

MAY 04 2012

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

In the Matter of the Unauthorized)	SUMMARY ORDER TO
Insurance Activities of)	CEASE AND DESIST
)	
UNITED STATES CONTRACTORS)	
TRUST; and)	CAUSE NO. I-86
ACCESS HEALTH NOW,)	
)	
Unauthorized Entities.)	
)	
and)	
)	
DAVIS L. NELLSON a/k/a)	
DAVID L. NELSON a/k/a)	
DAVID NELLSON,)	
)	
Individual Respondent.)	

The Department of Insurance (herein the "Department"), by and through its Director, Bruce R. Ramage, upon Petition for Cease and Desist filed by Department counsel, Joel F. Green, hereby orders United States Contractors Trust ("USCT"), Access Health Now ("Access") and Davis L. Nellson a/k/a David L. Nelson a/k/a David Nellson ("Nellson") (collectively "Respondents") to immediately CEASE AND DESIST issuing, making, providing, administering, selling or offering, either directly or indirectly, insurance benefits 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. § 44-2002, 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. NEB. REV. STAT. § 44-303 provides that an insurer must obtain a certificate of authority before transacting the business of insurance in the State of Nebraska;

4. **NEB. REV. STAT. § 44-201(4) defines sickness and accident insurance to mean insurance against loss or expense resulting from the sickness of the insured, from bodily injury or death of the insured by accident, or both, and every insurance pertaining thereto;**

5. **The Unauthorized Insurers Act, NEB. REV. STAT. § 44-2001 ET SEQ., 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 another 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 Respondents are not licensed or registered as insurers, producers, third-party administrators or discount medical plan organizations 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) USCT is a Delaware statutory trust. USCT has never been granted a certificate of authority to transact the business of insurance in any capacity in the state of Nebraska, does not hold a license to act as an insurance agent or agency in the state of Nebraska and is not registered as a business entity with the Nebraska Secretary of State’s Office. USCT has been named in cease and desist orders relating to activities that are the subject of this order, issued by insurance regulatory agencies in several states including, but not limited to, California, Delaware, Florida, North Carolina, South Carolina, Texas and Vermont. USCT is also a named defendant in a class action complaint currently before the United States District Court for the Southern District of New York, relating to activities that are the subject of this order, entitled *Dulsky v. Worthy*, Civil Action No. 1:2011-cv-04925;

(b) On information and belief, Nellson serves as the senior trustee of USCT. Nellson has never been granted a certificate of authority to transact the business of insurance in any capacity in the state of Nebraska and does not hold a license to act as an insurance agent or agency in the state of Nebraska. Nellson has been named in cease and desist orders relating to activities that are the subject of this order by insurance regulatory agencies in several states including, but not limited to, Delaware, North Carolina, South Carolina, Texas and Vermont;

(c) Access does business via its website, www.accesshealthnow.com It has never been granted a certificate of authority to transact the business of insurance in any capacity in the state of Nebraska, does not

hold a license to act as an insurance agent or agency in the state of Nebraska and is not registered as a business entity with the Nebraska Secretary of State's Office. Access has been named in a cease and desist order relating to activities that are the subject of this order by the insurance regulatory agency for the state of Florida;

- (d) On information and belief, Arnold H. Katz ("Katz") owns, controls and/or does business as Access. Katz has never been granted a certificate of authority to transact the business of insurance in any capacity in the state of Nebraska and does not hold a license to act as an insurance agent or agency in the state of Nebraska. On information and belief, Katz also owns, controls and/or does business as Venture Support Group which shares the same mailing address as Access. Katz has been named in cease and desist order relating to activities that are the subject of this order by insurance regulatory agencies in several states including, but not limited to, California, Delaware, Kansas, North Carolina and Vermont. Katz is also a named defendant in a class action complaint currently before the United States District Court for the Southern District of New York, relating to activities that are the subject of this order, entitled *Dulsky v. Worthy*, Civil Action No. 1:2011-cv-04925;
- (e) Respondents have acted in concert and collaborated with entities and individuals identified by the Department as unauthorized insurers in Cease and Desist Orders previously issued by the Department, Cause Numbers I-82 and I-85, to sell or caused to be sold on behalf of Respondents to Nebraska residents an insurance benefits package backed by nonexistent insurance and available only through the purchase of a membership to USCT or any one of numerous associations established, controlled or affiliated with Respondents;
- (f) Respondents have transacted insurance in Nebraska affecting subjects located wholly or in part in Nebraska and to be performed in Nebraska, including plans or policies of coverage covering Nebraska residents;
- (g) Respondents have caused insurance products to be marketed and sold to individuals in Nebraska through various internet websites including: www.accesshealthnow.com; As of today's date, Access continues to market and sell various types of insurance products through www.accesshealthnow.com to Nebraska residents;
- (h) The Access website contains multiple references to insurance, insurance plans, major medical insurance, limited benefit insurance and other insurance related terminology, and specifically provides "Health Plans are available to all active members of the Association.

While benefits are insured, our plans are Limited Medical Benefit Plans and not Major Medical Insurance, nor are they intended to replace Major Medical Insurance. Not offered in the following states at this time: CT, IN, OR, MT, NY, NJ, TX, UT, WA, CA, KS and SC.” The Access website, which is accessible by Nebraska residents, categorically does not reveal that the advertised products are not licensed in Nebraska;

- (i) Within the past 3 years, Respondents have been and continue to be the subjects of emergency cease and desist orders filed by numerous states upon determination by state regulatory authorities that such Respondents were illegally transacting the business of insurance without a license or required licenses in said states;
- (j) These emergency cease and desist orders consistently portray a massive, multi-state health insurance fraud scheme in which limited benefit medical plans backed by nonexistent insurance are sold to unsuspecting consumers through various associations including USCT. The nationwide health insurance scheme set forth and described in detail within these various cease and desist orders, including cease and desist orders issued by the Department in Cause Numbers I-82 and I-85, relates to the activities of this order and is factually identical in content and scope to the fraudulent scam perpetrated by Respondents upon Nebraska residents as follows:
 - On or around May 14, 2010, Cathleen S. (“Complainant”) enrolled in an insurance plan offered through USCT with the company charging Complainant an initial amount of \$475 for premium and enrollment expenses. Complainant’s insurance benefits became effective June 1, 2010;
 - After completing the enrollment process, Complainant received a membership benefits packet from USCT confirming Complainant’s insurance coverage was effective on June 1, 2010, under group ID number AHN1130. The membership benefits packet included a summary of insurance benefits offered to Complainant through USCT;
 - Included in the membership benefits packet provided to Complainant by Respondents was a letter addressed to Complainant’s attention by USCT Member Services thanking her for choosing USCT to fulfill her health care needs and directing Complainant to visit www.accesshealthnow.com to search for medical providers, learn more about plan benefits or to contact USCT. Included in the letter were two identical

membership identification cards containing the name and logo of USCT that provide in part as follows:

Member Name: [Complainant]
Member ID: 206207636

Effective Date: 6/1/2010
Group ID: AHN1130
Plan: USCTPremier 1000 Single
Member Services: 1-800-200-8680

Medical Providers: 800-898-3400
Members: 800-200-8680

Provider Search: www.accesshealthnow.com

Claims by mail:
USCT Claims
P.O. Box 171
Avon Lake, OH 44012

- The membership benefits packet sent to Complainant by Respondents contained a document entitled “Understanding Your PPO Network” and contained a section labeled “Frequently Asked Questions” instructing Complainant to utilize the internet website www.accesshealthnow.com to find an in-network PPO provider and to mail medical claims to:

USCT Claims
PO Box 171
Avon Lake, OH 44012

- Between June 2010 and autumn of 2011, Complainant received additional correspondence from Respondents continuing to thank Complainant for choosing USCT to fulfill her health care needs. The correspondence submitted by Respondents to Complainant contained updated membership identification cards. One such membership identification card provides in part as follows:

Member Name: [Complainant]
Member ID: 206207636

Effective Date: 6/1/2010
Group ID: AHN1130
Plan: NABL Premier 1000 Single

Member Services: 1-800-200-8680

Provider Search: www.accesshealthnow.com

Claims must be mailed to:

USCT Claims

P.O. Box 74

Basking Ridge, NJ 07920

Medical Eligibility: 800-200-8680

- Another membership identification card provided to Complainant by Respondents again thanked Complainant for choosing USCT to fulfill her health care needs and instructing Complainant to visit www.accesshealthnow.com to search for medical providers, learn more about plan benefits or to contact USCT. The above-referenced membership identification card provides in part as follows:

Member Name: [Complainant]

Member ID: 206207636

Effective Date: 6/1/2010

Group ID: AHN1130

Member Services: 1-800-200-8680

Provider Search: www.accesshealthnow.com

Claims must be mailed to:

USCT Claims:

P.O. Box 74

Basking Ridge, NJ 07920

Medical Eligibility: 800-200-8680

- A final membership identification card was provided to Complainant by Respondents via written correspondence indicating USCT made changes to its internal processes and external vendors and that claims processing was streamlined so as to occur on a daily basis. The membership identification card provides in part as follows:

Member Name: [Complainant]

Member ID: 206207636

Effective Date: 6/1/2010

Group ID: AHN1130
Member Services: 1-800-200-8680

Provider Search: www.accesshealthnow.com

Claims by mail:
USCT Claims:
1799 W. 5th Ave
Box 307
Columbus, OH 43212-2403
By Fax: 866-610-8762

Medical Providers: 800-898-3400
Members: 800-200-8680

- Between June 2010 and autumn of 2011, an amount of \$350.00 was charged on a monthly basis by Respondents to a credit card belonging to a close family member of Complainant as premium for the health insurance coverage purchased by Complainant;
 - Since 2008, Complainant has and continues to experience numerous chronic and serious health conditions causing her to seek continual medical treatment. As a result of the medical care and services provided to Complainant, she has incurred medical bills totaling in excess of \$47,000.00;
 - To date, no benefits have been provided and no claims have been paid to Complainant's health care providers by Respondents or any other entity or individual associated with the insurance benefit policy referenced above. All attempts by Complainant to contact Respondents regarding unpaid benefits have not yielded a sufficient response;
 - USCT acknowledges it does not have sufficient funds to pay any additional consumer claims and that the payment of additional claims is dependent on the outcome of litigation and the recovery of funds from third parties;
- (k) One of the addresses utilized by Respondents for claims submissions, P.O. Box 171, Avon Lake, OH 44012, is the same address used by Viking Administrators, LLC, an entity that was subject to a cease and desist order previously issued by the Department in Cause Number I-85 and identified as being involved in a nationwide health insurance scheme related to the activities that are the subject of this order;

(l) Another address utilized by Respondents for claims submissions, P.O. Box 74, Basking Ridge, NJ 07920, is the same address utilized by David L. Clark and Real Benefits Association, an entity and individual who were subject to cease and desist orders previously issued by the Department in Cause Numbers I-82 and I-85 and identified as being involved in a nationwide health insurance scheme related to the activities that are the subject of this order;

(m) A membership identification card provided to Complainant by Respondents describes the plan type as "NABL Premier 1000 Single." NABL is an acronym for the National Association of Business Leadership;

(n) Metropolitan Business Alliance, LLC is a foreign company doing business as National Association of Business Leadership, LLC ("NABL"). NABL, through multiple marketing entities, solicited members of various associations to purchase health insurance with NABL. NABL is not authorized to engage in the transaction of insurance in the State of Nebraska, is not exempt under any provision, either state or federal, from the requirements of the Nebraska Insurance Code, has been named in a cease and desist order previously issued by the Department in Cause Number I-85 and has been named in cease and desist orders issued by other state insurance regulatory agencies that sets forth the business relationship between NABL and Respondents;

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) and 44-4047, I, Bruce R. Ramage, 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 Respondents’ own names 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 Respondents are 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.

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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 4th day of May, 2012.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,



BRUCE R. RAMGE
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing SUMMARY ORDER TO CEASE AND DESIST was served upon Respondents by certified mail, return receipt requested, on this 4th day of May, 2012, to the following:

United States Contractors Trust
111 Barksdale Professional Center
Newark, Delaware 19711
or
3455 Peachtree Road NE, Suite 500
Atlanta, Georgia 30326
or
P.O. Box 74
Basking Ridge, New Jersey 07920
or
P.O. Box 171
Avon Lake, Ohio 44012
or
1799 W. 5th Ave, Box 307
Columbus, Ohio 43212
or
10293 Lexington Lakes Blvd South
Boynton Beach, Florida 33436

Access Health Now
731 South Highway 101, Suite 2G
Solana Beach, California 92075
or
731 South Highway 101, Suite 2E
Solana Beach, California 92075
or
P.O. Box 74
Basking Ridge, New Jersey 07920

David L. Nellson
111 Barksdale Professional Center
Newark, Delaware 19711
or
3455 Peachtree Road NE, Suite 500
Atlanta, Georgia 30326

