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STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Steven Brett Trattner
System ID No. 0345551

Enforcement Case No. 14-12235

Respondent.

Issued and entered,
on December 11, 2015,
by Teri L. Morante
Chief Deputy Director

CONSENT ORDER AND STIPULATION

I.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Pursuant to Executive Order 2013-1 the Director has assumed the statutory authority and responsibility, granted to the Commissioner by the Michigan Insurance Code, MCL 500.100 *et seq.* (Code), to exercise general supervision and control over persons transacting the business of insurance in Michigan.
2. American Medical and Life Insurance Company (AML) 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. DIFS suspended AML's Certificate of Authority in Michigan on March 23, 2012. AML offered limited medical benefits in the state of Michigan.
3. Cinergy Health, Inc. dba Cinergy Health & Life, Inc. (Cinergy) was a licensed nonresident insurance producer agency in the state of Michigan with Accident and Health qualifications between September 27, 2007, and May 1, 2012. Cinergy voluntarily surrendered its license on or about May 2, 2012.
4. 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. GTL's place of business is located at 1275 Milwaukee Ave., Glenview, IL 60025.

5. 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 Cinergy and its subagents.
6. Steven Brett Trattner (Respondent) is a licensed nonresident insurance producer in the state of Michigan with Accident and Health, and Life qualifications. Respondent was appointed to sell, solicit, and negotiate insurance on AMLI's behalf from August 4, 2008, through November 28, 2011. At all times relevant to the matters mentioned herein, Respondent was the designated responsible licensed producer (DRLP) for Cinergy. As the DRLP, Respondent was responsible for Cinergy's compliance with Michigan's insurance laws, rules, and regulations.
7. On February 8, 2008, AMLI entered into a program manager agreement with GTL. This "fronting carrier" agreement between AMLI and GTL was put into place for the purpose of providing AMLI's agents a product to sell in states where AMLI was not yet authorized to sell insurance. GTL's insurance product mirrored AMLI's insurance product.

COUNT I

8. Cinergy's activities in Michigan included selling, soliciting and negotiating insurance, marketing and advertising health plans, and collecting and disbursing insurance premiums. Cinergy acted as a program manager or managing general agent for AMLI, representing both AMLI and GTL, through GTL's relationship with AMLI. Approximately 254 sub-agents wrote AMLI/GTL business through Cinergy. The first sale of an insurance certificate (GTL) by a Cinergy representative occurred on January 1, 2007. Cinergy represented AMLI without ever obtaining an AMLI appointment. Cinergy represented GTL in Michigan approximately 22 months prior to receiving an appointment from GTL to sell, solicit, or negotiate insurance on its behalf.
9. Cinergy packaged and marketed group limited medical benefit health insurance plans in Michigan. Cinergy sold the plans under various names, including Basic 500; Bronze, Gold and Silver; Advantage 300, Advantage 500, Advantage 750, Advantage 1000 and Advantage 1000 Plus; Associate Plan First Choice; NCE First Choice Value; Select 500 First Choice, Select 750 First Choice and Select 1000 First Choice; and Cinergy Health Preferred 500 and Cinergy Health Preferred 1000. The plans were tied to group health insurance policies issued by GTL and AMLI to NCE.
10. From approximately January 1, 2007, to May 1, 2012, Cinergy billed and collected premiums from 2,540 Michigan insureds, remitted net premiums to GTL and/or AMLI and paid commissions to approximately 254 sub-agents and/or Cinergy employees as compensation for selling, soliciting, and negotiating insurance to Michigan insureds on behalf of GTL and AMLI. Cinergy was never appointed by AMLI to act on its behalf in

Michigan and was finally appointed by GTL after selling approximately 515 GTL insurance certificates in Michigan.

11. Cinergy obtained its nonresident insurance producer license in Michigan on September 27, 2007. Approximately 86 of the abovementioned certificates were sold prior to Cinergy becoming a licensed nonresident insurance producer in Michigan. Cinergy sold 897 insurance certificates using unlicensed sub-agents and 1,553 certificates using unappointed sub-agents. Approximately 76 of the certificates were sold through Cinergy's online website. Cinergy was unable to identify the sub-agents involved in selling approximately 455 of the certificates sold in Michigan. Overall, 38% (983) of the sales were made by unlicensed producers and 80% (2,030) of the sales were made by unappointed insurance producers. Of the 254 agents and sub-agents identified by Cinergy and AMLI, 94% (238) committed at least one unlicensed or unappointed sale violation. Approximately 129 of the agents and sub-agents had 5 or more unlicensed or unappointed sale violations.
12. From approximately January 1, 2007, to at least October 15, 2011, Cinergy used approximately 187 unlicensed individual sub-agents to sell 897 insurance certificates to Michigan insureds. Cinergy paid these sub-agents commissions from the net premium collected for these sales. In addition to 79 unappointed sales through Cinergy's website, Cinergy used approximately 239 unappointed individual sub-agents to sell 1,553 insurance certificates to Michigan insureds.
13. Cinergy was unable to identify the sub-agents for approximately 455 insurance sales. Approximately 86 of the 455 insurance certificates were sold prior to Cinergy obtaining a Michigan producer license. Approximately 398 certificates were sold without a proper GTL or AMLI appointment in Michigan as well.
14. In total Cinergy and its sub-agents, committed approximately 983 unlicensed insurance sales violations and 2,030 unappointed insurance sales violations related to the GTL and AMLI insurance certificates sold under NCE's group insurance plan in Michigan.
15. Respondent, Cinergy's DRLP, knew or had reason to know that Section 1201a(1) of the Michigan Insurance Code (Code), MCL 500.1201a(1), states, "A person shall not sell, solicit, or negotiate insurance in this state for any line of insurance unless the person is licensed for that qualification in accordance with this chapter."
16. Respondent, Cinergy's DRLP, knew or had reason to know that Section 1208a(1) of the Code, MCL 500.1208a(1), states in pertinent part, "An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer."
17. Respondent, Cinergy's DRLP, knew or had reason to know that Section 1240(1) of the Code, MCL 500.1240(1), states, "An insurer or insurance producer shall not pay a commission, service fee, or other valuable consideration to a person for selling, soliciting,

or negotiating insurance in this state if that person is required to be licensed under this chapter and is not so licensed.”

18. Respondent, Cinergy’s DRLP, knew or had reason to know that Section 1240(2) of the Code, MCL 500.1240(2), states, “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.”
19. Respondent, Cinergy’s DRLP, knew or had reason to know that Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), states, “In addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer’s license or may levy a civil fine under section 1244 or any combination of actions ... for [v]iolating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state’s insurance commissioner.”
20. Respondent, Cinergy’s DRLP, knew or had reason to know that Section 1239(1)(l) of the Code, MCL 500.1239(1)(l), states, “In addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer’s license or may levy a civil fine under section 1244 or any combination of actions ... for [k]nowingly accepting insurance business from an individual who is not licensed.”
21. Respondent, Cinergy’s DRLP, knew or should have known that Section 1239(3) of the Code, MCL 500.1239(3), states, “The license of a business entity may be suspended, revoked, or refused if the commissioner finds, after hearing, that an individual licensee’s violation was known or should have been known by 1 or more of the partners, officers, or managers acting on behalf of the partnership or corporation and the violation was neither reported to the commissioner nor corrective action taken.”
22. Respondent has provided justification for suspension or revocation of licensure because he knew or should have known he was violating the law by allowing Cinergy to pay commissions to unlicensed individuals for selling, soliciting, or negotiating insurance in this state.
23. Respondent has provided justification for suspension or revocation of licensure because he knew or should have known he was violating the law by allowing Cinergy to accept insurance business from unlicensed individuals.
24. Respondent has provided justification for suspension or revocation of licensure because he knew or should have known he was violating the law by allowing Cinergy’s subagents to act as producers for AMLI and GTL without the insurers’ appointment as required by law.
25. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order the payment of a civil fine, the refund of any overcharges, that restitution be made to cover losses, damages or other harm attributed to Respondents’ violations of the Code, and/or other licensing sanctions, including

revocation of licensure pursuant to MCL 500.1201a(1), 500.1208a(1), MCL 500.1240(1), MCL 500.1240(2), MCL 500.1239(1)(b), MCL 500.1239(1)(I), and MCL 1239(3).

COUNT II

26. Respondent, Cinergy's DRLP, knew or had reason to know that Section 1247(1) of the Code, MCL 500.1247(1), states, "An insurance producer shall report to the commissioner any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this state within 30 days after the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents."
27. According to a 2008 Suspension Order issued by the Florida Office of Insurance Regulation (FOIR), on May 5, 2008, Cinergy failed to maintain a minimum net worth of \$150,000 as required by Florida law. FOIR suspended Cinergy's Discount Medical Plan Organization (DMPO) license pending corrective action. On January 1, 2009, FOIR issued a final Consent Order to resolve the 2008 Suspension Order. Florida effectively withdrew the Suspension Order and terminated Cinergy's DMPO license pursuant to Cinergy's request. Cinergy agreed that FOIR would continue jurisdiction over Cinergy to enforce the provisions of the Florida Insurance Code. Cinergy failed to timely report this enforcement action as required by Section 1247. Cinergy self-reported this enforcement action to DIFS on March 5, 2009.
28. According to a 2008 Consent Agreement issued by FOIR on August 5, 2008, pursuant to a market conduct examination of Cinergy, Cinergy committed multiple violations of the Florida Insurance Code, including the use of unapproved forms, advertising violations, and misrepresentation. Cinergy admitted to the violations and agreed to pay a \$10,500 fine. Cinergy failed to self-report the administrative action to DIFS.
29. According to the NAIC Regulatory Information Retrieval System Actions Report for Cinergy, on or about July 23, 2009, the New York Department of Insurance took administrative action against Cinergy for failing to report other states' administrative actions, which resulted in a monetary penalty of \$1,000. Cinergy failed to timely report this enforcement action. Cinergy did not self-report this enforcement action to DIFS until August 29, 2013.
30. According to the NAIC RIRS Actions Report for Cinergy, on or about October 1, 2010, the New York Department of Insurance took administrative action against Cinergy for multiple violations of the New York Insurance Code, including employing unlicensed individuals, failing to maintain books and records, advertising, and misrepresentation of insurance product or policies, which resulted in a monetary penalty of \$500,000. Cinergy failed to self-report the administrative action to DIFS.
31. According to the NAIC RIRS Actions Report for Cinergy, on or about December 7, 2010, the Virginia Bureau of Insurance took administrative action against Cinergy for

selling insurance for an unlicensed insurer, which resulted in a monetary penalty of \$75,000. Cinergy failed to self-report the administrative action to DIFS.

32. According to a Maine Bureau of Insurance Decision and Order and the NAIC RIRS Actions Report for Cinergy, on or about April 26, 2011, the Maine Bureau of Insurance, took administrative action against Cinergy for multiple violations of the Maine Insurance Code, including misrepresentation of insurance products/policies, rebating, demonstrating a lack of fitness or trustworthiness, and using unlicensed/unappointed agent producers. The action resulted in a monetary penalty of \$650,000 and a revocation of Cinergy's license in Maine. Cinergy failed to timely report this enforcement action. Cinergy self-reported this enforcement action to DIFS on May 31, 2011.
33. According to the NAIC RIRS Actions Report for Cinergy, on or about July 26, 2011, the Oklahoma Department of Insurance took administrative action against Cinergy for using and paying commissions to unlicensed producers, which resulted in a monetary penalty of \$20,000. Cinergy timely self-reported the administrative action to DIFS.
34. According to a Colorado Division of Insurance Decision and Order, on or about September 27, 2012, the Colorado Division of Insurance, took administrative action against Cinergy for multiple violations of the Colorado Insurance Code, including misrepresentation of insurance products/policies, demonstrating lack of fitness or trustworthiness, failing to report other state's actions, and using unlicensed producers. The action resulted in a monetary penalty of \$110,000 and Cinergy surrendered its license in Colorado. Cinergy failed to self-report this action to DIFS as required by the Code. On or about March 25, 2014, Colorado amended its Order to include a revocation of Cinergy's license after Cinergy failed to pay its fine pursuant to the September 27, 2012 Order.
35. Respondent, Cinergy's DRLP, knew or had reason to know that Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), states, "In addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions ... for ... [v]iolating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner."
36. Respondent has provided justification for suspension or revocation of licensure because he knew or should have known he was violating the law by failing to timely report Cinergy's administrative actions in another jurisdiction to DIFS and violating the insurance laws.
37. By failing to timely report of the aforementioned enforcement actions to DIFS as required by the Code, Respondent violated MCL 500.1247(1).

38. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order the payment of a civil fine, the refund of any overcharges, that restitution be made to cover losses, damages or other harm attributed to Respondent's violation of the Code, and/or other licensing sanctions, including revocation of licensure pursuant to MCL 500.1239(1)(b), MCL 500.1247(1), and 1239(3).

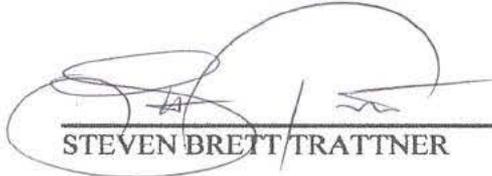
II. STIPULATION

1. Respondent has read and understands the Consent Order above. Respondent agrees that the Chief Deputy Director has jurisdiction and authority to issue this Consent Order pursuant to the Michigan Insurance Code. Respondent waives the right to a hearing in this matter if this Consent Order is issued. Respondent understands that the Consent Order and Stipulation will be presented to the Chief Deputy Director for approval and the Chief Deputy Director may or may not issue this Consent Order. Respondent waives any objection to the Director deciding this case following a hearing in the event the Consent Order is not approved.
2. Respondent agrees and admits that the above referenced conduct as set forth in the Findings of Fact and Conclusions of Law constitutes a violation of: MCL 500.1201a(1), 500.1208a(1), MCL 500.1240(1), MCL 500.1240(2), MCL 500.1247(1) and justifies sanctions pursuant to MCL 500.1239, and MCL 500.1244.
3. This Stipulation is a settlement of disciplinary action pursuant to Chapter 12 of the Insurance Code and applicable rules arising out of the above described matters only, and shall not be deemed a waiver in any manner of the rights, duties or obligations of DIFS with respect to any other violation by the Respondent of the statutes and regulations governing the conduct of insurance producers in the state of Michigan.
4. Respondent and DIFS understand and agree that it is the intent and purpose of this Stipulation to resolve all issues pertaining to DIFS' allegation of the matters referenced above. This Stipulation shall not be deemed in any matter to prevent DIFS from commencing any other agency action, relating to any other conduct of the Respondent, without regard to whether such conduct occurred prior or subsequent to the date of this Stipulation.
5. Respondent expressly agrees and acknowledges that he enters into this Stipulation knowingly and voluntarily. Regardless of whether Respondent has been represented by legal counsel, Respondent affirms that he has read this Stipulation and fully understands its nature, meaning and content. Respondent agrees that upon execution of this Stipulation, no subsequent action or assertion shall be maintained or pursued asserting the invalidity in any manner of this Stipulation and Order and the provisions of these

documents. Respondent further agrees that failure to comply with this prohibition constitutes a material default of this Stipulation and Order.

6. Respondent agrees that upon executing this Stipulation, he will immediately surrender his insurance producer licenses to DIFS.
7. Respondent agrees to pay to the State of Michigan administrative fees in the amount of **\$5,000** immediately upon execution of this Stipulation.

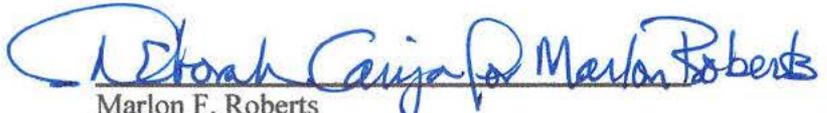
Dated: 11/30/2015



STEVEN BRETT TRATTNER

The Department of Insurance and Financial Services Staff approves this Stipulation and recommend that the Senior Deputy Director issue the above Consent Order.

Dated: 12/3/15



Marlon F. Roberts
Staff Attorney

III. ORDER

NOW, THEREFORE, the Chief Deputy Director finds it to be in the public interest to issue this Final Order, and IT IS HEREBY ORDERED THAT:

1. Respondent shall cease and desist from violating MCL 500.1201a(1), 500.1208a(1), MCL 500.1240(1), MCL 500.1240(2), and MCL 500.1247(1).
2. Respondent shall, upon executing the Stipulation, immediately surrender his insurance producer license to DIFS.
3. Respondent shall pay to the State of Michigan a civil fine in the amount of **\$5,000** immediately upon execution of the attached Stipulation.
4. In the event DIFS commences an action against Respondent to revoke his insurance producer license for violation of this Stipulation and Order, the Stipulation and Order shall be admissible in any such action.

5. The Stipulation is incorporated by reference, and all its conditions, terms, agreement are specifically made a part of the Order as though fully set forth herein.

IT IS SO ORDERED:

By: 
Teri L. Morante
Chief Deputy Director
Department of Insurance and Financial Services