

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

In re:

Varney Agency, Inc.

National Producer No. 2232013

Maine License No. AGR12271

Docket No. INS-14-241

**CONSENT AGREEMENT
AND ORDER**

Varney Agency, Inc. ("Varney Agency"), a licensed Maine resident insurance producer business entity, the Maine Superintendent of Insurance ("Superintendent"), and the Office of the Maine Attorney General ("Attorney General") hereby enter into this Consent Agreement and Order ("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 pursuant to 24-A M.R.S. §§ 1417 and 1420-K.

PARTIES

1. The Superintendent is the official charged with administering and enforcing Maine's insurance laws and regulations, and the Bureau of Insurance ("Bureau") 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. Varney Agency is an insurance producer business entity with its principal place of business in Bangor, Maine, and has been licensed in Maine as a resident insurance producer business entity since March 3, 1982. It has resident branch offices in Dover-Foxcroft, Dexter, Greenville, Bingham, Unity, Gray, and Searsport. Its Maine insurance producer business entity license number is AGR12271. Its National Producer Number ("NPN") is 2232013. Timothy Varney, a Maine resident producer with property, casualty, and surplus lines authority, is the responsible individual for Varney Agency, Inc. and has a controlling interest in the company. His Maine insurance producer license is PRR18014 and his NPN is 3351154.

STATUTORY AUTHORITY

3. Under 24-A M.R.S. §§ 12-A and 1420-K, 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. 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.

FACTS

The Raffles

4. On June 29, 2012, the Varney Agency held a raffle at an open house in Fort Kent, Maine, in which a family won a gas grill valued at \$200.
5. On September 15, 2012, at an open house in Auburn, Maine, the Varney Agency held a raffle in which a couple won a flat screen television valued at \$300.
6. In May, 2013, at the Piscataquis Heritage Hot Air Balloon Festival in Dover-Foxcroft, Maine, the Varney Agency held a raffle in which a person won a flat screen television valued at \$400.
7. In June, 2013, at the Whoopie Pie Festival in Dover-Foxcroft, Maine, the Varney Agency held a raffle in which a person won an iPad valued at \$400.

Response to the Superintendent's Inquiry

8. On May 16, 2014, Bureau staff sent the Varney Agency a letter requesting any and all records of its raffles from January 1, 2012 to the present. Upon the Varney Agency's request, the Bureau gave the Varney Agency an extension to respond by July 15, 2014.
9. On July 15, 2014, the Varney Agency responded to the Bureau staff's request, but had not conducted a complete search of all its records, and did not respond substantively to the Bureau's request. Following further inquiry by the Bureau, on July 25, 2014, the Varney Agency provided a revised response, in which it disclosed that from June 29, 2012, to June, 2013, the Varney Agency had conducted six raffles, including the four raffles described in Paragraphs 4-7.
10. On August 29, 2014, the Varney Agency admitted that on four separate occasions, the Varney Agency raffled off prizes that were valued in excess of the \$100 statutory limit. See 24-A M.R.S. § 2163-A.

CONCLUSIONS OF LAW

The Raffles

11. Title 24-A M.R.S. § 2163-A provides that "an insurer, employee of an insurer or producer may ... conduct raffles or drawings, so long as there is no participation costs to entrants, in which case prizes may be valued in excess of \$20 but not more than \$100."
12. On four separate occasions, the Varney Agency violated 24-A M.R.S. § 2163-A by conducting raffles that awarded prizes in excess of \$100.

Response to the Superintendent's Inquiry

13. Title 24-A M.R.S. § 220(2) provides, "All insurers and other persons required to be licensed pursuant to this Title shall respond to all lawful inquiries of the superintendent that relate to resolution of consumer complaints involving the licensee within 14 days of receipt of the inquiry and to all other lawful inquiries of the superintendent within 30 days of receipt. If a substantive response can not in good faith be provided within the time period, the person required to respond shall so advise the superintendent and provide the reason for the inability to respond."
14. The Varney Agency violated 24-A M.R.S. § 220(2) by failing to provide a complete and accurate response to the Superintendent's May 16, 2014, inquiry by the July 15, 2014, deadline.

COVENANTS

15. The Varney Agency admits to the Facts as stated above and admits that these Facts constitute a basis for imposing discipline upon it due to (i) four occasions on which the Varney Agency raffled off prizes valued in excess of the \$100 statutory limit; and (ii) failure to provide a timely, substantive response to the Superintendent's May 16, 2014, inquiry.
16. The Varney Agency agrees to the imposition of a civil penalty in the amount of Three Thousand Dollars (\$3,000.00), which the Varney Agency will remit to the Maine Bureau of Insurance at the time of returning this signed agreement. Payment shall be by check or money order made out to "Treasurer, State of Maine."
17. The Varney Agency will promptly report any matters to the Bureau during all times that it is licensed by the Bureau, to the extent such reporting is required under the Maine Insurance Code, and will comply in all other respects with the provisions of the Maine Insurance Code, as applicable.
18. Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement.
19. In consideration of the Varney Agency's execution of and compliance with the terms of this Consent Agreement, the Superintendent and Attorney General agree to forgo pursuing against the Varney Agency any further disciplinary measures or other civil or administrative sanctions available under the Maine Insurance Code concerning the specific conduct described in this Consent Agreement, other than those agreed to herein. However, should the Varney Agency violate any provision of this Consent Agreement, it may be subject to any available remedy for the violation.
20. This Consent Agreement is enforceable by an action in Maine Superior Court and as provided by 24-A M.R.S. § 215.

21. This Consent Agreement is not subject to appeal. The Varney Agency waives any further hearings or appeals regarding the matters that are the subject of this Consent Agreement.
22. This Consent Agreement may be modified only by a written agreement executed by all of the parties hereto.
23. 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.
24. The Varney Agency agrees that it has read this Consent Agreement, that it understands this Consent Agreement, that it has reviewed the statutory provisions set forth herein, that it understands its right to consult with counsel before signing this Consent Agreement, and that it enters into this Consent Agreement voluntarily and without coercion of any kind from any person.

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THE VARNEY AGENCY, INC.

Dated: 12/2, 14

By: [Signature]
Its Authorized Representative

TIMOTHY W. VARNEY CEO
Print Name and Title

**THE MAINE OFFICE OF THE ATTORNEY
GENERAL**

Dated: 12/10, 2014

By: [Signature]
Jonathan R. Bolton
Assistant Attorney General

**THE MAINE SUPERINTENDENT OF
INSURANCE**

Dated: 12/11, 2014

By: [Signature]
Eric A. Cioppa
Superintendent of Insurance