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**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH**

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENTS:

MLM GROUP MARKETING ALLIANCE, INC.:
aka, THE ALLIANCE

Unlicensed
1529 N. Technology Way
Orem, UT 84097

384 E. Heather Rd.
Orem, UT 84057

ATHALON TPA GROUP
License No. 355904
1529 N. Technology Way
Orem, UT 84097

TIMOTHY VEST
aka, TIMOTHY TR VEST
License No. 41808
315 S. 500 E.
American Fork, UT 84003-3840

384 E. Heather Rd.
Orem, UT 84057-2206

**CEASE AND DESIST
ORDER**

Docket No. 2010-183 LC

Enf. Case No. 2753

DENISE NIELSEN :
 Unlicensed :
 695 S. Apple Grove Ln. :
 Pleasant Grove, UT 84602 :
 :
 ADAM J. BENNETT :
 License No. 225030 (Lapsed) :
 1189 Locust Cir. :
 Provo, UT 84601 :
 :
 384 E. Heather Rd. :
 Orem, UT 84057 :
 :
 SEAN T. VEST :
 License No. 341169 :
 10105 N. 6000 W. :
 Highland, UT 84003 :
 :
 384 E. Heather Rd. :
 Orem, UT 84057 :
 :

COMES NOW, Neal T. Gooch, Insurance Commissioner of the State of Utah, and in support of the following states:

JURISDICTION

Neal T. Gooch is the Insurance Commissioner of the State of Utah and is charged with the duty of administering and enforcing all provisions of the Utah Insurance Code, pursuant to Utah Code Annotated, §§ 31A-2-201 and 31A-1-105(2).

Based upon information in the files of the Insurance Department the Commissioner enters the following:

FINDINGS OF FACT

1. Respondent MLM Group Marketing Alliance, Inc. (“MLM”) is a corporation domiciled in the State of Utah and is also known and doing business as The Alliance. MLM is not licensed to do an insurance business in the State of Utah in any capacity.

2. Respondent Athalon TPA Group (“Athalon”) is a limited liability company organized in the State of Utah, and is licensed as a third party administrator in the State of Utah, License No. 355904.

3. Respondent Timothy Vest, also known as Timothy TR Vest (“Vest”) is a licensed resident insurance producer and consultant in the State of Utah, License No. 41808, and is a director and registered agent of Respondent MLM, and is a manager and registered agent of Respondent Athalon.

4. Respondent Denise Nielsen is a resident of the State of Utah and is not licensed to do insurance business in the State of Utah in any capacity and is a director of Respondent MLM and a manager of Respondent Athalon.

5. Respondent Adam J. Bennett is a was a licensed resident customer service representative in the State of Utah whose license lapsed for non-renewal on April 29, 2008, and is a director of Respondent MLM and a member of Respondent Athalon.

6. Respondent Sean T. Vest is a licensed resident insurance producer in the State of Utah, and is a member of Respondent Athalon.

7. During November or December 2010, Respondent Vest contacted a self-employed resident of the State of Utah and marketed insurance to be provided through Respondent MLM.

8. During the marketing presentation, Respondent Vest represented that MLM was a licensed Voluntary Health Purchasing Alliance in the State of Utah under Chapter 34 of Title 31A, Utah Code Ann., when he knew that such representation was false.

9. Respondent Vest also provided an IRS W-4 form to the proposed insured for the purpose of representing that the proposed insured was an employee of MLM when Vest knew that such representation was false.

10. At the time Respondent Vest solicited the sale of insurance he knew that Respondent MLM was not organized by participating employers, was not governed and controlled by participating employers, had not filed articles of incorporation and bylaws or an application form with the commissioner, and did not have at least three insurers contracted to provide insurance to enrollees, and would, therefore, bear risk.

11. Respondent Vest also knew at the time of the solicitation for the sale of insurance that Respondent MLM had not submitted proposed actuarial models and underwriting and market methodologies to the commissioner for review and approval.

12. The contract presented to the proposed insured by Respondent Vest did not provide that the alliance is the contract holder of health benefit plan policy on behalf of members and enrollees.

13. Respondent Vest also provided a "Payment Authorization Agreement" authorizing Respondent Athalon to draft monthly membership fees, monthly billing fees, and insurance premiums from the insured's bank account.

14. Respondents Vest, Denise Nielsen, Adam J. Bennett, and Sean T. Vest are persons who control and manage Respondents MLM and Athalon, and are responsible for the actions of Respondents MLM and Athalon.

Having entered his Findings of Fact, the commissioner now enters the following:

CONCLUSIONS OF LAW

1. In holding themselves out as a health insurance purchasing alliance, Respondents violated Utah Code Annotated § 31A-34-104(2).
2. In proposing to represent a proposed insured as an employee of Respondent MLM, Respondents Vest and MLM violated Utah Code Annotated § 31A-23a-402(1)(a)(i).
3. In representing MLM as a health insurance purchasing alliance, Respondents violated Utah Code Annotated § 31A-34-105.
4. In marketing insurance through MLM when no insurers had contracted to provide insurance to members and enrollees, Respondents were marketing unauthorized insurance in violation of Utah Code Annotated § 31A-15-102.
5. In acting as a third party administrator for Respondent MLM, Respondent Athalon violated Utah Code Annotated §§ 31A-15-102.
6. Respondents' actions in marketing unauthorized insurance in the State of Utah and in violating other provisions of the Utah Insurance Code constitute an immediate and significant danger to the public welfare and such threat requires immediate action by the Insurance Department, justifying the issuance of an emergency administrative proceeding

requiring Respondents to immediately Cease and Desist any unauthorized insurance business in the State of Utah and any further violations of the Utah Insurance Code under Utah Code Annotated § 63G-4-502.

Having entered his Findings of Fact and Conclusions of Law, the commissioner now enters the following:

ORDER

1. Respondents and any persons or entities operating for, in behalf of, or in concert with Respondents shall immediately Cease and Desist doing any unauthorized insurance business in the State of Utah, including soliciting by any means, making or proposing to make any unauthorized insurance contract, taking receiving or forwarding any application for insurance, collecting or receiving, in full or in part, any insurance premium or fees, issuing or delivering any insurance policy, certificate of insurance, or other evidence of an insurance contract, publishing or disseminating any advertisement or information for insurance, or representing or assisting any person to do an unauthorized insurance business or to procure insurance from an unauthorized insurer.

2. Respondents shall immediately cease holding themselves out as being a health insurance purchasing alliance or in any way promoting such an alliance until such time as a license has been issued by the commissioner.

NOTIFICATION

Respondents are hereby notified that failure to abide by the terms of this Order may subject them to further penalties, including additional forfeitures of up to \$5,000.00 per violation, and the filing of an action to enforce this Order in the District Court which may impose penalties of up to \$10,000.00 per day for continued violation.

You are further notified that pursuant to Utah Code Annotated §§ 31A-2-308(10) and 31A-15-102(5), any person who knowingly provides or assists in placing unauthorized insurance in the State of Utah is guilty of a felony.

Respondents are further notified that, pursuant to Utah Code Annotated § 31A-15-105, they are each personally liable to any Utah insured under contracts issued by an unauthorized insurer for the full amount of a claim or loss payable under the contract.

Any person contesting this order may request a hearing, in writing, addressed to the insurance commissioner, within 15 days of the date of this Order.

DATED this 28th day of December, 2010.

NEAL T. GOOCH
INSURANCE COMMISSIONER



MARK E. KLEINFELD
Presiding Officer
Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, UT 84114
Telephone (801)538-3800