

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE

In re:

**GUARANTEE TRUST LIFE
INSURANCE COMPANY**

**Maine License No. LHF191
NAIC Code 64211
Docket No. INS-14-243**

CONSENT AGREEMENT

Guarantee Trust Life Insurance Company ("GTL"), a Maine-licensed insurance company, the Maine Superintendent of Insurance ("the Superintendent"), and the Office of the Maine Attorney General ("Attorney General") hereby enter into this Consent Agreement pursuant to 10 M.R.S. § 8003(5)(B) to resolve, without an adjudicatory proceeding, violations of the Insurance Code for which the Superintendent may impose discipline.

PARTIES

1. The Superintendent of Insurance is the official charged with administering and enforcing Maine's insurance laws and regulations, and the Bureau of Insurance ("BOI") is the administrative agency with such jurisdiction. The Superintendent has jurisdiction over this matter pursuant to 24-A M.R.S. §§ 12-A and 211.
2. GTL has been licensed in Maine as a foreign life and health insurance company since February 28, 1990. GTL's Maine Certificate of Authority number is LHF191 and its NAIC Code is 64211. GTL maintains a principal place of business at 1275 Milwaukee Avenue, Glenview, Illinois.

STATUTORY AUTHORITY

3. Under 10 M.R.S. § 8003(5)(A) and 24-A M.R.S. § 12-A, the Superintendent may issue a warning, censure, or reprimand to a licensee, may suspend, revoke or refuse to renew the license of a licensee, may impose conditions of probation on the licensee, may levy a civil penalty, or may take any combination of such actions, for violating any insurance laws, or violating any rule, regulation, subpoena, or order of the Superintendent.
4. Pursuant to 10 M.R.S. § 8003(5)(B), the Superintendent may resolve a complaint by entering into a consent agreement with a licensee and with the agreement of the Attorney General.

STATEMENT OF FACTS

5. Chapter 275, Section 16 of the BOI Rules describes permitted compensation arrangements for the sale of Medicare supplement insurance policies. The Rule was amended effective December 14, 2003 to provide that "The commission or other compensation provided to a producer or other representative for the sale of a Medicare supplement policy or certificate during an individual's open enrollment period must be the same regardless of age of the individual."
6. One of the primary objectives of Chapter 275 Section 16(D) was removing any disincentive for the sale of policies to consumers under 65; these consumers are enrolled in Medicare because they are disabled and are granted a period of open enrollment once they are enrolled.
7. In May 2004, GTL submitted filings to the BOI for the sale in Maine of new individual Medicare supplement insurance policies (SERFF Tracking Number STAH-5Y2RZT442). In the initial filings, the commission rate for the sale of the policies was the same for all consumers ages 75 or younger. The maximum commission rate payable was 26% for years one to six of the policy. The filings were approved by the BOI and GTL began to sell the plans to Maine consumers.
8. The commission structure described in GTL's May 2004 filing was in compliance with Chapter 275 Section 16(D).
9. In August 2004, GTL filed a revised commission structure for the plans (SERFF Tracking Number STAH-646REG104). The filed schedule contained the following table:

MEDICARE SUPPLEMENT	<u>1-6th YEAR</u>	<u>7-10th YEAR</u>	<u>11+ (Service Fee)</u>
Age 65-75 (All Open Enrollees)	26%	15%	15%
Age 76-82	10%	7%	7%
Age 83+	6%	6%	6%
Under Age 65	6%	6%	6%

The filing to support this commission structure change was not required to be approved; however, the BOI acknowledged the filing.

10. GTL used ambiguous wording in the table reproduced in paragraph 9. Specifically, the line beginning "Age 65-75 (All Open Enrollees)" can be read as specifying commission rates for either (a) all open enrollees regardless of age plus other enrollees ages 65 – 75, or (b) all enrollees ages 65 – 75 whether open enrollees or not. The former interpretation complies with Chapter 275 Section 16(D) while the latter does not.
11. The Company adopted and implemented the latter, noncompliant interpretation of the commission schedule.

12. In 2006, GTL filed to add an additional Medicare supplement insurance plan to be sold in Maine. BOI staff questioned whether the commission structure was in keeping with Bureau Rule 275 16(D). GTL staff replied that the commission rates were the same for "Age 65 – 75 & all open enrollees" for the first year and complied with current rules in Maine.
13. Subsequent rate filings included actuarial memoranda that stated the commission schedule "Comply with current rules in your state."
14. The GTL Medicare supplement insurance policies were sold to Maine consumers from May 2004 until June 2010. It is now a closed block of business. From September 2004 until the policies were last sold, the commission structure submitted and acknowledged in August 2004 remained in effect.
15. GTL has advised the Bureau that it is not possible to determine exactly the number of policies sold to consumers aged 64 or under who purchased the policy during open enrollment, due to record retention and other factors.
16. From 2004 – 2010, GTL sold no fewer than 3864 Medicare supplement insurance policies. The majority of these policies (3833 of 3864) were sold during 2004 – 2006.
17. Of the 3864 policies sold, at least 182 policies were sold to Maine consumers aged 64 or under.
18. Of the 182 policies identified as sold to Maine consumers aged 64 or under, 101 of the policies paid the lower commission rate described in paragraph 13.
19. It is not possible to determine how many more policies would have been sold to Maine consumers aged 64 or under if the uniform commission structure required by the BOI Rules had been kept in place by GTL, and sales to this age group not been made less attractive by the lower commission paid for sales to them.

VIOLATIONS OF LAW

20. Bureau Rule 275, effective December 14, 2003, provides at Section 16(D) that the commission or other compensation provided to a producer or other representative for the sale of Medicare supplement policy or certificate during an individual's open enrollment period must be the same regardless of the age of the individual.
21. Bureau Rule 275 Section 16(D) was amended effective September 8, 2009, to provide that the commission or other compensation provided to a producer or other representative for the sale of a Medicare supplement policy or certificate must be the same regardless of age of the individual when issuance is guaranteed.
22. By paying a different and significantly smaller commission to producers for selling its Medicare supplement insurance policies to Maine consumers who purchased the policy during open enrollment and who were age 64 or younger at the time the policy was issued, GTL violated Bureau Rule 275 Section 16(D).

COVENANTS

23. GTL admits to the Statement of Facts and Violations of Law stated above.
24. GTL accepts as disciplinary action the imposition of a civil penalty in the amount of Seven Thousand Five Hundred Dollars (\$7,500). GTL shall remit payment of this civil penalty along with the submission of this signed agreement to the BOI. Payment shall be by check or money order made out to "Treasurer, State of Maine."
25. The amount of the civil penalty reflects the fact that the Company placed the August 2004 commission schedule on file with the Bureau. However, the Company agrees and acknowledges that it was the Company's responsibility to implement a commission schedule in compliance with the Maine Insurance Code and BOI Rules.
26. Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement.
27. In consideration of GTL's execution of and compliance with the terms of this Consent Agreement, the Superintendent and Attorney General agree that no further action will be initiated against GTL by the Bureau of Insurance for the specific violations of the Insurance Code admitted to herein.
28. This Consent Agreement is enforceable by an action in Maine Superior Court.
29. This Consent Agreement is not subject to appeal. GTL waives any further hearings or appeals regarding the matters that are the subject of this Agreement.
30. This Consent Agreement may be modified only by a written agreement executed by all of the parties hereto. The parties each retain absolute discretion to reject any request to modify, continue, or terminate any or all of the provisions of this Consent Agreement.
31. This Consent Agreement is a public record subject to the provisions of the Maine Freedom of Access Law, 1 M.R.S. §§ 401 through 410, will be available for public inspection and copying as provided for by 1 M.R.S. § 408, and will be reported to the Regulatory Information Retrieval System database at the National Association of Insurance Commissioners.
32. By the duly-authorized signature of its representative on this Consent Agreement, GTL indicates that it has read the Consent Agreement, that it understands the Consent Agreement, that it has reviewed the statutory provisions set for the herein, 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.

**GUARANTEE TRUST LIFE INSURANCE
COMPANY**

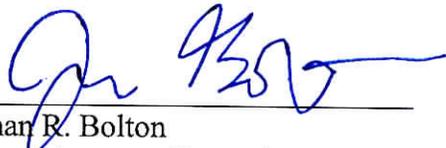
Dated: June 24, 2015

By: 
Its Authorized Representative

Robert Baluk - General Counsel
Print Name and Title

**THE OFFICE OF THE MAINE ATTORNEY
GENERAL**

Dated: July 7, 2015

By: 
Jonathan R. Bolton
Assistant Attorney General

**THE MAINE SUPERINTENDENT OF
INSURANCE**

Dated: July 21, 2015

By: 
Eric A. Cioppa
Superintendent of Insurance