

STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT

In Re: Merit Administration, LLC and US Automotive Protection Services
Docket No.: Ins. No. 24-008-EP

NHID'S ASSENTED-TO MOTION TO CANCEL HEARING

NOW COMES the New Hampshire Insurance Department ("NHID"), by and through its undersigned counsel, and hereby requests that the hearing officer in this matter cancel the hearing scheduled for May 7, 2024, and in support thereof states as follows:

1. A hearing in this matter is currently scheduled for May 7, 2024.
2. The parties have reached settlement in this matter, as shown in the consent order attached as Exhibit A.
3. As such, pursuant to NH RSA 541-A and Ins. 207.01, the NHID requests that the hearing officer cancel the hearing scheduled for May 7, 2024, as there are no further issues to litigate.
4. Counsel for Respondent assents to this request.

WHEREFORE, the NHID requests that the hearing officer:

- a. Cancel the administrative hearing scheduled for May 7, 2024; and
- b. For other relief as is just and proper.

Date: 5/6/2024



Joshua S. Hilliard, Esq.
Compliance & Enforcement Counsel

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this motion was e-mailed to Respondent's counsel at jkass@dickinson-wright.com

Date: 5/6/2024



Joshua S. Hilliard, Esq.
Compliance & Enforcement Counsel

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

**In Re: Merit Administration, LLC and US Automotive Protection Services
Docket No.: Ins. No. 24-008-EP**

CONSENT ORDER

This Consent Order is made between the New Hampshire Insurance Department (“NHID”) Merit Administration, LLC and US Automotive Protection Services (“Respondents”), the terms of which are as follows:

FINDINGS OF FACT

1. Respondent Merit Administration, LLC is a Missouri based company with a principal place of business of 100 Mall Parkway, Suite 121, Wentzville, MO 63385. It is a registered obligor in NH administering consumer guaranty contracts (namely vehicle service contracts) to NH residents.
2. Respondent US Automotive Protection Services is Missouri based company with a principal place of business of 100 Mall Parkway, Suite 121, Wentzville, MO 63385. It is a marketing company which sends direct mailers marketing and selling Merit Administration, LLC’s products.
3. In 2023, Respondent US Automotive Protection Services issued over 90,000 mailers to NH residents for Merit Administration, LLC’s products.
4. Some of those mailers included language stating it was “EXTREMELY URGENT AND TIME SENSITIVE”, and that previously the company had “spoke with you regarding the activation” of a vehicle protection plan “in order to guarantee” the vehicle’s “continued safe operation.”

5. Others included language warning the consumer about “neglecting to activate coverage” and that “No vehicle inspection will be required at this time”, though at no point has a vehicle inspection been required for purchase of the product.
6. On or about November 30, 2023, the NHID sent a request via e-mail pursuant to NH RSA 400-A:16 to Respondent Merit Administration, LLC requesting information related to the mailer and its business. Respondent Merit Administration, LLC did not respond to that request.
7. On or about December 29, 2023, the NHID sent a request via e-mail and mail pursuant to NH RSA 400-A:16 to Respondent Merit Administration, LLC requesting information related to the mailer and its business. Respondent Merit Administration, LLC did not respond to that request.
8. On January 31, 2024, the NHID issued an Order to Show Cause and Notice of Hearing against Respondent Merit Administration, LLC for various alleged violations of NH law. That same day, Respondent Merit Administration, LLC responded through counsel and began communicating with the NHID.
9. Since beginning communicating with the NHID, Respondents have been cooperative with the NHID’s investigation.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and the applicable provisions of law, the NHID concludes and finds the following Conclusions of Law:

- a. Respondents are subject to the jurisdiction of the NHID.
- b. Respondents violated NH RSA 415-C:7(I)(a) by issuing mailers which included states that were false or misleading.

- c. Each identified violation of NH RSA 415-C could result in a penalty not to exceed \$1,000.
- d. Respondents violated NH RSA 400-A:16 by not responding to the NHID's requests for information of November 30, 2023, and December 29, 2023.
- e. Each identified violation of NH RSA 400-A:16 could result in a penalty not to exceed \$2,500.

ORDER

WHEREFORE, the NHID orders and Respondent consents to the following:

- a. The Respondents waive all rights to a formal administrative hearing in this matter and agrees that this Consent Order shall have the full force and effect of an Order fully entered in accordance with the adjudicatory procedure provided for in NH RSA Chapter 541-A and Ins Part 200.
- b. For the purposes of resolving this matter without a formal administrative hearing, Respondents agree to the following:
 - i. Respondents (and Respondents' owners and officers) shall cease and desist from violating NH RSA 415-C:7 by ensuring all mailers marketing Merit Administration, LLC's (or any similar, related, or successor organization's) products shall not contain language identical or similar to the language quoted in ¶ 5 and 6 of the foregoing Findings of Fact.
 - ii. An administrative penalty of \$92,500 with \$90,000 of that suspended for a period of three years. The \$2,500 in imposed penalties should be paid via check made payable to "Treasurer, State of New Hampshire", and should be mailed to the attention of Sarah Prescott, New Hampshire Insurance Department, 21 South Fruit

Street, Suite 14, Concord, NH 03301. The suspended \$90,000 only becomes due should the New Hampshire Insurance Department find that Respondents violated an Insurance Law or Rule within 3 years of the execution of this Order.

- c. In the event that Respondents fail to meet any of the terms set forth in this section, the NHID may institute further administrative proceedings under the authority of RSA 400-A:15, III, RSA 415-C:10, or any other applicable law, including the imposition of the suspended \$90,000 fine.
- d. By entering into this Consent Order, the NHID and the Respondents intend to fully resolve all issues relating to the above-mentioned matters. This Consent Order shall be deemed a complete settlement and full and final resolution and is in lieu of any other action(s) that has and could have been brought by the NHID relating to these matters. Provided however, notwithstanding the foregoing, the NHID may take any and all appropriate actions should the Respondents violate any provision of the State's insurance laws in the future.
- e. This Consent Order shall be fully enforceable in any Superior Court in the State of New Hampshire, and any actions to enforce this Consent Order shall be governed by the laws of the State of New Hampshire.
- f. This Consent Order is considered a public regulatory action and will be reported to the National Association of Insurance Commissioners. The Respondents must, in the future, answer "YES" to any question which asks "have you ever been named or involved as party in an administrative proceeding" or any substantially similar question.

IT IS SO ORDERED.


NEW HAMPSHIRE INSURANCE DEPARTMENT

Date: 5/6/24




David J. Bettencourt, Commissioner

Date: 5/2/2024



Merit Administration, LLC
Authorized Representative, Respondent

Date: 5/2/2024



US Automotive Protection Services
Authorized Representative, Respondent