

**STATE OF NEW HAMPSHIRE  
INSURANCE DEPARTMENT**

**In re: Alieria Healthcare, Inc. (dba The Alieria Companies, Inc.)**

**Docket No.: INS No. 20-014-EP**

**ORDER TO SHOW CAUSE  
AND  
NOTICE OF HEARING**

The New Hampshire Insurance Department ("NHID") orders Alieria Healthcare, Inc. (dba The Alieria Companies, Inc.) to show cause why the New Hampshire Insurance Commissioner should not order the cease and desist of their operations in New Hampshire, suspend or revoke their business entity producer license and/or levy an administrative fine in the maximum amount allowed by law. In support of the Order to Show Cause and pursuant to RSA 541-A:31, RSA 400-A:3, RSA 400-A:17 *et seq.*, RSA 417:6, *et seq.* and Ins Part 200, the NHID states as follows:

**STATEMENT OF FACTS**

1. Alieria Healthcare, Inc. ("Alieria") is a foreign, for-profit corporation organized under the laws of Delaware with a business address of 5901-B Atlanta, Peachtree Dunwoody Rd. #200, Atlanta, GA 30328.
2. Alieria is a non-resident business entity insurance producer (NPN # 18501490) that is licensed to sell Life, Accident and Health insurance products. Alieria holds no appointments in New Hampshire.
3. Alieria is not licensed as an insurance company and, other than its insurance producer license, holds no licenses, certificates, or other approvals to engage in the business of insurance in New Hampshire.
4. Alieria markets, solicits and administers health plans in New Hampshire on behalf of Trinity Healthshare ("Trinity"). Prior to August 10, 2018 Alieria solicited and administered health plans on behalf of Unity Health Share ("Unity"). This relationship ended when Unity terminated its agreement with Alieria on August 10, 2018.
5. Trinity was created in Delaware on June 27, 2018 by Alieria and its principals.

6. Trinity claims to be a Health Care Sharing Ministry<sup>1</sup> (“HCSM”) that is exempt from insurance regulation in New Hampshire under RSA 126-V.
7. On August 13, 2018, Alieria and Trinity entered into a Marketing and Administration Agreement (“MAA”). Under the MAA, Alieria is the program manager for Trinity’s HCSM plans, and as such is responsible for the development of plan designs, pricing, marketing, vendor management, recruitment and maintenance of a national sales force, and accounting and management of sales commissions on behalf of Trinity.
8. Alieria has the exclusive right to design, market and sell Trinity HCSM plans to its existing members and prospective members.
9. Per the MAA, Alieria also maintains ownership of the “Membership Roster” of all Trinity enrollees.
10. Alieria markets Trinity HCSM products to New Hampshire consumers as alternatives to traditional health insurance, and utilizes licensed resident insurance producers to sell Trinity’s products within the state.
11. Approximately 1269 New Hampshire consumers have been sold Trinity products through Alieria.
12. On October 30, 2019, the New Hampshire Insurance Commissioner (the “Commissioner”) ordered Alieria to cease and desist from the unauthorized business of insurance in the state of New Hampshire under Order to Cease and Desist INS No. 19-027-EP.
13. The NHID first opened an investigation into Alieria after receiving several consumer complaints regarding the alleged misrepresentations of healthcare insurance products.
14. These consumers agreed to pay a monthly amount to Alieria for which they were led to believe would cover specified healthcare expenses as included with the Membership Guidelines and marketing materials. Ultimately, Alieria and/or Trinity failed to pay the medical claims submitted by these consumers prompting them to the contact the NHID to facilitate a resolution.
15. Through the course the of the NHID’s investigation, it was determined that Trinity does not meet the legal definition of a HCSM. Therefore, Alieria, through its relationship with Trinity, is operating as an unauthorized insurer in the state of New Hampshire

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<sup>1</sup> The terms “healthcare sharing ministry” and “healthcare sharing organization” are used interchangeably within this Order.

### APPLICABLE NEW HAMPSHIRE LAWS

16. RSA 405:1 states, “(no) insurance company not organized under the laws of this state shall do insurance business within the state unless it has obtained a license from the insurance commissioner authorizing it to do so.”
17. NH RSA 406-B:3 further states that, “(no) unlicensed person or insurer shall directly or indirectly do any of the acts of an insurance business set forth in RSA 406-B:2 except as provided by and in accordance with the specific authorization of statute.”
18. The following acts, when done on behalf of an unlicensed insurer, are deemed to constitute the transaction or doing of insurance business in this state:
  - a. The making of or proposing to make an insurance contract;
  - b. The taking or receiving of any application for insurance;
  - c. The receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration for any insurance;
  - d. The issuance or delivery of contracts or certificates of insurance to residents of this state;
  - e. Directly or indirectly acting as an agent for or otherwise representing or aiding another person or insurer in the solicitation, negotiation, procurement, or effectuation of insurance or renewals thereof, or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state;
  - f. Doing any kind of insurance business specifically recognized as constituting the doing of an insurance business within the meaning of the insurance statutes;
  - g. Doing or proposing to do any business equivalent in substance to any of the foregoing in a manner designed to evade the provisions of the statutes; and
  - h. Any other transactions of business in this state by an insurer. *See* RSA 406-B:2
19. New Hampshire law exempts health care sharing organizations from insurance regulation if they meet the requirements of RSA 126-V:1.
20. To qualify for the exemption from insurance regulation under RSA 126-V:1, II, a health care sharing organization must meet all of the following criteria:
  - a. Be a nonprofit organization that is tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code;
  - b. Have been in existence continuously and have facilitated the sharing of medical expenses of participants without interruption since December 31, 1999, including predecessor organizations;

- c. Be faith-based and limit its participants to individuals who share a common set of ethical or religious beliefs; and
  - d. Share medical expenses among its participants in accordance with those beliefs.
21. RSA 417:3, states that “(n)o person shall engage in this state in any trade practice which is defined in this chapter or determined pursuant to this chapter as an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.” Person means “any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's insurers, fraternal benefit society and any other legal entity, engaged in the business of insurance.” *See* RSA 417:2, I.
  22. RSA 417:4, I(h) defines an unfair and deceptive act or practice as, “misrepresenting, directly or indirectly, in the offer or sale of any insurance” by engaging in a “transaction, practice, or course of business which operates as a fraud or deceit upon the purchaser, insured, or person with policy ownership rights.”
  23. RSA 402-J:12, I provides that the specific misconduct enumerated under sections (a) through (m) are grounds for suspension or revocation of an already issued license and also grounds for levying a fine. RSA 402-J:12, I(h) specifically prohibits an insurance producer from, “(u)sing fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.”

### **LEGAL ALLEGATIONS and/or VIOLATIONS**

24. To qualify as a HCSM under both IRS and New Hampshire law, an organization must be a registered 501(c)(3) organization whose members share a common set of religious or ethical beliefs and share medical expenses in accordance to those beliefs. A HCSM must also have been in operation and continuously sharing member health care costs since December 31, 1999.
25. Trinity cannot meet the exemption requirements of RSA 126-V:1, II, specifically, it has not been in existence continuously and has not been facilitating the sharing of medical expenses of participants without interruption since December 31, 1999.
26. Trinity has only been in existence for less to than two years, and had no members as of August 13, 2018, two months after it incorporated as a non-profit organization within the state of Georgia.
27. Further, no predecessor organization exists which Trinity's members were sharing medical costs.
28. Trinity also fails to establish that it is faith based and limits its membership to individuals who share a common set of ethical or religious beliefs. In a September 6,

2018 letter to the United States Department of Health and Human Services, Trinity states that its organization adopts strict Baptists teaching and beliefs. Trinity's bylaws also indicate that the organization adheres to a Christian expression of faith; however, its applications and policy documents only ask participants to believe in nonsectarian religious views. This statement of faith is inconsistent with the religious views purportedly held by Trinity.

29. As Trinity does not meet the required legal elements to designate it as a HCSM under RSA 126-V, and is therefore not exempt from regulation, the acts as described in the above statement of facts demonstrate that Alieria,, through is marketing, solicitation and administration of Trinity products, is operating as an unlicensed insurance company in violation of RSA 406-B:3 and 405:1.
30. Further, by misleading consumers to believe that they are being enrolled in a valid healthcare sharing ministry which is exempt from regulation under RSA 126-V:1, Alieria has violated New Hampshire RSAs 417:3 and 417:4 I (h).
31. Finally, Alieria, as a licensed NH business entity producer is in violation of RSA 402-J:12, I (h) by using fraudulent, coercive, or dishonest practices, or demonstrating incompetence and/or untrustworthiness in the conduct of business in this state or elsewhere by promoting Trinity as a legitimate HCSM to New Hampshire consumers, when in fact it is not.

#### **NEW HAMPSHIRE INSURANCE LAWS VIOLATED BY RESPONDENT**

32. The NHID maintains that the Respondent violated RSA 403-B:3 and 405:1 for operating as an unlicensed insurance company in New Hampshire.
33. The NHID maintains that the Commissioner has the authority to levy a monetary penalty in accordance RSA 406-B:12.
34. The NHID maintains that the Respondent violated RSAs 417:3 and 417:4, I(h) for deceptively enrolling 1269 New Hampshire consumers into an invalid healthcare sharing ministry.
35. The NHID also maintains that the Commissioner has the authority to levy a monetary penalty in accordance with RSA 417:10 for each New Hampshire consumer who were enrolled by Alieria into a Trinity membership.
36. The NHID maintains that the Respondent violated 402-J:12, I(h) for enrolling 1269 New Hampshire consumers into an invalid healthcare sharing ministry.

37. The NHID maintains that the Commissioner has the authority to revoke the Respondent's New Hampshire insurance business entity license pursuant to NH RSAs 400-A:15, III, and 402-J:12, I(h).
38. The NHID maintains that the Commissioner has the authority to levy a monetary penalty in accordance with RSAs 400-A:15, III for each violation of 402-J:12, I(h).
39. The NHID reserves the right to amend this list of insurance laws violated by the Respondent upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

#### **PENALTY REQUESTED**

40. In the event the Hearing Officer determines after evidentiary hearing that the NHID sustained its burden of proof with respect to the allegations of fact and violations of law outlined above, the NHID request that the Hearing Officer,
  - (i) Order Alera to Cease and Desist soliciting invalid health care sharing ministry business within New Hampshire;
  - (ii) Levy an administrative fine in the amount of \$10,000 as authorized by RSA 406-B:12;
  - (iii) Levy a fine in the maximum amount allowed by law for each violation of RSAs 417:3 and 417:4 I(h); and
  - (iv.) Pursuant to RSA 402-J:12, I and RSA 400-A:15, III, order the permanent revocation of the Respondent's New Hampshire business entity insurance producer license and levy an administrative fine in the maximum amount allowed by law.

#### **NOTICE OF HEARING**

41. An adjudicatory proceeding shall be commenced for the purpose of resolving the issues articulated above pursuant to RSA 541-A:31, RSA 400-A:17:6, *et seq.*, RSA 417:6, *et seq.*, and Ins 200. To the extent that the Department's rules do not address an issue of policy or procedures, the Department shall apply the N.H. Department of Justice Rules, Part 800.
42. The Respondent shall appear at Department **on a date to be determined in accordance with RSA 400-A:18, I**, at the Department's office located at 21 South Fruit Street, Suite 14, in Concord New Hampshire to participate in this adjudicatory proceeding and, if deemed appropriate, be subject to sanctions pursuant to RSA 402-J:12, I and RSA 400-A:15, III. Respondent's failure to appear at the time and place specified above may result in the hearing being held *in absentia* and sanctions may be imposed without further notice or an opportunity to be heard.

43. Michelle Heaton Esq. is appointed to act as Hearing Officer in this matter with all the authority within the scope of RSA 400-A:19 and Ins 203.01.

44. Linda Zalinskie shall serve as clerk to the Hearing Officer. The parties should direct all communications to Ms. Zalinskie, whose contact information is:

Linda Zalinskie, Clerk  
New Hampshire Insurance Department  
21 South Fruit Street, Suite 14  
Concord, NH 03301  
Tel: (603) 271-2261  
Fax: (603)271-1406  
Email: linda.zalinskie@ins.nh.gov

45. The Respondent has the right to be represented by a lawyer in this proceeding. However, the Respondent shall bear the cost of retaining said lawyer. Should the Respondent elect to retain a lawyer, his lawyer shall file a Notice of Appearance with Ms. Zalinskie, and said lawyer should do so at the earliest possible date. A copy of the NHID's Notice of Appearance form is enclosed with this Order.

46. Any party may request a transcript of the proceeding. The party requesting a transcript of the proceedings shall file a written request for a certified court reporter with the Hearing Officer at least 10 days prior to the scheduled hearing date. The costs incurred for the services of a certified court reporter shall be borne by the requesting party.

47. Mary C. Bleier, Esq. and/or Joshua Hilliard, Esq. shall serve as staff advocates representing the interests of the NHID.

48. All routine procedural inquiries may be made by contacting Linda Zalinskie, Hearing Clerk, New Hampshire Insurance Department, 21 South Fruit Street, Suite 14, Concord NH 03301, (603) 271-2261, but that all other communications with the Hearing Officer and the Commissioner shall be in writing and filed as provided above. *Ex parte* communications are forbidden by statute and the Department's regulations.

49. A copy of this hearing notice shall be served upon Respondent by certified mail addressed to the mailing address on file with New Hampshire Insurance Department. *See*, RSA 400-A:14.

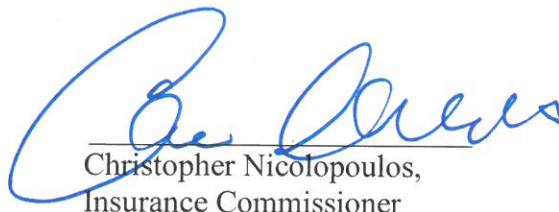
It is **SO ORDERED**.



NEW HAMPSHIRE INSURANCE DEPARTMENT

Date:

3/10/2020



Christopher Nicolopoulos,  
Insurance Commissioner

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing Order to Show Cause and Notice of Hearing was sent this date by first-class mail, postage prepaid, and by certified mail, return receipt requested, to Alieria Healthcare, Inc. 5901 Peachtree Dunwoody Rd. Ste C-160, Atlanta, GA 30328, this being his last mailing address on file with the Department.

Date:

3/10/2020 .



Mary C. Bleier, Esq.