

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NUMBER: 641 928

SECTION: 26

JAMES J. DONELON  
COMMISSIONER OF INSURANCE FOR THE STATE OF LOUISIANA

VERSUS

LOUISIANA HEALTH COOPERATIVE, INC.

STATE  
SEP 06 2017  
BY *lu*  
CLERK OF COURT

FILED: \_\_\_\_\_

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DEPUTY CLERK

**MOTION AND INCORPORATED MEMORANDUM REQUESTING APPROVAL OF SETTLEMENT OF CLAIMS INVOLVING TERRY S. SHILLING, GEORGE G. CROMER, WARNER L. THOMAS, IV, WILLIAM A. OLIVER, CHARLES D. CALVI, PATRICK C. POWERS, all of whom served as officers and/or directors of Louisiana Health Cooperative, Inc. (the "D&O Defendants") AND LOUISIANA HEALTH COOPERATIVE, INC.'S INSURER, TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, DEFENDANTS IN 19<sup>TH</sup> JUDICIAL DISTRICT COURT CASE NUMBER 651 069, SECTION 22**

NOW INTO COURT, through undersigned counsel, comes James Donelon, Commissioner of Insurance for the State of Louisiana, in his capacity as Rehabilitator, (hereinafter referred to as "the Commissioner"), and Billy Bostick, Court appointed Receiver, of Louisiana Health Cooperative, Inc. in Rehabilitation (collectively "LAHC"), who respectfully represent:

1.

LAHC operated as a health maintenance organization until December 31, 2015 and was placed in rehabilitation by this honorable Court on September 1, 2015, which rehabilitation order was made permanent on September 21, 2015 and the Receiver was appointed by the Court pursuant to those orders.

2.

The order of rehabilitation for LAHC entered by this Court on September 21, 2015 authorized the Receiver, inter alia, to commence whatever actions were necessary, and to collect all sums and debts that were economically feasible to collect, to accomplish the rehabilitation of LAHC.

3.

In furtherance of the order of rehabilitation and pursuant to the order of this Court of January 8, 2016, the Receiver filed an action against Terry S. Shilling, George G. Cromer, Warner L. Thomas, IV, William A. Oliver, Charles D. Calvi, Patrick C. Powers, all of whom served as officers and/or directors of Louisiana Health Cooperative, Inc. (the "D&O Defendants") and Louisiana Health

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Cooperative, Inc.'s insurer, Travelers Casualty and Surety Company of America, as well as other defendants, in case number 651 069, Section 22, on the docket of the 19<sup>th</sup> Judicial District Court for the Parish of East Baton Rouge, State of Louisiana on August 31, 2016. That suit was later amended and restated as to the claims asserted.

4.

In connection with the proposed settlement of the claims asserted on behalf of LAHC against Travelers and the D&O Defendants, Travelers and the D&O Defendants (but not the other defendants) have denied the allegations made in the pending recovery action but are willing to enter into a settlement agreement to avoid the time and expense of protracted litigation involving complex business and accounting transactions.

5.

The D&O Defendants were allegedly insured by Travelers against the allegations made by the Receiver herein; a policy or policies of insurance issued by Travelers provided a total of \$3 million in coverage, which eroded by the costs of defense. That is, the amount of reasonable attorneys' fees paid to defend the D&O Defendants eroded or reduced policy limits. In connection with the proposed settlement, the Travelers and the D&O Defendants have agreed to pay LAHC the full and true sum of \$2 Million (\$2,000,000.00) Dollars. As part of this settlement, the Receiver reserved his claims against any and all excess insurers, known and unknown, which may provide coverage to the D&O Defendants. A copy of the proposed settlement agreement is attached hereto and marked as **Exhibit A**.

6.

The Receiver believes that the proposed settlement is in the best interest of the LAHC estate, will efficiently marshal the property and assets of the LAHC estate, and will further the goals identified in the order of rehabilitation entered by this Court in this matter.

7.

The Receiver submits to the Court that the terms of the Settlement Agreement constitute a fair and reasonable settlement of the claims asserted by LAHC, that the funds received pursuant to the Settlement Agreement will be used by LAHC in accordance with procedures utilized in this proceeding, as well as for attorneys fees and costs and related expenses arising out of the

pending lawsuit filed against the remaining defendants, that the settlement is intended to resolve all claims against Travelers and the D&O defendants, except those specifically excepted, and that the settlement terms, under all applicable circumstances, and are in the best interests of the creditors and other persons affected by the settlement and the rehabilitation of LAHC through these proceedings.

8.

Pursuant to the terms of the Settlement Agreement, the Receiver desires and is entitled to an order of this Court finding that the settlement is fair and equitable to all interested parties and claimants (including all creditors of LAHC; that the Receiver has specific authority to release all claims pursuant to the terms of the Settlement Agreement and to dismiss the claims asserted against Travelers and the D&O defendants in the pending lawsuit with prejudice; that the Receiver has specific authority to execute the Settlement Agreement; that all creditors, claimants, and interested persons of the LAHC estate are and will be bound by the Settlement Agreement; and declaring that the claims of LAHC creditors against Travelers and the D&Os Defendants, except direct claims, if any, which the Receiver is unable by assignment or operation of law to assert, shall be deemed released as a result of this Court's finding of the fairness of the proposed settlement and approval of the proposed settlement.

9.

The Receiver further requests notice of this motion and order and the Court's ruling be given by posting a copy of this motion and order and the Court's ruling on the Louisiana Department of Insurance website at [www.lidi.la.gov](http://www.lidi.la.gov) ; Office Directory; Receivership; Domestic Receivers in Receivership Open; Louisiana Health Cooperative, Inc.; Receivership Pleadings and on the LAHC website, mylahc.org, and that such be deemed sufficient notice to all interested persons or entities.

10.

The Receiver requests that the judgment rendered as to the proposed settlement be certified as a final judgment for purposes of appeal by this Court for the reasons that the judgment as prayed for will dismiss all claims of LAHC against Travelers and the D&O defendants with prejudice and

there is no just reason for delay since Travelers and the D&O Defendants will no longer be a party to the recovery actions in accordance with Louisiana Code of Civil Procedure article 1915.

**WHEREFORE**, Billy Bostick, Receiver for Louisiana Health Cooperative, Inc. in Rehabilitation prays that this motion be deemed good and sufficient and that this honorable Court approve the proposed settlement with Travelers and the D&O defendants and authorize the Receiver to enter into the proposed agreement with Travelers and the D&O defendants, as reflected in **Exhibit A**, and to sign such documents, to take such actions as may be required to accomplish same, and to implement same, in the sole discretion of the Receiver; that the Court make a finding that:

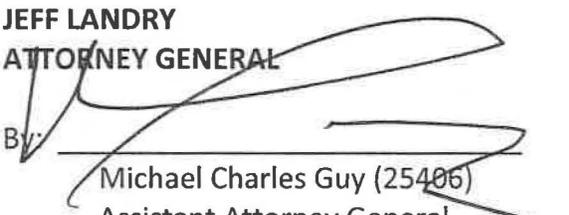
- (1) the settlement is fair and equitable to all interested parties and claimants (including all creditors of LAHC);
- (2) that the Receiver has specific authority to release all claims pursuant to the terms of the Settlement Agreement and to dismiss the claims asserted against Travelers and the D&O defendants in the pending lawsuit with prejudice;
- (3) that the Receiver has specific authority to execute the Settlement Agreement;
- (4) that all creditors, claimants, and interested persons of the LAHC estate will be bound by the Settlement Agreement;
- (5) declaring that the claims of LAHC creditors against Travelers and the D&O defendants, except direct claims, if any, which the Receiver is unable by assignment or operation of law to assert and except as reserved in the proposed settlement agreement, shall be deemed released as a result of this Court's finding of the fairness of the proposed settlement and approval of the proposed settlement;
- (6) that notice of this motion and order and the Court's ruling be given by posting a copy of this motion and order and the Court's ruling on the Louisiana Department of Insurance website at [www.lidi.la.gov](http://www.lidi.la.gov); Office Directory; Receivership; Domestic Receivers in receivership-Open; Louisiana Health Cooperative, Inc.; Receivership Pleadings and on the LAHC website, [mylahc.org](http://mylahc.org); and that such be deemed sufficient notice to all interested persons or entities; and

(7) that the judgment rendered as to the proposed settlement be certified as a final judgment for purposes of appeal by this Court for the reasons that the judgment as prayed for will dismiss all claims of LAHC against Travelers and the D&O Defendants with prejudice and there is no just reason for delay since Travelers and the D&O Defendants will no longer be parties to the recovery action in accordance with Louisiana Code of Civil Procedure article 1915,

and for all other appropriate relief.

Respectfully Submitted,

**JEFF LANDRY**  
**ATTORNEY GENERAL**

By: 

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Assistant Attorney General  
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**BURGLASS & TANKERSLEY, LLC**

BY: \_\_\_\_\_

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Attorneys for **JAMES J. DONELON, Commissioner of Insurance for the State of Louisiana as Rehabilitator of Louisiana Health Cooperative, Inc. in Rehabilitation**

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EAST BATON ROUGE PARISH, LA

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DEPUTY CLERK OF COURT

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing document has been forwarded via email to the email addresses provided, to the following:

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On this 6<sup>th</sup> day of SEPTEMBER, 2017.

  
Sue Buser

RECEIVED  
SEP 05 2017  
ATTORNEY GENERAL  
PUBLIC PROTECTION DIVISION

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19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NUMBER: 641 928

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JAMES J. DONELON  
COMMISSIONER OF INSURANCE FOR THE STATE OF LOUISIANA

VERSUS

LOUISIANA HEALTH COOPERATIVE, INC.

FILED: \_\_\_\_\_

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DEPUTY CLERK

**ORDER**

Considering the foregoing Motion Requesting Approval of Settlement of Claims Involving Terry S. Shilling, George G. Cromer, Warner L. Thomas, IV, William A. Oliver, Charles D. Calvi, Patrick C. Powers, all of whom served as officers and/or directors of Louisiana Health Cooperative, Inc. (the "D&O Defendants") and Louisiana Health Cooperative, Inc.'s insurer, Travelers Casualty and Surety Company of America ("Travelers"), Defendants in 19<sup>th</sup> Judicial District Court Case Number 651 069, Section 22, and the Court finding that the parties are entitled to the relief granted herein:

**IT IS ORDERED, ADJUDGED AND DECREED** that the Motion Requesting Approval of Settlement of Claims Involving Terry S. Shilling, George G. Cromer, Warner L. Thomas, IV, William A. Oliver, Charles D. Calvi, Patrick C. Powers, all of whom served as officers and/or directors of Louisiana Health Cooperative, Inc. (the "D&O Defendants") and Louisiana Health Cooperative, Inc.'s insurer, Travelers Casualty and Surety Company of America ("Travelers") be and same hereby is GRANTED.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the proposed settlement with Terry S. Shilling, George G. Cromer, Warner L. Thomas, IV, William A. Oliver, Charles D. Calvi, Patrick C. Powers, all of whom served as officers and/or directors of Louisiana Health Cooperative, Inc. (the "D&O Defendants") and Louisiana Health Cooperative, Inc.'s insurer, Travelers Casualty and Surety Company of America ("Travelers") be and same hereby is APPROVED.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Receiver for Louisiana Health Cooperative, Inc. in Rehabilitation ("LAHC") be and hereby is authorized to enter into the proposed settlement agreement with Terry S. Shilling, George G. Cromer, Warner L. Thomas, IV,

William A. Oliver, Charles D. Calvi, Patrick C. Powers, all of whom served as officers and/or directors of Louisiana Health Cooperative, Inc. (the "D&O Defendants") and Louisiana Health Cooperative, Inc.'s insurer, Travelers Casualty and Surety Company of America ("Travelers"), as reflected in the proposed agreement attached as **Exhibit A**, and to sign such documents, to take such actions as may be required to accomplish same, and to implement same, in the sole discretion of the Receiver.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the settlement is fair and equitable to all interested parties and claimants (including all creditors of LAHC); that the Receiver has specific authority to release all claims pursuant to the terms of the Settlement Agreement and to dismiss the claims asserted against the D&O Defendants and Travelers in the pending lawsuit with prejudice; that the Receiver has specific authority to execute the Settlement Agreement; that all creditors, claimants, and interested persons of the LAHC estate are and will be bound by the Settlement Agreement, and that the claims of LAHC estate creditors against the D&O Defendants and Travelers, except direct claims, if any, which the Receiver is unable by assignment or operation of law to assert, and except as reserved in the proposed settlement agreement, be and hereby are deemed released as a result of this Court's finding of the fairness of the settlement and this Court's approval of the settlement.

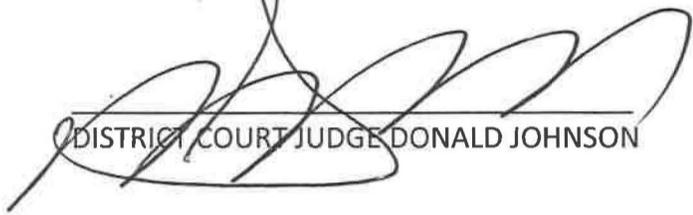
**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that notice of this motion and order and the Court's ruling be given by posting a copy of this motion and order on the Louisiana Department of Insurance website at [www.lidi.la.gov](http://www.lidi.la.gov) ; Office Directory; Receivership; Domestic Receivers in receivership-Open; Louisiana Health Cooperative, Inc.; Receivership Pleadings and the LAHC website, [mylahc.org](http://mylahc.org), and that such notice shall be deemed sufficient notice to all interested persons or entities.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the motion of the Receiver to certify this judgment as a final judgment pursuant to Louisiana Code of Civil Procedure article 1915 be and hereby is granted and this judgment is certified as a final judgment for purposes of appeal.

The Court, in accordance with Louisiana Civil Code Article 1915, designates this as a final judgment by the Court after an express determination that there is no just reason for delay since

the judgment rendered by the Court herein dismisses all claims in the recovery action as to Terry S. Shilling, George G. Cromer, Warner L. Thomas, IV, William A. Oliver, Charles D. Calvi, Patrick C. Powers, all of whom served as officers and/or directors of Louisiana Health Cooperative, Inc. (the "D&O Defendants") and Louisiana Health Cooperative, Inc.'s insurer, Travelers Casualty and Surety Company of America ("Travelers") with prejudice.

Baton Rouge, Louisiana, this 6 day of September 2017.

  
DISTRICT COURT JUDGE DONALD JOHNSON

FILED  
EAST BATON ROUGE PARISH, LA

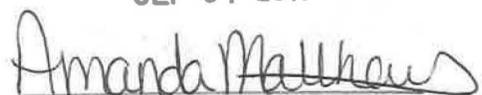
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TRUE COPY

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