

**BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA**

STATE OF OKLAHOMA, *ex rel.*)
JOHN D. DOAK, Insurance)
Commissioner,)
)
Petitioner,)
v.)
)
CINERGY HEALTH, INC., d/b/a)
Cinergy Health & Life, a)
nonresident insurance producer)
firm,)
Respondent.)

Case No. 11-0284-DIS

FILED
JUL 28 2011
INSURANCE COMMISSIONER
OKLAHOMA

CONSENT ORDER

The State of Oklahoma, *ex rel.* John D. Doak, Insurance Commissioner (the “Insurance Commissioner” or “Petitioner”), and the above named Respondent Cinergy Health, Inc. d/b/a Cinergy Health & Life (“Cinergy”) agree to the entry of this Consent Order and jointly state as follows:

JURISDICTION

1. The Insurance Commissioner has jurisdiction of this cause, pursuant to the Oklahoma Constitution Article VI, § 22, the Oklahoma Insurance Code generally, 36 O.S. §§ 101 et seq., and specifically pursuant to the Oklahoma Producer Licensing Act, 36 O.S. §§ 1435.1, et seq.
2. Cinergy is a licensed nonresident insurance producer agency holding Oklahoma license 10211. Its address of record with the Oklahoma Insurance Department is 10251 W. Oakland Park Blvd., Sunrise, Florida 33351-6915. The designated responsible producer for Cinergy is Steven Brett Trattner holding Oklahoma license 43527.
3. The Insurance Commissioner may place on probation, censure, suspend, revoke

or refuse to issue or renew a license issued pursuant to the Oklahoma Producer Licensing Act and/or may levy a fine up to \$1,000.00 for each occurrence of a violation of the Oklahoma Insurance Code, 36 O.S. § 1435.13(A) and (D).

4. Cinergy has been apprised of its rights including the right to a public hearing and has knowingly and freely waived said rights and enters into this Consent Order as a voluntary settlement to the issues and questions raised in the above captioned case.

AGREED FINDINGS OF FACT

1. John D. Doak is the Insurance Commissioner of the State of Oklahoma and as such is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code.

2. Respondent Cinergy Health, Inc. d/b/a Cinergy Health & Life is an insurance agency based in Florida listing an address of 10251 W. Oakland Park Blvd., Sunrise, Florida 33351-6915. Cinergy's designated responsible producer is Steven Brett Trattner.

3. Cinergy markets and sells limited health benefit plans and life insurance within the State of Oklahoma via television and radio commercials, the internet and occasional print advertising.

4. Oklahoma consumers typically see or hear Cinergy advertisements and then telephone Cinergy representatives in Florida to inquire about health and life insurance. The Cinergy representatives ask pertinent information during the telephone conversation and take applications over the telephone while selling, soliciting and negotiating health and life insurance products to the Oklahoma consumers.

5. Approximately one thousand four-hundred and thirty-four (1,434) Oklahoma consumers have purchased health and/or life insurance through Cinergy. Approximately three

hundred and eighty-eight (388) of those sales were made by approximately one hundred and twelve (112) Cinergy representatives who were unlicensed in Oklahoma while selling the insurance products to the Oklahoma consumers. This does not reflect additional unlicensed solicitations by Cinergy representatives when insurance was not purchased by Oklahoma consumers.

6. Cinergy formerly marketed and sold limited health benefit plans and life insurance within the State of Oklahoma on behalf of American Medical and Life Insurance Company through a group policy issued to the National Congress of Employers.

9. Cinergy has never been appointed to sell, solicit or negotiate insurance on behalf of American Medical and Life Insurance Company in Oklahoma.

10. Cinergy has fully cooperated with the Oklahoma Insurance Department during the course of this proceeding and has provided all information and documentation as requested by the Department. Cinergy is presently in compliance with Oklahoma law relating to the subject matter herein, and is eligible to have its nonresident Oklahoma insurance producer's license reinstated pursuant to the terms set out in the Order and Consent set out hereinafter.

AGREED CONCLUSIONS OF LAW

1. A person shall not sell, solicit or negotiate insurance in this state for any class or classes of business unless the person is licensed for that line of authority in accordance with the Oklahoma Producer Licensing Act. 36 O.S. § 1435.4(A). Cinergy Health, Inc. violated 36 O.S. § 1435.13(A)(12) by knowingly accepting insurance business from individuals not licensed to sell, solicit or negotiate insurance in the state of Oklahoma.

2. An insurance company or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating

insurance in this state if that person is required to be licensed under this act and is not so licensed. 36 O.S. § 1435.14(A). Cinergy violated 36 O.S. § 1435.13(A)(2) by paying commissions to unlicensed individuals.

3. An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. 36 O.S. § 1435.15(A). Cinergy violated 36 O.S. § 1435.13(A)(2) by marketing and selling limited health benefit plans and life insurance within the State of Oklahoma on behalf of American Medical and Life Insurance Company without a company appointment.

ORDER AND CONSENT

IT IS THEREFORE ORDERED by the Insurance Commissioner and **CONSENTED** to by Cinergy Health, Inc. that:

1. Cinergy is hereby fined pursuant to 36 O.S. § 1435.13(D) in the amount of Twenty Thousand Dollars (\$20,000.00), payable within thirty (30) days of execution of this Consent Order.

2. Upon execution of this Consent Order and receipt of fine payment, Cinergy's nonresident Oklahoma insurance producer's license will be reinstated on probation pursuant to 36 O.S. § 1435.13(A) for the next biennial period of licensure.

3. Cinergy shall fully comply with the Oklahoma Insurance Code and the Rules and Regulations of the Oklahoma Insurance Department.

4. Cinergy shall not conduct any business related to insurance in this state unless specifically authorized to do so. Further, Cinergy shall not accept business from or pay commissions, service fees, brokerage fees, or other valuable consideration to any unlicensed person for selling, soliciting or negotiating insurance products within the state of Oklahoma.

5. Cinergy shall not act on behalf of any insurer within the state of Oklahoma unless Cinergy is an appointed agent of the insurer.

6. Cinergy acknowledges and agrees that the Insurance Commissioner has the right to seek additional penalties – after being given notice and an opportunity for hearing – against Cinergy in the event the terms of this Consent Order are breached.

WITNESS My Hand and Official Seal this 20th day of July, 2011.



JOHN D. DOAK
INSURANCE COMMISSIONER

LEAMON FREEMAN
INDEPENDENT HEARING EXAMINER
OKLAHOMA INSURANCE DEPARTMENT

APPROVED:

Julie Meaders
Assistant General Counsel
Oklahoma Insurance Department

Larry Derryberry
Derryberry & Naifeh, LLP
Attorney for Respondent

Cinergy Health, Inc.
d/b/a Cinergy Health & Life

By: STEVEN TRATTNER
Its: Executive Vice President

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing *Consent Order* was mailed postage prepaid with return receipt requested on this 26th day of July, 2011, to:

Larry Derryberry
Derryberry & Naifeh, LLP
4800 N. Lincoln Blvd.
Oklahoma City, Oklahoma 73105

Steven Trattner
Executive Vice President
10251 W Oakland Park Blvd
Sunrise, Fl 33351-6915

and that a copy was delivered by electronic mail to:

Leah Scoles, Manager
Producer Licensing Division


SUSAN D. DOBBINS

7008 1830 0003 9410 9052

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

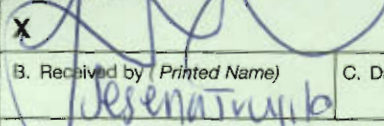
1. Article Addressed to:

RECEIVED
OKLAHOMA INSURANCE DEPARTMENT
AUG 02 2011
Legal Division

Steven Trattner
Executive Vice President
10251 W Oakland Park Blvd
Sunrise, FL 33351-6915
sms/11-0284-DIS/Const Ord

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X 

Agent

Addressee

B. Received by (Printed Name)

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C. Date of Delivery

D. Is delivery address different from item 1? Yes

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C.O.D.

4. Restricted Delivery? (Extra Fee)

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2. Article Number
(Transfer from service label)

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| <ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits. | A. Signature <input checked="" type="checkbox"/> <i>Stacy Warnberg</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee |
| 1. Article Addressed to: | B. Received by (<i>Printed Name</i>) C. Date of Delivery <i>Stacy Warnberg</i> <i>7/27/11</i> |
| RECEIVED OKLAHOMA INSURANCE DEPARTMENT JUL 29 2011 Larry Derryberry Derryberry & Naifeh, LLP Legal Division 4800 N. Lincoln Blvd. Oklahoma City, Oklahoma 73105 sms/11-0284-DIS/Const Ord | D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, enter delivery address below: <input type="checkbox"/> No |
| 2. Article Number (Transfer from service label) | 3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (<i>Extra Fee</i>) <input type="checkbox"/> Yes |
| PS Form 3811, February 2004 | 7008 1830 0003 9410 9069 Domestic Return Receipt 102595-02-M-1540 |