

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

ALIERA HEALTHCARE, INC. (License)
No. 1647593), doing business as The)
Aliera Companies, Inc., JESSICA)
BUDDINGTON (License No. 1676980),)
ALEXANDER CARDONA (License No.)
1631866), ENSURIAN AGENCY, LLC)
(License No. 3000658229), JON)
HATCHER (License No. 3000654413),)
And TRINITY HEALTHSHARE, INC.,)
Respondents.)

ORDER TO SHOW CAUSE

TO: The Aliera Companies, Inc.
Attn: Chase Moses, President
990 Hammond Drive
Suite 700
Atlanta, GA 30328

Jessica Buddington
The Aliera Companies, Inc.
990 Hammond Drive
Suite 700
Atlanta, GA 30328

Alexander Cardona
The Aliera Companies, Inc.
990 Hammond Drive
Suite 700
Atlanta, GA 30328

Ensurian Agency, LLC
Attn: Jon Hatcher, President
913 N. Market Street
Suite 200
Wilmington, DE 19801

Jon Hatcher, President
Ensurian Agency, LLC
913 N. Market Street
Suite 200
Wilmington, DE 19801

Trinity Healthshare, Inc.
Attn: Joseph Guarino, III, President
5901-B Peachtree Dunwoody Road
Suite C160
Atlanta, GA 30328

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Alera Healthcare, Inc. (“AHI”), doing business as The Alera Companies, Inc., Jessica Buddington (“Buddington”), Alexander Cardona (“Cardona”), Ensurian Agency, LLC (“Ensurian”), Jon Hatcher (“Hatcher”), and Trinity Healthshare, Inc. (“Trinity”) (collectively referred to as “Respondents”), may have violated various provisions of the insurance laws of the state of New Jersey; and

WHEREAS, AHI was first incorporated in 2015; and

WHEREAS, AHI is a licensed non-resident insurance producer with the authority to solicit, negotiate, and sell life and accident and health or sickness insurance in New Jersey since August 16, 2017; and

WHEREAS, on or about July 22, 2019, as part of a restructuring of its organization, AHI changed its name and began doing business as The Alera Companies, Inc. (“Alera”), a for-profit corporation organized under the laws of Delaware; and

WHEREAS, Alera represents itself to be a holding and management company with seven wholly owned subsidiaries; and

WHEREAS, Alera does not possess a certificate of authority issued by the Commissioner to act as an insurer in New Jersey; and

WHEREAS, Buddington was a licensed non-resident insurance producer and was a designated responsible licensed insurance producer (“DRLP”) for Alera starting on April 1, 2019, until her license expired; and

WHEREAS, a DRLP is responsible for ensuring that a business entity is in compliance with the insurance laws, rules and regulations in New Jersey pursuant to N.J.S.A. 17:22A-32(b)(2); and

WHEREAS, Cardona is a licensed non-resident insurance producer and has been a DRLP for Alera since August 16, 2017; and

WHEREAS, Ensurian is a licensed non-resident insurance producer with the authority to solicit, negotiate, and sell life and accident and health or sickness insurance in New Jersey since September 23, 2019; and

WHEREAS, Ensurian is a Delaware limited liability company that is one of Alera’s wholly owned subsidiaries; and

WHEREAS, Hatcher is a licensed non-resident insurance producer and has been a DRLP for Ensurian since September 23, 2019; and

WHEREAS, Trinity is a Delaware nonprofit corporation that was incorporated on or about June 27, 2018; and

WHEREAS, Trinity does not possess a certificate of authority issued by the Commissioner to act as an insurer in New Jersey; and

WHEREAS, a Health Care Sharing Ministry (“HCSM”) is an organization in which members share a common set of religious or ethical beliefs and agree to make payments to, or share, the medical expenses of other members; and

WHEREAS, Trinity holds out and represents itself to be a qualified HCSM whose members are excepted from compliance with the requirement under N.J.S.A. 54A:11-3 to have a health benefits plan that provides “minimum essential coverage” sufficient to avoid a penalty tax pursuant to N.J.S.A. 54A:11-3(b); and

WHEREAS, Respondents are subject to the provisions of the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 to -48 (“Producer Act”), and the regulations promulgated thereunder, N.J.A.C. 11:16-1.1 to -7.10, the Producer Licensing regulations, N.J.A.C. 11:17-1.1 to -2.17, the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 to 11:17D-2.8, and the general penalty provision of N.J.S.A. 17:33-2; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(d), the Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Producer Act and Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes against any person who is under investigation for or charged with a violation of the Producer Act or Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes even if the person’s license has been surrendered or has lapsed by operation of law; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(2), an insurance producer shall not violate any insurance laws, or violate any regulation, subpoena or order of the Commissioner or of another state’s insurance regulator; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(5), an insurance producer shall not intentionally misrepresent the terms of an actual or proposed insurance contract, policy, or application for insurance; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(8), an insurance producer shall not use fraudulent, coercive or dishonest practices, or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of insurance business; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(16), an insurance producer shall not commit any fraudulent act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a)(17), an insurance producer shall not knowingly facilitate or assist another person in violating any insurance laws; and

WHEREAS, N.J.S.A. 17B:17-2 defines “insurer” as “every person engaged as indemnitor or contractor in the business of life insurance, health insurance or of annuity”; and

WHEREAS, N.J.S.A. 17B:17-12(a) defines a “certificate of authority” as a certificate issued by the Commissioner evidencing the authority of an insurer to transact business in New Jersey; and

WHEREAS, under N.J.S.A. 17B:17-13(a), no person shall act as an insurer in New Jersey unless authorized to do so under a current certificate of authority issued by the Commissioner; and

WHEREAS, under N.J.S.A. 17B:17-13(b), no person, by himself, or by his brokers, agents, solicitors, surveyors, canvassers or other representatives of whatever designation, nor any such broker, agent, solicitor, surveyor, canvasser, or other representative, shall solicit, negotiate or effect any contract of insurance of any kind or sign, deliver or transmit, by mail or otherwise, any policy or annuity contract or receive any premium, commission, fee or other payment thereon, or maintain or operate any office in New Jersey for the transaction of the business of insurance, or in any manner, directly or indirectly, transact the business of insurance of any kind whatsoever, within New Jersey, unless specifically authorized under the laws of New Jersey; and

WHEREAS, trade practices in the business of life insurance, health insurance and annuities are regulated under N.J.S.A. 17B:30-1 to -63; and

WHEREAS, N.J.S.A. 17B:30-2 prohibits any trade practice that is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of life insurance, health insurance and annuities; and

WHEREAS, under N.J.S.A. 17B:30-3, misrepresenting the terms of any policy or annuity contract issued or to be issued or the benefits or advantages promised thereby is an unfair or deceptive act or practice in the business of life insurance, health insurance and annuities; and

WHEREAS, under N.J.S.A. 17B:30-3, using any name or title of any policy or annuity contract or class of policies or annuity contracts misrepresenting the true nature thereof is an unfair or deceptive act or practice in the business of life insurance, health insurance and annuities; and

WHEREAS, under N.J.S.A. 17B:30-4, making, publishing, disseminating, circulating, or placing before the public, directly or indirectly, any advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance and annuities or with respect to any person in the conduct of his insurance and annuity business, which is untrue, deceptive or misleading, is an unfair or deceptive act or practice in the business of life insurance, health insurance and annuities; and

WHEREAS, under N.J.S.A. 54A:11-3, any New Jersey taxpayer that is an “applicable individual” and the taxpayer’s dependents is required to have a health benefits plan that provides “minimum essential coverage”; and

WHEREAS, N.J.S.A. 54A:11-2 incorporates by reference the definitions of “applicable individual” and “minimum essential coverage” set forth in 26 U.S.C. § 5000A(d)(1) and –(f)(1), respectively; and

WHEREAS, 26 U.S.C. § 5000A(d)(1) defines “applicable individual” as any individual other than an individual described in 26 U.S.C. § 5000A(d)(2), -(d)3, or -(d)4; and

WHEREAS, 26 U.S.C. § 5000A(d)(2)(B) excepts members of a qualified HCSM from the requirement to maintain minimum essential coverage; and

WHEREAS, under 26 U.S.C. § 5000A(d)(2)(B)(ii)(IV), among the requirements to qualify as a HCSM, a HCSM has to have been continually in existence since December 31, 1999, and medical expenses of its members have to have been shared continuously and without interruption since at least December 31, 1999; and

WHEREAS, if the taxpayer fails to satisfy the “minimum essential coverage” requirement, the taxpayer is subject to a penalty tax under N.J.S.A. 54A:11-3(b); and

WHEREAS, under N.J.S.A. 17:1-15(j), the Commissioner may order any person violating any provision of Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes to cease and desist from engaging in such conduct; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40(a), the Commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer’s license for violating the Producer Act; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45(c), any person violating the Producer Act is subject to a penalty not exceeding \$5,000.00 for the first offense and not exceeding \$10,000.00 for each subsequent offense; moreover, the Commissioner may order restitution of moneys owed any person and reimbursement of costs of the investigation and prosecution; and

WHEREAS, pursuant to N.J.S.A. 17:33-2, the penalty for any violation of N.J.S.A. 17:17-1 to 17:51B-4, other than the failure of an insurance company to file an annual statement, shall be

a penalty not exceeding \$1,000 for the first offense and not exceeding \$2,000 for each subsequent offense; and

WHEREAS, pursuant to N.J.S.A. 17B:30-17(b), the penalty for any violation of N.J.S.A. 17B:30-1 to -63, shall be a penalty not exceeding \$1,000 for each and every act or violation unless the person knew or reasonably should have known he was in violation, in which case the penalty shall be not more than \$5,000 for each and every act or violation; and

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

1. Alera is a for-profit corporation that was incorporated as AHI in December 2015 by Timothy Moses¹, his wife Shelley Steele, and his son Chase Moses.

2. At the beginning, Alera only sold “direct primary care medical home” (“DPCMH”) plans that covered limited medical services. These plans provided no hospitalization or emergency room coverage and were not compliant with the Patient Protection and Affordable Care Act (“ACA”). Alera then sought to greatly increase the sales of its healthcare products by taking advantage of a federal law that exempted taxpayers who purchased plans from HCSMs from the ACA’s definition of “applicable individual[s]” who must make a “[s]hared responsibility payment” if they are not “covered under minimum essential coverage.” 26 U.S.C. § 5000A.

3. In 2016, Timothy Moses solicited Anabaptist Healthshare (“Anabaptist”), a small Mennonite HCSM in Virginia, to permit Alera to market its DPCMH plan with Anabaptist’s sharing program using Anabaptist’s HCSM designation.

¹ Timothy Moses was convicted of federal securities fraud and perjury in 2005 in connection with a prior business. He was sentenced to over 6 years in prison, followed by a term of five years supervised release, and ordered to pay \$1.65 million in restitution (*United States v. Moses*, 1:04-cr-00508 (CAP-JMF) (N.D. Ga.)). Timothy Moses’s supervised release was terminated in April 2015, approximately six months prior to Alera’s creation.

4. Anabaptist created a wholly-owned subsidiary called Unity Healthshare (“Unity”) for that purpose. Under this arrangement, Alera would market both its own DPCMH plan and the Unity HCSM together as a healthcare product it claimed would be a HCSM.

5. Alera entered into a contract with Unity on or about February 1, 2017. Under the contract, Alera would offer its own healthcare products to the public that did not meet the insurance benefits and coverages requirements under the ACA, and that did not independently qualify for the HCSM exemption. Alera’s customers would join the Unity HCSM, and thereby increase membership in Anabaptist’s HCSM.

6. In 2018, after the sale of thousands of Alera/Unity plans nationwide, Anabaptist/Unity and Alera had a falling out based on alleged improprieties committed by Timothy Moses and Alera.

7. In July 2018, Anabaptist/Unity demanded that Alera turn over control of all Unity funds, and then terminated the relationship with Alera. A lawsuit between Alera and Anabaptist/Unity was filed in Superior Court of Fulton County Georgia in late 2018 (Alera Healthcare v. Anabaptist Health Share et al., No. 2018-cv-308981 (Ga. Sup. Ct.)).

8. After its relationship with Unity terminated, Alera had no affiliation with any HCSM through which to sell its healthcare plans. Trinity was then created by Alera and its principals on June 27, 2018. William Rip Theade, III, was named the CEO of Trinity. Mr. Theade is a former Alera employee, and is also a close family friend of the Moses family.

9. Chase Moses, the son of Timothy Moses, is the current President of Alera. Shelley Steele, the wife of Timothy Moses, is the current Chief Executive Officer.

10. Alera markets, solicits and administers healthcare plans in New Jersey on behalf of Trinity.

11. Prior to August 2018, Alera solicited and administered healthcare plans on behalf of Unity, which relationship ended on July 18, 2018.

12. Trinity was created in Delaware on June 27, 2018 by Alera and its principals.

13. Trinity claims to be a HCSM, as defined by 26 U.S.C. § 5000A, and exempt from insurance regulation in New Jersey.

14. At the time of its formation on June 27, 2018, Trinity had no members enrolled in its supposed HCSM.

15. AHI and Trinity entered into a Management and Administration Services Agreement (“MASA”), effective August 13, 2018.

16. Under the MASA, AHI agreed to: (1) develop HCSM healthcare plans for Trinity; (2) market and sell those HCSM healthcare plans for Trinity; (3) accept and enroll members in the HCSM healthcare plans developed for Trinity (with AHI retaining exclusive ownership rights in the membership roster); (4) upon requests of members, and in AHI’s sole discretion, change components in members’ healthcare plans, transfer members to different healthcare plans, and substitute components of plans, including the HCSM, on notice to healthcare plan members; and (5) enter into a services agreement with a third party administrator (which may be an AHI affiliate) to provide account management and medical expense processing services for the HCSM healthcare plans.

17. Under the MASA, Alera maintains sole responsibility to develop and market Trinity healthcare plans and develop Trinity's HCSM membership, and Alera also maintains and administers Trinity’s financial reporting, billing and collection of membership contributions.

18. Under the MASA, Alera also maintains ownership of the "Membership Roster" of all Trinity enrollees.

19. Upon information and belief, Ensurian entered into a similar MASA with Trinity in October or November, 2019.

20. Ensurian was formed in Georgia by Alieria and its principals on March 13, 2017, and was formerly known as Alieria Healthcare of Georgia, LLC.

21. Alieria Healthcare of Georgia, LLC, changed its name to Ensurian on June 7, 2019. Ensurian was converted to a Delaware limited liability company on August 12, 2019.

22. Ensurian is one of Alieria's wholly owned subsidiaries.

23. Alieria has advertised Ensurian as a "national brokerage representing innovative healthcare programs," and which "offers individuals and families access to affordable, high-quality healthcare through cost sharing."

24. Trinity, through Alieria, advertises its products as alternatives to traditional health insurance to New Jersey consumers, and has utilized licensed resident insurance producers to sell Trinity's products within the state.

25. Several healthcare plans were developed by Alieria on behalf of Trinity under the MASA, including but not limited to: AlieriaCare Individual Plans (Value, Plus, and Premium Plan levels); AlieriaCare (Bronze, Silver, and Gold); Interim Care; CarePlus Advantage Individual and Family; and AlieriaOne MVP (Bronze, Silver, Gold and Platinum) (collectively referred to as the "Trinity Plans").

26. The Trinity Plans do not provide "minimum essential coverage" as defined in N.J.S.A. 54A:11-3.

27. Trinity and Alieria have entered into health insurance contracts with New Jersey consumers, where they agree, upon payment of a monthly monetary fee, to provide coverage for medical costs incurred by their members.

28. While Trinity maintains that the Trinity Plans it offers are not insurance and do not guarantee payment of medical bills, Trinity requires its members to provide medical information on application materials, charges fixed monthly payments based on the amount of coverage chosen, utilizes Preferred Provider networks, charges copays for medical services, and requires referrals for specialist visits.

29. Trinity also has medical providers bill the company directly and provides reimbursement directly to providers.

30. The terminology used in connection with the Trinity Plans is directly analogous to terminology used by health insurers. The products are described as health “plans,” which is the same term the ACA uses to describe health insurance. “Members” are charged a “monthly contribution” to participate. The “contributions” members pay are referred to as “premiums.” The amount of the premium charged is based on the plan selected by the insured.

31. The Trinity Plans require a member to pay a deductible, which is called a “Member Shared Responsibility Amount” (“MSRA”). Once the MSRA has been paid, then medical bills are paid in accordance with a benefits booklet or “Member Guide” for the selected program. Like health insurance, the Trinity Plans use terminology like “pre-authorization,” “in-network,” “preferred provider network (PPO),” “cost-sharing,” and “medically necessary.”

32. The Trinity Plans offer different levels of coverage, including “Basic,” “Catastrophic,” “Standard,” and “Comprehensive.” The amount members are expected to pay depends on the plan chosen. The standard and comprehensive plans are offered at different benefit levels. “Standard” is offered at “Value,” “Plus” and “Premium.” “Comprehensive” is offered at “Bronze,” “Silver,” and “Gold.”

33. The Trinity Plans may require members to pay a “co-expense,” analogous to a “copay.” The plans provide for “maximum out of pocket” expenses. Among other things, the Trinity Plans claim to provide coverage for preventive care, primary care, urgent care, labs and diagnostics, x-rays, prescription benefits, specialty care, surgery, hospitalization, and emergency room services. The Trinity Plans contain exclusions and lifetime limits. Members receive a card that is indistinguishable from an insurance card.

34. Members receive an “Explanation of Benefits” (“EOB”) when a claim is submitted. The EOBs are identical in all material respects to EOBs received from traditional health plans.

35. The Trinity Plans are sold by insurance agents and brokers, including Ensurian.

36. Trinity had 1,712 active New Jersey members enrolled in the Trinity Plans as of November 2019, and 1,227 active New Jersey members enrolled in the Trinity Plans as of February 2020.

37. On January 6, 2020, the Commissioner received a letter from Trinity’s President Joe Guarino, which Mr. Guarino described as a “voluntary notification of doing business” in New Jersey.

38. The Department of Banking and Insurance (“Department”) has received seven consumer complaints regarding Respondents’ misrepresentations and business practices concerning the Trinity Plans.

39. New Jersey consumers agreed to pay a monthly amount to Alera for what they were led to believe would be insurance to cover specified healthcare expenses pursuant to the Member Guide and marketing materials. Instead, these consumers purchased what Alera and Trinity allege to be a HCSM, not insurance. Alera and/or Trinity failed to pay medical claims submitted by these consumers prompting them to contact the Department to facilitate a resolution.

40. M.C. signed up for health and dental coverage with Alieria in September 2018 after she became self-employed. M.C. believed that Alieria provided health insurance because it was on the [Healthcare.gov](https://www.healthcare.gov) website. M.C. was diagnosed with breast cancer in October 2019. Despite complying with Alieria's guidelines and receiving pre-approval for treatment, M.C. had great difficulty in getting Alieria to pay her claims. There was a lot of confusion in Alieria's claims processing, including the amount of her deductible known as a member shared responsibility amount (MSRA). M.C. received different information each time that she called Alieria. Some of M.C.'s claims were still pending with Alieria eight months after the service.

41. A.W. signed up for health coverage with Alieria for his family in 2019. He was contacted by an Alieria representative after providing his information on a website that he thought was, or was affiliated with, [Healthcare.gov](https://www.healthcare.gov). A.W. was told that coverage would be adequate for himself and his family, and that they could keep all of their doctors. This turned out not to be the case. The doctors and preferred hospitals had not heard of Alieria or Trinity and would not accept this "insurance." Medical bills were received for 80% or more of the initial bill or were denied by Alieria.

42. B.L. signed up for a Trinity Gold plan in 2019 with a 70% out-of-network reimbursement. She did not receive the 70% out-of-network reimbursement after submitting claims to Alieria. B.L. made daily phone calls to Alieria, and had to submit the same documentation multiple times, but still did not get the claims paid at 70%. B.L. eventually was told by Alieria that the reason for the denial of her claims was not stated in the Alieria "handbook."

43. J.O. purchased a Trinity plan through Lighthouse Insurance Group in January 2020 for herself and her husband. All of the verbiage used sounded the same as any other insurance she had purchased: coverage; plan; deductible; premium; etc. After J.O. had not received ID cards by

February 20, 2020, she did research on what she was sold. J.O. then discovered that the Trinity plan is not insurance.

44. M.S. signed up for what she thought was health coverage “insurance” with Alieria in 2019 when she turned 26. M.S. was contacted and sold the Alieria plan after she started to sign up for the health insurance marketplace. It turned out that none of her doctors took the Alieria “insurance,” and she “couldn’t even get birth control with it.”

45. D.R. attempted to sign up for “less expensive health insurance” and was “scammed into signing up for a member service instead of insurance.” Trinity’s representative told D.R. that he was signing up for a Preferred Provider Organization (PPO) plan. D.R. sensed that something was not right and cancelled.

46. J.W. signed up for what she thought was health coverage “insurance” with Alieria. After receiving treatment at a medical center, she received a bill listing her as having no insurance despite having presented her Alieria “insurance card.” J.W. then called the medical center billing office to again give them her Alieria “insurance information.” J.W. was not satisfied with the amount that she was balance billed by the medical center on the claim. J.W. stated that she pays close to \$700 a month to her “insurance carrier” for this “health insurance.”

47. Trinity does not meet the legal definition of a HCSM.

48. To qualify as a HCSM, an organization must be a registered 501(c)(3) organization whose members share a common set of religious or ethical beliefs, and share medical expenses in accordance to those beliefs, and must also have been in operation and continuously sharing member healthcare costs since December 31, 1999.

49. Trinity does not qualify as a HCSM under 26 U.S.C. § 5000A(d)(2)(B) because Trinity has not been continually in operation since December 31, 1999 and has not continuously shared medical expenses of its members since December 31, 1999.

50. Trinity had been in existence for less than two months, and had no members, when it entered into the MASA with Alera on August 13, 2018.

51. No predecessor organization exists with which Trinity's members were sharing medical costs.

52. Because Trinity does not meet the requirements for a HCSM, Alera, through its marketing, solicitation and administration of Trinity products, has been operating, and continues to operate, as an unauthorized insurer in New Jersey.

53. Respondents are knowingly misleading consumers to believe that they are being enrolled in a valid HCSM that is exempt from regulation.

54. Trinity does not possess a certificate of authority issued by the Commissioner to act as an insurer in New Jersey.

55. Trinity has been acting, and continues to act, as an unauthorized insurer in New Jersey, in violation of N.J.S.A. 17B:17-13(a).

56. Alera does not possess a certificate of authority issued by the Commissioner to act as an insurer in New Jersey.

57. Alera has been acting, and continues to act, as an unauthorized insurer in New Jersey, in violation of N.J.S.A. 17B:17-13(a).

58. Respondents have engaged in the transaction of the business of insurance, as defined at N.J.S.A. 17B:17-13(b), with respect to the Trinity Plans developed, marketed, solicited and sold to New Jersey consumers, in violation of N.J.S.A. 17B:17-13(b).

59. Respondents, on their own and through others, marketed, solicited and sold, and continue to market, solicit and sell, the Trinity Plans to New Jersey consumers, falsely representing Trinity to be a qualified HCSM that exempts its members from compliance with the “essential minimum coverage” required under N.J.S.A. 54A:11-3.

60. Respondents’ knew or reasonably should have known that their actions in marketing, soliciting and selling the Trinity Plans to New Jersey consumers subjected, and continue to subject, those unsuspecting consumers to liability for a penalty tax under N.J.S.A. 54A:11-3(b), contrary to Respondents’ representations.

61. Respondents’ knew or reasonably should have known that their actions in marketing, soliciting and selling the Trinity Plans to New Jersey consumers are an unfair or deceptive act or practice in the business of life insurance, health insurance and annuities, in violation of N.J.S.A. 17B:30-3.

62. Respondents’ knew or reasonably should have known that their actions in marketing, soliciting and selling the Trinity Plans to New Jersey consumers constitute the making, publishing, disseminating, circulating, or placing before the public, directly or indirectly, advertisements, announcements or statements containing assertions, representations or statements with respect to the business of insurance that are untrue, deceptive or misleading, and are unfair or deceptive acts or practices in the business of life insurance, health insurance and annuities, in violation of N.J.S.A. 17B:30-4.

COUNT ONE

63. The Commissioner repeats and realleges each of the preceding paragraphs as if set forth at length herein.

64. Respondents, on their own and through others, marketed, solicited and sold Trinity Plans to at least 1,712 New Jersey consumers falsely representing Trinity to be a qualified HCSM, constituting at least 1,712 separate violations, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (8), (16), and (17); N.J.S.A. 17B:17-13(a); and N.J.S.A. 17B:17-13(b).

COUNT TWO

65. The Commissioner repeats and realleges each of the preceding paragraphs as if set forth at length herein.

66. Respondents sold Trinity Plans to at least 1,712 New Jersey consumers when Trinity is not a qualified HCSM, which allowed Alera and Trinity to act as an unauthorized insurer, constituting at least 1,712 separate violations, in violation of N.J.S.A. 17:22A-40(a)(2), (5), (8), (16), and (17); and N.J.S.A. 17B:30B-3 and -4.

NOW, THEREFORE, IT IS on this 23 day of December, 2020;

ORDERED, that Respondents appear and show cause why their New Jersey insurance producer licenses should not be suspended or revoked pursuant to N.J.S.A. 17:22A-40(a); and

IT IS FURTHER ORDERED, that Respondents appear and show cause why the Commissioner should not assess a civil penalty of up to \$5,000 for the first violation and up to \$10,000 for each subsequent violation of the Producer Act, and/or \$1,000 for the first offense and not exceeding \$2,000 for each subsequent offense as applicable under N.J.S.A. 17:33-2, and order Respondents to pay restitution of moneys owed to any person pursuant to N.J.S.A. 17:22A-45(c); and

IT IS FURTHER ORDERED, that Respondents appear and show cause why the Commissioner should not assess a civil penalty of up to \$1,000 for each and every act or violation, unless the person knew or reasonably should have known he was in violation, in which case the

penalty shall be not more than \$5,000 for each and every act or violation, as applicable under N.J.S.A. 17B:30-17(b); and

IT IS FURTHER ORDERED, that Respondents appear and show cause why, in addition to any other penalty, they should not be required to reimburse the Department for the cost of the investigation and prosecution as authorized pursuant to N.J.S.A. 17:22A-45(c); and

IT IS PROVIDED, that Respondents have the right to request an administrative hearing on this Order to Show Cause, to be represented by counsel or other qualified representative, at their own expense, to take testimony, to call or cross-examine witnesses, to have subpoenas issued, and to present evidence or argument if a hearing is requested; and

IT IS FURTHER PROVIDED, that unless a request for a hearing is received within twenty (20) days of the service of this Order to Show Cause, the right to a hearing on this Order to Show Cause shall be deemed to have been waived by Respondents, and the Commissioner shall dispose of this Order to Show in accordance with law. A hearing may be requested by mailing the request to Virgil Downtin, Chief of Investigations, Department of Banking and Insurance, P.O. Box 329, Trenton, New Jersey 08625, or by faxing the hearing request to the Department at (609) 292-5337. A copy of the request for a hearing shall also be sent to Deputy Attorney General Jeffrey S. Posta, Banking and Insurance Section, 25 Market Street, P.O. Box 117, Trenton, New Jersey 08625-0117. The request shall contain the following:

- (a) Respondent's full name, address and daytime telephone number;
- (b) A statement referring to each charge alleged in this Order to Show Cause and identifying any defense intended to be asserted in response to each charge. Where the defense relies on facts not contained in the Order to Show Cause, those specific facts must be stated;
- (c) A specific admission or denial of each fact alleged in this Order to Show Cause. Where Respondent has no specific knowledge regarding a fact alleged in the Order to Show Cause, a statement to that effect must be

contained in the hearing request. Allegations of this Order to Show Cause not answered in the manner set forth above shall be deemed to have been admitted; and

- (d) A statement requesting the hearing.



Marlene Caride
Commissioner