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**FILED**  
**SEP 05 2019** *AW*  
Department of Insurance  
State of Idaho

*Attorney 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

**STIPULATION AND FINAL ORDER**

The Idaho Department of Insurance (“Department”) and Respondents, MAKINA HEALTH, a Texas nonprofit corporation, and MAKINA HR, LLC, a Texas limited liability company, hereby enter into this Stipulation to resolve as between them the matters at issue in Department Docket No. 18-3637-19, and, for that purpose, do stipulate and agree as follows:

1. The Director of the Department (“Director”) has jurisdiction over Respondents and the subject matter herein pursuant to the Idaho Insurance Code, Idaho Code §§ 41-101 *et seq.*, including but not limited to provisions of Idaho’s Producer Licensing Act, Idaho Code §§ 41-1001 *et seq.*

2. 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.

3. 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.

4. Idaho Code § 41-117A authorizes the Director to impose an administrative penalty not to exceed fifteen thousand dollars (\$15,000) upon any person who transacts insurance of any kind without proper licensing.

5. On April 4, 2019, the Director entered a Cease and Desist Order and Notice (“C&D Order”) in the instant docket, requiring Respondents to immediately cease and desist from transacting insurance or operating as a multiple employer welfare arrangement (“MEWA”) in the state of Idaho without first being licensed and/or registered, as defined and as required under title 41, Idaho Code.

6. Following Respondents’ filing of a request for hearing on the C&D Order, the Director issued an order, on May 1, 2019, granting the request for hearing and appointing a hearing officer to preside over the matter. As specifically addressed in that order, the granting of

Respondents' request for hearing did not stay the effectiveness of the C&D Order, which remained in full force and effect.

7. In lieu of proceeding to hearing, the Department and Respondents agree to resolve the matters at issue through this negotiated settlement, wherefore the parties stipulate and agree as follows:

- a. That MAKINA HR, LLC, admits to one violation of Idaho Code § 41-117A, transacting insurance in the state of Idaho by acting as a broker without obtaining proper licensure; and
- b. That, for such violation, MAKINA HR, LLC, agrees to imposition of an administrative penalty in the amount of six thousand dollars (\$6,000), which amount shall be paid in full within ninety (90) days of entry of the Final Order herein; and
- c. That Respondents shall continue to abide by the C&D Order, which provides 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 required under title 41, Idaho Code; and
- d. That the C&D Order issued in this matter on April 4, 2019, shall remain in full force and effect until such time as Respondents demonstrate to the Director that prospective application of the C&D Order is no longer equitable.

8. In agreeing to the provisions of this Stipulation, Respondents knowingly and voluntarily waive any rights they would otherwise have to dispute the matters asserted in

Administrative Case Docket No. 18-3637-19, including but not limited to the rights afforded by Idaho Code § 41-232A, which provides for the right to a hearing; the right to be represented at a hearing by counsel chosen and retained by Respondents; the right present a defense, oral and documentary evidence and to cross-examine witnesses at such hearing and the right to seek judicial review.

9. The Department and Respondents each agree that this Stipulation is a full and final settlement of the issues raised between them in Administrative Case Docket No. 18-3637-19.

10. Neither this Stipulation nor the Final Order approving this Stipulation shall be deemed in any manner to prevent the Department from commencing any other agency action relating to conduct of Respondents not settled herein, and without regard to whether such conduct occurred prior to the date of this Stipulation or the Final Order approving this Stipulation.

11. Respondents understand and acknowledge that the Department may take such lawful actions as may be required or appropriate to investigate and determine whether the Respondents are in compliance with this Stipulation and the Final Order approving this Stipulation.

12. In the event that the Department takes action relating to alleged violations of this Stipulation or the Final Order approving this Stipulation, the Stipulation and Final Order shall be admissible in full in that proceeding for any purpose.

13. Respondents enter into this Stipulation freely and voluntarily, after having had the opportunity to consult with counsel of their choice, and with full understanding of the legal consequences of this Stipulation and the Final Order approving this Stipulation.

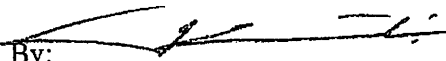
14. Respondents agree that, upon execution of this Stipulation, no subsequent action or assertion shall be maintained or pursued in any manner asserting the invalidity of this Stipulation and Final Order and its provisions.

15. This Stipulation is subject to approval by the Director or the Director's designee, and shall become effective and binding upon the Department and Respondents upon such approval. Should the Director decline to approve this Stipulation, the Department and Respondents shall retain all of their rights, claims and/or defenses, and any factual and/or legal admissions made by Respondents herein shall be withdrawn.

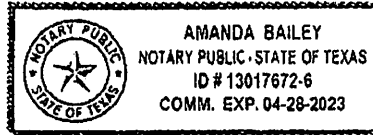
16. This Stipulation and Final Order embodies the entire agreement between the Department and Respondents, and there are no agreements, understandings, representations or warranties that are not expressly set forth herein.

AGREED this 29 day of August, 2019.

MAKINA HR, LLC  
A Texas limited liability company

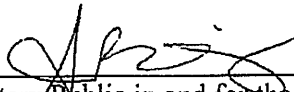
By:   
Name: JORGE ARZATE  
Its: CEO

STATE OF Texas )  
; ss.  
County of Travis )



On this 29<sup>th</sup> day of August, 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared Jorge Arzate, known or identified to me (or proved to me on the oath of DL TV), to be the manager or a member of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

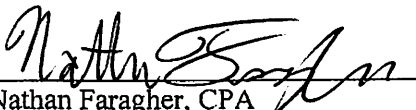
WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

  
\_\_\_\_\_  
Notary Public in and for the  
State of Texas  
Residing at Austin, TX  
My commission expires: 04/28/2023




AGREED this 29 day of August, 2019.

STATE OF IDAHO  
DEPARTMENT OF INSURANCE

  
Nathan Faragher, CPA  
Bureau Chief, Company Activities

Approved as to Form:

OFFICE OF THE ATTORNEY GENERAL  
STATE OF IDAHO

By:   
Michael Witry  
Deputy Attorney General  
Attorney for the Idaho Department of Insurance



**FINAL ORDER**

The Idaho Department of Insurance, MAKINA HEALTH, and MAKINA HR, LLC, having entered into the foregoing Stipulation, the Director, having reviewed the same, does hereby find that there is a factual basis for entry of a Final Order herein.

NOW, THEREFORE, based on the foregoing and in consideration of the premises,

IT IS HEREBY ORDERED that the foregoing Stipulation is approved and is incorporated herein and made a part hereof as if set for in full.

IT IS FURTHER ORDERED that an administrative penalty in the amount of six thousand dollars (\$6,000) is imposed against MAKINA HR, LLC, which amount shall be paid in full within ninety (90) days of entry of this Final Order.

IT IS FURTHER ORDERED that MAKINA HEALTH and MAKINA HR, LLC, shall continue to abide by the Cease and Desist Order entered in this matter on April 4, 2019, which provides 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 required under title 41, Idaho Code.

IT IS FURTHER ORDERED that said Cease and Desist Order shall remain in full force and effect until such time as Respondents demonstrate to the Director that prospective application of the Cease and Desist Order is no longer equitable.

DATED AND EFFECTIVE this 4 day of September, 2019.

STATE OF IDAHO  
DEPARTMENT OF INSURANCE



DEAN L. CAMERON, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5<sup>th</sup> day of September 2019, I caused a true and correct copy of the foregoing STIPULATION AND FINAL ORDER to be served upon the following by the designated means:

Rachel Giani  
Winstead PC  
401 Congress Avenue, Suite 2100  
Austin, TX 78710

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

Jess Bailey  
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- certified mail
- hand delivery
- via facsimile

  
Pamela Murray