



BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	Division Case No. 101043
)	
THPCA d/b/a Total)	ORDER AND
HOME PROTECTION,)	
)	CONSENT TO ORDER
)	
)	
Respondent.)	

NOW THEREFORE, upon motion of the Iowa Insurance Division (“Division”) and by consent of the Respondent THPCA d/b/a Total Home Protection, pursuant to the provisions of Iowa Code chapter 523C—Residential Service Contract and Iowa Administrative Code chapter 191—103, the Commissioner enters the following Order and Consent Order (“Order”):

I. PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Douglas M. Ommen, directly and through his designees, administers and enforces Iowa Code chapter 523C—Residential Service Contract and Iowa Administrative Code chapter 191—103 pursuant to Iowa Code § 505.8.
2. THPCA d/b/a Total Home Protection (“THP”) is an entity with a last-known address of 325 Chestnut Street, Suite 800, Philadelphia, PA 19106.
3. During the relevant timeframe hereto, THP was not licensed or registered with the Division to act or conduct business as a residential service contract company in the state of Iowa. THP is presently licensed and registered to do business in the state of Iowa.
4. Pursuant to Iowa Code § 505.28, THP has consented to the jurisdiction of the Commissioner of Insurance by committing acts governed by Iowa Code chapter 532C.
5. From on or about October 6, 2016 to January 28, 2019, THP has engaged in acts and practices within the state of Iowa constituting cause for cease and desist orders and civil

penalties or other relief under Iowa Code chapters 505, 523C, and rules adopted pursuant to these chapters.

II. FINDINGS OF FACT

Consumer Ms. KE Complaint

6. In or around December, 2018, THP sold a residential service contract as that term is defined in Iowa Code §523C.1(10) in the state of Iowa to Consumer Ms. KE.
7. Consumer Ms. KE paid THP \$1,825.00 for six years of coverage under the residential service contract she purchased.
8. In January, 2019, Consumer Ms. KE's sink was clogged so she called THP to make a claim under her residential service contract.
9. THP sent a plumber to Consumer Ms. KE's house in response to her call.
10. THP later denied Consumer Ms. KE's claim based on the terms of her residential service contract.
11. Consumer Ms. KE protested the denial of her claim and THP paid her \$500.00 in settlement of her claim which was the maximum allowable payment under her contract for her type of claim.
12. Consumer Ms. KE then cancelled the contract by charging back the balance of her payment and receiving a refund of \$1,325.
13. Consumer Ms. KE subsequently filed a complaint against THP with the Division's Securities and Regulated Industries Bureau.

Investigation

14. When the Division received Consumer Ms. KE's complaint, it began an investigation into the facts and circumstances regarding her purchase of the residential service contract and her claim against THP.

15. The Division determined that THP was not then licensed or registered in the state of Iowa to act or conduct business as a residential service contract company.

16. Division investigators were eventually able to identify an individual associated with THP and to determine an address at which he could be located.

17. On or about January 24, 2019, the Division's investigators served THP with a subpoena.

18. On or about February 6, 2019, THP responded to the subpoena served on him by the Division. Among other things, THP's response revealed there were 176 residential service contracts sold by THP in the state of Iowa from October 6, 2016 through January 28, 2019.

Other States' Actions Regarding THP

19. The California Department of Insurance (the "Department") issued a cease and desist order (the "California Order") against THP on August 8, 2018.

20. The California Order states the Department received four consumer complaints against THP involving home protection contracts sold in the state of California.

21. THP was not licensed to offer or sell home protection contracts in the state of California at any time.

22. The California Order found THP was transacting the business of home service contracts for homes in California without being properly licensed by the Department.

23. The Nevada Division of Insurance issued a cease and desist order ("Nevada Order") against THP on October 31, 2017.

24. Like the California Order, the Nevada Order found THP was selling home service contracts in Nevada without being properly licensed to do so.

Violation of Summary Cease and Desist Order

25. The Commissioner issued a Summary Cease and Desist Order (“Summary Order”) against THP on February 25, 2019.

26. The Summary Order stated that “Respondent shall immediately cease and desist from advertising or holding themselves out as a company authorized to sell residential service contracts in the state of Iowa.”

27. THP sent an Iowa consumer an email on June 2, 2019 that stated the consumer should “GET YOUR HOME COVERED TODAY” and “SAVE \$50 ON ALL HOME WARRANTY PLANS GET 1 MONTH FREE WITH ANNUAL PLAN.”

28. This email was in direct violation of the Summary Order issued by the Commissioner regarding THP as it did not contain any reference indicating that THP’s services were not available in Iowa. THP informed the Division that it did not know the email was directed to an Iowa consumer as the email address does not contain any location information.

III. VIOLATIONS

COUNT ONE

Selling Residential Service Contracts Without a License

29. Iowa Code § 523.1(10) defines a residential service contract as “a contract or agreement between a residential customer and a service company which undertakes, for a predetermined fee and for any period of time, to service, maintain, repair, or replace, or indemnify expenses for all or any part of the operational or structural components, appliances, or electrical, mechanical,

plumbing, heating, cooling, or air-conditioning systems of residential property in the state which fails due to normal wear or tear or inherent defect.”

30. Under Iowa Code § 523C.2(1), a “person shall not issue, offer for sale, or sell a motor vehicle service contract or residential service contract in this state unless the person is licensed as a service company under this chapter.”

31. From October 2, 2016 through January 28, 2019, THP sold at least 176 residential service contracts in the state of Iowa without being licensed to do so by the Division.

32. THP has committed acts and practices that violate Iowa Code § 523C.2(1) by selling residential service contracts in this state without being licensed subjecting THP to the imposition of a civil penalty, an order requiring THP to cease and desist from engaging in such acts or practices, the imposition of costs of the investigation and prosecution of the matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 523C.13, 523C.19 and 505.8.

COUNT TWO
Permitting or Causing the Omission of a Material Statement

33. Iowa Administrative Code rule 191—103.6(5)(a)(5) states that a service company shall not “Permit or cause the omission of any material statement that, under the circumstances, should have been made in connection with the sale, offer to sell, or advertisement of a service contract, in order that other statements also made in connection with the sale, offer to sell or advertisement if a service contract would not be misleading.”

34. THP sold at least 176 residential service contracts to consumers in the state of Iowa without being licensed to do so. In connection with the sale of those residential service contracts, THP made representations to Iowa consumers regarding the benefits available to them

under the contracts sold. THP, however, failed to inform the Iowa consumers they were not and are not licensed to sell residential service contracts in this state.

35. THP's failure to inform Iowa consumers they were not then licensed to sell residential service contracts in this state constitutes permitting or causing the omission of a material statement that, under the circumstances, should have been made in connection with the sale of offer to sell a service contract in other that other statements also made in connection with the sale of offer to sell a service contract would not be misleading in violation of Iowa Administrative Code rule 191—103.6(5)(a)(5).

36. THP has committed acts and practices that violate Iowa Administrative Code 191—103.6(5)(a)(5) and subjects them to the imposition of a civil penalty, an order requiring THP to cease and desist from engaging in such acts or practices, the imposition of costs of the investigation and prosecution of the matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 532C.13, 523C.19 and 505.8.

COUNT THREE
Violation of Cease and Desist Order

37. THP has failed to comply with a cease and desist order issued by the Commissioner pursuant to Iowa Code §523C.19 by advertising the sale of residential service contracts to be performed in the state of Iowa.

38. THP has committed acts and practices that violate Iowa Code § 523C.19 subjecting them to being deemed in contempt of the order and payment of a civil penalty pursuant to Iowa Code § 523C.19(3) and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 523C.19 and 505.8.

IV. ORDER

WHEREFORE, IT IS ORDERED pursuant to the powers granted to the Commissioner of Insurance by Iowa Code chapter 523C:

- A. THP, pursuant to Iowa Code §523C.19, shall immediately cease and desist from engaging in any acts or practices resulting in a violation of Iowa Code chapter 523C.
- B. THP shall make a payment of a civil penalty to the state of Iowa in the amount of \$25,000.00, 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 and 523C.13;
- C. THP shall make a payment to the State of Iowa for costs of the investigation in the amount of \$1,738.75, 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; and
- D. THP shall make a payment of \$6,738.75 upon the signing of this Order and Consent to Order and shall make a payment of \$20,000.00 by June 1, 2020.

This Order shall replace and supersede the Summary Cease and Desist Order dated February 25, 2019.

SO ORDERED on the 29th day of January, 2020



DOUGLAS M. OMMEN
Iowa Insurance Commissioner

Respectfully submitted,



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Copy to:
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Attorney for THPCA d/b/a Total Home Protection
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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 January 30, 2020.

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

Signature: Hilary Foster
Hilary Foster

CONSENT TO ORDER AND AGREEMENT

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

I further understand this Order is considered a final administrative action that will be reported by the Division to the National Association of Insurance Commissioners and to other regulatory agencies. I also understand this Order is a public record under Iowa Code chapter 22 and information may be shared with other regulatory authorities or governmental agencies, pursuant to Iowa Code § 505.8(8)(d). I also understand 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.

1/28/20
Date

[Signature]
Total Home Protection, Respondent

300 Mcowan Drive, 2nd Floor, Edison, NJ 08837
Address of Signatory

Subscribed and sworn before me by David Seruya for Total Home Protection this 28th day of January, 2020.

Yasmine Soliman
Notary Public for the State of New Jersey

