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Newark, New Jersey 07101
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FILED

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Division of Consumer Affairs

By: Patricia Schiripo
Deputy Attorney General
(973) 648- 7819

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC
SAFETY
DIVISION OF CONSUMER AFFAIRS

In the Matter of :

Hopewell Homecare, LLC. d/b/a :

Synergy Homecare and Paul Euell, :

individually :

Respondents. :

Administrative Action

CONSENT ORDER

WHEREAS this matter having been opened by the Division of Consumer Affairs, Office of Consumer Protection (“Division”), as an investigation to ascertain whether violations of the Private Employment Agency Act, N.J.S.A. 34:8-43 et seq. (“Private Employment Agency Act”), the Regulations Governing Health Care Service Firms, N.J.A.C. 13:45B-13.1 et seq. (Health Care Firm Regulations”), the Regulations Governing Placement of Health Care Practitioners, N.J.A.C. 13:45B-14.1 et seq. (“Practitioner Regulations”), and the New Jersey Consumer Fraud

Act, N.J.S.A. 56:8-1 et seq. (“CFA”), have been or are being committed by Hopewell Homecare, LLC d/b/a Synergy Homecare (“Hopewell Homecare”), with a principal place of business at 21 Route 31, North, Suite B8, Pennington, New Jersey, 08534, and by Paul Euell, individually and as owner, officer, director, manager, employee, representative, and/or agent of Hopewell Homecare, (collectively, “Respondents”) (hereinafter referred to as the “Investigation”);

WHEREAS the Division alleges that Respondents, among other things, failed to evaluate their clients’ health care needs as required and failed to document information required in hiring and employing Health Care Practitioners;

WHEREAS Respondents deny that they have committed any violations of the Private Employment Agency Act, the Health Care Firm Regulations, the Practitioner Regulations, and the CFA;

WHEREAS the Division and Respondents (collectively, the “Parties”) having reached an amicable agreement resolving the issues in controversy and concluding this Investigation without the need for further action, and Respondents having voluntarily cooperated with the Investigation and consented to the entry of the within order (“Consent Order”) and for good cause shown:

IT IS ORDERED and **AGREED** as follows:

1. EFFECTIVE DATE

1.1 This Consent Order is effective on the date it is filed with the Division (“Effective Date”).

2. DEFINITIONS

As used in this Consent Order, the following words or terms shall have the

following meanings, which meanings shall apply wherever the words and terms appear in this Consent Order:

2.1 “Attorney General” shall refer to the Attorney General of the State of New Jersey and the Office of the Attorney General of the State of New Jersey.

2.2 “Consumer” shall refer to any Person, who is offered Merchandise, defined in accordance with N.J.S.A. 56:8-1(c), for Sale, defined in accordance with N.J.S.A. 56:8-1(d).

2.3 “Employment Application” shall refer to the form that each Person who applies for placement by or employment in the State with Respondents is required to complete pursuant to N.J.A.C. 13:45B-14.2.

2.4 “Health Care Practitioner(s)” shall be defined in accordance with N.J.A.C. 13:45B-14.1 and shall refer to any individual placed or employed in the State by the Respondents for the purpose of rendering Health Care Services.

2.5 “Health Care Practitioner Supervisor” shall be defined in accordance with N.J.A.C. 13:45B-14.1.

2.6 “Health Care Services” shall be defined in accordance with N.J.A.C. 13:45B-13.2. Such services include Personal Services as defined in N.J.A.C. 13:45B-13.2. For purposes of the Private Employment Agency Act, “Health Care Services” shall be defined in accordance with N.J.S.A. 34:8-45.1.

2.7 “Health Care Service Firm” shall be defined in accordance with, N.J.A.C. 13:45B-14.2.

2.8 “Person[s]” shall refer to any natural person, individual, any business entity (whether partnership, trust, estate, incorporated or unincorporated association, cooperation or corporation), any governmental agency or entity and any other legal or commercial entity,

however organized. For purposes of the CFA, “Person[s]” shall be defined in accordance with N.J.S.A. 56:8-1(d).

2.9 “Restitution” shall refer to all methods undertaken by Respondents to resolve Consumer complaints including, but not limited to, the issuance of refunds or the reversal of credit card or debit card charges.

2.10 “State” shall refer to the State of New Jersey.

3. REQUIRED AND PROHIBITED BUSINESS PRACTICES

3.1 Respondents shall not engage in any unfair or deceptive acts or practices in the conduct of their business in the State and shall comply with all applicable State and/or Federal laws, rules and regulations as now constituted or as may hereafter be amended including, but not limited to, the Private Employment Agency Act, the Health Care Firm Regulations, the Practitioner Regulations, and the CFA.

3.2 Prior to sending an individual who is not licensed or certified as a health care professional to a patient/employer’s home to provide home-based services, Respondents shall provide to the patient/employer a written notification that the individual is not a certified homemaker-home health aide or licensed or certified by the Division as a health care professional, as required by N.J.A.C. 13:45B-13.8(a)1.

3.3 Respondents shall create an Employment Application for each Health Care Practitioner seeking employment with Respondents, which shall include the information required by N.J.A.C. 13:45B-14.2.

3.4 Respondents shall refer or place only those Health Care Practitioners who are

currently licensed or certified and in good standing with their respective New Jersey licensing or registration boards when licensure to perform a Health Care Service or function is required by law, as set forth in N.J.A.C. 13:45B-14.4(a).

3.5 Respondents shall, through their Health Care Practitioner Supervisor or other designated individual, verify the license of each individual to be placed or referred prior to the referral or placement. Licensure shall be verified by obtaining a document that verifies licensure from the Board or Committee that registers or licenses the individual and, within 45 days of obtaining the verification, by personally inspecting the current biennial registration or license or a copy of the current biennial registration or license as required by N.J.A.C. 13:45B-14.4(c).

3.6 Respondents shall maintain a copy of the verification document that they have Secured from the Board or Committee that registers or licenses the individual and a copy of the license or registration with the following notation conspicuously written across the entire face of the license: **“COPY OF ORIGINAL NOT VALID FOR VERIFYING CURRENT LICENSURE STATUS”**, as required by N.J.A.C. 13:45B-14.4(d).

3.7 Respondents shall maintain a record of licensure verification in which the following information is recorded: (1) the registrant’s name and address; (2) the New Jersey board or agency issuing license or registration; (3) the license or registration number; (4) the period for which licensure or registration was issued; (5) the date of license inspection; and (6) the name of the individual making the inspection on behalf of the licensee, as required by N.J.A.C. 13:45B-14.4(e).

3.8 Respondents shall create a job order for every position, or type of position within a single institution, for which a referral or placement is to be made, with the following minimum information entered on the job order: (a) a description of the setting; (b) the hours worked; (c)

the title of the position; (d) duties; (e) special skills or certifications required; (f) special equipment to be operated; and (g) special employer policies or limitations to be required, in accordance with N.J.A.C. 13:45B-14.5(b).

3.9 Respondents shall ensure that a homemaker-home health aide only performs tasks that have either been delegated to him or her by the Health Care Practitioner Supervisor or which the Health Care Practitioner Supervisor has directed the homemaker-home health aide to perform, as required by N.J.A.C. 13:45B-14.7(c).

3.10 Respondents shall ensure that the Health Care Practitioner Supervisor documents in the patient's record every task that has been delegated to a homemaker-home health aide to perform, as required by N.J.A.C. 13:45B-14.7(e).

3.11 Prior to placing a Health Care Practitioner, Respondents shall assure that an appropriately licensed person evaluates the patient/employer's needs and establishes a written plan of care, as required by N.J.A.C. 13:45B-14.9(a).

4. SETTLEMENT PAYMENT

4.1 The Parties have agreed to a settlement of the Investigation in the amount of Five Thousand Eight Hundred Ninety and 92/100 Dollars (\$5,890.92) ("Settlement Payment").

4.2 The Settlement Payment consists of a civil penalty of Four Thousand and 00/100 Dollars, pursuant to N.J.S.A. 34:8-61 and N.J.S.A. 56:8-13, and One Thousand Eight Hundred Ninety and 56/100 Dollars (\$1,890.56) as reimbursement for costs of the Investigation pursuant to N.J.S.A. 34:8-62 and N.J.S.A. 56:8-11.

4.3 On or before the Effective Date, Respondents shall pay the Settlement Payment of Five Thousand Eight Hundred Ninety and 92/100 Dollars (\$5,890.92) by bank check or other guaranteed funds payable to the "New Jersey Division of Consumer Affairs" and

forwarded to:

Patricia Schiripo, Deputy Attorney General
State of New Jersey
Office of the Attorney General
Department of Law and Public Safety
Consumer Fraud Prosecution Section
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

4.4 Upon making the Settlement Payment, Respondents shall immediately be fully divested of any interest in, or ownership of, the monies paid, and all interest in the monies, and any subsequent interest or income derived therefrom, shall inure entirely to the benefit of the Division pursuant to the terms herein.

5. GENERAL PROVISIONS

5.1 This Consent Order is entered into by the Parties as their own free and voluntary act and with full knowledge and understanding of the obligations and duties imposed by this Consent Order.

5.2 This Consent Order shall be governed by, and construed and enforced in accordance with, the laws of the State.

5.3 The Parties have negotiated, jointly drafted and fully reviewed the terms of this Consent Order and the rule that uncertainty or ambiguity is to be construed against the drafter shall not apply to the construction or interpretation of this Consent Order.

5.4 This Consent Order contains the entire agreement among the Parties. Except as otherwise provided herein, this Consent Order shall be modified only by a written instrument signed by or on behalf of the Parties.

5.5 Except as otherwise explicitly provided in this Consent Order, nothing herein shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State.

5.6 If any provision of this Consent Order is held invalid or unenforceable by operation of law, the remaining terms of this Consent Order shall not be affected.

5.7 This Consent Order shall be binding upon Respondents as well as their principals, officers, directors, members, agents, employees, successors and assigns, and any Person through which they may now or hereafter act, as well as any Persons who have authority to control or who, in fact, control and direct their business.

5.8 This Consent Order shall be binding upon the Parties and their successors in interest. In no event shall assignment of any right, power or authority under this Consent Order avoid compliance with this Consent Order.

5.9 This Consent Order is entered into by the Parties for settlement purposes only. Neither the fact of, nor any provision contained in this Consent Order shall be construed as: (a) an approval, sanction or authorization by the Division or any other governmental unit of the State of any act or practice of Respondents; or (b) an admission by Respondents that any of its acts or practices described in or prohibited by this Consent Order are unfair or deceptive or violate the Private Employment Agency Act, the Health Care Firm Regulations, the Practitioner Regulations and/or the CFA. Neither the existence of, nor the terms of this Consent Order shall be deemed to constitute evidence or precedent of any kind except in: (a) an action or proceeding by one of the Parties to enforce, rescind or otherwise implement any or all of the terms herein; or (b) an action or proceeding involving a Released Claim (as defined in Section 8) to support a defense of res

judicata, collateral estoppel, release or other theory of claim preclusion, issue preclusion or similar defense.

5.10 This Consent Order is a public document subject to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

5.11 Unless otherwise prohibited by law, any signatures by the Parties required for filing of this Consent Order may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Consent Order.

6. REPRESENTATIONS AND WARRANTIES

6.1 The Parties Represent and warrant that their signatories to this Consent Order have authority to act and bind the respective Parties.

7. RELEASE

7.1 In consideration of the Settlement Payment, undertakings, mutual promises and obligations provided for in this Consent Order, the Division hereby agrees to release Respondents from any and all civil claims or Consumer related administrative claims, to the extent permitted by State law, which the Division could have brought prior to the Effective Date against Respondents for violations of the Private Employment Agency Act, the Health Care Firm Regulations, the Practitioner Regulations and/or the CFA arising out of the Investigation, as well as the matters specifically addressed in this Consent Order (“Released Claims”).

7.2 Notwithstanding any term of this Consent Order, the following do not comprise Released Claims: (a) private rights of action provided however, that nothing herein shall prevent Respondents from raising the defense of set-off against a Consumer who has received

Restitution; (b) actions to enforce this Consent Order; and (c) any claims against Respondents by any other agency or subdivision of the State.

8. PENALTIES FOR FAILURE TO COMPLY

8.1 The Attorney General (or designated representative) shall have the authority to enforce the injunctive provisions of this Consent Order or to seek sanctions for violations hereof or both.

8.2 The Parties agree that any future violations of the provisions of Section 3 this Consent Order as well as the Private Employment Agency Act, the Health Care Firm Regulations, the Practitioner Regulations, and/or the CFA shall constitute a second or succeeding violation under N.J.S.A. 34:8-61 and/or N.J.S.A. 56:8-13 and that Respondents may be liable for enhanced civil penalties.

9. COMPLIANCE WITH ALL LAWS

9.1 Except as provided in this Consent Order, no provision herein shall be construed as:

- a. Relieving Respondents of their obligation to comply with all State and Federal laws, regulations or rules, as now constituted or as may hereafter be amended, or as granting permission to engage in any acts or practices prohibited by any such laws, regulations or rules; or
- b. Limiting or expanding any right the Division may otherwise have to obtain information, documents or testimony from Respondents pursuant to any State or Federal law, regulation or rule, as now constituted or as may hereafter be amended, or limiting or expanding any right Respondents may otherwise have pursuant to any State or Federal law, regulation or rule, to oppose any process employed by the Division to obtain such information, documents or testimony.

10. NOTICES UNDER THIS CONSENT ORDER

10.1 Except as otherwise provided herein, any notices or other documents required to

be sent to the Division or Respondents pursuant to this Consent Order shall be sent by United States Mail, Certified Mail Return Receipt Requested, or other nationally recognized courier service that provides for tracking services and identification of the Person signing for the documents. The notices and/or documents shall be sent to the following addresses:

For the Division:

Patricia Schiripo, Deputy Attorney General
Consumer Fraud Protection Section
Division of Law
Office of the Attorney General
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, NJ 07101

For Respondents:

Paul Euell
Hopewell Homecare, LLC, d/b/a Synergy Homecare
21 Route 31 North - Suite B
Pennington, New Jersey 08534

IT IS ON THE 17th DAY OF July, 2012, SO ORDERED.

JEFFREY F. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

By: 

ERIC T. KANEFSKY, ACTING DIRECTOR
DIVISION OF CONSUMER AFFAIRS

THE PARTIES CONSENT TO THE FORM, CONTENT AND ENTRY OF THIS
CONSENT ORDER ON THE DATES BESIDE THEIR RESPECTIVE SIGNATURES.

FOR THE DIVISION:

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

By: Patricia Schiripo
Patricia Schiripo
Deputy Attorney General
Consumer Fraud Prosecution
124 Halsey Street – 5th floor
P.O. Box 45029
Newark, New Jersey 07101
Telephone (973) 648-7819

Dated: July 13, 2012

FOR RESPONDENTS:

Hopewell Homecare, LLC d/b/a Synergy Homecare.

By: Paul Euell
Paul Euell, Managing Member/Owner

Dated: July 6, 2012

By: Paul Euell
Paul Euell, Individually

Dated: July 6, 2012