" and vision and dental coverages offered by "Aetna 16 Network." Vanessa advised Wendy H. that the health insurance policies met the minimum 17 18 essential coverage requirements of the ACA.

19 E. Through the misrepresentations made through robo-calls, McKenzie D, Jeffrey S, and Vannesa, as described above, Health Plan Intermediaries misrepresented the terms of the health 20 21 insurance policies being offered and Health Plan Intermediaries made statements that contained 22 untrue, deceptive, or misleading statements as to the health insurance coverages being offered.

- 23
- 24

## STATEMENT OF CHARGES AND NOTICE OF PENALTIES

IV

25 A. The facts alleged in Article III demonstrate in violation of Insurance Code §790.03(a) 26 and (b), Health Plan Intermediaries made statements misrepresenting the terms of health 27 insurance policies to be issued, and misrepresented the benefits or advantages promised in those 28 insurance policies.

-4-

1 B. The facts alleged in Article III demonstrate that in violation of Insurance Code 2 §790.03(a) and (b), Health Plan Intermediaries knowingly made and disseminated statements 3 containing untrue, deceptive and misleading assertions and representations that regarding the 4 terms of health insurance policies it offered for sale and as to whether such policies complied 5 with the terms of the ACA. C. Health Plan Intermediaries' conduct constitutes grounds for the Insurance 6 7 Commissioner to assess monetary penalties pursuant to California Insurance Code §790.035 of up 8 to \$5,000 for each of the foregoing acts of unfair competition or unfair or deceptive practice 9 alleged above that is proved to be non-willful, and up to \$10,000 for each act of unfair 10 competition or unfair or deceptive practice alleged above that is proved willful. 11 V 12 ORDER TO SHOW CAUSE AND NOTICE OF HEARING 13 Pursuant to Insurance Code §790.05, the CDI hereby notifies Health Plan Intermediaries 14 that a hearing shall be held at a time and place to be determined by the Insurance Commissioner 15 which shall not be less than 30 days after service of this Order to Show Cause, to determine whether an order should be issued to require Health Plan Intermediaries to pay the penalties 16 17 imposed by California Insurance Code §790.035, and to cease and desist from acts or practices of 18 competition and/or unfair or deceptive acts. 19 VI 20PRAYER 21 The CDI prays for the following: 22 A. An Order to Cease and Desist against Health Plan Intermediaries from engaging in unfair methods of competition and unfair and deceptive acts or practices in the business of life 23 24 and disability insurance in violation of §790.03(a) and (b); and, 25 B. Imposition of monetary penalties pursuant to §790.035, of up to five thousand dollars for each of the acts of unfair competition or unfair or deceptive acts or practices alleged above 26 that are non-willful; and up to \$10,000 for each act of unfair competition or unfair or deceptive 27 28 practices alleged above that are willful; and,

-5-

1	C. Such other equitable relief, including restitution, as may be necessary to redress the	
2	violations set forth above; and,	
3	D. The imposition of such further relief as may be just and proper.	
4	Dated: August 29, 2018	CALIFORNIA DEPARTMENT OF INSURANCE
5		17/0
6	I	By: Juny K unpul
7		Teresa R. Campbell Attorney for California Department of Insurance
8 9		
9		
11		
12		
13		
14		
15		
16		
17		
18		
19	6	
20		
21	5	
22		
23		
24		-
25		
26		
27		
28		
		-6-