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FILED
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Department of Insurance
State of Idaho

Attorneys for Idaho Department of Insurance

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

In the Matter of:

MEDOVA HEALTHCARE FINANCIAL GROUP, LLC, a Kansas limited liability company; MIDLANDS CASUALTY INSURANCE COMPANY, INC., a Hawaii corporation; and DANIEL L. WHITNEY, an unlicensed individual,

Respondents.

Docket No. 18-3674-19

**CEASE AND DESIST ORDER
AND NOTICE**

TO: MEDOVA HEALTHCARE FINANCIAL GROUP, LLC, a Kansas limited liability company;
MIDLANDS CASUALTY INSURANCE COMPANY, INC., a Hawaii corporation;
DANIEL L. WHITNEY, registered agent of Medova Healthcare Financial Group, LLC;

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.*, and upon the evidence provided in the Affidavit of Eric Fletcher, 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 § 41-901(1) defines a “third party administrator” (“TPA”) as “any person who directly or indirectly underwrites, collects charges or premiums from or adjusts or settles claims on residents of this state in connection with life, annuity or health insurance coverage offered or provided by an insurer....” All TPAs that operate in the state of Idaho must hold either a resident administrator license or a nonresident administrator license, pursuant to Idaho Code §§ 41-911 and 41-912.

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. MEDOVA HEALTHCARE FINANCIAL GROUP, LLC (“MEDOVA”) is a Kansas limited liability company. It is not licensed or registered with the Department in any capacity.

2. MIDLANDS CASUALTY INSURANCE COMPANY, INC., (“MIDLANDS”) is a Hawaii corporation that is registered with the Hawaii Insurance Division as a captive insurance company. It is a captive of MEDOVA. It is not licensed or registered with the Department in any capacity.

3. DANIEL L. WHITNEY (“WHITNEY”) is the president and registered agent of MEDOVA and is the CEO of MIDLANDS.

FINDINGS OF FACT

4. On or about May 10, 2016, MEDOVA applied for a license to act as a TPA in Idaho. WHITNEY was listed as the company’s president on this application.

5. MEDOVA’s application disclosed that it intended to act as an administrator for self-funded health plans.

6. On or about July 20, 2016, the Department issued its initial denial of MEDOVA’s application, finding that “the company is using risky methods or practices in the conduct of its business.”

7. On or about August 5, 2016, WHITNEY, acting on behalf of MEDOVA, requested a hearing pursuant to Idaho Code § 41-232A(1) to challenge the denial.

8. On or about August 16, 2016, WHITNEY, acting on behalf of MEDOVA, withdrew MEDOVA's application.

9. On or about December 13, 2018, MEDOVA submitted a revised application for a TPA license.

10. 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.

11. The Department commenced an investigation on information received from the complainant. The Department's investigation showed that Makina Benefits referred clients to insurance products offered through MEDOVA.

12. On or about April 18, 2019, the Department sent MEDOVA a letter requesting, among other things, copies of any contracts that MEDOVA or any of its affiliate entities entered into with Idaho residents.

13. On or about May 16, 2019, WHITNEY, acting on behalf of MEDOVA, replied to the Department's letter. The documents attached to WHITNEY's reply demonstrate the following:

- a. Between September of 2017 and March of 2019, MEDOVA acted as a TPA for self-funded health plans for eighteen Idaho businesses, despite not holding a TPA license in Idaho;
- b. Seventeen of those businesses purchased excess of loss aggregate insurance policies from MIDLANDS.

14. Immediate and timely action is necessary to prevent harm to the public and to take immediate steps to prevent MEDOVA, MIDLANDS, and WHITNEY 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. MEDOVA, MIDLANDS, WHITNEY, and their affiliates are engaged in the business of transacting insurance in the state of Idaho, as defined in Idaho Code § 41-112;
- b. To the extent MEDOVA and WHITNEY are acting as TPAs in the state of Idaho, they are doing so without holding a license, in violation of Idaho Code §§ 41-911 and 41-912.
- c. MEDOVA, WHITNEY, and their affiliates are transacting insurance and are engaging in unlicensed and/or unregistered activity, and 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 WHITNEY, MIDLANDS, MEDOVA, MIDLANDS' managing members, members, officers, employees, agents, affiliates, and successors, and MEDOVA's managing members, members, officers, employees, agents, affiliates, and successors, immediately CEASE AND DESIST from transacting new business or operating as a TPA in the state of Idaho without first being licensed and/or registered, as defined and as required under title 41, Idaho Code.

NOTICE

MEDOVA, MIDLANDS, and WHITNEY 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 Idaho 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, 3rd 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 18 day of July, 2019.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



DEAN L. CAMERON
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have on this 18th day of July, 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:

Medova Healthcare Financial Group, LLC 345 N Riverview, Ste 600 Wichita, KS 67203	<input checked="" type="checkbox"/> first class mail <input checked="" type="checkbox"/> certified mail <input type="checkbox"/> hand delivery <input type="checkbox"/> via facsimile
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Midlands Casualty Insurance Company, Inc. c/o Gerald C. Yoshida 999 Bishop St, Ste 1600 Honolulu, HI 96813	<input checked="" type="checkbox"/> first class mail <input checked="" type="checkbox"/> certified mail <input type="checkbox"/> hand delivery <input type="checkbox"/> via facsimile
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Daniel L. Whitney Medova Healthcare 345 N Riverview, Ste 600 Wichita, KS 67203	<input checked="" type="checkbox"/> first class mail <input checked="" type="checkbox"/> certified mail <input type="checkbox"/> hand delivery <input type="checkbox"/> via facsimile
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Kansas Insurance Department Vicki Schmidt, Commissioner 420 SW 9 th Street Topeka, KS 66612-1678	<input checked="" type="checkbox"/> first class mail <input type="checkbox"/> certified mail <input type="checkbox"/> hand delivery <input type="checkbox"/> via facsimile
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Department of Commerce & Consumer Affairs Insurance Division Colin M. Hayashida, Commissioner P.O. Box 3614 Honolulu, HI 96811-3614	<input checked="" type="checkbox"/> first class mail <input type="checkbox"/> certified mail <input type="checkbox"/> hand delivery <input type="checkbox"/> via facsimile
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Michael Witry Deputy Attorney General Idaho Department of Insurance 700 W. State Street, 3 rd Floor P.O. Box 83720 Boise, ID 83720-0043	<input type="checkbox"/> first class mail <input type="checkbox"/> certified mail <input checked="" type="checkbox"/> hand delivery <input type="checkbox"/> via facsimile
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Pamela Murray
Assistant to the Director