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Attorney for the Department of Insurance

**BEFORE THE STATE AUDITOR AND COMMISSIONER OF INSURANCE
STATE OF MONTANA**

IN THE MATTER OF:	)	Case No. INS 2006-71
)	
UNITED NATIONAL WORKFORCE ASSOCIATION,)	
INC., a.k.a. UNITED GROUP PROGRAMS, INC.;)	
OPTI-MED PLAN; C. MURPHY LEOPOLD, EDWARD	)	NOTICE OF PROPOSED
DEMMING, ROBERT D. EDELHEIT, JONATHAN	)	AGENCY ACTION
EDELHEIT, MARC ALAN EDELHEIT, TERESA	)	AND OPPORTUNITY
COHEN, ALLEN D. STERN, WALTER CECCHINI,	)	FOR HEARING
individually and in their capacities as officers, directors)	
or agents of the foregoing entities;)	
	)	(ADMINISTRATIVE
NEW HEALTH CARE MANAGEMENT GROUP, INC.,	)	FINE, PERMANENT
d.b.a. FAMILY SECURITY COUNCIL, INC., d.b.a.	)	CEASE AND DESIST
ADOVA HEALTH, d.b.a DESIGN SAVERS PLAN;	)	ORDER, RESTITUTION,
VENTURE SUPPORT GROUP; KATZ/BYARS	)	AND SUSPENSION OR
INSURANCE SERVICES, INC.; FEDERAL	)	REVOCAION OF
CHAMBER OF COMMERCE; JOHN BYARS,	)	NONRESIDENT
ARNOLD H. KATZ, IRA GOTTLIEB,	)	PRODUCER LICENSE)
WILLIAM BYARS, KEVIN KIRBAS,)	
MICHAEL FAYARD, STEVE KELLEY,)	
CURTIS G. MOORE, SHELTON TUCKER;)	
ROBERT E. BYRNE, individually and in their capacities)	
as officers, directors or agents of the foregoing entities;)	
)	
CONSUMER ALLIANCE USA,)	
MARK KUHL, SCOTT INTRAVIA,)	
CAMERON STRONG, MICHAEL SACKETT,)	
individually and in their capacities as officers, directors or)	
agents of the foregoing entity;)	
)	
XYZ BUSINESS ENTITIES 1-25 and)	
JANE or JOHN DOES 1-25,)	
)	
Respondents.)	

PLEASE TAKE NOTICE:

Staff of the Insurance Department of the Office of the State Auditor and Commissioner of Insurance of the state of Montana, pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*, is proposing that the Commissioner take disciplinary action against the Respondents for violations of the Montana Insurance Code. Specifically, staff is proposing, pursuant to Mont. Code Ann. § 33-1-317, that the Commissioner impose a fine not to exceed \$25,000.00 for each violation of the Montana Insurance Code in addition to all other penalties imposed by the laws of Montana.

Additionally, the Department requests that the Cease and Desist Order be made permanent and that Respondents be required to make full restitution to Montana citizens for all financial losses sustained as a result of fraud together with interest at a rate of 10% per annum from the date of the fraud pursuant to Mont. Code Ann. § 33-1-1302. Additionally, for violations of Mont. Code Ann. § 33-38-105, the Department seeks to impose an administrative fine of \$25,000.00 for each day of violation.

Further, for violations of §§ 33-17-201, 33-17-411, and 33-17-1004, the Department seeks to impose an administrative fine of \$50,000.00 for each violation and the revocation or suspension of nonresident license of each Respondent who has a nonresident license for up to five (5) years pursuant to Mont. Code Ann. §§ 33-17-411 and 33-17-1001.

The Commissioner has authority to take such action under the provisions of Mont. Code Ann. §§ 33-1-102, 33-1-311, 33-1-314, 33-1-317, 33-1-318, 33-1-1202, 33-1-1211, 33-1-1302, 33-2-104, 33-17-201, 33-17-411, 33-17-1001 and 33-38-105.

REASONS FOR ACTION

There is reasonable cause to believe that the following facts will be proven true and will justify agency action against Respondents.

ALLEGATIONS OF FACT

1. Respondent United National Workforce Association, Inc. (UNWA), is a corporation formed by Respondent Robert Edelheit that allegedly contracted with insurance companies to provide health insurance to its members which it bundled with discount card products in the Family Security Council (FSC), Design Savers Plan (DSP), and Adova Health plans, and then sold to individuals nationally and in Montana. The consumers were told that they became members of the UNWA association as a result of purchasing the product for insurance coverage.

2. Respondents Robert D. Edelheit, Jonathan Edelheit, E. Murphy Leopold, Edward W. Demming, Allen D. Stern, and Teresa Cohen are or were owners, officers, or directors of UNWA at all times material hereto. Walter Cecchini is currently listed in the Georgia Secretary of State's Office as the CEO, CFO and Secretary of UNWA, and as a director with the Florida Secretary of State.

3. UNWA is currently registered as a Georgia domestic nonprofit corporation. Previously, UNWA was registered as a Georgia domestic for-profit corporation under the name of United Group Programs, Inc. (UGP), but it amended its articles of incorporation on May 12, 2004, to become a nonprofit corporation, ostensibly for the purpose of purchasing association group insurance coverage. UGP was incorporated by Robert Edelheit in Georgia on July 13, 1989.

4. About ten years earlier, on March 16, 1979, Robert Edelheit incorporated UGP in the state of Florida as a domestic for-profit corporation. UGP currently lists Robert D. Edelheit and Allen D. Stern as its officers and directors. UGP is owned by Robert Edelheit and Jonathan Edelheit. UGP also lists Marc Alan Edelheit as its Vice President of Administration.

5. Robert Edelheit is a licensed producer in Montana.

6. UGP and UNWA appear to have acted, in whole or in part, as both insurer and as administrator for FSC, DSP, and Adova Health members from approximately March of 2006, to April of 2007. Before March of 2006, and after April 2007, DSP, FSC, and Adova appear to have acted as their own administrators *in tandem* with other persons or entities named herein.

7. Neither UGP nor UNWA has a certificate of authority to transact insurance in Montana or certificate of registration for soliciting or selling medical care discount cards in Montana. It appears that at all relevant times UGP and/or UNWA acted as medical care discount card suppliers. It also appears that UGP/UNWA was a *de facto* insurer involving coverages that were promised in membership materials but were either never provided or were not continuously provided by licensed insurers.

8. UGP does not have a certificate of registration as a TPA in Montana, but filed an application with this Department for an administrator's license on or about March 19, 2007.

9. While UGP's application for an administrator's license was pending in Montana, on December 18, 2007, the Office of the Insurance Commissioner in the state of Washington ordered the Respondents or some of them to cease and desist the unauthorized transaction of insurance in that state. Later, the Montana Department of Insurance denied UGP's application

for and administrator's license on the basis of the action taken against the Respondents in the state of Washington. In UGP's Income Statement submitted to the Department with its application for an administrator's license, it listed UNWA and Adova as assets.

10. The Opti-Med plan, offered by the Edelheits and UGP and solicited nationally on the Internet, is a limited health insurance benefit plan with bundled discount products, and is similar to the FSC, DSP, and Adova Health plan offered by UGP. The Opti-Med plan does not appear to be underwritten by any authorized insurer and does not include in its national solicitations that it is not available in Montana.

11. UNWA has marketing agreements with New Health Care Management Group, Inc. (NHCMG), Family Security Council Inc. (FSC), and Adova Health. It appears that UNWA exists primarily for the purpose of purchasing group insurance and marketing the benefits to individuals together with membership in the association. It would appear, at some or all of the time material hereto, that the Adova Health plan did not provide for the coverage it offered. Rather, it appears that UGP d/b/a UNWA may have assumed the risk.

12. At all times material hereto, NHCMG had a marketing agreement with UNWA to sell the association group products. It appears that NHCMG is the organization that marketed and managed the telephone solicitors or enrollers for the association group products. There is no indication that NHCMG was utilizing licensed producers to sell subject products. Additionally, there is no indication that NHCMG has a producer agency license in Montana.

13. At all times material hereto, NHCMG marketed and sold UNWA's bundled insurance/discount card products in Montana doing business as FSC, Adova Health, and DSP.

At all relevant times, NHCMG acted as a medical care discount card supplier/enroller. NHCMG is not a registered medical care discount card supplier.

14. Respondent NHCMG is a for-profit corporation incorporated in the state of South Carolina and registered in the state of Georgia as a foreign for-profit corporation. NHCMG's principal office address is listed by the Georgia Secretary of State as 2839 Paces Ferry Rd., Atlanta, GA, 30339.

15. Respondent John Byars is currently listed as the CEO and the CFO of NHCMG. Respondent Will Byars is listed as the Secretary of NHCMG. Formerly, Respondents Kevin Kirbas and Ira Gottlieb were listed as CFOs of NHCMG. Respondent Michael Fayard is, or was, the Senior Vice President of Operations for NHCMG. Respondent Robert E. Byrne is the Chief Operation Officer of NHCMG.

16. Respondent Arnold Katz (Katz) is, or was, a licensed producer in California and sells Respondents' products through Katz-Byars Insurance Services (KBIS), in San Diego. Katz does not have a producer license for the state of Montana. KBIS does not have an agency license for the state of Montana. KBIS, in addition to NHCMG, had a marketing agreement with UNWA to sell the products at issue in this matter.

17. Venture Support Group, owned by Katz, is the entity, or one of the entities, used for directly withdrawing monies from bank accounts of people who were sold Respondents' products.

18. FSC Inc., is a Georgia domestic for-profit corporation. FSC, a medical care discount card supplier, styles itself as a provider access organization that arranges for its members to

receive discounts on medical, dental, vision, chiropractic, pharmaceutical services, and access to association group supplemental accident medical and accident disability plans. FSC lists Respondent Ira Gottlieb as its CEO, and Shelton Tucker as its CFO and Secretary. FSC lists Respondent C. Murphy Leopold as its incorporator. FSC does not have a certificate of registration as a medical care discount card provider in Montana.

19. The Adova Health plan, Design Savers Plan, and the FSC are medical care discount card plans that purport to grant for consideration a discount or access to a discount in a medical care related purchase from a health care provider but also contains a "fixed medical payment" benefit insurance segment and other purported coverage including, but not limited to vision, pharmaceutical, dental, chiropractic, and prepaid legal.

20. Adova Health and DSP are also owned by John Byars and Arnold Katz.

21. Katz's company Federal Chamber of Commerce markets products that are similar to the FSC, DSP and Adova products.

22. At all times material hereto, Respondents were affiliated persons and/or entities that unlawfully offered for sale medical care discount cards, and unlawfully transacted the unauthorized business of insurance, or aided and assisted in those regards.

23. Beginning on or about November 1, 2005, and continuing thereafter, Respondents solicited and sold, or aided in the solicitation and sale of health insurance bundled with medical care discount card products in the state of Montana without holding certificates of authority and registration to the detriment of at least 202 Montana residents.

24. None of the Respondents named herein obtained a certificate of authority to transact

the business of insurance, a certificate of registration to offer or sell medical discount cards, or a certificate of registration to act as a third party administrator in the state of Montana.

25. At all times material hereto, the Respondents marketed their products using mass marketing techniques including the internet and telephone solicitors.

26. On July 12, 2006, Montana Department of Insurance Investigator, Julie Gunlock (Gunlock), called Adova Health and was offered three kinds of insurance under its group plan: the family package (employee, spouse and child/ren); the individual plus one package (employee plus a spouse, parent or child); and the individual package.

27. Gunlock called and spoke with a man at Adova Health who identified himself as Steve Kelley, and offered to sell her insurance. Kelley did not deny that the products were insurance and made no effort to clarify whether it was a discount plan. Although Gunlock identified herself as a Montana citizen, Kelley continued to attempt to sell Gunlock bundled insurance with medical care discount card products.

28. On July 13, 2006, Gunlock called Steve Kelley to request a benefit booklet. Kelley informed her that she would not be able to get additional information from Adova Health until she signed up and paid a \$100 non-refundable set-up fee electronically. Kelley also informed Gunlock that Adova Health only accepts payment electronically via debit card, credit card, or electronic check.

29. In soliciting Gunlock, Kelley used terms and phrases commonly associated with insurance products that could lead consumers to believe that the medical discount card offered was composed of one or more insurance products, or that it was a substitute for insurance.

30. Respondents led Montana consumers to believe they were purchasing standard health insurance coverage rather than a medical care discount card bundled with limited benefit insurance products.

31. Subsequently, several additional consumer complaints were filed with the Department of Insurance.

32. During the course of soliciting the sale of medical discount cards and insurance, Respondents intentionally, or recklessly, misrepresented material facts relating to their ability to lawfully transact insurance and medical care discount card products in Montana and the coverages purported to be provided by their products with the intention of inducing Montana consumers to rely on those representations to their detriment, or accepted premium and other money knowing that coverage would not be provided.

33. Respondents solicited the sale of medical care discount card products when there were no participating medical providers available in the area of the Montana consumers who were solicited.

34. An enroller working as an agent and under the direction of one or more of the Respondents induced T.W., to drop his major medical insurance policy and purchase the Adova Health product by representing to T.W., that the Adova Health product was as good or better than T.W.'s major medical insurance policy. T.W., was involved in an automobile accident for which he believed he was covered by Respondents and suffered financial loss as a result of Respondents' refusal to pay his medical expenses as promised. T.W.'s effective date of membership was August 1, 2006.

35. K. W., was sold the Adova Health product by Curtis G. Moore, who led her to believe that her pregnancy would be covered by the plan. Subsequently, K.W., experienced a high risk pregnancy for which she believed she was covered by Respondents. She suffered financial loss for medical expenses as a result of Respondents' refusal to pay her medical expenses after Respondents so agreed. K.W.'s effective date of membership was April 15, 2006.

36. B.L., was sold the Adova Health product and paid \$328 monthly for eighteen months for a total of \$5,904.00. B.L., made claims totaling around \$24,000.00, none of which were paid by Respondents. B.L., was forced to refinance B.L.'s home in order to pay medical bills. B.L.'s effective date of membership was November 1, 2005.

37. On November 28, 2006, as a result of the Department's investigation, Respondent John Byars purported to the Department to have caused a cessation of solicitations in Montana, cancellation of all Montana memberships and full refunds of all monies paid to all of the 22 Montana citizens who purchased the Adova Health product.

38. Later the Department discovered evidence that the memberships of Montana citizens, if cancelled, were not cancelled until March 31, 2007. Still later it was determined that only some Montana citizens received refunds, or partial refunds, and that claims were not paid.

39. Previously in October of 2007, Department of Insurance Investigator Bryan Stanley (Stanley) was investigating Consumer Alliance USA (CAUSA), and discovered a link to adovahealth.com on the CAUSA website. In January of 2008, Stanley researched the registration information for the website adovahealth.com and found that Venture Support Group was listed as the registrant and Katz as the administrative and technical contacts.

40. Also in January 2008, a consumer who had purchased the Adova Health Plan called and reported to the Department that she had attempted to contact Adova Health and was told that Adova Health had changed its name to CAUSA.

41. CAUSA, formerly known as World Wide Web Users Association, is a Missouri nonprofit domestic corporation. CAUSA was incorporated on March 31, 2000.

42. In CAUSA's 2007 Annual Registration Report filed with the Missouri Secretary of State, it lists its principal place of business as 7 East Gregory Blvd., Kansas City, Missouri. Additionally, CAUSA lists Mark C. Kuhls (Kuhls) as its President, Cameron Strong as its Vice-president, and Michael Sackett as its Secretary and Treasurer. All three of the foregoing individuals are listed as CAUSA's members of its board of directors. Subsequent investigations revealed that Scott Intravia (Intravia) is a vice-president of CAUSA.

43. Investigator Stanley researched CAUSA's website, causahealth.com, and found that NHCMG at 2814 Spring Road, Ste. 122 in Atlanta, Georgia, was listed as the registrant. William Byars was listed as both the administrative and technical contact at the same address.

44. Stanley contacted and interviewed Intravia by telephone. In the interview Intravia told Stanley that he had been approached in July of 2007, by John Byars, of NHCMG, who proposed to Intravia that he offer memberships in CAUSA to members of UNWA, because UNWA members were losing coverage due to problems with the plan. Said members, according to Intravia, consisted of members from FSC, DSP and possibly Adova.

45. Intravia informed Stanley that John Byars is receiving compensation as a result of the said relationship between Byars and CAUSA.

46. Intravia admitted that he was familiar with Venture Support Group and Arnie Katz, and that Venture Support Group provided billing functions for Respondents, and had done so for CAUSA.

47. Intravia admitted to knowing John Byars, Arnold Katz, Ira Gottlieb, Michael Fayard, William Byars, Kevin Kirbas, Robert Edelheit, and Jonathan Edelheit.

48. Stanley researched CAUSA websites, causabenefits.com, and causaadvantage.com, and discovered that the web sites appeared virtually identical to the old Adova Health website. Stanley was also able to determine that both websites were registered by Venture Support Group with Arnie Katz identified as both the administrative and technical contact.

49. Both websites show that CAUSA is currently soliciting memberships in Montana.

50. Based upon the foregoing it would appear that the “membership” of UNWA was simply shifted into the new “association group” CAUSA. Other evidence indicates that CAUSA offered memberships to consumers who had previously been members of UNWA, and has been administering the plans since June or July of 2007.

51. The CAUSA plan products are substantially similar to the FSC, DSP, Adova Health, and Opti-med products. The CAUSA plan has the same legal defects as the other plans, as alleged above, and incorporated herein by reference. CAUSA does not have a certificate of authority to transact the business of insurance, a certificate of registration to solicit or sell medical care discount cards, or a certificate of registration as an administrator.

CONCLUSIONS OF LAW

1. The State Auditor is the Commissioner of Insurance. Mont. Code Ann. § 2-15-1903.
2. The Montana Insurance Department is under the control and supervision of the Commissioner. Mont. Code Ann. §§ 2-15-1902 and 33-1-301.
3. The Commissioner and Insurance Department have jurisdiction over this matter. Mont. Code Ann. § 33-1-311.
4. The Commissioner shall administer the Insurance Department to protect insurance consumers. Mont. Code Ann. § 33-1-311(3).
5. Pursuant to Mont. Code Ann. § 33-1-102(1), a person or entity may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*
6. Pursuant to Mont. Code Ann. § 33-1-201(5), insurance is defined as a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.
7. Pursuant to Mont. Code Ann. § 33-1-201(6), an insurer includes every person or entity engaged as an indemnitor, surety, or contractor in the business of entering into contracts of insurance.
8. "Person" includes an individual, insurer, company, association, organization, Lloyd's, society, reciprocal or interinsurance exchange, partnership, syndicate, business trust, corporation, or any other legal entity. Mont. Code Ann. § 33-1-202.

9. Some of the products sold by Respondents constitute insurance in that the products purport to indemnify participants/members or pay a specified or determinable amount or benefit upon determinable contingencies. Mont. Code Ann. § 33-1-201(5). Additionally, Respondents UGP, UNWA, NHCMG, CAUSA, and their officers, directors, or agents acted or are acting as insurers by engaging in these programs without proper authority and without providing the promised coverage. Mont. Code Ann. § 33-1-201(6).

10. The fixed medical payments benefit and other purported coverages in the Adova Health, Design Savers, FSC, and the Opti-Med plans meet the definition of insurance as per Mont. Code Ann. § 33-1-201(5)(a).

11. "[T]ransact," with respect to insurance, includes any of the following: (a) solicitation and inducement; (b) preliminary negotiations; (c) effectuation of a contract of insurance; or (d) transaction of matters subsequent to effectuation of the contract of insurance and arising out of it. Mont. Code Ann. § 33-1-201.

12. "No person or entity shall act as an insurer and/or transact insurance in Montana except as authorized by a certificate of authority issued by the Commissioner." Mont. Code Ann. § 33-2-101. By transacting insurance in Montana without a certificate of authority, the Respondents UGP, UNWA, NHCMG, CAUSA, and their officers, directors, or agents have committed multiple violations of Mont. Code Ann. § 33-2-101. According to that section, "a person who knowingly violates this section is guilty of a felony punishable as provided in 46-18-213, and in addition is subject to the civil penalty provided in 33-1-317." Mont. Code Ann. § 33-2-101(3).

13. By acting as insurance producers or adjusters without a licence UNWA, UGP, NHCMG, KBIS, FSC, Adova Health, and CAUSA solicitors including but not limited to Steve Kelley and Curtis G. Moore have violated Mont. Code Ann. § 33-17-1004. According to this section, a person who, in this state, acts as an insurance producer or adjuster without having authority to do so by virtue of a license issued and in force pursuant to this chapter is subject to the provisions of Mont. Code Ann. §§ 33-1-317 and 33-1-318 and may be subject to conviction of a crime.

14. By representing or aiding an unauthorized insurer, various Respondents have committed multiple violations of Mont. Code Ann. § 33-2-104. According to Mont. Code Ann. § 33-2-104(3), “a person who knowingly violates this section is guilty of a felony as provided in 46-18-213.” § 33-2-104(3).

15. “[A] person commits the act of insurance, medical care discount card, or pharmacy discount card fraud, when in the course of offering or selling insurance, a medical discount card, or a pharmacy discount card, the person misrepresents a material fact, known to the person to be untrue or made with reckless indifference as to whether it is true, with the intention of causing another person to rely upon the misrepresentation to that relying person’s detriment.” Mont. Code Ann. § 33-1-1302.

16. Respondents acting in concert and in furtherance of a conspiracy committed multiple violations of Mont. Code Ann. § 33-1-1302, by representing that the offered products provided coverage which was not provided. Respondents made these representations knowing that they were untrue, or with reckless indifference as to the truth of the representations with the intention

of causing consumers to rely on the misrepresentation to the consumer's detriment.

17. Pursuant to Mont. Code Ann. § 33-1-1202(4), a person commits the act of insurance fraud when the person accepts premium money knowing that coverage will not be provided. Respondents violated Mont. Code Ann. § 33-1-1202(4) by representing that their products provided coverage which was not provided.

18. Pursuant to Mont. Code Ann. § 33-38-105, a medical care discount card supplier may not market, promote, sell, or distribute a medical care discount card in this state unless the supplier holds a certificate of registration, as a supplier, issued by the commissioner.

19. "Medical care discount card" means a paper or plastic device or other mechanism, arrangement, account, or other device that does not constitute insurance, as defined in § 33-1-201, that purports to grant, for consideration, a discount or access to a discount in a medical care-related purchase from a health care provider. Mont. Code Ann. § 33-38-102.

20. "Medical care discount card supplier" means a person engaged in selling or furnishing, either as principal or agent, for consideration, one or more medical care discount cards to another person or persons. Mont. Code Ann. § 33-38-102.

21. Respondents are medical discount card suppliers who have committed multiple violations of Mont. Code Ann. § 33-38-105 by marketing or promoting a medical card discount plan in the State of Montana without first having applied for and received a certificate of registration.

22. Respondents, acting in concert and pursuant to a conspiracy, violated Mont. Code Ann. § 33-38-103, by using terms or phrases commonly associated with insurance products that

could lead a prospective purchaser or user of a medical care discount card to believe that the card being offered is composed of one or more insurance products, or is a substitute for insurance, despite disclaimers to the contrary by the medical care discount card supplier, or enroller.

23. Respondent United Group Programs, Inc., violated Mont. Code Ann. §33-17-603 by failing to obtain a certificate of registration before acting as a third party administrator.

24. An enroller working as an agent and under the direction of one or more of the Respondents violated Mont. Code Ann. § 33-18-204, by making oral statements and misrepresenting comparisons to T.W., that the benefits contained in the Adova Health product were as good, or superior, to those contained in his major medical insurance policy for the purpose of inducing or attempting or tending to induce T.W., to lapse, forfeit or surrender T.W.'s insurance policy and purchase the Adova Health product.

25. The Respondent business organizations, named above, together with their officers, directors and agents entered into a conspiracy with the purpose of marketing and selling an unlicensed and unlawful limited health insurance benefit bundled with discount products. The said Respondents entered into affiliation agreements with solicitors who unlawfully marketed and fraudulently misrepresented the products on Internet websites and through telephone solicitors resulting in damages to Montana consumers.

26. Robert D. Edelheit is a licensed nonresident producer in Montana and as such is subject to the provisions of the Montana Insurance Code as though a resident of Montana pursuant to Mont. Code Ann. § 33-17-406.

27. A nonresident insurance producer who violates a condition of his Montana license is

subject to a fine by the commissioner of up to \$5,000 for each violation and may, at the discretion of the Commissioner, have his Montana nonresident license revoked or suspended for a period of up to 5 years. Mont. Code Ann. §§ 33-1-317, 33-17-411, 33-17-1001.

28. Robert D. Edelheit has committed several violations of the Montana Insurance Code as hereinbefore alleged, has therefore violated Mont. Code Ann. § 33-17-406 and is subject to the discipline set forth in Mont. Code Ann. §§ 33-1-317, 33-17-411, 33-17-1001.

29. The Commissioner has the authority to suspend or revoke the nonresident license of Robert D. Edelheit pursuant to Mont. Code Ann. § 33-17-1001(1), (3).

30. The alleged violations are sufficient to authorize the issuance of a permanent order requiring Respondents to cease and desist from engaging in activities of the kind herein alleged. Mont. Code Ann. § 33-1-318.

RELIEF REQUESTED

For violating provisions of the Montana Insurance Code, staff of the Department seeks to impose an administrative fine against each Respondent not to exceed \$25,000.00 for each of the violations of the Montana Insurance Code in addition to all other penalties imposed by the laws of Montana. Mont. Code Ann. § 33-1-317.

Additionally, the Department requests that the Cease and Desist Order be made permanent and that Respondents be required to make full restitution to Montana citizens for all financial losses sustained as a result of the fraud together with interest at a rate of 10% per annum from the date of the fraud pursuant to Mont. Code Ann. § 33-1-1302. Further, for violations of Mont. Code Ann. § 33-38-105, the Department seeks to impose an administrative

fine of \$25,000.00 for each day of violation.

Moreover, for violations of Title 33 by nonresident producer Robert D. Edelheit, the Department seeks a penalty of up to \$5,000.00 for each violation and suspension or revocation of his nonresident licenses for a period of up to five (5) years pursuant to Mont. Code Ann. §§ 33-1-317, 33-17-411 and 33-17-1001.

STATEMENT OF RIGHTS

You are entitled to a hearing and to respond to this Notice of Proposed Agency Action and to 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 as provided in the Montana Administrative Procedure Act. Mont. Code Ann. § 2-4-601, *et seq.*

You have a right to be represented by an attorney at any and all stages of this proceeding. If you wish to contest the allegations herein, you must make a written request for a hearing within 15 days of receipt of this notice to Michael Winsor, Special Assistant Attorney General, State Auditor's Office, 840 Helena Ave., Helena, MT 59601. The hearing shall then be held within 45 days of the Commissioner's receipt of the hearing request, unless the time is extended by agreement of the parties or by order of the hearing examiner. While so advising Mr. Winsor, your written notice must clearly indicate whether you request a hearing, or whether you waive formal proceedings and, if so, what informal proceedings you prefer for handling this case. Pursuant to Mont. Code Ann. § 2-4-603(2), you may not request to proceed informally if the action could result in suspension, revocation or any other adverse action against a professional license. If you request a hearing, you will be given notice of the date, time, and place of the

hearing.

Should you request a hearing, you have the right to be accompanied, represented and advised by an attorney. If the attorney you choose has not been admitted to the practice of law in the State of Montana, she or he must comply with the Montana State Bar requirements for appearing *pro hac vice* and *Application of American Smelting and Refining, Co.*, 164 Mont. 139, 520 P.2d 103 (1973); and *Mont. Supreme Court Comm'n on the Unauthorized Practice of Law v. Jerry O'Neil*, 2006 MT 284, 334 Mont. 311, 147 P.3d 200 (2006).

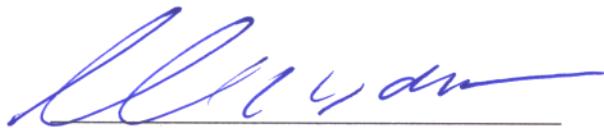
CONTACT WITH THE COMMISSIONER'S OFFICE

If you have questions or wish to discuss this matter, please contact Michael Winsor, Special Assistant Attorney General, State Auditor's Office, 840 Helena Ave, Helena, MT, 59601, (406) 444-2040. If you are represented by an attorney, please make any contacts with this office through your attorney.

POSSIBILITY OF DEFAULT

Failure to give written notice of your demand for a formal hearing or for informal procedure within 15 days will result in the entry of a default order imposing any sanctions available under Montana law without any additional notice to you pursuant to Mont. Admin. R. 6.6.101 and the Attorney General's Model Rule 10, Mont. Admin. R. 1.3.214.

DATED this 29 day of May 2008.



Michael Winsor
Special Assistant Attorney General

CERTIFICATE OF SERVICE

I certify that this 30 day of May 2008, a true and correct copy of the foregoing Notice of Proposed Agency Action and Opportunity for Hearing was served on the following by certified mail with postage prepaid and return receipt requested:

John Byars
Adovahealth
Family Security Council, Inc.
New Health Care Management Group, Inc.
2100 NE 191 Drive
North Miami Beach, FL 33179

John Byars
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Suite 1300, Penthouse
Aurora, CO 80014

John Byars
2814 Spring Road
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Atlanta, GA 30339-3046

John Byars
New Health Care Management Group, Inc.
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New Health Care Management Group, Inc.
c/o Larry J. White, Registered Agent
1126 Ponce de Leon Avenue
Atlanta, GA 30339

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C. Murphy Leopold
Executive Director UNWA
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United National Workforce
Association, Inc.
3946 Winter Hills Road
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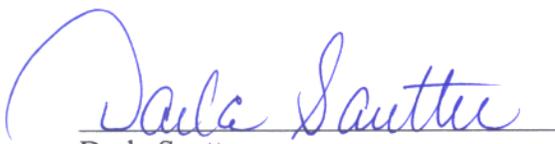
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