

**STATE OF MAINE  
BUREAU OF INSURANCE**

**IN RE:**

**AAA NORTHERN NEW  
ENGLAND INSURANCE  
Maine License # AGR29500**

**CONSENT AGREEMENT**

**Docket No. INS-10-227**

This document is a Consent Agreement authorized by Title 10 M.R.S. § 8003(5), entered into among AAA Northern New England Insurance, a licensed insurance producer business entity; the Maine Superintendent of Insurance; and the Maine Office of the Attorney General. Its purpose is to resolve, without an adjudicatory proceeding, violations of the Insurance Code for which the Superintendent may impose discipline pursuant to 10 M.R.S. § 8003(5) and 24-A M.R.S. §§ 12-A and 1420-K.

**PARTIES AND JURISDICTION**

1. The Superintendent of Insurance is the State official charged with administering and enforcing Maine's insurance laws and regulations.
2. The Superintendent has jurisdiction over this matter pursuant to the Insurance Code generally, Title 24-A Maine Revised Statutes Annotated, and, in particular, 24-A M.R.S. §§ 12-A and 211, as well as other provisions.
3. AAA Northern New England Insurance ("AAA NNE") is a Maine corporation that conducts business as an insurance agency under its Maine Resident Insurance Producer Business Entity License, Number AGR29500. Its principal place of business is 68 Marginal Way, Portland, ME 04104.

**STATEMENT OF FACTS**

***Market Regulation Examination and Report***

4. On April 29, 2010, pursuant to 24-A M.R.S. § 226, the Superintendent delivered a copy of a targeted market regulation examination report to AAA NNE, conducted by the Bureau of Insurance Market Regulation Division under 24-A M.R.S. § 222.
5. The report examined the period from January 1, 2007 to September 1, 2009, which time period will hereinafter be referred to as the "Examination Period."
6. In accordance with the examination report process, the Superintendent afforded AAA NNE an opportunity to review the report before final issuance.

7. By letter dated May 19, 2010, AAA NNE accepted the report, and outlined remedial steps it was adopting. A copy of this letter is attached as Exhibit A.

### ***Deficient Recordkeeping***

8. In the course of the market regulation examination, the Bureau requested on December 31, 2009, that AAA NNE produce a sample of 115 specified applications for insurance that were submitted by AAA NNE to various insurance companies. AAA NNE was unable to locate or produce 37 of the requested applications.
9. In the course of the market regulation examination, the Bureau requested on January 6, 2010, that AAA NNE produce a second sample of 63 specified applications for insurance that were submitted by AAA NNE to various insurance companies. AAA NNE was unable to locate or produce 12 of the requested applications.

### ***Deficient Producer Licensing***

10. During the Examination Period 19 employees of AAA NNE who were not yet licensed as producers by the State of Maine solicited and sold to Maine residents a total of 262 insurance policies issued by the company identified in the report as the "Primary Insurance Carrier."
11. During the Examination Period 1 employee of AAA NNE who was not yet licensed as a producer by the State of Maine solicited and sold to Maine residents a total of 4 insurance policies issued by the company identified in the report as the "Secondary Insurance Carrier A."
12. During the Examination Period 2 employees of AAA NNE who were not licensed as producers by the State of Maine solicited and sold to Maine residents 2 insurance policies issued by the company identified in the report as "Secondary Insurance Carrier B."

### ***Deficient Producer Appointments***

13. During the Examination Period 67 producers of AAA NNE who were not appointed in Maine as agents by the Primary Insurance Carrier solicited and sold to Maine residents a total of 8,033 insurance policies issued by the Primary Insurance Carrier.
14. During the Examination Period 35 producers of AAA NNE who were not appointed in Maine as agents by Secondary Insurance Carrier A solicited and sold to Maine residents a total of 270 insurance policies issued by Secondary insurance carrier (A).
15. During the Examination Period 24 producers of AAA NNE who were not appointed in Maine as agents by Secondary Insurance Carrier B solicited and sold to Maine residents a total of 78 insurance policies issued by Secondary Insurance Carrier B.

### ***Modification of Insurance Applications***

16. On several instances during the Exam Period, AAA NNE insurance producers who were not appointed by Secondary Insurance Carrier A submitted electronic insurance applications to Secondary Insurance Carrier A but represented on the electronic application that the writing producer was someone else who was appointed by Secondary Insurance Carrier A.

### *Failure to Designate a Responsible Person*

17. On January 15, 2008, AAA NNE terminated the employment of the individual who it had designated as its "responsible person" in accordance with 24-A M.R.S. § 1413(3).
18. AAA NNE did not designate a new responsible person until November 17, 2008, and thus operated without a responsible person for a period of 307 days.

### **VIOLATIONS OF LAW**

19. Pursuant to 10 M.R.S. § 8003(5) and 24-A M.R.S. §§ 12-A and 1420-K the Superintendent may take enforcement action against a licensee who violates any provision of Title 24-A ("the Insurance Code"). The Superintendent's enforcement options include suspending and revoking licenses, and assessing civil penalties.
20. AAA NNE admits to the Facts as stated above and admits that it committed violations of the Insurance Code and that it is subject to discipline by the Superintendent as described below.

### *Accepting Insurance Business from Unlicensed Individuals*

21. Pursuant to 24-A M.R.S. § 1420-B, a person may not sell, solicit or negotiate insurance in this State for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this subchapter.
22. Pursuant to 24-A M.R.S. § 1413(1), a business entity has no authority to act on its own without an individual licensee, and a license authority held by an individual licensee employed by a business entity does not transfer to other employees within that business entity.
23. Pursuant to 24-A M.R.S. § 1420-K(1)(L), the Superintendent may impose disciplinary sanctions against an insurance producer who knowingly accepts insurance business from an individual who is not licensed.
24. AAA NNE permitted individuals who were not licensed producers in Maine to act on its behalf in placing 268 policies for Maine residents, as described in Paragraphs 10 to 12 above.
25. AAA NNE violated 24-A M.R.S. §§ 1413 and 1420-K(1)(L) in each such transaction by accepting a sale of coverage to a Maine resident by an individual not licensed as a producer in Maine, and by acting through these unlicensed individuals.

### ***Acting as an Agent without Appointment***

26. Pursuant to 24-A M.R.S. § 1420-M(1) an insurance producer may not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer.
27. Pursuant to 24-A M.R.S. § 1413(1), a producer business entity has no authority to act on its own without an individual licensee.
28. AAA NNE permitted producers to act on its behalf in the sale of 8,381 policies for Maine residents through insurers with which the producers were not properly appointed, as described in Paragraphs 13 to 15 above.
29. AAA NNE violated 24-A M.R.S. § 1420-M(1) in each such transaction by allowing producers acting on its behalf to place coverage without required appointments.

### ***Deficient Recordkeeping***

30. Pursuant to 24-A M.R.S. § 1447 a business entity or insurance producer is required to maintain specific records pertaining to insurance transactions and keep these records available for inspection by the Superintendent for a period of at least three years after completion of the respective transactions.
31. AAA NNE was unable to produce 37 of 115 (32%) of the insurance applications requested in one sample by the Bureau Market Regulation examiners, and unable to produce 12 of 63 (19%) insurance applications of another sample request.
32. AAA NNE violated 24-A M.R.S. § 1447 each and every time it was unable to produce an application requested by the examiners.

### ***Dishonest or Incompetent Practices***

33. Pursuant to 1420-K(1)(H) the Superintendent may take enforcement action against a licensee for using dishonest practices or demonstrating incompetence in the conduct of business in this State or elsewhere.
34. AAA NNE permitted its producers who may or may not have been appointed by Secondary Insurance Carrier A to submit electronic applications for insurance to Secondary Insurance Carrier A using the name of another producer who was appointed by Secondary Insurance Carrier A.
35. AAA NNE violated 24-A M.R.S. § 1420-K(1)(H) each and every time that one of its producers submitted an application to Secondary Insurance Carrier A that misrepresented who was the selling producer.

### ***Failure to Designate a Responsible Person***

36. Pursuant to 24-A M.R.S. § 1413(3), a business entity producer must designate at least one individual who is responsible for the business entity's compliance with the insurance laws and rules of Maine.

37. AAA NNE failed to appoint an individual to be its responsible person for the period January 15 to November 17, 2008.
38. AAA NNE violated 24-A M.R.S. § 1413(3), each and every day that it operated without a designated responsible person.

### COVENANTS

39. As DISCIPLINARY ACTION for the violations of the Insurance Code admitted to herein, AAA NNE agrees to the imposition of A CIVIL PENALTY in the amount of Two Hundred Thousand Dollars (\$200,000.00). The amount of this civil penalty takes into account AAA NNE's representations that it has instituted remedial measures to prevent further licensing, appointment, and recordkeeping violations. AAA NNE shall remit payment of the penalty within thirty (30) days after the date of the last signature to this Consent Agreement. Payment shall be by certified check or money order made out to "Treasurer, State of Maine" and delivered to the Bureau.
40. AAA NNE will implement and follow the corrective steps and procedures described in its letter dated May 19, 2010, attached as Exhibit A.
41. Within sixty days of the date of the last signature to this Consent Agreement, AAA NNE will develop a training program concerning producer licensing and appointment requirements for the sale, solicitation, or negotiation of insurance, and will provide the Bureau with a copy of it for review. Within ninety (90) days of the date of the last signature to this Consent Agreement, AAA NNE will provide the training to all of its insurance division employees.
42. On an ongoing basis, AAA NNE will provide the training required in Paragraph 41 to any new employees within ten (10) days of the commencement of employment.
43. Commencing on March 31, 2011, and continuing for every calendar quarter thereafter through March 31, 2014, in addition to the filings otherwise required by law concerning producer licensing and appointments, AAA NNE will provide a list to the Bureau of all its employees within its insurance operations, specifying each employee's responsibilities, licensing and appointment status, and the date on which the employee received the training specified in Paragraph 41.
44. Commencing on March 31, 2011, and continuing for every calendar quarter thereafter through March 31, 2014, AAA NNE, through its designated responsible person under 24-A M.R.S. § 1413, will review a representative sample of 10% of all business produced each quarter and report immediately any variances from the established internal controls, any instances of solicitations or sales made without appropriate producer licensing and appointments, and any other irregularities including consumer complaints pertaining to sales practices or producer conduct. Commencing on March 31, 2011, and continuing for every calendar quarter thereafter through March 31, 2014, AAA NNE will provide a list to the Bureau of all business reviewed under this Paragraph and all issues noted together with a description of any corrective action taken.
45. In return for AAA NNE's execution of this Consent Agreement, the Superintendent and the Attorney General agree that no further action will be initiated against AAA NNE by the Bureau of Insurance for the specific violations of the Insurance Code admitted to

herein, unless AAA NNE fails to comply with the terms and conditions of this Consent Agreement.

46. This Consent Agreement is enforceable by an action in Maine Superior Court.
47. This Consent Agreement is not subject to appeal. AAA NNE waives any further hearings or appeals regarding the matters that are the subject of this Consent Agreement.
48. This Consent Agreement may be modified only by a written agreement executed by all of the parties hereto. The Superintendent and the Attorney General each retain absolute discretion to reject any request by AAA NNE to modify, continue, or terminate any or all of the provisions of this Consent Agreement.
49. The parties to this Consent Agreement understand that nothing herein shall affect any right or interest that any person not a party to this Consent Agreement may possess.
50. Nothing in this Consent Agreement shall be construed to excuse any obligation or duty of AAA NNE to past or present clientele.
51. This Consent Agreement is a public record subject to the provisions of the Maine Freedom of Access Law, 1 M.R.S.A. §§ 401 through 410, will be available for public inspection and copying as provided for by 1 M.R.S.A. § 408, and will be reported to the National Association of Insurance Commissioners' "RIRS" database.
52. By the duly-authorized signature of its representative on this Consent Agreement, AAA NNE indicates that it has read the Consent Agreement, that it understands the Consent Agreement, that it has reviewed the statutory provisions it has violated, that it has been advised of its right to consult with counsel and has had an opportunity to consult with counsel before signing the Consent Agreement, and that it enters into the Consent Agreement voluntarily and without coercion of any kind from any person.

### **Signatures**

#### **AAA Northern New England**

Dated: March 1, 2011

by: \_\_\_\_\_

Thomas D.  
Kinley \_\_\_\_\_  
(printed name)

Its: \_\_\_\_\_

#### **Maine Bureau of Insurance**

Date: March 4, 2011

\_\_\_\_\_  
Mila Kofman  
Superintendent of Insurance

**Office of the Attorney General**

Dated: March 3, 2011

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Andrew L. Black  
Assistant Attorney General

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**Exhibit A**

AAA Northern New England Insurance

P.O. Box 3544  
Portland, Maine 04104  
Tel 207/780-6870  
Toll Free 800/222-3612  
Fax 207/780-6812

**May 19, 2010**

State of Maine  
Department of Professional and Financial Regulation  
Bureau of Insurance  
34 State House Station  
Augusta, Maine  
04333-0034

Attn: Linette E. Gamache, CIC  
Sr. Insurance Company Examiner

Re: AAA Northern New England insurance  
Examination: ME 114-ME3  
Agency Response to Report of Market Regulation Examination

Dear Ms. Gamache,

Thank you for your letter dated April 29, 2010, enclosing the official draft of the Report of Market Regulation Examination (the "Report") of AAA Northern New England Insurance (the "Agency") for the period January 1, 2007 through September 1, 2009. This letter responds to the Report in accordance with 24-A M.R.S.A. § 226.

We have reviewed the Report and have accepted all of the Bureau's recommendations. The Agency has corrected all violations noted in the Report and completed all outstanding appointments, producer affiliations, and producer licensing filings. Below is a summary of the corrective actions that the Agency has taken to ensure compliance with the Maine insurance laws and regulations.

### **Producer Licensing**

Effective July 2009, the Agency instituted a new hiring policy which requires all new agents to be licensed producers in their respective states prior to the start of their training. Failure to pass the producer licensing examination is grounds for termination. Since October 2009, a dedicated Operations Analyst has been responsible for reviewing and submitting license applications to the relevant state regulators, such as the Bureau, and maintaining all licensing documentation and appointments in employee files. In addition, the Operations Analyst and sales managers meet on a monthly basis to review all pending license applications and appointments and any required Continuing Education credits needed by individual agents.

### **Producer Appointments**

In July 2008, the Agency discovered an issue with agent appointments with its affiliated carrier and immediately took corrective action. To ensure compliance, since October 2009, the Operations Analyst has been responsible for all agent appointments with affiliated and independent carriers. Monthly meetings are held by the Operations Analyst with sales managers to review all past and pending appointments and terminations with the Agency and each carrier. The Agency has also instituted a process to ensure that only licensed and appointed agents have access to the relevant carrier's system to write new business. Upon an agent's termination, the Operations Analyst submits an appointment termination to the Bureau and the relevant carriers. The Operations Analyst monitors the Bureau's website on a weekly basis until the termination has been processed and resubmits the termination when necessary.

### **Records Retention**

The Agency has implemented audit procedures for business placed with independent carriers including document retention procedures and verification of producer authority. As stated in the Report, the Agency had been auditing business placed with its affiliated carrier prior to the examination and will continue to do so going forward. In addition, since October 2009, the Agency tasked a Project Coordinator with responsibility to review on a daily basis all new business written by agents in the previous day and ensure that the proper information has been documented in the Agency's management system. The Project Coordinator contacts individual agents and the relevant carrier to gather any needed information and documentation. Agents are responsible for returning all signed copies of policies to the Operations Analyst who reviews and

files the original documentation. Failure by any agent to enter all required policy information in the Agency's management system or to provide a signed copy of the policy documents when requested are grounds for disciplinary action.

The Operations Analyst also monitors all employee files to ensure that the required appointments and licensing documentation are included in accordance with document retention requirements. The Agency has also instituted a policy of requesting written reports of any audits performed by independent carriers on the Agency. A process has been established that will ensure that any change in the status of the designated responsible person for the Agency will be filed with the Bureau in a timely manner.

The Agency wishes to express its appreciation for the Bureau's courtesy and professionalism during the examination.

Should you have any questions or comments, please feel free to contact me at (207) 791-8581.

Sincerely,

Chris Baggaley  
Senior Vice President  
Insurance Operations

C: Larry Perrin, Regulatory Liaison  
Nicholas W. Cole