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Department of Insurance  
State of Idaho

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*Attorneys for Idaho Department of Insurance*

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE**  
**STATE OF IDAHO**

In the Matter of:

MAKINA HEALTH, a Texas nonprofit corporation, and MAKINA HR, LLC, a Texas limited liability company,

Respondents.

Docket No. 18-3637-19

**CEASE AND DESIST ORDER  
AND NOTICE**

TO: MAKINA HEALTH, a Texas nonprofit corporation;  
MAKINA HR, LLC, a Texas limited liability company;  
JORGE ARZATE, director of Makina Health  
and managing member of Makina HR, LLC;  
STEVE CRABTREE, director of Makina Health; and  
PAUL BROUCHARD, director of Makina Health.

Pursuant to the authority granted to the Director of the Idaho Department of Insurance (“Department”) in the Idaho Insurance Code, section 41-101, *et seq.*, Idaho Code, in particular section 41-213(1)(a), Idaho Code, in addition to the Administrative Procedures Act, Idaho Code § 67-5201, *et seq.*, the Director of the Department issues this CEASE AND DESIST ORDER without prior notice but with the opportunity for hearing based upon the following:

## IDAHO LAW

Idaho law defines “insurance” as “a contract whereby one undertakes to indemnify another or pay or allow a specified or ascertainable amount or benefit upon determinable risk contingencies.” Idaho Code § 41-102. No person, firm, association or corporation may transact insurance without first having obtained a license from the Director of the Department. Idaho Code § 41-117A. “Transacting insurance” includes solicitation and inducement, preliminary negotiations, effectuation of a contract of insurance, transaction of matters subsequent to effectuation of a contract of insurance and arising out of it, and mailing or otherwise delivering any written solicitation to any person in this state by an insurer or any person acting on behalf of the insurer for fee or compensation. Idaho Code § 41-112.

Idaho Code § 41-4003(3) provides that self-funded health care plans, including multiple-employer welfare arrangements (“MEWAs”), that operate in the state of Idaho without registering with the Department shall be deemed to be engaged in the business of insurance without authorization, and any person offering or operating such an unauthorized plan shall be deemed to be transacting insurance without proper licensing and subject to all sanctions as provided by law.

Idaho Code § 41-213(1)(a) authorizes the Director to issue an order requiring a person to cease and desist from engaging in any act or practice constituting a violation of the Idaho Insurance Code.

Idaho Code § 67-5247 provides that an agency may act through an emergency proceeding in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate agency action.

## **RESPONDENTS**

1. MAKINA HEALTH is a Texas nonprofit corporation that operates as a private purchasing cooperative pursuant to 28 Tex. Admin. Code § 26.441. It is not licensed or registered in the state of Idaho in any capacity.

2. MAKINA HR, LLC, is a Texas limited liability company. It is not licensed or registered in the state of Idaho in any capacity.

## **FINDINGS OF FACT**

3. On or about December 14, 2018, a person reported to the Department that a company called Makina Benefits was soliciting health insurance clients in Idaho.

4. The Department commenced an investigation on information received from the complainant. The Department's investigation showed that Makina Benefits is operated by Jorge Arzate, who is a director of MAKINA HEALTH and a member of MAKINA HR, LLC. The Department's investigation showed the following additional facts:

- a. Sedera, Inc., a Delaware corporation that operates what purports to be health care sharing groups, reported to the Department that thirty-five members of its health cooperative purchased membership through Makina Benefits, and that fourteen of those members were associated with a Makina Employer Group.
- b. Makina Benefits maintained a Web site at <https://makinabenefits.com>. The site stated that "Makina has been passionate in the development of plans through the health cooperative that are fantastic options for the value. However, If [sic] the traditional insurance model is what you prefer, we have a plan for that too." The site contained a "Get a Quote" button for employers to request an insurance

quote. This button linked to a form that requested information from employers, but did not request the state in which the employer operates.

- c. Makina Health is registered in Texas as a private purchasing cooperative, pursuant to 28 Tex. Admin. Code § 26.441. The powers granted to a private purchasing cooperative under Texas law are substantially similar to those of a MEWA under Idaho law.
- d. A Washington organization called Pacific Prosperity Group maintained a Web site at <http://pacificprosperitygroup.com> on which it announced that it was offering Makina Benefits products in Washington. The site stated that “Makina Benefits [sic] niche Market [sic] is the small group space of 5 to 49 participants, although they also design and offer coverage for large companies with 50 or more employees who are mandated by Federal law to provide insurance to their employees,” and that independent contractors were eligible to join Makina Benefits plans. This description of benefits is substantially similar to the plans offered by MEWAs in Idaho.
- e. No entity with the word “Makina” in its name is registered to transact insurance or to act as a MEWA in Idaho.

5. On March 26, 2019, the Alaska Division of Insurance issued a cease and desist order against Makina Health. This order made the following findings, among others:

- a. From at least February of 2019, Makina Health solicited, marketed, sold, and/or issued what they have represented to be benefit plans as a MEWA to employers and agents in Alaska, despite not holding a license to do so.

- b. The health benefit plans offered by Makina Health in Alaska constituted a self-funded MEWA.
- c. As a result of Makina Health's actions, seventy-three employees on nine employer policies issued by Makina Health in Alaska had unauthorized insurance coverage.

6. Immediate and timely action is necessary to prevent harm to the public and to take immediate steps to prevent Makina Health from doing any further unlicensed and/or unregistered activity in the state of Idaho with domestic, foreign, or alien businesses and prospects.

### **CONCLUSIONS OF LAW**

Based on the facts as set forth above, the Director concludes as a matter of law that:

- a. Makina Benefits is an alias of Makina Health and/or Makina HR, LLC;
- b. Makina Benefits is engaged in the business of transacting insurance in the state of Idaho, as defined in Idaho Code § 41-112;
- c. To the extent Makina Benefits is acting as a MEWA in the state of Idaho, it is doing so in violation of Idaho Code § 41-4003;
- d. Makina Benefits is transacting insurance and is engaging in unlicensed and/or unregistered activity, and that immediate action is needed to prevent present and future damage and further abuse.

Based on the foregoing findings of fact and conclusions of law, the Director enters the following order:

### **ORDER TO CEASE AND DESIST**

NOW, THEREFORE, acting pursuant to the public interest and Idaho Code § 41-213(1)(a), it is hereby ORDERED that MAKINA HEALTH and MAKINA HR, LLC, and their managing

members, members, officers, employees, agents and successors, immediately CEASE AND DESIST from transacting insurance or operating as a MEWA in the state of Idaho without first being licensed and/or registered, as defined and as required under title 41, Idaho Code.

**NOTICE**

MAKINA HEALTH AND MAKINA HR, LLC, ARE HEREBY NOTIFIED that this Cease and Desist Order is a final order of the Director, subject to the Respondents' right to timely file a motion for reconsideration or a request for hearing. Pursuant to Idaho Code §§ 41-232 and 67-5246, the Respondents may file a motion for reconsideration of this Cease and Desist Order or a request for hearing within fourteen (14) days of the service of this Order.

Any hearing and subsequent proceedings in this matter will be conducted in accordance with Chapter 2, Title 41, of the Code and the Idaho Administrative Procedure Act, Idaho Code § 67-5201, *et seq.*

If the Respondents timely file a motion for reconsideration, the Department will dispose of such motion within twenty-one (21) days of its receipt, or the motion will be considered denied by operation of law, pursuant to Idaho Code § 67-5246(4).

If the Respondents timely file a request for hearing, the Respondents will be notified of the date, time and place of the hearing, as well as the name of the presiding officer. At the hearing, the Respondents will be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceedings. The Respondents may also be represented by legal counsel at their own expense.

Any motion for reconsideration or request for hearing must be timely made in writing, addressed to:

Dean L. Cameron, Director  
Idaho Department of Insurance  
700 W. State Street, 3<sup>rd</sup> Floor  
P.O. Box 83720  
Boise, Idaho 83720-0043

With a copy sent to:

Michael Witry  
Deputy Attorney General  
Idaho Department of Insurance  
P.O. Box 83720  
Boise, Idaho 83720-0043

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this FINAL ORDER may appeal from such order to the district court by filing a petition in the district court of the county in which:

- a. a hearing was held;
- b. the final agency action was taken;
- c. the party seeking review of the order resides, or
- d. the real property or personal property that was the subject of the agency action is located.

An appeal must be filed within twenty-eight (28) days: (a) of the issuance of this Order, (b) of the issuance of an order denying a motion for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. Idaho Code § 67-5273(2). The filing of an appeal to the district court does not itself stay the effectiveness of enforcement of the order being appealed.

**IT IS SO ORDERED.**

DATED and EFFECTIVE this 3<sup>rd</sup> day of April, 2019.

STATE OF IDAHO  
DEPARTMENT OF INSURANCE

  
DEAN L. CAMERON  
Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have on this 4<sup>th</sup> day of April, 2019, caused a true and correct copy of the foregoing CEASE AND DESIST ORDER AND NOTICE to be served upon the following by the designated means:

Makina Health  
Jorge Arzate, Director  
8920 Business Park Drive, Suite 250  
Austin, TX 78759

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email

Makina HR, LLC  
12205 Terraza Circle  
Austin, TX 78726-2353

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email

The Bailey Law Firm  
Registered Agent, Makina Health  
2203 Timberloch Place, Suite 215  
The Woodlands, TX 77380

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email

Jorge Arzate  
11213 Brista Way  
Austin, TX 78726-1383

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email

Steve Crabtree  
4936 E. 73rd Street  
Tulsa, OK 74136

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email

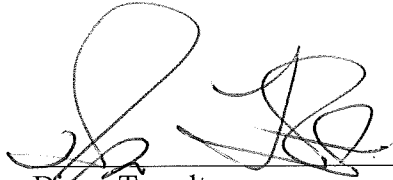
Paul Brouchard  
4936 E. 73rd Street  
Tulsa, OK 74136

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email



Michael Witry  
Deputy Attorney General  
Idaho Department of Insurance  
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Diana Tewalt