

JUN 06 2014

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	ORDER OF SUPERVISION AND
)	LIST OF REQUIREMENTS TO
PETITIONER,)	ABATE SUPERVISION
)	
VS.)	
)	
OMNI DENTAL ASSOCIATES, INC.,)	CAUSE NO.: C-2085
)	
RESPONDENT.)	
)	

The duly appointed and qualified Director of Insurance for the State of Nebraska, Bruce R. Range (“Director”), acting under the authority of *Neb. Rev. Stat.* §§ 44-4801 through 44-4862 (Reissue 2010), and, being fully advised in the premises, hereby finds, orders and concludes as follows:

FINDINGS OF FACT

1. Omni Dental Associates, Inc., (“Omni”), is a Nebraska domestic prepaid dental service plan authorized pursuant to *Neb. Rev. Stat.* §44-3801 et seq., to provide a prepaid dental service plan in Nebraska with its home office located at 6846 Pacific Street, Suite 101, Omaha, NE 68106. The president and treasurer of Omni is Edward J. Bragg.

2. *Neb. Rev. Stat.* §44-4802(9) of the Insurers Supervision, Rehabilitation, Liquidation Act (“Act”) includes prepaid dental service corporations under the provisions of the Act.

3. *Neb. Rev. Stat.* §44-4809(2) of the Act provides the Director may issue an order of supervision in the event an insurer (a)(i) is in a condition which renders the continuance of its

business hazardous to the public or to its insureds, (a)(iii) the insurer has failed to comply with the applicable provisions of the insurance laws of this state.

4. Based upon examination of financial statements filed by Omni, including those filed with the Department dated December 31, 2013 and March 31, 2014, the Director has reasonable cause to believe that Omni is in such a condition as to render the continuance of its business hazardous to its policyholders and the general public as defined in the Nebraska Insurance Regulations, specifically, 210 Neb. Admin. Code § 55-004.05.

5. Pursuant to 210 Neb. Admin. Code § 55-004.05, a hazardous condition may be deemed to exist when an insurer's operating loss in the last twelve-month period or any shorter period of time is greater than fifty percent (50%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required.

6. Omni's policyholder surplus as of December 31, 2013 was \$28,115. Omni's policyholder surplus as of March 31, 2014 was \$20,541. This represents a \$7,574 operating loss over this three-month period. Omni's capital and surplus is currently below the minimum amount allowed by the Director of \$25,000 by (\$4,459). Therefore, the operating loss of \$7,574 represents one hundred seventy percent (170%) of the insurer's remaining surplus in excess of the minimum required. This exceeds the limits established in 210 Neb. Admin. Code § 55-004.05 and constitutes a hazardous financial condition.

7. Pursuant to 210 Neb. Admin. Code § 55-004.13, to determine whether continued operation of any insurer might be deemed hazardous to its policyholders, creditors or the general public, the Director may also consider whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the Director.

8. Omni's financial filings are not satisfactory. In the 2013, 2012, and 2010 Annual Statement reviews of Omni's financial filings performed by the exam division, numbers do not tie, are not carried forward correctly, are not added together correctly, and items are misclassified.

9. Pursuant to 210 Neb. Admin. Code § 55-004.20, any other finding determined by the Director to be hazardous to Omni's policyholders/subscribers, creditors or the general public can be considered.

10. The Department's Consumer Affairs Division and Life & Health Division have each received phone calls from providers and policyholders/subscribers who are trying to reach Omni, ultimately Edward J. Bragg as the sole employee of Omni, to discuss questions or concerns. In addition, the Department has received calls from providers who are not being paid and are unable to get in touch with Bragg as the phone number appears to be disconnected.

11. The Department has made recommendations in Omni's financial examination reports with which Omni is not complying. Specifically, Bragg utilizes Omni's credit card for personal expenses. The Department has instructed that this practice end. Bragg has not complied.

CONCLUSIONS OF LAW

1. The State of Nebraska Department of Insurance has jurisdiction over the subject matter and over Omni.

2. Grounds exist for placing Omni under supervision pursuant to *Neb. Rev. Stat.* § 44-4809(2)(a)(i) and (a)(iii) (Reissue 2010) and provisions of the related regulation 210 Neb. Admin. Code § 55.

ORDER OF SUPERVISION

NOW, THEREFORE, it is hereby ordered by the Director that:

1. Omni is immediately placed under an Order of Supervision pursuant to *Neb. Rev. Stat. § 44-4809(2)(a)(i) and (a)(iii)* (Reissue 2010).

2. Justin Schrader, Chief Examiner of the Nebraska Department of Insurance, is appointed Supervisor. The Supervisor may appoint one or more Deputy Supervisors in overseeing the operations of Omni.

3. Omni shall pay all costs incurred by the Supervisor and any Deputy Supervisors in overseeing the operations of Omni.

4. During the period of supervision, Omni shall not, without prior written approval of the Director or Supervisor:

- a) Write any new business, enter into any new contracts, treaties, or agreements or make amendments to any existing contracts, treaties, or agreements, or enter into any commutations, terminations, novations, or similar transactions;
- b) Make any payments, dividends, or other distributions to or engage in any transactions other than payments to dental providers;
- c) Make any withdrawal of monies from its bank accounts or make any disbursement, payment or transfer of assets in an amount or by a series of related transactions, except to make payments to dental providers;
- d) Incur any debt, obligation or liability for borrowed money;
- e) Loan monies to any person or entity (whether or not affiliated);
- f) Pledge or assign any of its assets;
- g) Grant any salary increase to any employee; or
- h) Make any additions to Omni's board of directors or appoint any individual as a chief executive officer, chief operations officer, chief financial officer, chief actuarial officer, general counsel or chief claims officer (or equivalent positions) ("Key Officers") of Omni.

5. During the period of supervision, Omni shall make the following reports to the Department:

- a) A monthly summary statutory financial information report on the results of operations and the financial position of Omni, which shall be filed no later than the 15th day of the month following the month subject to the report, in a form approved by the Department;
- b) A monthly summary of all payments made to providers;
- c) A monthly summary of all payments received from policyholders/subscribers;
- d) All notices of regulatory action or litigation filed against Omni;
- e) Any additional reports that the Department reasonably determines are necessary to ascertain the financial condition of Omni, to be submitted within five (5) business days of request by the Department, or such time period as the Department and Omni may agree; and

6. Nothing in this order shall preclude the Director from taking further immediate action as deemed in the best interest of Omni's providers, policyholders/subscribers, creditors and the general public including commencement of further legal proceedings, if and as necessary.

7. Nothing in this order shall preclude Omni from requesting a hearing on this Order pursuant to *Neb. Rev. Stat. § 44-4809(6)(a)* (Reissue 2010). However, the request for a hearing shall not stay the effect of this order as expressly provided by law.

LIST OF REQUIREMENTS TO ABATE SUPERVISION AND NOTICE OF HEARING

The Director hereby notifies Omni that it shall convene and conduct a hearing in no less than sixty days to determine whether Omni has complied with the following condition as set forth in this Order. The condition is:

1. No longer meet hazardous condition thresholds, as defined in 210 Neb. Admin. Code § 55-004.05.

Should the Director find after hearing that Omni has failed to comply with any of the requirement set out above or has committed acts or is in the status or condition prohibited by Chapter 44 of the Nebraska Revised Statutes, he may enter an Order applying the remedies and

sanctions authorized by that Chapter or take such other action as he deems appropriate which is authorized by law.

Dated and effective this 6th day of June, 2014.



Bruce Range
Director of Insurance
Nebraska Department of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order of Supervision and List of Requirements to Abate Supervision and Notice of Hearing was served upon Edward J. Bragg, President and Treasurers, by hand delivery at the offices of the Nebraska Department of Insurance on this 6th day of June, 2014.



Frank. R. King