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Attorney for the Department of Insurance

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

<p>IN THE MATTER OF:</p> <p>THE AMACORE GROUP INC.,</p> <p>Respondent.</p>	<p>CASE NO.: INS-2009-75</p> <p>TEMPORARY ORDER TO CEASE AND DESIST AND NOTICE OF OPPORTUNITY FOR HEARING</p>
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The Commissioner of Securities and Insurance of the state of Montana ("Commissioner"), pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*, hereby sets forth the following allegations of fact, conclusions of law, order to cease and desist, and notice of right to a hearing:

ALLEGATIONS OF FACT

1. At all times material hereto, the Amacore Group, Inc. ("Amacore") offered and sold medical care discount cards in the state of Montana.
2. At all times material hereto, Amacore did not hold a certificate of registration as a medical care discount card supplier issued by the Commissioner.
3. Between July 2008 and April 20, 2009 Amacore sold medical care discount cards to and accepted consideration from at least 13 Montana consumers.

4. Nine of the 13 Montana consumers do not even recall purchasing the medical care discount cards.

5. Respondent sold medical care discount cards by obtaining the credit card information of consumers who called to order another product from television ads.

6. The Amacore medical discount cards were sold as an add-on to the consumers' purchase.

7. Consumers who were signed up for the Amacore medical discount card were not given 30 days to cancel their memberships or a list of providers prior to purchase of the card.

8. Respondent's medical care discount card does not provide products or coverage within the State of Montana.

CONCLUSIONS OF LAW

1. The State Auditor is the Commissioner of Insurance ("Commissioner"). 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. 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. Mont. Code Ann. § 33-38-105(1).

6. "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.

7. "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.

8. Respondent is a medical discount card supplier who has committed multiple violations of Mont. Code Ann. § 33-38-105(1) by marketing or promoting a medical care discount card in Montana without holding a certificate of registration issued by the Commissioner.

9. 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.

10. Respondent committed multiple violations of Mont. Code Ann. § 33-1-1302 by representing that the offered products provided coverage or other benefits which were not provided. Respondent 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.

11. Respondent violated Mont. Code Ann. § 33-38-103(1)(d) by failing to enter into contracts with medical care providers in Montana to provide the discounts represented by the Respondent to be granted to purchasers of the card.

12. Respondent violated Mont. Code Ann. § 33-38-104(1) by failing to give consumers a 30 day right to cancel memberships.

13. Respondent violated Mont. Code Ann. § 33-38-103(1)(c) by failing to provide prospective purchasers or users access to a list of health care providers, including the name, city, state and provider type before purchase of the medical care discount card.

14. Respondent violated Mont. Code Ann. § 33-18-102(1) by engaging in an unfair or deceptive act or practice when it enrolled Montana consumers and withdrew money from their checking accounts without their knowledge.

CEASE AND DESIST ORDER

Pursuant to Mont. Code Ann. § 33-1-318, it appears to the Department that the Respondent has engaged, is engaged or is about to engage in acts or practices constituting violations of the Montana Insurance Code § 33-1-101 *et seq.*,

1. Therefore, it is hereby ORDERED that the Respondent shall immediately cease and desist from:

a. the offering and sale of medical discount card products including the collection of consideration, advertising to or soliciting Montana residents by email, facsimile, telephone, automated telephone calls, mail, internet or any other means so as to induce Montana residents to purchase any form of medical care discount card product under any of the identified business organizational titles or under any other name or organization;

b. engaging in other any act, practice or course of business that violates any section of the Montana Insurance Code.

2. It is further ORDERED that Respondent shall within 20 days from receipt of this Order provide the Department with:

a. scripts, orders, outlines, or other marketing materials used to solicit medical care discount card products via the telephone, mail, the internet, or other means;

b. a list of all entities or organizations, including medical providers and provider networks, with which Respondent has contracted to discount services together with copies of any and all contracts made with the same and complete contact information for the entities and individuals involved; and

c. a full accounting of all transactions involving Montana consumers together with bank records purporting to support the accounting within the past five years;

3. This Order is effective immediately and shall continue in full force and effect until further order of the Commissioner.

4. This Order is binding on Respondent, its agents, affiliates, employees, and/or other representatives, both current and successor, whether named or unnamed herein.

PENALTIES

Pursuant to Mont. Code Ann. § 33-1-318 , a violation of this Order is a separate violation for which the Commissioner may impose a fine not to exceed \$5,000 per violation in addition to other penalties imposed by law.

NOTICE

Respondent is notified that the Commissioner has issued this Temporary Cease and Desist Order. If Respondent wishes to contest the allegations herein, it should make a written request for a hearing to Mike Winsor, Attorney for the Department of Insurance, State Auditor's Office, 840 Helena Avenue, Helena, MT 59601, within 15 days of receipt of this order. The hearing shall then be held within 20 days of the Commissioner's receipt of the hearing request unless otherwise agreed by the parties. If no hearing is requested within 15 days of receipt of this order by Respondent, and the Commissioner orders none, this order shall become permanent.

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 the practice of law in the State of Montana, he or she must comply with the requirements of *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. O'Neil* (2006), 2006 MT 284, 334 Mont. 311, 146 P.3d 200.

SO ORDERED this 18th day of March, 2010.

MONICA J. LINDEEN
Commissioner of Securities and Insurance

By: 

ROBERT MOON
Deputy Insurance Commissioner

CERTIFICATE OF SERVICE

This is to certify that on this 19th day of March, 2010, a copy of the foregoing Temporary Order to Cease and Desist and Opportunity for Hearing was served upon the Respondent by depositing a copy of the same in the U.S. Mail, certified, return receipt requested, postage prepaid, and addressed to:

The Amacore Group, Inc.
First Floor
4929 West Royal Lane
Irving, TX 75063



State Auditor's Office