

STATE AUDITOR'S OFFICE  
INSURANCE DEPARTMENT  
HELENA, MONTANA

IN THE MATTER OF: ) Case No.: 2004-36  
)  
UNITED FAMILY HEALTHCARE GROUP, ) TEMPORARY CEASE AND DESIST  
and/or its agents and representatives, ) ORDER, NOTICE OF PROPOSED  
) AGENCY ACTION AND OPPORTUNITY  
Respondents. ) FOR HEARING  
)  
\_\_\_\_\_)

The Montana Insurance Department (hereinafter referred to as "the Department"), pursuant to the authority of the Montana Insurance Code, as found at Section 33-1-101, *et seq.*, Montana Code Annotated [hereinafter cited as MCA], and Section 33-1-318, MCA, hereby issues the following allegations of fact, proposed conclusions of law, order and notice of right to a public hearing, and Temporary Cease and Desist Order:

**ALLEGATIONS OF FACT**

1. At all times relevant hereto, the above-named Respondents conducted business at 13160 Mindanao Way, Marina Del Ray, California 90292-6358.
2. The above-named Respondents recently advertised various health insurance plans offering medical, dental and prescription medication coverage, that include, but are not limited to, "employee group healthcare," throughout the State of Montana via various media outlets and unsolicited facsimiles. The insurance plans offered by Respondents are contracts whereby Respondents undertake to indemnify others or pay or provide specified or determinable amounts or benefits upon determinable contingencies.
3. In performing the above-described acts, Respondents acted as an insurer and transacted insurance in Montana without a required Certificate of Authority issued by the Commissioner. By information and belief, Respondents continue to act as an insurer and

transact insurance in Montana without a required Certificate of Authority issued by the Commissioner.

4. The above-described offers are insurance under Montana law and are designed to masquerade as insurance.

5. An investigation conducted by the Department revealed that Respondent's website advertises more than 270 Montana medical providers participate in Respondent's plan and that none of these providers do, in fact, participate in Respondent's plan. Said investigation found no Montana medical providers participate in Respondent's plan. Therefore, Respondents, when in the course of offering insurance as hereinabove described, misrepresented numerous material facts known to Respondents to be untrue or made with reckless indifference as to whether they are true, to wit: the fact that no Montana medical provider recognizes or honors any part of the insurance plans offered by Respondents. In doing so, Respondents intended to cause others to rely upon said representations to the relying persons' detriment, and thereby committed insurance fraud under Montana law.

### CONCLUSIONS

1. The Department has jurisdiction over this matter by reason of Respondents' offer various health insurance plans and/or co-pay prescription cards to persons in Montana pursuant to Section 33-1-311, MCA.

2. In offering offer various health insurance plans in Montana without the required certificate of authority as hereinabove described, Respondents violated Sections 33-1-102 and 33-2-101, MCA.

3. While in the course of offering insurance and/or co-pay prescription cards as hereinabove described and misrepresenting numerous material facts known to Respondents to be

untrue or made with reckless indifference as to whether they are true with the intention of causing others to rely upon said representations to the relying persons' detriment, Respondents committed insurance fraud in violation of Section 33-1-1302, MCA.

### **CEASE AND DESIST ORDER**

Pursuant to Section 33-1-318, MCA, it appears to the Department that the above named Respondents have engaged, are engaged or are about to engage in acts or practices constituting a violation of the Montana Insurance Code and therefore hereby orders Respondents to cease and desist from engaging in any act, practice, or course of business that violates any section of the Montana Insurance Code, including, but not limited to, Sections 33-1-102, 33-2-101, 33-1-107 and 33-1-1302, MCA.

Section 33-18-1005(1), MCA, provides that any willful violation of this cease and desist order may be punished by a penalty of \$25,000.00 upon each person in such violation, in addition to all other penalties imposed by the laws of the State of Montana.

### **NOTICE OF PROPOSED AGENCY ACTION**

Staff of the Insurance Department of the office of the State Auditor and Department of Insurance of the State of Montana (Department), pursuant to the authority of the Securities Code of Montana, Section 30-10-101, et seq., MCA is proposing to the Department that it take disciplinary action against the above-named Respondents for violations of the Montana Insurance Code as hereinabove described. The Department has authority to take such action under the provisions of Sections 33-1-102, 33-1-311, 33-1-301, 33-1-317, 33-1-318, 33-18-1004 and 33-18-1005, MCA.

In particular, the staff of the Department seeks disciplinary action against Respondents including imposition of a fine not to exceed \$25,000.00 per violation pursuant to Section 33-18-1005(1), in addition to all other penalties imposed by the laws of the State of Montana.

Service of process is pursuant to Section 33-1-314, MCA.

### **STATEMENT OF RIGHTS**

You are entitled to a hearing and to respond to this notice and present evidence and arguments on all issues involved in this case. You may have a formal hearing before a hearing examiner appointed by the Commissioner. This is provided for by the Montana Administrative Procedure Act, Sections 2-4-601, MCA and following, including Section 2-4-631, MCA. If you demand a hearing, you will be given notice of the time, place and the nature of the hearing. Pursuant to Mont. Code Ann. Section 33-1-701(2) (1999), the hearing shall be held within 30 days after receipt of the demand by the commissioner, unless postponed by mutual consent.

You have a right to be represented by an attorney at any and all stages of this proceeding. If you want to resist the proposed action under the jurisdiction of the Commissioner, you must so advise him within fifteen (15) days of the date you receive this notice. You may so advise him by writing to John Kurtz, Insurance Attorney, State Auditor's Office, 840 Helena Avenue, Helena, Montana 59601. While so advising Mr. Kurtz, you should make clear whether you demand a hearing, or whether you waive formal proceedings and, if so, what informal proceedings you prefer for handling this case. Pursuant to Section 2-4-603(2), MCA, you may not request to proceed informally if the action could result in suspension, revocation or any other adverse action against a professional license.

Should you request a hearing, you have the right to be accompanied, represented, and advised by counsel. If the counsel you choose has not been admitted to practice law in the state

of Montana, he or she must comply with the requirements of Application of American Smelting and Refining Co., (1973), 164 Mont. 139, 520 P.2d 103.

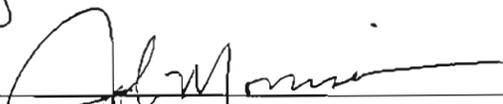
**POSSIBILITY OF DEFAULT**

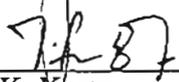
Failure to give notice or to advise of your demand for a hearing or form of informal procedure within fifteen (15) days of receipt of this NOTICE OF PROPOSED AGENCY ACTION AND OPPORTUNITY FOR HEARING will result in the entry of a default order imposing the disciplinary sanctions against you and/or your license, all without any more notice to you, pursuant to 6.2.101, Administrative Rules of Montana and the Attorney General's Model Rule 10, 1.3.214.

**CONTACT WITH INSURANCE COMMISSIONER'S OFFICE**

If you have questions or wish to discuss this matter, please contact John Kurtz, legal counsel for the State Auditor, at 840 Helena Avenue, Helena, MT, 59604-4009, (406)444-1936 or, within Montana, (800)332-6148. If you are represented by an attorney, please make any contacts with this office through your attorney

DATED this 20 day of Aug, 2004.

  
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John Morrison, Montana State Auditor

By:   
\_\_\_\_\_  
John K. Kurtz  
Insurance Attorney

**CERTIFICATE OF SERVICE**

I hereby certify that I mailed a true and correct copy of the foregoing TEMPORARY CEASE AND DESIST ORDER AND NOTICE OF PROPOSED AGENCY ACTION to the following persons by depositing the same in the U.S. Mail, certified, return receipt requested, on this 20 day of August, 2004.

TO:

United Family Health Care Group  
13160 Mindanao Way, Suite 300  
Marina Del Ray, CA 90242-6358

BY: Paula Santta