STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Carolyn S. Folger

Enforcement Case No. 14-12100

Respondent.
_____/

Issued and entered
on July 23, **2014**
by Teri L. Morante
Chief Deputy Director

ORDER TO CEASE AND DESIST WITH STATEMENT OF FINDINGS AND NOTICE OF OPPORTUNITY FOR HEARING

Pursuant to Section 251 of the Michigan Insurance Code (Code), MCL 500.251, and after reviewing evidence of the conduct described in the attached Statement of Findings; and

WHEREAS, the Director of the Department of Insurance and Financial Services finds that immediate action is necessary and appropriate in the public interest for the protection of the public health, safety, and welfare and consistent with the purposes fairly intended by public policy and provisions of the Code;

IT IS THEREFORE ORDERED THAT:

1. The Respondent shall immediately **CEASE AND DESIST** from all activities in violation of the Code as described in the Statement of Findings.

2. A copy of this Order shall be immediately served upon Respondent. This Order shall be effective upon the date of service.

3. Respondent will have 30 calendar days after the service of this Order to contest it by requesting a hearing. Within 10 calendar days after receiving the request, the hearing process shall commence. This Order shall remain in effect until further order of the Director. Any request for a hearing should be addressed to the Department of Insurance and Financial Services, Attention: Tracy Janousek, Hearings Clerk, P.O. Box 30220, Lansing, MI 48909-7720 or faxed to 517-373-1224.

4. Any such hearing held shall address the following issues:

   a. The facts set forth in the Statement of Findings;

   b. The continuation of the Order to Cease and Desist; and

c. Restitution to be paid by the Respondent.

5. If a hearing is requested, an administrative law judge from the Michigan Administrative Hearing System shall preside over any such hearing.

6. The Director retains jurisdiction of the matters contained herein and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate.

7. Pursuant to Section 251(6) of the Code, MCL 500.251(6), a person who violates or otherwise fails to comply with an Order to Cease and Desist is subject to one or more of the following:

a. Payment of a civil fine of not more than $1,000 for each violation not to exceed an aggregate civil fine of $30,000. However, if the person knew or reasonably should have known the conduct was in violation of the cease and desist order, the person shall be subject to a civil fine of not more than $25,000 for each violation not to exceed an aggregate civil fine of $250,000.

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c. Complete restitution, in the form, amount, and within the period determined by the Director, to all persons in Michigan damaged by the violation or failure to comply.

Teri L. Morante
Chief Deputy Director

Dated: July 23, 2014

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STATEMENT OF FINDINGS

1. Pursuant to Executive Order 2013-1 all authority, powers, duties, functions, and responsibilities of the Commissioner of the Office of Financial and Insurance Regulation have been transferred to the Director of the Department of Insurance and Financial Services (DIFS).

2. Pursuant to Section 251(1) of the Code, MCL 500.251, the Director is empowered to issue a cease and desist order if the Director finds any of the following:

> (a) A person is conducting transactions of insurance for which a certificate of authority is required by this act without having obtained a certificate of authority.
>
> (b) A person is acting as an insurance agent, solicitor, adjuster, or counselor without a license as required by this act.
>
> (c) A person is engaged in an act or practice in the business of insurance for which authority from or notification to the commissioner is required by this act and the person has not received authority or given notification.
>
> (d) A person authorized to engage in the business of insurance under this act is engaged in conduct that presents an immediate danger to public health, safety, or welfare. MCL 500.251(1).

3. Under Section 1201a of the Code, it is a violation for a person to sell, solicit, and negotiate insurance in this state for any line of insurance without first obtaining a license or qualification for that line. MCL 500.1201a(1).

   a. "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers. MCL 500.1201(k).

b. "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company. MCL 500.1201(l).

c. "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company. MCL 500.1201(m).

4. Under Section 1201(e) of the Code, an insurance producer means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance. MCL 500.1201(e).

5. Under Section 1208a of the Code, an insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. MCL 500.1208a(1).

6. Under Section 1240(2) of the Code, "[a] person shall not accept a commission, service fee, or other valuable consideration for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter and is not licensed." MCL 500.1240(2).

7. DIFS Staff received information about possible unlicensed activity by the Respondent. A review of DIFS' records revealed that Respondent is not licensed under the Code.

8. After an investigation, DIFS Staff concluded that Respondent engaged in activities regulated by the Code, without the requisite license and appointment, and violated the insurance laws of this state.

9. American Medical and Life Insurance Company (AMLI) was an insurer duly authorized, by a subsisting certificate of authority issued by the Department of Insurance and Financial Services (DIFS), to transact insurance in the state of Michigan. AMLI's Certificate of Authority in Michigan was suspended on March 23, 2012. AMLI offered limited medical benefits in the state of Michigan.

10. FCHCN Insurance Agency, Inc. dba HIFE-Health Insurance for Everyone (FCHCN) is a licensed nonresident insurance producer agency in the state of Michigan with Accident and Health qualifications. FCHCN was previously known as First Choice Healthcare Network, Inc. First Choice Healthcare Network, Inc. became FCHCN on September 5, 2008.

11. Guarantee Trust Life Insurance Company (GTL) is an insurer duly authorized, by a subsisting certificate of authority issued by DIFS on May 3, 1965, to transact insurance in the state of Michigan.

12. The National Congress of Employers, Inc. (NCE), a not-for-profit Delaware corporation, is an independent association open to public membership with offices in Wilmington, Delaware; Garden City, New York; and Washington, D.C. NCE was a policyholder of both GTL's and AMLI's limited medical benefit health insurance plans, which were marketed and sold by FCHCN and FCHCN's subagents.

13. DIFS Staff found that Respondent, acting on behalf of FCHCN, sold AMLI's and GTL's limited medical insurance certificates to Michigan insureds under NCE's group insurance plans, without a license and appointment to sell, solicit, or negotiate insurance in this state.

14. Specifically, DIFS Staff found that from approximately June 1, 2009, through April 1, 2010, Respondent (National Producer Number 3664343), acting as an agent of FCHCN, sold 1 GTL and 10 AMLI insurance certificates to Michigan insureds under NCE's group insurance plan. Respondent has never been a licensed insurance producer in Michigan and was never appointed by AMLI or GTL to act as the insurers' producer. FCHCN paid Respondent commissions from the premiums it collected from Michigan insureds.

15. By selling, soliciting or negotiating insurance in the state of Michigan without an insurance producer license, Respondent violated MCL 500.1201a(1).

16. By selling, soliciting, or negotiating AMLI's and GTL's limited medical insurance in the state of Michigan without an appointment, Respondent violated MCL 500.1208a.

17. By accepting commissions or other valuable consideration for selling, soliciting, or negotiating insurance in this state without an insurance producer license, Respondent violated MCL 500.1240(2).

18. Based on the aforementioned findings, Respondent is acting as an insurance agent without a license and appointment as required by the Code.