

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	Division File No. 103105
)	
)	
U.S. AUTO ADMINISTRATORS, INC. both)	ORDER AND CONSENT TO ORDER
individually and d/b/a LIBERTY BELL)	
AUTO PROTECT, and)	
)	
BENJAMIN WYGODA, both individually)	
and d/b/a LIBERTY BELL AUTO)	
PROTECT,)	
)	
Respondents.)	

COMES NOW the Iowa Insurance Division (“Division”) and pursuant to the provisions of Iowa Code chapter 516E—Motor Vehicle Service Contracts states and alleges the following:

I. PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Douglas M. Ommen, directly and through his designees, administers and enforces Iowa Code chapter 516E—Motor Vehicle Service Contracts pursuant to Iowa Code § 505.8.

2. U.S. Auto Administrators, Inc. (“US Auto”) is a corporation organized and existing under the laws of the state of New Jersey and having a last-known address of 250 Pehle Avenue, Suite 200, Saddle Brook, New Jersey 07663.

3. Benjamin Wygoda (“Wygoda”) is the President and only officer of US Auto. Wygoda is not a licensed insurance producer in the state of Iowa.

4. US Auto does business as Liberty Bell Auto Protect (“Liberty Bell”) through the website <https://libertybellauto.com>. This website markets motor vehicle service contracts.

5. The Iowa Secretary of State has not issued a certificate of authority for US Auto to transact business in this state.

6. Neither US Auto, Liberty Bell, nor Wygoda are registered with the Division to act or conduct business as a motor vehicle service contract company in this state.

7. US Auto, Liberty Bell, and Wygoda are collectively referred to herein as the “Respondents.”

8. Pursuant to Iowa Code § 505.28, the Respondents have consented to the jurisdiction of the Commissioner by committing acts covered and prohibited by Iowa Code chapter 516E.

9. Pursuant to Iowa Code § 516E.12, the Respondents have appointed the Commissioner as their attorney to receive service in a proceeding against them by engaging in conduct subject to regulation under Iowa Code chapter 516E.

10. From on or about September 2018 to April 30, 2019, the Respondents have engaged in acts and practices within the state of Iowa constituting cause for the issuance of a summary order to cease and desist from engaging in such acts or practices and for other relief under Iowa Code chapter 516E and rules adopted pursuant to that chapter.

II. FINDINGS OF FACT

Motor Vehicle Service Contract Sales to Iowa Consumers

11. On or about September 27, 2018 and January 24, 2019, Respondents’ sold “motor vehicle” “service contracts” as defined in Iowa Code 516E.1 (6) and (13).

12. Consumer TB paid the Respondents \$1,900.00 for five years or 100,000 miles of coverage under the motor vehicle service contract Consumer TB purchased. Consumer TB was a resident of Iowa at the time Consumer TB purchased the motor vehicle service contract from Respondents.

13. On or about January 24, 2019, Consumer CD paid the Respondents \$1,610.00 for four years or 90,000 miles of coverage under the motor vehicle service contract Consumer CD purchased. Consumer CD was a resident of Iowa at the time Consumer CD purchased the motor vehicle service contract from Respondents.

Division Investigation

14. On or about March 11, 2019, ^{the} ~~he~~ Division became aware of Respondents' website that appeared to be marketing motor vehicle service contracts to Iowa residents and contacted Liberty Bell. The Division inquired about Liberty Bell's coverage and disclosures for Iowa residents. The Liberty Bell Employee was unaware of any disclosures required for Iowa residents and stated that Liberty Bell could not sell in Missouri, Alaska, Hawaii, and Puerto Rico.

15. On or about March 29, 2019, the Division issued a subpoena to Liberty Bell to provide a statement and produce records.

16. On or about April 30, 2019, Respondents provided a response to the Division's subpoena.

17. Respondents admitted that Liberty Bell had sold two vehicle service contracts to Iowa residents Consumer TB and CD.

18. On or about May 14, 2019, Respondents refunded Consumer CD his \$1,610.00 payment.

19. Respondents also admitted that Liberty Bell was not registered with the Iowa Secretary of State's office nor was it registered with the Division through the Securities and Regulated Industries Bureau to sell motor vehicle service contracts.

20. Respondents represented through its counsel that Liberty Bell took steps to ensure that no further motor vehicle service contracts will be sold in Iowa by indicating on its website, sample service agreement, and privacy policy that contracts are not offered to Iowa residents.

III. CONCLUSIONS OF LAW

21. Iowa Code § 516E.2 requires that a service company “shall not issue a service contract or arrange to perform services pursuant to a service contract unless the service company is registered with the commissioner.”

22. At no time have any of the Respondents been registered with the Division to act or conduct business as a motor vehicle service contract company in this state.

23. Under Iowa Code § 516E.1 (6) a “motor vehicle” is defined as “any self-propelled vehicle subject to registration under chapter 321.”

24. Under Iowa Code § 516E.1 (13) a “service contract” is defined as “a contract or agreement given for consideration over and above the lease or purchase price of a new or used motor vehicle having a gross vehicle weight rating of less than sixteen thousand pounds, that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operation or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear, but does not include mechanical breakdown insurance or maintenance agreements.”

25. On or about September 27, 2018 and January 24, 2019, Respondents sold “motor vehicle” “service contracts” as defined in Iowa Code 516E.1 (6) and (13) without authority to do so.

26. Respondents are in violation of Iowa Code chapter 516E subjecting Respondents to a cease and desist from engaging in such acts or practices, a civil penalty, an award of the

costs of investigation, and any other corrective action the Commissioner deems necessary pursuant to §§516E.15 and 505.8.

IV. ORDER

WHEREFORE, IT IS ORDERED pursuant to the powers granted to the Commissioner of Insurance by Iowa Code chapter 516E:

- A. Respondents shall cease and desist from selling or offering to sell any motor vehicle service contracts to Iowa residents without being properly registered to do so;
- B. Respondents shall, contemporaneously with this Consent Order, pay restitution in the amount of \$1,900.00, made payable to the Iowa Insurance Division to be credited to the Settlement Fund, pursuant to Iowa Code § 505.8; and
- C. Respondents shall, contemporaneously with this Consent Order, pay a civil penalty in the amount of \$2,000, made payable to the Iowa Insurance Division to be credited to the Iowa Enforcement Fund, to provide funds for insurance enforcement and education pursuant to Iowa Code §§ 505.8.

V. RELEASE

IT IS FURTHER ORDERED that upon finalization of this Consent Order and payment of the required funds, the Division, and the Commissioner, acknowledge that this Consent Order releases the Respondents from liability for any additional civil or administrative penalties or actions by the Commissioner, the Division, or staff of the Division in connection with Respondents' contracts with Consumers TB and CD.

This Consent Order does not release Respondents from civil or criminal liabilities, if any, that may be asserted by any other governmental entity.

SO ORDERED on the 2nd day of December, 2019.

DOUGLAS M. OMMEN
Iowa Insurance Commissioner

Respectfully submitted,

LANNY L. ZIEMAN
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lanny.ziemann@iid.iowa.gov
515-281-8160
Attorney for Iowa Insurance Division

Copy to:
Daniel Stark
Newman, Simpson & Cohen, LLP
32 Mercer Street
Hackensack, NJ 07601
Attorney for Respondents

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause, or their attorney, at their respective addresses disclosed on the pleadings on December 3, 2019.

- By: First Class Mail Personal Service
 Restricted certified mail, return receipt Email, by consent
 Certified mail, return receipt _____

Signature: Hilary Foster
Hilary Foster

NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER

YOU ARE NOTIFIED that willful violation of this Order by an insurer is a felony under Iowa Code § 507A.10, subjecting you to punishment of imprisonment, jail, fines, or any combination of custody and fines.

YOU ARE ALSO NOTIFIED that if you violate this Order, you may be subject to administrative and civil penalties pursuant to Iowa Code §§ 505.8 and 507A. The Commissioner may petition the district court to hold a hearing to enforce the order as certified by the Commissioner. The district court may assess a civil penalty against you, and may issue further orders as it deems appropriate.

NOTICE OF FINAL ORDER IMPACT

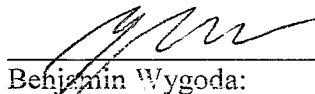
A final order in an administrative action does not resolve any potential criminal or civil violations or causes of action that might arise from the same or similar conduct that is the subject of this this order. It may result in criminal law enforcement authorities, including the fraud bureau of the Iowa Insurance Division, pursuing a criminal investigation or prosecution of potential criminal law violations.

CONSENT TO ORDER AND AGREEMENT

I, Benjamin Wygoda, have read, understood, and do knowingly consent to this Order in its entirety. By executing this Consent, I understand that I am waiving its rights to a hearing, to confront and cross-examine witnesses, to produce evidence, and to judicial review.

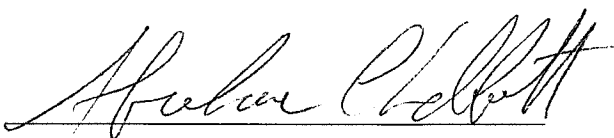
I further understand that this Order is considered a final administrative action that may be reported by the Division to the National Association of Insurance Commissioners and to other regulatory agencies. I also understand that this Order is a public record under Iowa Code Chapter 22, which will be disclosed to other state regulatory authorities, upon request, pursuant to Iowa Code § 505.8(8)(d). I also understand that this Order will be posted to the Division's website and a notation will be made to the publicly available website record that administrative action has been taken against me.

11/07/2019
Date


Benjamin Wygoda:

Signatory Address:

Subscribed and sworn before me by Abraham Chabbott on this 07 day of November, 2019.



Notary Public for the State of New York

ABRAHAM CHABBOTT
NOTARY PUBLIC, State of New York
No. 01CH6212056
Qualified in Kings County
Commission Expires Oct. 5, 2021

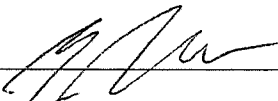
CONSENT TO ORDER AND AGREEMENT

I, Benjamin Wyzola, President and on the behalf of U.S. Auto Administrators, Inc. and Liberty Bell in this matter, have read, understood, and do knowingly consent to this Order in its entirety. By executing this Consent, I understand that U.S. Auto Administrators and Liberty Bell are waiving its rights to a hearing, to confront and cross-examine witnesses, to produce evidence, and to judicial review.

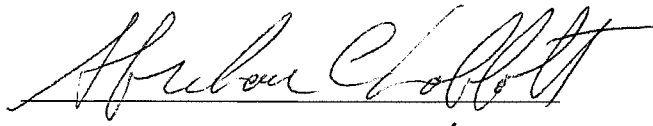
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U.S. Auto Administrators, Inc. and Liberty Bell

11/07/2019
Date

By: 
Signatory/Address:

Subscribed and sworn before me by Abraham Chabbott on this 07 day of November, 2019.


Notary Public for the State of New York

ABRAHAM CHABBOTT
NOTARY PUBLIC, State of New York
No. 01CH6212056
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Commission Expires Oct. 5, 2021