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By Admin Hearings, Ins Dept at 1:32 pm, Apr 27, 2021

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

|                              |   |                                 |
|------------------------------|---|---------------------------------|
| IN RE:                       | : | VIOLATIONS:                     |
|                              | : |                                 |
| THE ALIERA COMPANIES D/B/A   | : | 40 P.S. §§ 310.11(2), (4), (20) |
| ALIERA HEALTHCARE            | : | and 310.78(a)                   |
| 990 Hammond Drive, Suite 700 | : |                                 |
| Atlanta, GA 30328            | : |                                 |
|                              | : |                                 |
|                              | : |                                 |
|                              | : |                                 |
|                              | : |                                 |
| Respondent.                  | : | Docket No. CO20-07-004          |

CONSENT ORDER

AND NOW, this 27th day of April, 2021, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. §§ 101, et seq., or other applicable law.
  
2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order, and the Findings of Fact and Conclusions of Law contained herein, shall have the full force and effect of an Order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

3. Respondent neither admits or denies the information contained in the Findings of Fact and the violations cited in the Conclusions of Law in this Consent Order.

FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is The Alieria Companies d/b/a Alieria HealthCare and maintains a record of its address with the Pennsylvania Insurance Department at 990 Hammond Drive, Suite 700, Atlanta, GA 30328.
- (b) Respondent's subsidiaries include Ensurian Agency, LLC, which voluntarily surrendered its non-resident producer agency license, number 917125, on December 12, 2019.
- (c) Other than what is described in Paragraph b. above, Respondent is, and at all times relevant hereto has been, a licensed Non-Resident Producer Agency.
- (d) As a licensed Non-Resident Producer Agency, Respondent is only authorized to sell Accident and Health insurance as well as Life and Fixed Annuities.
- (e) On November 10, 2016, Respondent entered into a Memorandum of Understanding ("Memorandum") with Anabaptist Healthshare, also

known as Unity Healthshare, which is currently known as OneShare Health.

- (f) Pursuant to the Memorandum, Respondent was responsible for marketing Unity Healthshare memberships, servicing memberships, administering “share requests”, and generally administering Unity Healthshare’s health care sharing ministry plans.
- (g) On August 13, 2018, Respondent entered into a Management and Administration Agreement (“Agreement”) with Trinity HealthShare, Inc.
- (h) Pursuant to the Agreement, Respondent is described as “a program manager for health care sharing ministry plans, responsible for the development of plan designs, pricing, and marketing materials, vendor management, and recruitment and maintenance of a national sales force to market plans, including accounting and management of a national sales force to market plans, including accounting and management of sales commissions to authorized marketing representatives on behalf of the ministry.”
- (i) Pursuant to the Agreement, data for members of Trinity HealthShare, Inc., would be considered data owned by Respondent.
- (j) On January 1, 2020, Respondent executed a Managing National General Wholesaler Agreement with Ensurian Agency, LLC (“Ensurian Agreement”).

- (k) Pursuant to the Ensurian Agreement, Ensurian, a subsidiary of Respondent, would have been responsible for marketing Trinity HealthShare, Inc., servicing memberships, and otherwise complying with state and federal laws applicable to Trinity, Trinity's Sharing Programs, or otherwise.
- (l) Respondent charged both Unity Healthshare and Trinity Healthshare fees to provide the administrative and other services set forth in paragraphs (e) and (g) *supra*.
- (m) The first two monthly membership payments paid by consumers of the products offered by Respondent were for administrative expenses. Additionally, members were charged a one-time application fee of \$100 and a monthly fee of \$10 to cover marketing acquisition costs.
- (n) The memberships offered by Respondent identified covered services, including telemedicine, emergency room services, preventative care, primary care, specialty care, labs & diagnostics, x-rays, urgent care, chronic maintenance, prescription discount program, generic prescription drugs, preferred brand drugs, non-preferred brand drugs, mail-order drugs, specialty brand drugs, hospitalization, and surgery.
- (o) In administering the plan, certain claims for services submitted by members of products offered and administered by Respondent were denied without being circulated to other members of the Respondent's products.

- (p) From approximately November 2016 to October 2018, approximately 1,396 memberships administered by Respondent on behalf of Unity Healthshare were enrolled in Pennsylvania either through compensated producers or directly from Respondent.
- (q) From approximately May 2019 to August 2019, approximately 1,938 members administered by Respondent on behalf of Trinity HealthShare were enrolled in Pennsylvania either through compensated producers or directly from Respondent.
- (r) Respondent paid commissions to licensed producers who actively marketed and placed Unity Healthshare, and Trinity HealthShare memberships.
- (s) As of December 2019, after conversations with the Department, Respondent ceased marketing or otherwise offering any memberships in Trinity HealthShare. Respondent ceased marketing Unity Healthshare memberships in August 2018.
- (t) Respondent was subject to administrative actions with final dispositions in several states, including Maryland, Texas, and Colorado.
- (u) Respondent did not inform the Department of these administrative actions within thirty (30) days.

### CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department concludes and finds the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) 40 P.S. § 310.78(a) requires a licensee to report any administrative action taken in another jurisdiction or by another governmental agency within 30 days of the final disposition, to include a copy of the order, consent order or other relevant legal documentation.
- (c) Respondent's activities described above in paragraphs 3(q) through 3(u) violate 40 P.S. § 310.78(a).
- (d) 40 P.S. 310.11(2) prohibits a licensee or an applicant from violating the insurance laws or regulations of this Commonwealth or a subpoena or order of the commissioner or of another state's insurance commissioner.
- (e) Collectively, Respondent's activities described above in paragraphs 3(d) through 3(u) violate 40 P.S. § 310.11(2).

- (f) 40 P.S. § 310.11(4) prohibits a licensee or an applicant from improperly withholding, misappropriating or converting money or property received in the course of doing business.
- (g) Respondent's activities described above in paragraphs 3(i) through 3(l) violate 40 P.S. § 310.11(4).
- (h) 40 P.S. § 310.11(20) prohibits a licensee or an applicant from demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the Department that the licensee is worthy of licensure.
- (i) Collectively, Respondent's activities described above in paragraphs 3(d) through 3(r) violate 40 P.S. § 310.11(20).
- (j) Respondent's violations of 40 P.S. § 310.11(20) and 310.78(a) are punishable by the following, under 40 P.S. § 310.91:
  - (i) Suspension, revocation or refusal to issue the license;
  - (ii) Imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
  - (iii) An order to cease and desist; and
  - (iv) Any other conditions as the Commissioner deems appropriate.
- (k) 40 P.S. § 23(b) (related to requirements to be a religious publication exempt from the act of May 17, 1921, P.L. 789, commonly known as the Insurance Department Act of 1921) sets forth requirements for a religious publication to be exempt from the requirements of the Insurance Department Act of 1921.

- (l) Collectively, Respondent's activities described above in paragraphs 3(e) through 3(r) do not meet the requirements set forth in 40 P.S. § 23(b).
- (m) Respondent's activities described above in paragraphs 3(e) through 3(r) are punishable by the following, under 40 P.S. § 47:
  - (i) A civil penalty of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000) for each offense.

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:

- (a) Respondent and any subsequent entity that has or will be created by individuals associated with Respondent shall cease and desist from engaging in any current and future activities as described herein related to the health care sharing ministries in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall pay a civil penalty of Twenty Thousand Dollars (\$20,000) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made by certified check or money order, payable to the Commonwealth of Pennsylvania. Payment should be directed to Bureau of Licensing and Enforcement, 1227 Strawberry Square, Harrisburg, PA 17120. Payment may be enclosed with the Consent Order, but must be



paid in any event no later than fourteen (14) days after the date of this Consent Order.

- (c) Respondent shall pay restitution to the 95 Pennsylvania members it has identified in the form of the administrative fees collected from those consumers identified in Finding of Fact (m), which totals \$79,785.49. Prior to paying restitution, Respondent shall report to the Department in a manner to be specified by the Department any administrative fees paid by the identified consumers for purposes of calculating restitution owed by Respondent. Following payment of the restitution, Respondent shall report and verify those payments in a manner to be specified by the Department no later than 90 days following execution of this Consent Order. In the event any additional Pennsylvania members are identified who paid administrative fees to Respondent, Respondent shall refund those Pennsylvania members those administrative fees and report and verify those payments in a manner to be specified by the Department.
- (d) Respondent shall record all future sales calls made by its producers to PA consumers and shall maintain such recordings for a period of ten (10) years and make available such recording upon request of the Department.
- (e) Respondent's licenses may be immediately suspended by the Department following its investigation and determination that (i) any terms of this Order have not been complied with, or (ii) any confirmed complaint against Respondent and any subsequent entity that has or will be created

by individuals associated with Respondent is accurate and a statute or regulation has been violated. The Department's right to act under this section is limited to a period of ten (10) years from the date of this Order.

- (f) Respondent specifically waives its right to prior notice of said suspension, but will be entitled to a hearing upon written request received by the Department no later than thirty (30) days after the date the Department mailed to Respondent by certified mail, return receipt requested, notification of said suspension, which hearing shall be scheduled for a date within sixty (60) days of the Department's receipt of Respondent's written request.
- (g) At the hearing referred to in paragraph 5(f) of this Order, Respondent shall have the burden of demonstrating that it is worthy of a license.
- (h) In the event Respondent's licenses are suspended pursuant to paragraph 5(e) above, and Respondent either fails to request a hearing within thirty (30) days or at the hearing fails to demonstrate that it is worthy of a license, Respondent's suspended licenses shall be revoked.

6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein, the Department may pursue any and all legal remedies available, including but not limited to the following: The Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provisions

of law; or, if applicable, the Department may enforce the provisions of this Order in any other court of law or equity having jurisdiction.

7. Alternatively, in the event the Insurance Department finds there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.


8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

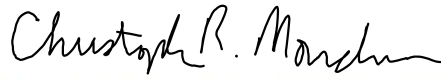
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or duly authorized delegee.

BY: THE ALIERA COMPANIES ~~D/B/A~~ <sup>DBA</sup> F/K/A  
ALIERA HEALTHCARE, Respondent

  
\_\_\_\_\_  
President/Vice President

  
\_\_\_\_\_  
Secretary/Treasurer

  
\_\_\_\_\_  
COMMONWEALTH OF PENNSYLVANIA  
By: CHRISTOPHER R. MONAHAN  
Deputy Insurance Commissioner