CALIFORNIA DEPARTMENT OF INSURANCE
LEGAL DIVISION
Teresa R. Campbell, SBN 162105
Assistant Chief Counsel
1901 Harrison Street, 4th Floor
Oakland, California 94612
Telephone: 415-538-4126
Facsimile: 510-238-7830

Attorneys for
CALIFORNIA DEPARTMENT OF INSURANCE

STATE OF CALIFORNIA

# DEPARTMENT OF INSURANCE

OAKLAND

| | |
|---|---|
| In the Matter of the License and Licensing Rights of:<br><br>ENSURIAN AGENCY, LLC. And<br>JON ALAN HATCHER<br><br>Respondent. | File No. LA201900234<br><br>**ACCUSATION** |

## JURISDICTION AND AUTHORITY

1. On November 6, 2019, Respondent ENSURIAN AGENCY, LLC. ("Respondent Ensurian") was issued non-resident insurance license number 60000358 to act as an Accident and Health Agent and Life-Only Agent. Said licenses are currently active.

2. Respondent Ensurian's resident state is Delaware.

3. Aliera Companies is listed as the 100% owner of Respondent Ensurian.

4. JON ALAN HATCHER, ("Respondent Hatcher") is the President of Respondent Ensurian and has been licensed by the Insurance Commissioner to act as a non-resident producer

Accident and Health and Life Only Agent since October 12, 2019. All of Respondent Hatcher's licenses are currently active. Respondent Hatcher is also named as the only natural person to exercise the powers of Respondent Ensurian.

5. Respondent Hatcher's resident state is Georgia.

6. California Insurance Code section 1668.5(a) states:

> " The commissioner may deny an application for any license issued pursuant to this chapter, and may suspend or revoke the permanent license of any organization licensed pursuant to this chapter as authorized by Section 1738, if the applicant or holder of the permanent license is an organization and a controlling person of the organization is any of the following:
>
> (2) The controlling person has shown incompetency or untrustworthiness in the conduct of any business… ."
>
> (3) The controlling person has knowingly misrepresented the terms or effect of an insurance policy or contract.
>
> (4) The controlling person has failed to perform a duty expressly enjoined upon him or her by a provision of this code or has committed an act expressly forbidden by a provision of this code.

7. California Insurance Code section 1668.5(b) defines " controlling person" :

> "As used in this section, 'controlling person' means a person who possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the organization, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmangement services, or otherwise, including, but not limited to, power that is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, more than 10 percent of the voting securities of the organization… ."

Respondent Hatcher is deemed a controlling person for Respondent Ensurian, pursuant to Insurance Code section 1668.5.

8. Insurance Code section 1739 provides that the license of an organization may be suspended or revoked for the acts or failure to act of any natural person licensee named on the organizational license. Hatcher is the sole owner and endorsee for Respondent Ensurian.

9. Insurance Code section 1638.5 provides that "[U]nless denied licensure pursuant to Article 6 (commencing with Section 1666), a nonresident person shall receive a production agency license if he or she meets the following requirements: (a) The person is currently licensed and in good standing in the state, territory of the United States, or province of Canada in which he or she is licensed as a resident producer.

10. On or about December 4, 2019, before the Department of Insurance for the State of Delaware, Respondent Ensurian's licenses were "Surrendered with Prejudice" and that is its current status.

11. Respondent Ensurian and Respondent Hatcher have marketed, sold, and solicited California consumers to purchase products offered by Trinity Healthshares, Inc. ("Trinity") and/or Aliera HealthCare, dba Aliera Companies, Inc. ("Aliera"), two entities claiming to be Health Care Sharing Ministries ("HCSMs").

12. Respondent Ensurian and Respondent Hatcher have misrepresented the terms and conditions of the Aliera and/or Trinity products sold. Respondent Ensurian's advertisements, solicitations, and other materials are deceptive and have the capacity and tendency to mislead or deceive consumers to believe they are purchasing traditional health coverage rather than a HCSM membership with no guarantee that claims will be paid and products that do not comply with the Affordable Care Act.

13. Respondent Ensurian and Respondent Hatcher sell Aliera and/or Trinity products that do not cover preexisting conditions, abortion and/or contraception, or comply with the Mental Health Parity Act[1], in violation of Insurance Code section 10112.27 and the PPACA.

14. Aliera and Trinity do not meet the definition of HCSMs under the Internal Revenue Code, and therefore, individuals that receive benefits through their programs do not meet the California state individual health insurance mandate. Respondent Ensurian and Respondent Hatcher knew or should have known the products they sold were non-compliant with state law.

---

[1] Insurance Code § 10144.5

15. Aliera and Trinity are not currently licensed or authorized by the Insurance Commissioner to act in any capacity regarding the transaction of insurance in California, and during relevant periods herein, did not hold any license, Certificate of Authority, or permit, issued by the Insurance Commissioner, to act in any capacity regarding the transaction of insurance in California. Respondent Ensurian and Respondent Hatcher knew or should have known the products they sold were non-compliant with state law.

## CAUSE FOR DISCIPLINE

16. The facts alleged in paragraphs 1 through 15 show that Respondent Ensurian and Respondent Hatcher continued licensure would be against public interest, and constitutes grounds for the Commissioner to suspend or revoke Respondents' licenses and licensing rights pursuant to California Insurance Code sections 1668(b), 1738, and 1739.

17. The facts alleged in paragraphs 1 through 15 show that Respondent Ensurian and Respondent Hatcher have shown incompetency or untrustworthiness in the conduct of any business, or has by commission of a wrongful act or practice in the course of any business exposed the public or those dealing with him or her to the danger of loss, and constitutes grounds for the Commissioner to suspend or revoke Respondents' licenses and licensing rights pursuant to California Insurance Code sections 1668(j), 1668.5(a)(2), 1738, and 1739;

18. The facts alleged in paragraphs 1 through 15 show that Respondent Ensurian and Respondent Hatcher have knowingly misrepresented the terms or effect of an insurance policy or contract, and constitutes grounds for the Commissioner to suspend or revoke Respondents' licenses and licensing rights pursuant to California Insurance Code sections 1668(k), 1668.5(a)(3), 1738, and 1739;

19. The facts alleged in paragraphs 1 through 15 show that Respondent Ensurian does not hold a license in good standing in its home state, in violation of California Insurance Code section 1638.5, and constitutes grounds for the Commissioner to suspend or revoke Respondents' licenses and licensing rights pursuant to California Insurance Code sections 1668(l), 1738, and 1739;

20. The facts alleged in paragraphs 1 through 15 show that Respondent Hatcher aided or abetted Respondent Ensurian in an act or omission which would constitute grounds for the suspension, revocation, or refusal of a license or certificate issued under this code to the person aided or abetted, and constitutes grounds for the Commissioner to suspend or revoke Respondent Hatcher's licenses and licensing rights pursuant to California Insurance Code sections 1668(n), 1668.5(a)(4), 1738 and 1739;

**PETITION FOR DISCIPLINE**

The Department prays for the issuance of an Order that **REVOKES** all the licenses and licensing rights of Respondent Ensurian and Respondent Hatcher.

Dated: March 8, 2020

CALIFORNIA DEPARTMENT OF INSURANCE

By

TERESA R. CAMPBELL
Assistant Chief Counsel