

JUL 08 2021

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

IN THE MATTER OF:)	SUMMARY ORDER TO
Grow with MKG, LLC.,)	CEASE AND DESIST
a Foreign entity)	
)	AND NOTICE OF RIGHTS
RESPONDENTS.)	
)	
)	CAUSE NO. I-100
)	
)	

The Department of Insurance (herein the "Department"), by and through its Director, Eric Dunning, upon Petition for Cease and Desist filed by Department counsel, Michael W. Anderson, hereby orders Grow with MKG, LLC., a Foreign entity, ("Respondent") to immediately CEASE AND DESIST issuing, making, providing, marketing, selling or offering, either directly or indirectly, insurance plans in the State of Nebraska which are not insured by an insurer licensed to transact insurance in the state. Specifically, pursuant to Neb. Rev. Stat. § 44-101.01, 44-135, and 44-2002. NOTICE IS HEREBY GIVEN:

1. The Director of Insurance is charged with enforcement of the insurance laws of the State of Nebraska. See, Neb. Rev. Stat. § 44-101 et seq., including unauthorized activities of insurers;
2. Neb. Rev. Stat. § 44-2002(2) defines an insurer to include all corporations, associations, partnerships, and individuals engaged as principals in the business of insurance;
3. The Unauthorized Insurers Act, Neb. Rev. Stat. § 44-2002, provides that "[i]t shall be unlawful for any insurer to transact insurance business in this state, as set forth in subsection (2) of this section without a certificate of authority from the director." subsection (2) provides that "[t]he following acts in this state effected by mail or otherwise by or on behalf of an unauthorized insurer shall constitute the transaction of an insurance business in this state . . . :
 - (a) The making of or proposing to make, as an insurer, an insurance contract;
 - (b) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety;
 - (c) The taking or receiving of any application for insurance;
 - (d) The receiving or collection of any premium, commission, membership fees, assessments, dues, or other consideration for any insurance or any part thereof;
 - (e) The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state;

- (f) Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of any person or insurer in the solicitation, negotiation, procurement, or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located, or to be performed in this state. This subsection shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance on behalf of such employer;
 - (g) The transaction of any kind of insurance business specifically recognized as transacting an insurance business within the meaning of the statutes relating to insurance; or
 - (h) The transacting or proposing to transact any insurance business in substance equivalent to any of the provisions of subdivisions (a) through (g) of this subsection in a manner designed to evade the provisions of the statutes;”
6. The Respondent is not licensed or registered as an insurer or producer in the State of Nebraska;
7. Following an investigation into this matter, the Department has reasonable cause to believe that Respondents engaged, either directly or on behalf of an unauthorized insurer, in the business of transacting insurance in the state without a license and are violating and have violated Neb. Rev. Stat. § 44-2002(a), (c) – (h) in that:
- a. The Department of Insurance received a complaint in April 2021 regarding Facebook advertisement posts made by Respondent, advertising “NEW self-employed health insurance programs, designed specifically for Nebraska business owners” and utilizing a photo of the Nebraska Governor in such advertisement.
 - b. In reviewing this matter, it was discovered that Respondent was not registered in the State of Nebraska as a non-resident agency. Respondent, as an unregistered agency, was also found to be operating without a designated licensed responsible producer.
 - c. According to records of the Department of Insurance, Respondent does not have a certificate of authority to operate as an insurer in the State of Nebraska as required under Neb. Rev. Stat. §44-2002.
 - d. According to records of the Department of Insurance, Respondent has not registered to operate as a foreign insurance company pursuant to Neb. Rev. Stat. § 44-135.
8. The acts and conditions set forth above are unlawful and constitute violations of the Unauthorized Insurers Act and fall within the purview of the Department’s authority to exercise powers authorized by law including the issuance of a summary order to cease and desist such activities pursuant to Neb. Rev. Stat. § 44-2003(2);

9. The Unauthorized Insurers Act, Neb. Rev. Stat. § 44-2002(3)(a) provides that “[t]he failure of an insurer transacting insurance business in this state to obtain a certificate of authority shall not impair the validity of any act or contract of such insurer and shall not prevent such insurer from defending any action at law or suit in equity in any court of this state, but no insurer transacting insurance business in this state without a certificate of authority shall be permitted to maintain an action in any court of this state to enforce any right, claim, or demand arising out of the transaction of such business until such insurer shall have obtained a certificate of authority”;
10. And, finally, that Neb. Rev. Stat. § 44-2002(3)(b) provides “[i]n the event of failure of any such unauthorized insurer to pay any claim or loss within the provisions of any insurance contract, any person who assisted or in any manner aided directly or indirectly in the procurement of such insurance contract **shall be liable** to the insured for the full amount of the claim or loss in the manner provided by the provisions of such insurance contract.” (Emphasis added).

WHEREFORE, pursuant to the Nebraska Insurance Code, specifically Neb. Rev. Stat. § 44-2003(2), 1, Eric Dunning, do hereby find that the continued transaction of insurance by Respondents without a Certificate of Authority or appropriate producer licenses issued by the Department of Insurance, are violations of the Nebraska Insurance Code and, as such, constitute an immediate danger to the public welfare by placing the public in grave harm so as to necessitate this immediate issuance of an Order.

ACCORDINGLY, IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED that Respondents shall immediately CEASE AND DESIST from transacting the business of insurance in this State including acting or holding themselves out as insurers exempt from regulation in this State or insurance producers, either directly or indirectly, whether under Respondent’s own name or any other name whatsoever used by any Respondent individually.

IT IS ORDERED that Respondents shall forthwith notify each and every Nebraska resident of the cessation of all insurance business because Respondent is unlicensed, that no additional premium funds or consideration will be accepted by Respondents from said Nebraska residents.

IT IS FURTHER ORDERED that Respondents shall add a disclaimer to any and all websites advertising Respondents products or services that said products and services “are not available in the State of Nebraska.”

IT IS FURTHER ORDERED that Respondents and/or any person(s) who assisted or in any manner aided directly or indirectly in the procurement of such insurance contract shall be liable to the insured(s) for the full amount of the claim or loss in the manner provided by the provisions of such insurance contract.

TO: Respondent

FROM: Nebraska Department of Insurance

GENERAL PROCEDURE FOR DEPARTMENT OF INSURANCE HEARINGS

1. The Hearing Officer, who has no knowledge of the case, will open the hearing and will make the Notice of Hearing and Director's Order Appointing the Hearing Officer part of the record. The entire hearing is tape recorded.
2. The Hearing Officer will identify the attorney for the Department, the attorney for the Respondent, if any, and will state whether the Respondent is present. The Respondent may represent himself or herself. There is no requirement that an attorney represent the Respondent. The Department cannot give you advice about whether or not you should hire an attorney.
3. The Hearing Officer will ask for opening statements, first from the Department, then from the Respondent. An opening statement may be a short summary or a history of facts pertinent to the case. The opening statement is optional.
4. The Hearing Officer will ask the Department and the Respondent to present their cases. The Department will present its evidence first and the Respondent will follow. A presentation may consist of testimony by witnesses, including that of the Respondent, exhibits and testimony by other witnesses. Therefore, the Respondent should bring all that the Respondent wants the Hearing Officer to consider. The parties may object to a witness testifying at the hearing or to an exhibit which the opposing party wishes to present as evidence.
5. Any witness giving testimony in the proceeding will be sworn. The witness will first be asked questions by the party calling such witness. The opposing party will then have the opportunity to cross-examine that witness. The Hearing Officer also may ask a witness questions.
6. At the conclusion of each party's presentation, the Hearing Officer will ask for a closing statement. The closing statement is optional and may constitute a summary of the evidence presented and why the Respondent should or should not be granted an agent's license by the Department.
7. The Hearing Officer closes the hearing then reviews the evidence and makes a Recommended Finding to the Director. The Director may adopt the recommendation or arrive at a different conclusion. The Respondent may appeal the Director's Order to the Lancaster County District Court within 30 days after receiving the Order.

NOTICE OF RIGHTS

A hearing on this matter may be requested in writing within ten (10) business days after receipt of this Order as authorized under Neb. Rev. Stat. § 44-2003(2). If a hearing is requested, the Director shall schedule a hearing within ten (10) business days after receipt of the request.

Dated this 8th day of July, 2021.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,



Michael W. Anderson
Attorney for Petitioner
1526 K Street, Suite 200
Lincoln, NE 68501-2089
(402) 471-4649

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing SUMMARY ORDER TO CEASE AND DESIST was served upon Respondent by certified mail, return receipt requested and by regular U.S mail, to the Respondents mailing address at 1033 Larkspur Loop, St. Johns, Florida, 32259 on this 8th day of July, 2021

