FILED
Clerk of the Superior Court
NOV 18 2004
By: PATRICIA F. LEGLER, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

THE PEOPLE OF THE STATE OF CALIFORNIA by and through JOHN GARAMENDI, INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA, Plaintiff, vs. UNIVERSAL LIFE RESOURCES, ULR INSURANCE SERVICES, INC., BENEFITS COMMERCE, DOUG P. COX, METLIFE, INC., CIGNA CORPORATION, PRUDENTIAL FINANCIAL, INC., UNUMPROVIDENT CORPORATION, and DOES 1-500, inclusive, Defendants.	Case No. GIC838913 ~~[PROPOSED]~~ CONSENT DECREE AND PERMANENT INJUNCTION

WHEREAS, the People of the State of California, by and through John Garamendi as the Insurance Commissioner of the State of California ("Plaintiff"), filed their complaint in this matter on November 17, 2004, against Defendants Universal Life Resources, ULR Insurance Services, Inc., Benefits Commerce, and Doug P. Cox (the "ULR Defendants" or "ULR"), and certain insurance company Defendants MetLife, Inc., Prudential Financial, Inc., CIGNA Corporation, and UnumProvident Corporation (the "Insurer Defendants");[1]

WHEREAS, Plaintiff has conducted an investigation into the business of the ULR Defendants prior to filing the complaint in this matter;

WHEREAS, the complaint is brought pursuant to Cal. Ins. Code §12928.6 to enjoin Defendants from continuing certain alleged conduct affecting California policyholders, including businesses, organizations, employers and employees who may have purchased insurance products and services from or through Defendants;

WHEREAS, Plaintiff alleges that Defendants have violated Cal. Ins. Code §§332, 781, 790.02, 790.03, 1065.1 and 1759.10, as stated in the complaint, ¶¶64-93;

WHEREAS, the ULR Defendants dispute and deny the allegations in the complaint;

WHEREAS, Plaintiff and ULR Defendants have agreed to a settlement of this action, with the understanding that this Consent Decree and Permanent Injunction shall not be construed to be an admission of fact, law or liability of the Parties and does not compromise the rights, positions, claims and defenses of the Parties with respect to any person or entity not a party to this Consent Decree and Permanent Injunction;

WHEREAS, ULR Defendants agree to fully and timely cooperate with Plaintiff's good faith requests in the continued investigation and prosecution of the Insurer Defendants and others in this action, including, but not limited to, providing full and complete responses to all discovery propounded or requested in good faith of ULR Defendants by Plaintiff in connection with its dealings with the Insurer Defendants, any other insurance carriers, individuals or entities in regard to or arising from the allegations contained in the complaint after ULR Defendants' dismissal from this action, provided

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[1] "Defendants" herein refers collectively to ULR Defendants and Insurer Defendants.

however, the ULR Defendants shall preserve and be entitled to assert, in good faith, all attorney-client, work product and constitutional privileges. Further, ULR shall not assert any objection or challenge, directly or indirectly, to Plaintiff's counsel in this action or any other action, matter or proceeding.

WHEREAS, it is in the interest of the public, the Parties, and judicial economy to resolve these claims without further litigation; and

WHEREAS, the Court finds and determines that this settlement represents a fair, adequate and equitable resolution of the claims resolved herein;

THEREFORE, the Parties agree as follows:

PARTIES

1. The Parties to this Consent Decree and Permanent Injunction are Plaintiff and ULR Defendants.

DEFINITIONS

2. All terms not otherwise defined herein shall have the meaning, if any, assigned to them, as of the Effective Date of this Consent Decree and Permanent Injunction or as subsequently modified, by the California Insurance Code and its implementing regulations. Whenever the terms listed below are used in this Consent Decree and Permanent Injunction, the following definitions shall apply:

(a) "Effective Date" means the date upon which this Consent Decree and Permanent Injunction is entered by the California Superior Court, County of San Diego.

(b) "Plaintiff" means the People of the State of California, by and through John Garamendi as the Insurance Commissioner of the State of California.

(c) "ULR Defendants" means Defendants Universal Life Resources, ULR Insurance Services, Inc., Benefits Commerce, and Doug P. Cox.

TERMS OF CONSENT DECREE AND PERMANENT INJUNCTION

3. ULR Defendants agree to comply with Cal. Ins. Code and related regulations including, but not limited to, §§332, 781, 790.02, 790.03, 1065.1 and 1759.10, if applicable. ULR Defendants also shall:

(a) use reasonable care, reasonable skill, and reasonable diligence as required of a fiduciary in performing broker services on behalf of a client;

(b) in consultation with their clients, take all reasonable steps to obtain offers of insurance coverage that meet the objectives for which they were retained by a client;

(c) provide their clients with all offers of insurance coverage which they receive on behalf of their client that they know or should know meet the objectives for which they were retained by a client;

(d) refuse to recommend an offer of insurance coverage to a client when they know or should know that another offer of insurance coverage better meets the objectives for which they were retained by the client; and

(e) not put their own financial interests ahead of their clients' financial interests in connection with providing brokerage or other insurance services.

4. ULR Defendants shall disclose to a client all known material facts surrounding their receipt or future receipt of income or other remuneration from a third party, if such income or remuneration derives in whole or in part, directly or indirectly, from a transaction on behalf of the client.

5. The ULR Defendants acknowledge that such disclosures shall be full, meaningful, conspicuous and clear. Further, the ULR Defendants acknowledge that such disclosures, in and of themselves, shall not relieve the ULR Defendants of any other obligations or duties ULR may owe to their clients.

6. ULR Defendants further agree and acknowledge they will act as a fiduciary for their clients and will act in a manner consistent with the legal duties imposed on brokers and agents under California law and recognize such duties owed to their clients, including: (a) a duty, including the duty of loyalty as applicable, to act in the best interests of their clients and to always put their clients' interests ahead of their own; (b) a duty of full and fair disclosure and complete candor, including the duty to disclose the source and amounts of all income that the broker may receive in or as a result of any transaction involving their clients; (c) a duty of reasonable care; (d) a duty to provide impartial and honest advice; (e) a duty to use their best business judgment in connection with any insurance-related products and services purchased by their clients (*i.e.*, to find the best coverage at the best price); and (f) a duty of good faith and fair dealing.

7. ULR Defendants agree that as of the Effective Date they will not engage in or perform, directly or indirectly, any and all of the following acts:

(a) paying or receiving any form of compensation, including contingent commissions, communication fees, overrides, enrollment fees or other forms of compensation or remuneration, directly or indirectly, from an insurer or other entity in connection with an insurance policy and/or insurance services without written consent of the client after full, complete and adequate disclosure to the client regarding all material facts, including the nature of any compensation agreement and all types of income or other remuneration that may be paid to or received by the ULR Defendants in connection with that transaction. In obtaining such prior written consent, ULR shall fully and conspicuously disclose in writing the existence and relevant terms of all agreements with any insurer, entity, and/or other party involved in the client's transaction, and the method by which the amount of such compensation or remuneration may be determined and the timing of such compensation;

(b) steering insurance business toward or away from any insurer based even in part on contingent commissions, communication fees, overrides, enrollment fees or other forms of compensation, promises of other business or similar agreements;

(c) any act or practice that entails the tying of insurance and related services to the payment of contingent commissions, communication fees, overrides or other remuneration or promises of other clients or transactions;

(d) any unfair method of competition and unfair and deceptive act or practice in the business of insurance; and

(e) any act or practice in violation of the California Insurance Code, California Code of Regulations, or any other order or requirement of the Commissioner.

DISMISSAL OF CLAIMS AGAINST ULR DEFENDANTS

8. Upon entry of this Consent Decree and Permanent Injunction by this Court, all causes of action in Plaintiff's complaint against ULR Defendants, whether against ULR Defendants alone or with Insurer Defendants, shall be dismissed with prejudice. By the ULR Defendants' agreement to enter into this Consent Decree and Permanent Injunction, Plaintiff agrees not to file, commence, prosecute or pursue any claims or actions against the ULR Defendants based upon, arising from or related to the

subject matters of the complaint. Plaintiff agrees not to seek to suspend or revoke any licenses issued to the ULR Defendants or to assess any fines or civil penalties or to seek other monies arising from or related to the subject matters of the complaint based upon the information available to Plaintiff at the time of filing of this Consent Decree and Permanent Injunction. All causes of action asserted against the Insurer Defendants, now or in the future, whether alone or with ULR Defendants, shall remain in full force and effect and shall not be disturbed, modified or restricted in any way by the entry of this Consent Decree and Permanent Injunction.

CONTINUING JURISDICTION

9. For purposes of entry and enforcement of this Consent Decree and Permanent Injunction only, the Parties agree that the Court has continuing jurisdiction over this matter, the Parties to the Consent Decree and Permanent Injunction, any disputes arising under the Consent Decree and Permanent Injunction, and any alleged violations of this Consent Decree and Permanent Injunction, and may issue such further orders or direction as may be necessary or appropriate to construe, implement, modify or enforce the terms of this Consent Decree and Permanent Injunction, and for granting any further relief as the interests of justice may require.

MODIFICATION

10. This Consent Decree and Permanent Injunction may be modified by written agreement of the Parties. Nothing in this Consent Decree and Permanent Injunction, nor in the Parties' agreement to its terms, shall be construed to limit any equitable power the Court may have to modify the terms of the Consent Decree and Permanent Injunction upon a showing of good cause by any Party. Good cause may include, but is not limited to, changes in the law. The Parties reserve any rights they may have to challenge any request for modification of the Consent Decree and Permanent Injunction. If the Department of Insurance of the State of California adopts insurance regulations or enters into a consent decree and/or permanent injunction with any other insurance broker or consultant relating to the matters raised in this Consent Decree, which the ULR Defendants believe has requirements or duties less restrictive than the terms set forth in ¶¶3-8 of this Consent Decree and Permanent Injunction, then ULR Defendants may request the Court, pursuant to this ¶10, to modify this Consent Decree and Permanent Injunction, provided however, the ULR Defendants may not seek to modify and/or alter this Consent

Decree and Permanent Injunction within two years after its entry. Plaintiff reserves the right to oppose such a modification.

MUTUAL DRAFTING

11. The Parties to this Consent Decree and Permanent Injunction agree that this Consent Decree and Permanent Injunction was jointly drafted by them. Accordingly, the Parties agree that any and all rules of construction to the effect that ambiguity is construed against the drafting Party shall be inapplicable in any dispute concerning the terms, meaning or interpretation of this Consent Decree and Permanent Injunction.

APPLICABLE LAW

12. This Consent Decree and Permanent Injunction shall be governed by and construed under the laws of the State of California.

ENTIRE AGREEMENT/SEVERABILITY

13. This Consent Decree and Permanent Injunction constitutes the entire agreement of the Parties in this case. All prior conversations, meetings, discussions, drafts and writings of any kind are specifically superseded by this Consent Decree and Permanent Injunction. If any portion of this Agreement is found to be invalid, void or unenforceable, the remainder of the terms of the Consent Decree and Permanent Injunction shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

FEES AND COSTS

14. Each side shall bear their respective attorneys' fees and costs with respect to this matter.

COUNTERPARTS

15. This Consent Decree and Permanent Injunction may be executed in counterparts, each of which shall be deemed to constitute an original, and all of which, taken together, shall constitute one and the same instrument. The execution of one counterpart by any Party shall have the same force and effect as if that Party had signed all other counterparts.

REPRESENTATIVE AUTHORITY

16. Each undersigned representative of the Parties to this Consent Decree and Permanent Injunction certifies that he or she is fully authorized to enter into and execute the terms and conditions

of this Consent Decree and Permanent Injunction, and to legally bind such Party to this Consent Decree and Permanent Injunction.

DATED: November 18, 2004

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* * *

ORDER

GOOD CAUSE APPEARING therefor, it is so ordered.

DATED: NOV 1 8 2004

PATRICIA YIM COWETT
JUDGE OF THE SUPERIOR COURT

I hereby certify that the foregoing instrument is a full, true & correct copy of the original on file in this office, that said document has not been revoked, annulled or set aside, and it is in full force and effect.

Attest: NOV 1 8 2004

Clerk of the Superior Court of the State of California, in and for the County of San Diego

By [signature] Deputy

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interest in the within action; that declarant's business address is 401 B Street, Suite 1700, San Diego, California 92101.

2. That on November 18, 2004, declarant served the [PROPOSED] CONSENT DECREE AND PERMANENT INJUNCTION by depositing a true copy thereof in a United States mailbox at San Diego, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th day of November, 2004, at San Diego, California.

JUNE P. ITO

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