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2 LEGAL DIVISION
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7 Attorneys for the California Department of Insurance

8 **BEFORE THE INSURANCE COMMISSIONER**
9 **OF THE STATE OF CALIFORNIA**

10 In the Matter of:
11 **YOURPEOPLE, INC.,**
12 **Doing business as,**
13 **ZENEFITS FTW INSURANCE**
14 **SERVICES,**
15 Respondent.

File No. DISP-2016-00221

ORDER TO SHOW CAUSE;
STATEMENT OF CHARGES / ACCUSATION;
NOTICE OF MONETARY PENALTY

(Ins. Code §§790.03, 790.05, 1668, 1738)

16 **ORDER TO SHOW CAUSE**

17
18 WHEREAS, the Insurance Commissioner of the State of California ("Commissioner") has
19 reason to believe that Respondent, YOURPEOPLE, INC., doing business as ZENEFITS FTW
20 INSURANCE SERVICES ("Zenefits"), has engaged in or is engaging in this State in unfair
21 methods of competition, unfair or deceptive acts or practices, and other unlawful acts as set forth
22 in the STATEMENT OF CHARGES/ACCUSATION contained herein; and,

23 WHEREAS, the Commissioner has reason to believe that a proceeding with respect to the
24 alleged acts of Respondent would be in the public interest;

25 NOW, THEREFORE, pursuant to the provisions of section 790.05 of the California
26 Insurance Code ("CIC"), Respondent is ordered to appear before the Commissioner, on a date to
27 be determined, and show cause, if any cause there be, why the Commissioner should not issue an
28 order requiring Respondent to Cease and Desist from engaging in the methods, acts, and practices

1 set forth in the STATEMENT OF CHARGES contained herein and imposing the penalties set
2 forth in CIC section 790.035 as requested in the NOTICE OF MONETARY PENALTY
3 contained herein.

4 JURISDICTION AND PARTIES

5 1. The California Department of Insurance ("Department") has jurisdiction to bring
6 this matter before the Commissioner pursuant to the provisions of CIC sections 790.05, 1668, and
7 1738.

8 2. Respondent holds, and at all relevant times has held, a resident insurance producer
9 license in the State of California (License No. 0148811). Respondent is authorized to act as a
10 life-only agent and accident and health agent, property broker-agent, and casualty broker-agent
11 under said license.

12 3. Respondent is subject to the jurisdiction of the Commissioner pursuant to Chapter
13 1 and Chapter 5, Part 2, Division 1 of the Insurance Code.

14 APPLICABLE LAW

15 4. The Department brings this action under the Unfair Practices Act set forth in CIC
16 section 790 et seq. The Unfair Practices Act governs trade practices in the business of insurance.
17 CIC section 790.02 provides that "[n]o person shall engage in this State in any trade practice
18 which is defined in this article as, or determined pursuant to this article to be, an unfair method of
19 competition or an unfair or deceptive act or practice in the business of insurance." This
20 prohibition extends to the activities proscribed by paragraph (b) of CIC section 790.03.

21 In addition, CIC section 790.035(a) provides as follows:

22 "Any person who engages in any unfair method of competition or any unfair or
23 deceptive act or practice defined in Section 790.03 is liable to the state for a civil
24 penalty to be fixed by the commissioner, not to exceed five thousand dollars
25 (\$5,000) for each act, or, if the act or practice was willful, a civil penalty not to
exceed ten thousand dollars (\$10,000) for each act. The commissioner shall have
the discretion to establish what constitutes an act."

26 5. This action is also based on CIC section 1631 which provides for the necessity of a
27 license to transact insurance in the State of California. Under CIC section 1631, "a person shall
28 not solicit, negotiate, or effect contracts of insurance ... unless the person holds a valid license

1 from the commissioner authorizing the person to act in that capacity.”

2 6. The Department also brings this action pursuant to CIC sections 1668 and 1738.
3 CIC section 1668 sets forth various grounds upon which the Commissioner may deny an
4 insurance producer license application. CIC section 1738 authorizes the Commissioner to
5 suspend or revoke the license and licensing rights of an insurance producer based upon any of the
6 grounds set forth in CIC section 1668.

7 7. This action is also based on the pre-licensing educational requirements of
8 CIC section 1749. CIC section 1749 sets forth the minimum number of pre-licensing
9 study hours that must be completed by those applying for an insurance producer license.
10 This includes a minimum of: (1) 20 study hours to qualify as a property broker-agent; (2)
11 20 study hours to qualify as a casualty broker-agent; (3) 20 study hours to qualify as an
12 accident and health agent; and (4) 20 study hours to qualify as life-only agent license. In
13 addition, those applying for any of said license qualifications must separately complete
14 12 hours of study in the area of ethics.

15 **BACKGROUND**

16 8. Respondent is a privately held company established in February 2013.
17 Respondent offers a cloud-based, software platform that small business customers can use in the
18 administration of human resources, payroll, and employee benefits. Through its software
19 platform, Respondent offers a host of services to small business employers, including insurance
20 brokerage services. Respondent's insurance services include the sale of group life and accident
21 and health insurance that its small business customers offer to their respective employees as well
22 as property and casualty insurance to protect the direct interests of its small business customers.
23 Respondent employs individuals to make presentations to prospective customers of both its
24 human resources services and the insurance products it offers through its insurance brokerage.

25 9. In November 2015, Respondent notified the Commissioner of ongoing licensing
26 compliance violations. Respondent also informed the Commissioner that it planned to conduct a
27 review to assess the nature and magnitude of these licensing violations. Respondent retained the
28 services of PricewaterhouseCoopers (“PwC”) to prepare a report to assist in its internal licensing

1 compliance review process.

2 10. On March 1, 2016, Respondent submitted to the Department a report which
3 analyzed Respondent's licensing compliance for the period of January 1, 2014, through
4 November 30, 2015. The report identified unlicensed insurance activities performed by
5 Respondent's employees during the pertinent time period, but did not match specific employees
6 to specific policies sold.

7 11. Following receipt of Respondent's March 1, 2016 report, the Department
8 requested that Respondent prepare a report which examined its licensing compliance by matching
9 each of the insurance policies that Respondent sold with the employee responsible for said sale.
10 Respondent complied with the Department's request and again engaged the services of PwC to
11 assist it in preparing such a report. On June 1, 2016, Respondent submitted a second report.
12 This report analyzed Respondent's licensing compliance by matching its employees to the
13 specific insurance policies sold in order to determine the employees' licensing status at the time
14 of sale.

15 **STATEMENT OF CHARGES / ACCUSATION**

16 **A. Unlicensed Insurance Transactions**

17 12. From January 2014, through November 2015, Respondent employed individuals
18 within and outside of California who solicited, negotiated and sold insurance policies to
19 customers located in California. According to Respondent's June 1, 2016 report, its employees
20 sold 8,118 insurance policies to California consumers during the aforementioned time period. Of
21 this total, at least 1,994 insurance policies were sold by employees who lacked the proper license
22 required to transact insurance pursuant to CIC section 1631.

23 13. Respondent was directly responsible for the aforementioned unlicensed insurance
24 sales performed by said employees. Respondent hired these unlicensed employees to transact
25 insurance on its behalf and directly supervised said employees. Respondent knew or should have
26 known the licensing status of its employees and had a duty to ensure that employees who
27 transacted insurance on its behalf were properly licensed.

28 14. In addition, from January 2014, through November 2015, Respondent aided and

1 abetted individuals in the unlicensed transaction of insurance by allowing unlicensed employees
2 to sell insurance policies at Respondent's place of business using Respondent's equipment and
3 resources.

4 15. Licensed insurance production agencies incur significant costs associated with
5 obtaining proper licensure for their employees. Respondent's practice of selling insurance
6 policies through unlicensed employees allowed it to avoid or delay incurring costs, fees, and other
7 expenses associated with the licensing of said employees and to expand in the marketplace more
8 quickly. Said practice provided Respondent with an unfair method of competition and constitute
9 violations of CIC sections 790.02 and 790.03(b).

10 16. By allowing unlicensed employees to sell insurance policies on its behalf,
11 Respondent has engaged in conduct which constitutes grounds for the Commissioner to suspend
12 or revoke its license pursuant to subdivisions (b),(j),(l),(n), and (o), of CIC section 1668 in
13 conjunction with CIC section 1738.

14 **B. Non-Compliance with Pre-Licensing Requirements**

15 17. During the course of its internal licensing compliance review, Respondent
16 discovered improprieties related to its compliance with pre-licensing educational course
17 requirements. Respondent thereafter retained the services of Cooley LLP to investigate this issue.
18 On March 1, 2016, Cooley LLP submitted a report which concluded that a founder and former
19 chief executive officer of Respondent developed a software "macro" that was distributed to at
20 least 99 of Respondent's employees.

21 18. The macro allowed employees to unlawfully complete pre-licensing education
22 requirements in less than the minimum number of study hours required by CIC section 1749.
23 The macro, that Respondent developed and distributed, improperly enabled its employees to keep
24 the online pre-licensing education course timer advancing whether or not the employee was, in
25 fact, actively studying the course material.

26 19. Licensed insurance production agencies incur significant costs associated with
27 obtaining proper licensure for their employees. Respondent's conduct in distributing the software
28 macro to its employees allowed it to avoid or delay incurring costs, fees, and other expenses

1 associated with satisfying pre-licensing education requirements and to expand in the marketplace
2 more quickly. Said activities provided Respondent with an unfair method of competition and
3 constitute violations of CIC sections 790.02 and 790.03(b).

4 20. By creating and distributing a software macro that enabled its employees to avoid
5 and or subvert the hourly study requirements in CIC section 1749, Respondent engaged in
6 conduct which constitutes grounds for the Commissioner to suspend or revoke its license and
7 licensing rights pursuant to subdivisions (b),(c),(e),(i),(j),(l),(n),(o), and (p) of CIC section 1668.

8
9 **STATEMENT OF MONETARY PENALTY AND STATEMENT**
OF POTENTIAL LIABILITY PURSUANT TO CIC §790 Et Seq.

10 21. The facts alleged above constitute grounds, under CIC section 790.05, for the
11 Insurance Commissioner to order Respondent to cease and desist from engaging in such unfair
12 acts or practices and to pay a civil penalty not to exceed five thousand dollars (\$5,000) for each
13 act, or if the act or practice was willful, a civil penalty not to exceed ten thousand dollars
14 (\$10,000) for each act as set forth under CIC section 790.035.

15 **PETITION FOR DISCIPLINE AND ORDER**

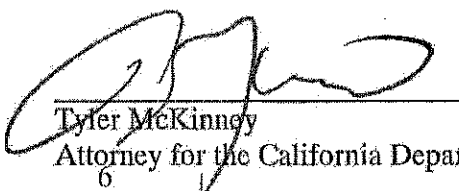
16 WHEREAS, Petitioner prays for judgment against Respondent as follows:

- 17 1. An Order to Cease and Desist from engaging in the methods, acts, and practices as
18 set forth in the Statement of Charges/Accusation, above;
- 19 2. For acts in violation of CIC sections 790.02 and 790.03, a civil penalty not to
20 exceed five thousand dollars (\$5,000) for each act or, if the act or practice was willful, a civil
21 penalty not to exceed ten thousand dollars (\$10,000) for each act;
- 22 3. For acts in violation of CIC sections 1668, 1738, and 1749, a penalty as deemed
23 appropriate by the Commissioner.

24 DATED: November 15, 2016

25 DAVE JONES
Insurance Commissioner

26
27 By

28 
Tyler McKinney
Attorney for the California Department of Insurance