

NOV 1 1993

DEPARTMENT OF INSURANCE
By

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of

) Docket No. 8187

EMPIRE BLUE CROSS AND BLUE SHIELD; WINSTON-HILL ASSURANCE COMPANY, LTD.; GLOBAL CAPITAL ASSURANCE COMPANY, LTD.; COMMERCIAL ACCEPTANCE INSURANCE COMPANY; OLD AMERICAN INSURANCE COMPANY, LTD.; PROVIDENT CAPITAL INDEMNITY, LTD.; UNIVERSAL GENERALE INSURANCE COMPANY, LTD.; FIRST ASSURANCE AND CASUALTY COMPANY, LTD.; DIVERSIFIED HEALTH CONCEPTS; WARREN SCHULTE; ROBERT SCHNEIDER; BENEFIT ADMINISTRATORS OF FORT MITCHELL, KENTUCKY; COMMAND CAPITAL OF COLORADO, INC.; M & M MANAGEMENT, CORPORATION; BENEFIT DATA ADMINISTRATORS OF NOVATO, CALIFORNIA; C.R.E.A.T.E.; WESTERN BUSINESSMEN'S ASSOCIATION; WORLDWIDE BUSINESSMANS ASSOCIATION; NATIONAL LABOR RESOURCE CONSULTANTS CORP., dba N.L.R.C.C.; AMERICAN BENEFIT BUSINESS TRUST, dba AMERICAN BUSINESS TRUST; FARMERS HEALTH TRUST; ARTHUR ALVIN HANEY, a.k.a. AL HANEY, a.k.a. A. A. HANEY; JAMES G. RICKARD, a.k.a. GARY RICKARD; MICHAEL A. ANASTASIO; ALICE LOUETTA MUSTIC dba ALICE LONG; PAUL DONG; ROGER FORTIER; A.A. HANEY AND ASSOCIATES, INC.; SELECTIVE SALES, INC.; NATIONAL INSURANCE MANAGEMENT, INC.; NATIONAL ADMINISTRATIVE CORPORATION, INC.; NATIONAL INSURANCE WAREHOUSE; GUNHILD ALLEN; KATHY MOGEL; JUDITH ST. GAUDENS.)	AMENDED ORDER OF CEASE AND DESIST AS TO RESPONDENTS EMPIRE BLUE CROSS AND BLUE SHIELD; COMMERCIAL ACCEPTANCE INSURANCE COMPANY; DIVERSIFIED HEALTH CONCEPTS; ROBERT SCHNEIDER; M & M MANAGEMENT, CORP.; ARTHUR ALVIN HANEY, a.k.a. AL HANEY, a.k.a. A. A. HANEY AND ASSOCIATES; JAMES G. RICKARD, a.k.a. GARY RICKARD; MICHAEL A. ANASTASIO; ALICE LOUETTA MUSTIC dba ALICE LONG; SELECTIVE SALES INC.; NATIONAL INSURANCE WAREHOUSE; NATIONAL ADMINISTRATIVE CORPORATION, INC. AND GUNHILD ALLEN
Respondents.)	

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1 The Arizona Department of Insurance ("Department")
2 has received evidence that the Respondents, and/or each of
3 them, have transacted the business of insurance in the State
4 of Arizona. Accordingly, the Director of Insurance
5 ("Director") makes the following Findings of Fact and
6 Conclusions of Law and enters the following Order pursuant
7 to A.R.S. § 20-401.02. This Amended Cease and Desist Order
8 pertains only to the Respondents designated. With respect
9 to those Respondents who entered into stipulations with the
10 Department staying the original Cease and Desist Order of
11 September 3, 1993, the stipulations shall remain in full
12 force and effect as to this Amended Cease and Desist Order.

13 With respect to those Respondents not addressed in
14 this Amended Cease and Desist Order, the original September
15 3, 1993 Cease and Desist Order remains uncontested and with
16 full force and effect.

17 FINDINGS OF FACT

18 1. The Director is charged with the enforcement
19 of Title 20, Arizona Revised Statutes, relating to
20 insurance.

21 2. Respondent Empire Blue Cross and Blue Shield
22 ("Empire") is a foreign company organized and existing under
23 the laws of the State of New York, with its principal place
24 of business located at 622 Third Avenue, New York, New York
25 10017.

1 3. Empire does not and/or did not at any
2 material time hold a certificate of authority to transact
3 the business of insurance in the State of Arizona.

4 4. From approximately March 1, 1990, through
5 approximately June 30, 1990, Empire issued group health
6 insurance coverage to Respondent C.R.E.A.T.E. (an Arizona-
7 domiciled not-for-profit corporation); and/or Respondent
8 Western Businessmen's Association ("WBA"), a California
9 association with its principal place of business in the
10 State of Arizona; and/or Respondent National Labor Relations
11 Consultants Corp ("N.L.R.C.C."), a marketing entity which
12 purported to provide health insurance coverage to Arizona
13 residents, and/or Respondent Worldwide Businessmans
14 Association ("Worldwide"), a marketing entity which
15 purported to provide health insurance coverage to Arizona
16 residents; and/or Respondent American Benefit Business
17 Trust, also doing business as American Benefit Trust
18 ("American Business Trust"), a marketing entity which
19 purported to provide health insurance coverage to Arizona
20 residents.

21 5. Respondent Commercial Acceptance Insurance
22 Company ("Commercial Acceptance") is not authorized to
23 transact insurance in any state in the United States and
24 purports to be an alien company organized and existing under
25 the laws of Barbados.
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1 6. Commercial Acceptance does not and/or did not
2 at any material time hold a certificate of authority to
3 transact the business of insurance in the State of Arizona.

4 7. From approximately July 1, 1991, through
5 approximately November 30, 1991, Commercial Acceptance
6 issued group health insurance coverage to Respondents
7 C.R.E.A.T.E. and/or WBA and/or N.L.R.C.C. and/or Farmers
8 Health Trust and/or Worldwide and/or American Business
9 Trust.

10 8. From approximately March 1, 1990, through
11 approximately June 1, 1991, Respondent Diversified Health
12 Concepts (DHC), acting as an unregistered third party
13 administrator within the definition set forth in A.R.S. §20-
14 485 and in violation of A.R.S. §§20-485.10 - .12 and acting
15 on behalf of unauthorized carriers, namely Respondents
16 Empire and/or Winston-Hill, did solicit and/or induce health
17 insurance coverage for, enter into preliminary negotiations
18 with, effectuate a contract for insurance for, and/or
19 transact matters subsequent to the effectuation of the
20 insurance contract and/or arising out of the insurance
21 contract with Respondents C.R.E.A.T.E. and/or WBA and/or
22 N.L.R.C.C. and/or Farmers Health Trust and/or American
23 Business Trust. At all times material to this matter
24 Respondent DHC was controlled by Respondents, Warren Schulte
25 and/or Robert Schneider.
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1 9. From approximately August, 1991, through
2 approximately November, 1991, Respondent M & M Management
3 Corporation, an unregistered third party administrator
4 within the definition set forth in A.R.S. §20-485 and in
5 violation of A.R.S. §20-485.10 - .12 and an unlicensed
6 entity acting on behalf of an unauthorized carrier, namely
7 Respondent Commercial Acceptance, did solicit and/or induce
8 health insurance coverage for, enter into preliminary
9 negotiations with, effectuate a contract for insurance for,
10 and/or transact matters subsequent to the effectuation of
11 the insurance contract and/or arising out of the insurance
12 contract with Respondents C.R.E.A.T.E. and/or WBA and/or
13 N.L.R.C.C. and/or Farmers Health Trust and/or American
14 Business Trust.

15 10. Respondents' solicitation, inducement and/or
16 effectuation of the insurance contracts and the transaction
17 of matters subsequent thereto includes acts of a third party
18 administrator as described in A.R.S. §20-485 and includes
19 the procurement, preliminary negotiation, the taking or
20 receiving of applications, the collection of premium, the
21 payment of commissions, membership fees, dues or other
22 consideration, the active marketing of the insurance to
23 prospective policyholders, the quotation of premium rates,
24 the providing application forms, and/or the payment of
25 insurance claims.
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1 11. Arthur Alvin Haney, a.k.a. Al Haney, a.k.a.
2 A.A. Haney, ("Haney") is presently, and/or was at all times
3 material to this matter, licensed as an insurance agent or
4 broker by the State of Arizona, license number 48303.
5 Respondent Haney is a principal of Respondents W.B.A.,
6 N.L.R.C.C., C.R.E.A.T.E., Worldwide.

7 12. On and after March 1, 1990, Respondent Haney
8 participated directly and/or through agents, partners,
9 and/or associations, in the solicitation, inducement and/or
10 effectuation of insurance contracts underwritten by carriers
11 not authorized to transact health insurance in Arizona
12 and/or as an unregistered third party administrator in
13 violation of A.R.S. §§20-485 et seq.

14 13. James G. Rickard, a.k.a. Gary Rickard,
15 ("Rickard") is presently, and/or was at all times material
16 to this matter, licensed as an insurance agent or broker by
17 the State of Arizona, license number 642834. Respondent
18 Rickard is and/or was at all material times a principal of
19 Respondents W.B.A., N.L.R.C.C., C.R.E.A.T.E., and/or
20 Worldwide.

21 14. On and after March 1, 1990, Respondent
22 Rickard participated directly and/or through agents,
23 partners, and/or associations, in the solicitation,
24 inducement and/or effectuation of insurance contracts
25 underwritten by carriers not authorized to transact health
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1 insurance in Arizona and/or as an unregistered third party
2 administrator in violation of A.R.S. §§20-485 et seq.

3 15. Michael A. Anastasio, ("Anastasio" or
4 "Agent") is presently, and/or was at all times material to
5 this matter, licensed as an insurance agent or broker by the
6 State of Arizona, license number 2650. Respondent Anastasio
7 is and/or was at all material times a principal of
8 Respondents W.B.A., N.L.R.C.C., C.R.E.A.T.E., and/or
9 Worldwide.

10 16. On and after March 1, 1990, Respondents
11 Anastasio and Selective Sales, Inc., participated directly
12 and/or through agents, partners, and/or associations, in the
13 solicitation, inducement and/or effectuation of insurance
14 contracts underwritten by carriers not authorized to
15 transact health insurance in Arizona and/or as an
16 unregistered third party administrator in violation of
17 A.R.S. §§20-485 et seq.

18 17. Alice Louetta Mustic dba Alice Long, ("Long")
19 is presently, and/or was at all times material to this
20 matter, licensed as an insurance agent or broker by the
21 State of Arizona, license number 662470.

22 18. On and after March 5, 1991, Respondent Long
23 participated directly and/or through agents, partners,
24 and/or associations, in the solicitation, inducement and/or
25 effectuation of insurance contracts underwritten by carriers
26

1 not authorized to transact health insurance in Arizona
2 and/or as an unregistered third party administrator in
3 violation of A.R.S. §§20-485 et seq.

4 19. Upon information and belief, Robert
5 Schneider, ("Schneider") does not and did not at any
6 material time hold an insurance license in Arizona.

7 20. On and after April 5, 1990, Respondent
8 Schneider participated directly and/or through agents,
9 partners, and/or associations, in the solicitation,
10 inducement and/or effectuation of insurance contracts
11 underwritten by carriers not authorized to transact health
12 insurance in Arizona and/or as an unregistered third party
13 administrator in violation of A.R.S. §§20-485 et seq.

14 21. A.A. Haney and Associates, Inc., ("A.A.H.")
15 is presently, and/or was at all times material to this
16 matter, licensed as an insurance agency by the State of
17 Arizona, license number 137718, controlled by Respondents
18 Haney, Anastasio, and/or Rickard.

19 22. On and after March 1, 1990, Respondent A.A.H.
20 participated directly and/or through agents, principals,
21 partners, and/or associations, in the solicitation,
22 inducement and/or effectuation of insurance contracts
23 underwritten by carriers not authorized to transact health
24 insurance in Arizona and/or as an unregistered third party
25 administrator in violation of A.R.S. §§20-485 et seq.

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1 23. Selective Sales, Inc., ("Selective") is
2 presently, and/or was at all times material to this matter,
3 licensed as an insurance agency by the State of Arizona,
4 license number 142492, controlled by Respondents Haney
5 and/or Anastasio.

6 24. On and after March 1, 1990, Respondent
7 Selective participated directly and/or through agents,
8 principals, partners, and/or associations, in the
9 solicitation, inducement and/or effectuation of insurance
10 contracts underwritten by carriers not authorized to
11 transact health insurance in Arizona and/or as an
12 unregistered third party administrator in violation of
13 A.R.S. §§20-485 et seq.

14 25. National Administrative Corporation, Inc.,
15 ("NAC") is presently, and/or was at all times material to
16 this matter, licensed as an insurance agency by the State of
17 Arizona, license number 349159, controlled by Respondents
18 Haney and/or Anastasio.

19 26. On and after March 1, 1990, Respondent NAC
20 participated directly and/or through agents, principals,
21 partners, and/or associations, in the solicitation,
22 inducement and/or effectuation of insurance contracts
23 underwritten by carriers not authorized to transact health
24 insurance in Arizona and/or as an unregistered third party
25 administrator in violation of A.R.S. §§20-485 et seq.

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1 27. National Insurance Warehouse, ("Warehouse")
2 is presently, and/or was at all times material to this
3 matter, licensed as an insurance agency by the State of
4 Arizona, license number 413233, controlled by Respondents
5 Haney and/or Anastasio.

6 28. On and after March 1, 1990, Respondent
7 Warehouse participated directly and/or through agents,
8 principals, partners, and/or associations, in the
9 solicitation, inducement and/or effectuation of insurance
10 contracts underwritten by carriers not authorized to
11 transact health insurance in Arizona and/or as an
12 unregistered third party administrator in violation of
13 A.R.S. §§20-485 et seq.

14 29. Respondents Haney, Rickard, Anastasio, Long,
15 Schneider, A.A.H., Selective, NIM, NAC, Warehouse, acting as
16 unregistered third party administrators and/or each of them,
17 did solicit, induce and/or effectuate health insurance
18 coverage, enter into preliminary negotiations, effectuate a
19 contract for insurance, and/or transact matters subsequent
20 to the effectuation of the insurance contract and/or arising
21 out of the insurance contract for and/or with individuals
22 including but not limited to the following Arizona
23 residents: Norma Barber of Tempe; Marion F. Bool of Tucson;
24 Jeffrey Cantor of Scottsdale; United Food Bank of Mesa; Bob
25 Gamelgaard of Phoenix; John Johnson of Phoenix; Dennis (Siu)
26

1 Lee of Tucson; Louise McLellan of Mesa; Naquin Farms of
2 Yuma; Tom Ocano of Phoenix; Doyle Purvis of Scottsdale;
3 Deanna Rigo of Phoenix; Robert Sullivan of Scottsdale;
4 Southwest Perfusion of Phoenix.

5 30. Respondents' solicitation, inducement and/or
6 effectuation of the insurance contracts and the transaction
7 of all matters subsequent thereto includes acts of a third
8 party administrator as described in A.R.S. §§20-485, and
9 includes the procurement, preliminary negotiation, the
10 taking or receiving of applications, the collection of
11 premium, and/or payment of commissions, membership fees,
12 dues or other consideration, active marketing of the
13 insurance to prospective policyholders, the quotation of
14 premium rates, providing application forms, and/or remitting
15 the premiums to companies not authorized to transact
16 insurance in the State of Arizona.

17 31. Respondent Gunhild Allen ("Allen") does not
18 and did not at any material time hold an insurance license
19 in Arizona.

20 32. Allen served as an officer of Respondents WBA
21 and C.R.E.A.T.E. and aided Respondents Haney, Rickard,
22 and/or Anastasio in the solicitation, inducement, and/or
23 effectuation of insurance contracts underwritten by
24 companies not authorized to transact health insurance in
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1 Arizona and performed the duties of a third party
2 administrator without the benefit of registration.

3 33. The solicitation, inducement and/or
4 effectuation of the insurance contracts described above
5 includes the conduct of a third party administrator as
6 described in A.R.S. §20-485, the procurement, preliminary
7 negotiation, the taking or receiving of applications, the
8 collection of premium, and/or payment of commissions,
9 membership fees, dues or other consideration, active
10 marketing of the insurance to prospective policyholders, the
11 quotation of premium rates, providing application forms,
12 and/or remitting the premiums to companies not authorized to
13 transact insurance in the State of Arizona.

14 CONCLUSIONS OF LAW

15 1. The Director has jurisdiction over this
16 matter.

17 2. The conduct of Respondents, and/or each of
18 them, as described in the Findings of Fact above constitutes
19 the transaction of insurance within the meaning of A.R.S. §
20 20-106.

21 3. The conduct of Respondents, and/or each of
22 them, as described above constitutes the unauthorized
23 transaction of insurance within the meaning of A.R.S. §§ 20-
24 106, 20-107 and 20-401.01.

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1 4. The transaction of insurance by Respondents,
2 or each of them, does not impair the validity of any act or
3 contract of the Respondents.

4 5. Respondents, and each of them, are prohibited
5 from maintaining any action in any court of this State to
6 enforce any right, claim, or demand arising out of the
7 transaction of the business of insurance until and unless
8 Respondents, or each of them, obtain a certificate of
9 authority as set forth in A.R.S. § 20-402.

10 6. If Respondents, or each of them, fail to pay
11 any claim or loss within the provisions of the insurance
12 contract issued by them, or by each of them, any person who
13 acted directly or indirectly as an agent for or otherwise
14 represented or aided Respondents, or each of them, in a
15 solicitation, negotiation, procurement or effectuation of
16 the insurance contract or renewal of the contract is liable
17 to the insured for the full amount of the claim or loss in
18 the manner provided by the provisions of the insurance
19 contract as set forth in A.R.S. § 20-402(B).

20 7. The Respondents, and/or each of them, herein
21 alleged as third party administrators, held themselves out
22 to be administrators in this state without holding a valid
23 certificate of registration as an administrator issued by
24 the director, as required by A.R.S. §20-485.12(A) and
25 without submitting a deposit pursuant to A.R.S. §20-485.10.
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1 8. The Respondents, and/or each of them, herein
2 alleged as third party administrators are subject to a civil
3 penalty of not less than one thousand dollars nor more than
4 ten thousand dollars. Such civil penalty is in additional
5 to any other penalties which may be imposed for violations
6 of this title or other laws of the state pursuant to A.R.S.
7 §20-485.12(F).

8 9. Grounds exist for the Director to order the
9 Respondents, and/or each of them, herein alleged as third
10 party administrators to cease and desist holding themselves
11 out to be administrators in this state without holding a
12 valid certificate of registration as an administrator issued
13 by the director, pursuant to A.R.S. §20-487.12(J).

14 **ORDER**

15 IT IS HEREBY ORDERED:

16 1. That Respondents, and each of them, shall
17 immediately cease and desist from the transaction of the
18 business of insurance in the State of Arizona.

19 2. That Respondents, and each of them, shall
20 immediately cease and desist from soliciting any insurance
21 application, making or proposing to make any insurance
22 contract, taking or receiving any application for insurance,
23 taking or collecting any premium, commission, or any other
24 consideration for any insurance contract, issuing or
25 delivering contracts of insurance to residents of this
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1 State, or otherwise transacting insurance business from
2 offices or by personnel or facilities located in the State
3 of Arizona.

4 3. Respondents, and each of them, shall pay all
5 valid claims arising out of acts covered by any and all
6 insurance contracts issued by them, or each of them, to
7 Arizona residents for so long as such claims may legally be
8 brought by or against any insured.

9 4. Respondents, and each of them, shall, within
10 thirty (30) days of the date of this Order, remit to the
11 Department of Insurance of the State of Arizona any and all
12 premium taxes applicable to the unauthorized insurance
13 transacted in the State of Arizona and shall provide at the
14 time of such submission an accounting acceptable to the
15 Director of Insurance of the State of Arizona.

16 5. Respondents, and each of them, shall, within
17 thirty (30) days of the date of this Order, remit to the
18 Department of Insurance of the State of Arizona the costs of
19 examination associated this proceeding.

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21 6. This Order shall become effective immediately
22 and shall remain in full force and effect until otherwise
23 stayed, modified, vacated or set aside.

24 7. The Respondents, and/or each of them, herein
25 alleged as third party administrators, shall immediately
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1 cease and desist from holding themselves out to be
2 administrators in this state without holding a valid
3 certificate of registration as an administrator issued by
4 the director and without submitting a deposit, pursuant to
5 A.R.S. §§20-485.12(A) and 20-485.10 respectively.

6 NOTICE OF OPPORTUNITY FOR HEARING

7 Pursuant to Titles 20 and 41 of the Arizona
8 Revised Statutes, Respondents, and each of them, are hereby
9 notified that each of them may request a hearing pursuant to
10 A.R.S. § 20-161 to contest the order to cease and desist.
11 Such a request must be in writing and received at the
12 following address within thirty (30) days from the date
13 hereof:

14 Arizona Department of Insurance
15 Hearing Division
16 2910 North 44th Street
2nd Floor
Phoenix, Arizona 85018

17 Upon receipt of a timely written request for hearing, the
18 Director will issue a notice setting the time and place of
19 the hearing.

20 NOTICE OF APPLICABLE RULES

21 On January 23, 1992, the Arizona Department of
22 Insurance adopted A.A.C. R4-14-101 through R4-14-115,
23 setting forth the rules of practice and procedure applicable
24 in contested cases before the Director of Insurance. The
25 hearing will be conducted pursuant to these rules.
26

1 PURSUANT TO A.A.C. R4-14-106 RESPONDENTS SHALL
2 FILE A WRITTEN ANSWER WITHIN TWENTY (20) DAYS AFTER ISSUANCE
3 OF THIS AMENDED CEASE AND DESIST ORDER WITH NOTICE OF A
4 REQUEST FOR HEARING AND SHALL MAIL OR DELIVER A COPY OF THE
5 ANSWER TO THE ASSISTANT ATTORNEY GENERAL FELECIA ROTELLINI.
6 THE ANSWER SHALL STATE EACH RESPONDENT'S POSITION OR DEFENSE
7 AND SHALL SPECIFICALLY ADMIT OR DENY EACH ASSERTION IN THE
8 AMENDED CEASE AND DESIST ORDER. ANY ASSERTION NOT DENIED
9 SHALL BE DEEMED TO BE ADMITTED. ANY DEFENSE NOT RAISED IN
10 THE ANSWER SHALL BE DEEMED WAIVED. IF AN ANSWER IS NOT
11 TIMELY FILED, THE RESPONDENTS' SHALL BE DEEMED IN DEFAULT
12 AND THE DIRECTOR MAY DEEM THE ALLEGATIONS AS TRUE, AND TAKE
13 WHATEVER ACTION IS APPROPRIATE INCLUDING ENTRY OF A FINAL
14 ORDER OF CEASE AND DESIST, IMPOSITION OF A CIVIL PENALTY
15 AND/OR ORDER OF RESTITUTION TO ANY PARTY INJURED.

16 DATED AND EFFECTIVE this 1st day of November,
17 1993.

18 

19 CHARLES R. COHEN
20 Assistant Deputy Director
of Insurance

21 COPY of the foregoing mailed/delivered
22 this 1st day of November, 1993, to:

23 Felecia A. Rotellini
24 Assistant Attorney General
25 Consumer Protection and Antitrust Section
1275 W. Washington
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26 Attorney for the Department of Insurance

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12 Insurance Company

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16 Jerry Thomas
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18 Attorney for Alvin Haney,
a.k.a. A.A. Haney and Al
19 Haney; James G. Rickard,
a.k.a. Gary Rickard; Alice
20 Louetta Mustic dba Alice Long;
A.A. Haney & Associates, Inc.;
21 National Insurance Management, Inc.;
National Administrative Corporation,
22 Inc.; National Insurance Warehouse
and Gunhild Allen
23
24
25
26

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