

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

STATE OF LOUISIANA

NO.: 651,069

SECTION 22

JAMES J. DONELON, COMMISSIONER OF INSURANCE  
FOR THE STATE OF LOUISIANA, IN HIS CAPACITY AS REHABILITATOR OF  
LOUISIANA HEALTH COOPERATIVE, INC.

VERSUS

TERRY S. SHILLING, GEORGE G. CROMER, WARNER L. THOMAS, IV, WILLIAM A.  
OLIVER, CHARLES D. CALVI, PATRICK C. POWERS, CGI TECHNOLOGIES AND  
SOLUTIONS, INC., GROUP RESOURCES INCORPORATED, BEAM PARTNERS, LLC,  
MILLIMAN, INC., BUCK CONSULTANTS, LLC, AND TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA

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

\_\_\_\_\_  
DEPUTY CLERK

**BUCK GLOBAL, LLC'S MOTION TO COMPEL  
LEWIS & ELLIS TO COMPLY WITH SUBPOENA DUCES TECUM**

NOW INTO COURT, through undersigned counsel, comes Buck Global, LLC f/k/a Buck Consultants, LLC ("Buck"), who respectfully moves this Honorable Court pursuant to La. Code Civ. Proc. arts. 1354, 1463, and 1469 for an order compelling Lewis & Ellis ("L&E") to comply with the subpoena duces tecum served upon on it on November 5, 2020, upon showing that:

1.

The documents requested from L&E are directly relevant to the Plaintiff's claims and/or are reasonably calculated to lead to the discovery of admissible evidence. Although Buck's subpoena seeks documents that fall well within the scope of the "broad and liberal" discovery allowed by Louisiana and Texas law, L&E has refused to produce a single document.

2.

L&E's boilerplate and unsupported objections *to every single one* of Buck's document requests fail to preserve, and thereby waive, any objections to the subpoena. Further, L&E has not asserted any applicable ground of privilege and/or confidentiality pertaining to any subpoenaed document. And any relevant claim of privilege or confidentiality has been waived by the failure to properly assert it and the LDI's previous publication of related Lewis & Ellis reports.

3.

In support of this Motion to Compel, Buck attaches the following exhibits:

- Exhibit A:** Plaintiff's Second Amended Petition
- Exhibit B:** Buck's Petition for Letters Rogatory
- Exhibit C:** Letters Rogatory Signed by Judge Kelley
- Exhibit D:** Texas Order Enforcing Letters Rogatory and Notice of Records Only Deposition and Subpoena Duces Tecum to Lewis & Ellis with Exhibits
- Exhibit E:** Service Return
- Exhibit F:** L&E's Objections to Subpoena Duces Tecum
- Exhibit G:** Buck's Letter to L&E's Counsel
- Exhibit H:** L&E's Email Consenting to Submit Motion to Compel to Judge Kelley
- Exhibit I:** Commissioner's Public Records Request to LDI and transmission of response.
- Exhibit J:** Lewis & Ellis Reports Published on LDI website
- Exhibit K:** Crohan Affidavit Authenticating L&E Reports

Buck respectfully requests that the Court sign the Rule to Show Cause filed with this Motion setting it for hearing at the earliest feasible date. In compliance with Local Rule 9.8, Buck represents that this case is not set for trial, and that live testimony will not be offered at the hearing of this motion.

WHEREFORE, Buck respectfully prays that, after hearing of this matter, the Court grant its motion to compel and order Lewis & Ellis to comply fully with Buck's subpoena duces tecum and produce documents responsive to Buck's discovery requests.

Respectfully submitted,

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*Attorneys for Buck Global, LLC*

**RULE 10.1 CERTIFICATE OF CONFERENCE**

I, the undersigned counsel for Buck Global, LLC, personally conferred with John Ashley Moore, counsel for Lewis & Ellis, by telephone on December 1, 2020. At this conference, there was a substantive discussion of every item presented to the Court in this motion and, despite their best efforts, counsel were unable to resolve the matters presented.

Certified this 4th day of January, 2021

/s/ James A. Brown (Bar #14101)

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a copy of the foregoing Motion to Compel has been served upon all parties through their counsel of record, by e-mail, and, additionally, upon counsel for Lewis & Ellis by certified mail, return receipt requested, this 4th day of January, 2021.

/s/ James A. Brown

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SURETY COMPANY OF AMERICA

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

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DEPUTY CLERK

**BUCK GLOBAL, LLC'S MEMORANDUM IN SUPPORT OF MOTION TO COMPEL  
LEWIS & ELLIS TO COMPLY WITH SUBPOENA DUCES TECUM**

Buck Global, LLC f/k/a Buck Consultants, LLC (“Buck”) submits this memorandum in support of its Motion to Compel Lewis & Ellis, Inc. (“L&E”) to comply with Buck’s subpoena duces tecum served on L&E on November 5, 2020. As more fully set forth below, the information that Buck seeks is relevant to the instant lawsuit and/or reasonably calculated to lead to the discovery of admissible evidence. L&E, a leading national actuarial consulting firm retained by the Louisiana Department of Insurance (“LDI”), *contemporaneously* reviewed and evaluated Buck’s rate projections that are the subject of Plaintiff’s claims against Buck in this case. Without the benefit of 20/20 hindsight, L&E thoroughly reviewed Buck’s rate projections and found them to be reasonable and in accordance with applicable guidelines and standards.

L&E reviewed Buck’s rate projections based on *at least* 19 relevant criteria.<sup>1</sup> The reports discuss specific issues mentioned in the Commissioner’s amended petition, such as whether it was reasonable to use a rate book rather than LAHC’s claims “experience” given that LAHC’s claims experience was not “credible.”<sup>2</sup> Based on this review of the same decisions which the

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<sup>1</sup> L&E reports, **Exhibit J** to Motion to Compel, pp. 1-2, 10-11.

<sup>2</sup> Second Amended Petition (“SAP”), **Exhibit A** to Motion to Compel, at ¶ 116; L&E reports, **Exhibit J**, pp. 5, 14.

Commissioner now claims were negligent, L&E specifically stated that Buck's rate projections were actuarially sound, reasonable, not excessive, not inadequate, not unfairly discriminatory, not unjustified, and compliant with laws, regulations and bulletins.<sup>3</sup> Virtually every one of Buck's methods, assumptions and projections which the Commissioner now contends was negligent is discussed in L&E's evaluations and found to be reasonable and compliant with all requirements.<sup>4</sup>

Hence, L&E's contemporaneous files reflecting this work are directly relevant to the merits of the Plaintiff's claims that Buck's rate projections and related work were supposedly unreasonable and negligent. This information falls well within the ambit of the broad and liberal discovery permitted by both Louisiana and Texas law. Therefore, this Court should order L&E to comply with Buck's subpoena duces tecum.

## **I. BACKGROUND**

### **A. Relevant Procedural History**

This lawsuit arises out of the failure of Louisiana Health Cooperative, Inc. ("LAHC"), a consumer operated and oriented health care plan ("CO-OP") created under the Patient Protection and Affordable Care Act ("ACA"). LAHC, a Louisiana nonprofit corporation, was formed in 2011 and was licensed to operate as a health maintenance organization by the Louisiana Department of Insurance ("LDI") in 2013. The LDI, headed by Louisiana Commissioner of Insurance James J. Donelon, regulated LAHC and reviewed and approved its proposed premium rates every year. In September, 2015, the LDI placed LAHC into rehabilitation under the direction and control of the Commissioner, as Rehabilitator.

In August 2016, the Commissioner, appearing herein as Rehabilitator ("Plaintiff" or "the Commissioner"), filed this suit against several Defendants, including LAHC's former directors and officers (the "D&O Defendants"),<sup>5</sup> the developer and initial manager of LAHC, Beam Partners, LLC ("Beam"), and LAHC's third-party administrators, CGI Technology and Solutions,

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<sup>3</sup> **Exhibit J**, pp. 1-3, 4, 5, 6, 7, 8, 10-12, 13-14, 15-17.

<sup>4</sup> *Id.*

<sup>5</sup> The D&O Defendants are now named as nominal defendants pursuant to a "*Gasquet*" release, but their insurers, as defendants, are sought to be held responsible for the D&O's alleged acts and omissions.

Inc. (“CGI”) and Group Resources, Inc. (“GRI”).<sup>6</sup> He later amended his petition to name two Defendants who provided actuarial services to LAHC – Milliman, Inc. (“Milliman”) and Buck, and, later, several insurers of LAHC’s directors and officers. According to the Commissioner’s suit, the supposed acts or omissions of the defendants caused LAHC’s insolvency and required its rehabilitation.

The Commissioner’s claims against Milliman and Buck allege that their actuarial rate projections pertaining to LAHC were supposedly “unreasonable,” “inaccurate,” “not the result of careful, professional analysis,” disregarded contemporaneous claims experience and related data, and made “incorrect assumptions” about future financial performance. See Plaintiff’s Second Amended Petition (the “SAP”) attached to the Motion to Compel as **Exhibit A**, at ¶¶ 113-134, 145. The Commissioner further alleges that Milliman and Buck “negligently misrepresented the actual funding needs and premium rates of LAHC.”<sup>7</sup>

**B. The documents under subpoena from L&E are directly relevant to the Commissioner’s claims in this case**

In or about 2014, LDI retained L&E to contemporaneously review Buck’s actuarial rate projections for 2015 and the reasonableness of the assumptions upon which they were based. L&E may also have reviewed earlier rates proposed by Milliman. In 2014/15, LDI published on its public website L&E’s reports of its contemporaneous evaluation of Buck’s rate projections for 2015.<sup>8</sup> That review – based upon the same information available to Buck at the time – concluded that Buck’s rate projections and assumptions were reasonable and in accordance with applicable guidelines and standards - *directly contradicting* the Commissioner’s claims asserted against Buck in this case.<sup>9</sup>

Buck therefore naturally seeks to obtain L&E’s files pertaining to its review of Buck’s actuarial rate projections, the projections of other actuaries, and related information pertaining

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<sup>6</sup> Plaintiff has settled his claims against Beam and CGI. But his claims against GRI remain pending.

<sup>7</sup> **Exhibit A** to Motion to Compel, SAP, at ¶¶ 139, 144. Plaintiff’s purported Fourth Amended Petition does not alter this allegation.

<sup>8</sup> The L&E reports are attached as **Exhibit J** to the Motion to Compel filed herewith. Buck also attaches as **Exhibit K** to the Motion to Compel, the Affidavit of Richard Crohan, authenticating the Lewis & Ellis reports that he downloaded from the LDI website.

<sup>9</sup> See **Exhibit J**, L&E Reports, at pp. 1-3, 4, 5, 6, 7, 8, 10-12, 13-15, and 16-17.

to LAHC, due to the obvious relevance of that information. So, on October 14, 2020, Buck petitioned this Court for issuance of Letters Rogatory directing the appropriate authority in Texas to issue a subpoena duces tecum upon Lewis & Ellis at its principal office in Texas.<sup>10</sup> This Court, on Buck's motion, issued the requested Letters Rogatory on October 15, 2020.<sup>11</sup>

On October 29, 2020, Judge Bouressa, a District Judge of the 471<sup>st</sup> Judicial District in Collin County, Texas, ordered the issuance of a Notice of Records Only Deposition and Subpoena Duces Tecum compelling Lewis & Ellis to produce records responsive to Exhibit "A" attached thereto.<sup>12</sup> These papers were thereafter served on L&E on November 5, 2020.<sup>13</sup>

**C. L&E has refused to comply with Buck's subpoena duces tecum**

On November 9, 2020, L&E served undersigned counsel with blanket, boilerplate objections to *every single request* set forth in the subpoena.<sup>14</sup> L&E's counsel thereafter notified counsel for Buck that, in light of its objections, L&E would not appear at the noticed records deposition.

In its objections, L&E contends that Buck's subpoena requests are supposedly "incomprehensible" and "vague," because, *inter alia*, L&E does not understand the meaning of the word "work," despite the fact that its own reports discuss "work" and "work product."<sup>15</sup> L&E also contends the subpoena requests are "not relevant" and "not reasonably calculated to lead to the discovery of admissible evidence."<sup>16</sup> L&E also complains that the subpoena request "lacks . . . a temporal limitation" notwithstanding the fact that all of Buck's work that was reviewed by L&E occurred within a period of less than two years. Additionally, L&E cites generically to La. R.S. 22:2043.1 and La. R.S. 22:2045 - statutes pertaining to the Commissioner and his

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<sup>10</sup> See **Exhibit B** to the Motion to Compel, Buck's Petition for Letters Rogatory.

<sup>11</sup> See **Exhibit C** to the Motion to Compel, Signed Letters Rogatory.

<sup>12</sup> See **Exhibit D** to the Motion to Compel, Texas Order Enforcing Letters Rogatory.

<sup>13</sup> See **Exhibit E** to the Motion to Compel, Service Return.

<sup>14</sup> See **Exhibit F** to the Motion to Compel, L&E's Objections to Subpoena Duces Tecum.

<sup>15</sup> **Exhibit J**, pp. 9, 18.

<sup>16</sup> **Exhibit F**, L&E's Objections.

records, *not* to third party records - without explaining how any cited statutory provision might support any specific objection to the subpoena.<sup>17</sup>

In accordance with Local Rule 10.1, Buck conferred by telephone with counsel for L&E, John Ashley Moore, on December 1, 2020, in an attempt to resolve the discovery dispute. However, the parties were unable to reach a resolution.<sup>18</sup> To date, L&E has not produced any documents in response to Buck's subpoena duces tecum. L&E has expressly consented to submit itself to this Court for the hearing and resolution of Buck's motion to compel against L&E.<sup>19</sup>

L&E's blanket refusal to comply with Buck's subpoena for documents within the realm of the "broad and liberal" discovery afforded under Louisiana and Texas law should not be countenanced. Ultimately, Buck is being denied a significant source of relevant and responsive materials—records of L&E bearing directly upon the Commissioner's claims against Buck. This Court should order L&E to comply with Buck's subpoena duces tecum.

## **II. Law and Argument**

### **A. The documents subpoenaed from L&E fall well within the scope of the liberal and broad discovery allowed by Louisiana and Texas law.**

The documents subpoenaed from L&E are directly relevant to the subject matter involved in this litigation and are discoverable under Louisiana law, as well as Texas law to the extent it is applicable. Accordingly, L&E's generic objections as to relevance and assertions that the documents requested "are not reasonably calculated to lead to the discovery of admissible evidence" should be overruled.

Louisiana discovery law grants broad and liberal rights of discovery. Under La. Code Civ. Proc. article 1422, "[p]arties may obtain discovery regarding *any matter*, not privileged, which is *relevant to the subject matter* involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party[.]" La. Code Civ. Proc. art. 1422 (emphasis added). The Louisiana Supreme Court has made clear that litigants are entitled to "extremely broad" discovery. *MTU of N. Am., Inc. v. Raven Marine*,

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<sup>17</sup> See **Exhibit F**, L&E's Objections to Buck's document request Nos. 5-12, 14-24.

<sup>18</sup> See Rule 10.1 Certificate of Conference, Motion to Compel at p. 3.

<sup>19</sup> See **Exhibit H** to the Motion to Compel, L&E's Email Consenting to Submit Motion to this Court.

*Inc.*, 475 So. 2d 1063, 1067 (La. 1985). The broad scope of permissible discovery extends to discovery sought through a subpoena duces tecum. *See, e.g., Francois v. Norfolk S. Corp.*, 2001-1954 (La. App. 4 Cir. 3/6/02), 812 So. 2d 804; *Young v. Young*, 97-1261 (La. 5/16/97), 693 So. 2d 788; *Amitech, U.S.A., Ltd., v. Nottingham Const. Co.*, 2005-1981 (La. App. 1 Cir. 2/14/07), 2007 WL 466782.

Relevant evidence includes “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” La. Code Evid. art. 401. The test for discoverability is not whether the information sought will be admissible at trial, but whether the information sought appears reasonably calculated to lead to the discovery of admissible evidence. La. Code Civ. Proc. art. 1422; *see also Lehmann v. Am. S. Home Ins. Co.*, 615 So. 2d 923, 925 (La. App. 1 Cir. 1993); *accord Stewart v. Mitchell Transp.*, No. 01-2456-JWL, 2002 WL 1558210, at \*4 (D. Kan. July 11, 2002) (“Relevancy is broadly construed, and a request for discovery should be considered relevant if there is ‘any possibility’ that the information sought may be relevant to the claim or defense of any party.”). Generally, “any matter, not privileged, is discoverable.” *Collins v. Crosby Grp., Inc.*, 551 So. 2d 42, 43 (La. App. 1 Cir. 1989), *writs denied*, 556 So. 2d 39, 42 (La. 1990); *see also Wollerson v. Wollerson*, 29,183 (La. App. 2 Cir. 1/22/97), 687 So. 2d 663, 665.

The Louisiana Supreme Court has recognized that the discovery process serves important objectives and is intended “to allow parties to obtain pertinent facts, to discover true facts and to compel their disclosure, to assist in trial preparation, to narrow and clarify the issues, and to encourage settlement or abandonment of claims lacking merit.” *Hodges v. S. Farm Bureau Cas. Ins. Co.*, 43 So. 2d 125, 129 (La. 1983). The discovery statutes are to be “*liberally and broadly construed*” to achieve these objectives. *Id.* (emphasis added); *see also Fox v. Fox*, 47,937 (La. App. 2 Cir. 4/10/13), 113 So. 3d 457, 462, *writ denied*, 2013-1320 (La. 6/21/13), 118 So. 3d 426 (“Louisiana jurisprudence requires that discovery statutes be liberally and broadly construed.”).

To the extent that it is applicable, Texas law grants equally broad and liberal rights of discovery. The purpose of discovery is to seek the truth, so that disputes may be decided by what the facts reveal, not by what facts are concealed. *Axelson, Inc. v. McIlhany*, 798 S.W.2d 550, 555

(Tex. 1990). Discovery may be obtained about any matter relevant to the subject matter and proportional to the needs of the case. TEX. R. CIV. P. 192.3(a), 192.4(b). Information is discoverable as long as it appears “reasonably calculated to lead to the discovery of admissible evidence.” *Id.* The phrases “relevant to the subject matter” and “reasonably calculated to lead to admissible evidence” are to be “liberally construed to allow litigants to obtain the fullest knowledge of the facts and issues prior to trial.” *In re Sun Coast Res., Inc.*, 562 S.W.3d 138, 146 (Tex. App.—Houston [14th Dist.] 2018, no pet.) (quoting *Ford Motor Co. v. Castillo*, 279 S.W.3d 656, 664 (Tex. 2009)). Relevance is not a valid objection when the requests relate to a subject matter that is at issue in the relevant pleadings. *See In re Rogers*, 200 S.W.3d 318, 323 (Tex. App.—Dallas 2006, orig. proceeding). “Admissibility is not required for information to be discoverable.” *In re Pilgrim’s Pride Corp.*, 204 S.W.3d 831, 835 n.8 (Tex. App.—Texarkana 2006, orig. proceeding).

Buck is entitled to “extremely broad” discovery related to the issues raised in this litigation. La. Code Civ. P. art. 1422; *MTU of N. Am., Inc. v. Raven Marine, Inc.*, 475 So. 2d 1063, 1067 (La. 1985); *see also* Tex. R. Civ. P. 192.3. Responsive records of L&E are directly relevant to the merits of the Commissioner’s claims against Buck. The Commissioner alleges, *inter alia*, that Buck “negligently misrepresented the actual funding needs and premium rates of LAHC.” L&E received Buck’s rate projections and reviewed them *contemporaneously*, based upon the financial data and other information known *at the time*, as opposed to with 20/20 hindsight, and found those projections to be reasonable and appropriate.

L&E’s records are thus, at minimum, discoverable on the factual issues of (1) what financial information, market factors, and other data actually were known and available at the time; (2) whether LAHC’s actuaries’ assumptions and rate projections were, or were not, reasonable at the time based upon that available information; and/or (3) whether their work caused any of LAHC’s losses. *See, e.g., FDIC v. Clementz*, No. 2:13–CV–00737–MJP, 2014 WL 4384064, at \*2 (W.D. Wash. Sept. 4, 2014) (holding that internal regulatory documents regarding the FDIC’s contemporaneous evaluation of the at issue loans were “relevant to the propriety of the [defendants’] approval of specific loans”). Such information will likely inform the opinions of both sides’ actuarial experts. This information could and likely will be used on

direct and/or cross examination of Plaintiff's experts during the Plaintiff's case in chief before any burden shifts to the defendants to put on a defense.

Critically, the reviews undertaken by L&E at the time likely are the *only* source of evidence of *contemporaneous* evaluations of Buck's rate projections, uncontaminated by hindsight knowledge of future events. As actuaries must project the unknown future based upon information available to them *at the time*, contemporaneous evaluations of their projections by other expert actuaries who likewise had no knowledge of the future are critical evidence going to whether or not the actuaries breached any duty or standard of care. These documents meet and far exceed all criteria for discoverability.

Additionally, the subpoenaed L&E documents are directly relevant to and likely to lead to admissible evidence as to the following:

- The data relied upon by L&E in reviewing Buck's premium rates and other actuarial work – which would have been the same data available to Buck at the time;
- Whether it was negligent, as the Commissioner alleges, for Buck to use its rate book rather than LAHC's limited claims experience – a decision which L&E's report describes as reasonable because the claims experience was not credible;
- Whether Buck's projected rates were inadequate based on information known at the time, as Commissioner alleges, or whether L&E's reports correctly described the rates as not being inadequate;
- Evidence as to the "reasonable judgment expected of professional actuaries under like circumstances," and whether Buck failed to exercise such judgment. *See Exhibit A, SAP ¶ 133;*
- The actuarial soundness of Buck's work, given the information that was known at the time;
- The extent of LAHC's review of and reliance on Milliman's and/or Buck's actuarial reports;
- Whether L&E gave advice or information to LAHC's officers and directors, which may inform the reasonableness, or not, of their reliance on Buck's and/or Milliman's rate

projections and/or their comparative fault, as compared to the fault, if any, of Buck and/or Milliman;

- Evidence to support cross examination of Plaintiff's actuarial expert(s) about claim experience, estimating level of risk, assessing claim coding capabilities, calculating premium rates, or any evidence Plaintiff might offer as proper actuarial value calculations in his case in chief.

Louisiana's (and Texas') broad and liberally construed discovery rules entitle Buck to discovery of L&E's records pertaining to the above and related factual issues. Buck's subpoena duces tecum issued to L&E should therefore be enforced. *See, e.g., FDIC v. Dosland*, No. 13–4046–MWB, 2014 WL 1347118, at \*4 (N.D. Iowa Apr. 4, 2014) (holding that internal OTS documents could be probative of defendants' claims that they did not violate the applicable standard of care in response to the FDIC as Receiver's allegations that the defendants acted imprudently with certain investments); *Bd. of Trs. of Ca. Winery Workers Pension Tr. Fund v. Union Bank NA*, No. 10-02240, 2012 WL 13089183 (N.D. Ca. Oct. 1, 2012) (permitting discovery of Trust Fund's third-party actuaries).

**B. L&E's blanket, boilerplate objections to Buck's subpoena duces tecum are legally insufficient.**

L&E's boilerplate, unexplained and unsupported objections to *every single one of* Buck's requests as "not relevant and [] not reasonably calculated to lead to the discovery of admissible evidence," are legally insufficient to preserve a valid objection to any specific request. *See Am. Fed'n of Musicians of the United States & Can. v. Skodam Films, LLC*, 313 F.R.D. 39, 46 (N.D. Tex. 2015) ("A non-party's Rule 45(d)(2)(B) objections to discovery requests in a subpoena are subject to the same prohibition on general or boiler-plate objections and requirements that the objections must be made with specificity and that the responding party must explain and support its objections."); *KeyBank Nat. Ass'n v. Perkins Rowe Assocs., LLC*, No. 09-497, 2011 WL 765925, at \*4 (M.D. La. Feb. 25, 2011) (Blanket objections or objections that are not supported

with any factual or legal basis “cannot be sustained.”);<sup>20</sup> See also *In re Rogers*, 200 S.W.3d at 323 (Relevance is not a valid objection when the requests relate to subject matter that is at issue in the relevant pleadings); *Collins v. Kappa Sigma Fraternity*, No. 02-14-00294-CV, 2017 WL 218286 at \*19 (Tex. App.—Fort Worth Jan. 18, 2017, pet. denied) (holding that the trial court erred by sustaining boilerplate objections to requests for production where objecting party failed to explain its objections with specificity).

L&E’s objections also stretch the limits of good faith. For example, L&E professes an inability to understand the meaning of the word “work” in Buck’s first and second document requests, which seek records “reflecting Buck’s [and Milliman’s] professional services and work for LAHC.”<sup>21</sup> L&E asserts that these requests are “incomprehensible” because the “[t]he word “work” is undefined, vague and indefinite. . .”<sup>22</sup> That is nonsense, plain and simple. When the terms are easily defined in the context of the lawsuit, discovery requests are not objectionably vague. *In re SWEPI L.P.*, 103 S.W.3d 578, 590 (Tex. App.—San Antonio 2003, no pet.). Furthermore, L&E’s own reports use the term “work” and “work product,” contradicting its claim not to understand the meaning of the word.<sup>23</sup>

Equally implausible are L&E’s objections that Buck’s requests 1-4 supposedly lack a “subject designation and temporal limitation.” Buck’s counsel, by letter, made explicit to L&E’s counsel that the subject of these requests was confined to LAHC, *and* that these requests were limited to the period that Milliman provided professional services to LAHC (August 2011 through March 2014), and that Buck provided professional services to LAHC (March 2014 through July 2015).<sup>24</sup> There can be no misunderstanding as to the subject and temporal limitation of these requests.

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<sup>20</sup> Louisiana’s discovery rules are patterned after the federal rules of discovery, and thus Louisiana courts frequently rely on federal jurisprudence as persuasive authority. *In re Kuntz*, 06-0487 (La. 05/26/2006), 934 So. 2d 34, 35 (citing *Hodges v. Southern Farm Bureau Casualty Insurance Co.*, 433 So. 2d 125, 129 (La. 1983)).

<sup>21</sup> **Exhibit F**, L&E’s Objections, at p. 1.

<sup>22</sup> *Id.*

<sup>23</sup> **Exhibit J**, pp. 9, 18.

<sup>24</sup> **Exhibit G** to the Motion to Compel, Buck’s Letter to L&E’s counsel.

Buck further notes that L&E has *not* asserted that compliance with the subpoena duces tecum would be unduly burdensome or cause it to incur undue expense or trouble. That is likely because its work files pertaining to LAHC are already organized and easily accessed – in accordance with the normal document retention practices of national actuarial consulting firms.

**C. The Commissioner’s meaningless “public records” production and prior written discovery responses are irrelevant to Buck’s subpoena to L&E**

L&E’s generic references to the Commissioner’s previous production of some “public records” and prior written discovery responses in this case are totally irrelevant.<sup>25</sup> L&E refers to the public records production “subject to” its objections, but without asserting it as grounds for an objection as to any specific document allegedly produced in response to the Commissioner’s public record request.<sup>26</sup> Hence, any objection that could have been made based upon the Commissioner’s prior “public records” production or written discovery responses is waived.

Notwithstanding waiver, the Commissioner’s public records production and prior discovery responses are entirely non-responsive to Buck’s subpoena to L&E. The “public records” that the Commissioner requested and produced and the discovery responses that he provided did not include a *single* L&E document, a single L&E communication, or anything else pertaining to L&E. That prior production and response cannot possibly justify L&E’s blanket refusal to comply with Buck’s subpoena duces tecum.<sup>27</sup>

**D. L&E’s citations to La. R.S. 22:2043.1 and La. R.S. 22:2045 are wholly inadequate to preserve any objection.**

L&E’s boilerplate recitations of the provisions of La. R.S. 22:2043.1 and La. R.S. 22:2045 are equally irrelevant and ineffective. L&E repeatedly recites the language of these statutes “subject to” its objections, but without asserting argument in support of any objection or explaining how they might support any specific objection.<sup>28</sup>

Such abstract, boilerplate generic recitations fail to preserve any objection, whether based on a privilege, confidentiality interest, or otherwise. “Under Louisiana law, the party asserting the

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<sup>25</sup> **Exhibit F**, L&E’s Objections to Buck’s requests Nos. 5-12, 14-24.

<sup>26</sup> *Id.*

<sup>27</sup> The Commissioner’s Public Record Request is attached to the Motion to Compel as **Exhibit I**.

<sup>28</sup> *See* **Exhibit F**, L&E’s Objections to Buck’s document request Nos. 5-12, 14-24.

privilege has the burden of proving that the privilege applies; further, the party asserting the privilege must adequately substantiate the claim and cannot rely on a blanket assertion of privilege.” *Nelson v. Carroll Cuisine Concepts, LLC*, No. 2018-1079 (La. App. 1 Cir. 11/9/18), 2018 WL 5881710, at \*1; *see also Chevron Midstream Pipelines LLC v. Settoon Towing LLC*, No. 13-2809, 2015 WL 269051, at \*3 (E.D. La. Jan. 21, 2015) (“Boilerplate and general objections, including those vaguely asserted privileges, are taglines, completely devoid of any individualized factual analysis” and are “inadequate to voice a successful objection.”); *Fleisher v. Phoenix Life Ins. Co.*, No. 11 CIV. 8405, 2013 WL 42374, at \*4 (S.D. N.Y. Jan. 3, 2013) (“[T]he burden is on a party claiming the protection of the privilege to establish those facts that are essential elements of the privileged relationship, a burden not discharged by mere conclusory or ipse dixit assertions.”).

Similarly, in Texas, it is an abuse of discretion to sustain boilerplate objections that are not explained or supported with arguments or evidence. *See, e.g., Collins v. Kappa Sigma Fraternity*, No. 02-14-00294-CV, 2017 WL 218286 at \*19 (Tex. App.—Fort Worth Jan. 18, 2017, pet. denied) (collecting cases) (holding that the trial court erred by sustaining boilerplate objections to requests for production where objecting party failed to explain its objections with specificity). Accordingly, any objections that might have been asserted based upon the recited statutory provisions without explanation are waived.

The reason L&E has failed to explain or offer support for these statutory provisions as grounds for any specific objection is obvious: Neither La. R.S. 22:2043.1 nor La. R.S. 22:2045 provides any possible grounds for L&E’s objection to Buck’s subpoena duces tecum. La. R.S. 22:2043.1, while shielding the Commissioner of Insurance from liability and certain defenses, has no application to the discoverability of records from a third party such as L&E.

Similarly, there is no apparent basis for L&E’s reliance on La. R.S. 22:2045. Although La. R.S. 22:2045 provides for confidential treatment of certain records of the Commissioner of Insurance, it does not apply to the records of a third party such as L&E. Further, the statute applies only to documents produced by, obtained by, or disclosed “*in the course of an action pursuant to this Chapter*”—meaning Chapter 9: “Rehabilitation, Liquidation, Conservation.” *See* La. R.S. 22:2045 (emphasis added). The subpoenaed L&E records were not produced by, obtained by, or

disclosed to the Commissioner “*in the course of an action pursuant to*” Chapter 9. The L&E documents under subpoena were generated *before* LAHC was placed in receivership. And L&E has not asserted any other statutory or legal basis for a privilege or confidentiality applicable to the documents that Buck has subpoenaed from it, so any such objection is waived.

Additionally, LDI’s publication on its public website of L&E’s favorable review of Buck’s 2015 rate projections shows that such information is *not* privileged or confidential, or at a minimum waives any claim of confidentiality or privilege as to that and related information.<sup>29</sup> Nor has L&E provided a description of any document withheld on grounds of privilege or confidentiality. Furthermore, the Commissioner has not asserted any objection to Buck’s subpoena issued to L&E or taken any legal action to prevent L&E from complying with it in full.

Finally, this Honorable Court has already entered a detailed protective order in this case protecting the confidentiality of proprietary and health records produced to the parties in this case. Therefore, notwithstanding L&E’s waiver of any objections as to privilege and/or confidentiality, the records it produces in compliance with Buck’s subpoena duces tecum will be protected. *See Stewart*, 2002 WL 1558210, at \*5 (“[D]ocuments are not shielded from discovery on the basis of confidentiality,” but may be subject to a protective order.).

### III. CONCLUSION

As L&E has failed to state any legal justification for its refusal to comply with Buck’s subpoena duces tecum, this Court should order L&E to comply with it in full and without delay.

Respectfully submitted,

/s/ James A. Brown  
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Sheri L. Corales (La. Bar #37643)  
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<sup>29</sup> See **Exhibit J**, Lewis and Ellis Reports Published on LDI public website; **Exhibit K**, Crohan Affidavit Authenticating L&E Reports.

David R. Godofsky, *pro hac vice* (D.C. Bar #  
469602)

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David.Godofsky@alston.com

*Attorneys for Buck Global, LLC*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a copy of the above and foregoing has been served upon all counsel of record by e-mail, and, additionally, upon counsel of record for Lewis & Ellis by certified mail, return receipt requested, this 4th day of January, 2021.

/s/ James A. Brown

JAMES J. DONELON, COMMISSIONER	:	SUIT NO.: 651,069 SECTION: 22
OF INSURANCE FOR THE STATE OF	:	
LOUISIANA, IN HIS CAPACITY AS	:	
REHABILITATOR OF LOUISIANA	:	
HEALTH COOPERATIVE, INC.	:	
	:	
versus	:	19 <sup>TH</sup> JUDICIAL DISTRICT COURT
	:	
TERRY S. SHILLING, GEORGE G.	:	
CROMER, WARNER L. THOMAS, IV,	:	
WILLIAM A. OLIVER, CHARLES D.	:	
CALVI, PATRICK C. POWERS, CGI	:	
TECHNOLOGIES AND SOLUTIONS,	:	PARISH OF EAST BATON ROUGE
INC., GROUP RESOURCES	:	
INCORPORATED, BEAM PARTNERS,	:	
LLC, MILLIMAN, INC., BUCK	:	
CONSULTANTS, LLC. AND	:	
TRAVELERS CASUALTY AND	:	
SURETY COMPANY OF AMERICA	:	STATE OF LOUISIANA

**SECOND SUPPLEMENTAL, AMENDING AND RESTATED PETITION FOR DAMAGES AND REQUEST FOR JURY TRIAL**

NOW INTO COURT, through undersigned counsel, comes James J. Donelon, Commissioner of Insurance for the State of Louisiana in his capacity as Rehabilitator of Louisiana Health Cooperative, Inc., through his duly appointed Receiver, Billy Bostick, who respectfully requests that this SECOND SUPPLEMENTAL, AMENDING AND RESTATED PETITION FOR DAMAGES AND REQUEST FOR JURY TRIAL be filed herein and served upon all named Defendants; and respectfully represents:

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EXHIBIT  
A

1.

That the caption of this matter be amended to read as follows:

JAMES J. DONELON, COMMISSIONER	:	SUIT NO.: 651,069 SECTION: 22
OF INSURANCE FOR THE STATE OF	:	
LOUISIANA, IN HIS CAPACITY AS	:	
REHABILITATOR OF LOUISIANA	:	
HEALTH COOPERATIVE, INC.	:	
	:	
versus	:	
	:	
	:	
	:	PARISH OF EAST BATON ROUGE
CGI TECHNOLOGIES AND	:	
SOLUTIONS, INC., GROUP	:	
RESOURCES INCORPORATED, BEAM	:	
PARTNERS, LLC, MILLIMAN, INC.,	:	
BUCK CONSULTANTS, LLC. WARNER	:	
L. THOMAS, IV, WILLIAM A. OLIVER,	:	
SCOTT POSECAI, PAT QUIINLAN,	:	
PETER NOVEMBER, MICHAEL	:	
HULEFELD, ALLIED WORLD	:	
SPECIALTY INSURANCE	:	
COMPANY a/k/a DARWIN NATIONAL	:	19 <sup>TH</sup> JUDICIAL DISTRICT COURT
ASSURANCE COMPANY,	:	
ATLANTIC SPECIALTY INSURANCE	:	
COMPANY, EVANSTON INSURANCE	:	
COMPANY, RSUI INDEMNITY	:	
COMPANY AND ZURICH AMERICAN	:	
INSURANCE COMPANY	:	STATE OF LOUISIANA

**JURISDICTION AND VENUE**

2.

This Court has jurisdiction over this dispute involving Louisiana Health Cooperative, Inc., (“LAHC”) a Louisiana Nonprofit Corporation that holds a health maintenance organization (“HMO”) license from the Louisiana Department of Insurance, is domiciled, organized and doing business in the State of Louisiana, and maintains its home office in Louisiana.

3.

This Court has jurisdiction over all of the named Defendants because each of them has transacted business or provided services in Louisiana, has caused damages in Louisiana, and because each of them is obligated to or holding assets of Louisiana Health Cooperative, Inc.

4.

Venue is proper in this Court pursuant to the provision of the Louisiana Insurance Code, including La. R.S. 22:257, which dictates that the Nineteenth Judicial District Court has exclusive jurisdiction over this proceeding and La. R.S. 22:2004, which provides for venue in this Court and Parish, as well as other provisions of Louisiana law.

## **PARTIES**

5.

### **Plaintiff**

The Plaintiff herein is James J. Donelon, Commissioner of Insurance for the State of Louisiana in his capacity as Rehabilitator of Louisiana Health Cooperative, Inc., through his duly appointed Receiver, Billy Bostick (“Plaintiff”).

6.

Louisiana Health Cooperative, Inc. (“LAHC”) is a Nonprofit Corporation incorporated in Louisiana on or about September 12, 2011. LAHC was organized in 2011 as a qualified nonprofit health insurer under Section 501(c)(29) of the Internal Revenue Code, Section 1322 of the Patient Protection and Affordable Care Act of 2010, the Louisiana Nonprofit Corporation Law, and Louisiana Insurance Law.

7.

A Petition for Rehabilitation of LAHC was filed in the 19<sup>th</sup> JDC, Parish of East Baton Rouge, on September 1, 2015; on September 1, 2015, an Order of Rehabilitation was entered, and on September 21, 2015, this Order of Rehabilitation was made permanent and placed LAHC into rehabilitation and under the direction and control of the Commissioner of Insurance for the State of Louisiana as Rehabilitator, and Billy Bostick as the duly appointed Receiver of LAHC.

8.

Plaintiff has the authority and power to take action as deemed necessary to rehabilitate LAHC. Plaintiff may pursue all legal remedies available to LAHC, where tortious conduct or breach of any contractual or fiduciary obligation detrimental to LAHC by any person or entity has been discovered, that caused damages to LAHC, its members, policyholders, claimants, and/or creditors.

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9.

**Defendants**

Named Defendants herein are the following:

10.

**D&O Defendants**

Each of the D&O Defendants listed below are named only as Nominal Defendants in this matter, to the extent that insurance coverage, other than the Travelers Casualty and Surety Company of America policy, may apply to the claims asserted against them herein:

a. **WARNER L. THOMAS, IV (“Thomas”)**, an individual of the full age of majority domiciled in the State of Louisiana. Thomas was a Director of LAHC from 2011 until approximately January 2014. Thomas was Ochsner Health System’s Chief Operating Officer from 1998 until September 1, 2012; Ochsner’s President from 1998 until present; and Ochsner’s Chief Executive Officer from September 1, 2012, until present. Thomas is a Nominal Defendant only.

b. **WILLIAM A. OLIVER (“Oliver”)**, an individual of the full age of majority domiciled in the State of Louisiana. Oliver was a Director of LAHC from 2011 through 2015. Upon information and belief, Oliver was a director and/or officer of Ochsner Health Systems at pertinent times hereto. Oliver is a Nominal Defendant only.

c. **SCOTT POSECAI (“Posecai”)**, an individual of the full age of majority domiciled in the State of Louisiana. Posecai was a Director of LAHC from 2011 until October 28, 2013, and Treasurer of LAHC from September 25, 2012, until October 28, 2013. Posecai has been Chief Financial Officer of the Ochsner Clinic Foundation since 2001 and CFO of the Ochsner Health System since 2006. Posecai is a Nominal Defendant only.

d. **PATRICK QUINLAN (“Quinlan”)**, an individual of the full age of majority domiciled in the State of Louisiana. Quinlan was a Director of LAHC from September 25, 2012, until approximately January 2013. Quinlan was Chief Executive Officer of Ochsner Health System from 2001 until September 2, 2012. Quinlan is a Nominal Defendant only.

e. **PETER NOVEMBER (“November”)**, an individual of the full age of majority domiciled in the State of Louisiana. November was a Director of LAHC from May 23, 2013, until 2015, and Secretary commencing July 9, 2013. Upon joining Ochsner in 2012, November initially served as Senior Vice President, General Counsel, and Chief Compliance Officer for Ochsner

Health System, and he currently is Executive Vice President and Chief Administrative Officer of Ochsner Health System. November is a Nominal Defendant only.

f. **MICHAEL HULEFELD (“Hulefeld”)**, an individual of the full age of majority domiciled in the State of Louisiana. Hulefeld was a Director of LAHC from May 23, 2013, until 2015. Hulefeld is Executive Vice President and Chief Operating Officer of Ochsner Health System, and he previously served as the Chief Executive Officer of Ochsner Medical Center. Hulefeld is a Nominal Defendant only.

11.

**TPA Defendants**

a. **CGI TECHNOLOGIES AND SOLUTIONS, INC. (“CGI”)**, a foreign corporation believed to be domiciled in Delaware with its principal place of business in Virginia. From approximately March 2013 to approximately November 2014, CGI served as the Third Party Administrator of LAHC and/or worked for LAHC to transition its TPA work to GRI. CGI contracted with and did work for LAHC in Louisiana.

b. **GROUP RESOURCES INCORPORATED (“GRI”)**, a foreign corporation believed to be domiciled in Georgia with its principal place of business in Georgia. From approximately May 2014 to approximately May 2016, GRI served as the Third Party Administrator of LAHC. GRI contracted with and did work for LAHC in Louisiana.

12.

**Beam Partners, LLC**

a. **BEAM PARTNERS, LLC (“Beam Partners”)**, a foreign corporation believed to be domiciled in Georgia with its principal place of business in Georgia. From prior to LAHC’s incorporation in 2011 through approximately mid-2014, Beam Partners developed and managed LAHC. Beam Partners contracted with and did work for LAHC in Louisiana.

13.

**Actuary Defendants**

a. **MILLIMAN, INC. (“Milliman”)**, a foreign corporation believed to be domiciled in Washington with its principal place of business in Washington. From approximately August 2011 to March 2014, Milliman provided professional actuarial services to LAHC.

b. **BUCK CONSULTANTS, LLC (“Buck”)**, a foreign corporation believed to be domiciled in Delaware with its principal place of business in New York. From approximately March 2014 through July 2015, Buck provided professional actuarial services to LAHC.

14.

**Insurer Defendants**

a. **ALLIED WORLD SPECIALTY INSURANCE COMPANY a/k/a DARWIN NATIONAL ASSURANCE COMPANY (“Allied/Darwin”)**, a foreign insurer, doing business in the State of Louisiana and subject to the regulatory authority of the Louisiana Department of Insurance, who issued an applicable policy or policies to Ochsner Clinic Foundation that provide coverage for claims asserted herein.

b. **ATLANTIC SPECIALTY INSURANCE COMPANY (“Atlantic”)**, a foreign insurer, doing business in the State of Louisiana and subject to the regulatory authority of the Louisiana Department of Insurance, who issued an applicable policy or policies to Ochsner Clinic Foundation that provide coverage for claims asserted herein.

c. **EVANSTON INSURANCE COMPANY (“Evanston”)**, a foreign insurer, doing business in the State of Louisiana and subject to the regulatory authority of the Louisiana Department of Insurance, who issued an applicable policy or policies to Ochsner Clinic Foundation that provide coverage for claims asserted herein.

d. **RSUI INDEMNITY COMPANY (“RSUI Indemnity”)**, a foreign insurer, doing business in the State of Louisiana and subject to the regulatory authority of the Louisiana Department of Insurance, who issued an applicable policy or policies to Ochsner Clinic Foundation that provide coverage for claims asserted herein.

e. **ZURICH AMERICAN INSURANCE COMPANY (“Zurich”)**, a foreign insurer, doing business in the State of Louisiana and subject to the regulatory authority of the Louisiana Department of Insurance, who issued an applicable policy or policies to Ochsner Clinic Foundation that provide coverage for claims asserted herein.

**DEFINED TERMS**

15.

As used herein, the following terms are defined as follows:

1. **“D&O Defendants”** shall refer to and mean those directors and officers of LAHC named as either original Defendants and/or Nominal Defendants herein, specifically: Terry S.

Shilling, George G. Cromer, Warner L. Thomas, IV, William A. Oliver, Charles D. Calvi, and Patrick C. Powers; Scott Posecai; Pat Quinlan; Peter November; and Michael Hulefeld.

2. “**TPA Defendants**” shall refer to and mean those third party administrators hired by LAHC to oversee, manage, and otherwise operate LAHC named as Defendants herein, specifically: CGI Technologies and Solutions, Inc. and Group Resources Incorporated.

3. “**Insurer Defendant**” shall refer to and mean those insurance companies named herein which provide insurance coverage for any of the claims asserted herein by LAHC against any of the Defendants named herein, including: Allied/Darwin, Atlantic, Evanston, RSUI Indemnity, and Zurich.

4. “**Actuary Defendants**” shall refer to and mean those actuaries hired by LAHC to perform actuarial services for LAHC and named as Defendants herein, specifically: Milliman, Inc. (“Milliman”) and Buck Consulting, Inc. (“Buck”).

5. “**LDI**” shall refer to and mean the Louisiana Department of Insurance.

6. “**CMS**” shall refer to the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services.

7. “**Nominal Defendants**” shall refer to and mean those D&O Defendants and Other Insured Persons (as defined in the underlying settlement agreements between Plaintiff and Travelers Casualty and Surety Company of America and others), including but not limited to Warner L. Thomas, IV; William A. Oliver; Scott Posecai; Pat Quinlan; Peter November; and Michael Hulefeld, who are named herein solely to effectuate Plaintiff’s right to proceed against any insurance companies, other than Travelers Casualty and Surety Company of America, which provided coverage for Plaintiff’s allegations herein; including but not limited to Allied World Specialty Insurance Company a/k/a Darwin National Assurance Company; Atlantic Specialty Insurance Company; Evanston Insurance Company; RSUI Indemnity Company; and Zurich American Insurance Company, all pursuant to Plaintiff’s *Gasquet* release of the D&O Defendants, Other Insured Persons, and Travelers Casualty and Surety Company of America.

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## FACTUAL BACKGROUND

16.

The Patient Protection and Affordable Care Act (“ACA”) established health insurance exchanges (commonly called “marketplaces”) to allow individuals and small businesses to shop for health insurance in all states across the nation. To expand the number of available health insurance plans available in the marketplaces, the ACA established the Consumer Operated and Oriented Plan (“CO-OP”) program. The ACA further directed the Secretary of Health and Human Services to loan money to the CO-OP’s created in each state. Beginning on January 1, 2014, each CO-OP was allowed to offer health insurance through the newly minted marketplaces for its respective state. A total of 23 CO-OP’s were created and funded as of January 1, 2014. State regulators, like the Louisiana Department of Insurance (“LDI”), have the primary oversight of CO-OP’s as health insurance issuers.

17.

In Louisiana, the CO-OP created and funded pursuant to the ACA was Louisiana Health Cooperative, Inc. (“LAHC”), a Louisiana Nonprofit Corporation that holds a health maintenance organization (“HMO”) license from the LDI. Incorporated in 2011, LAHC eventually applied for and received loans from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (“CMS”) totaling more than \$65 million. Specifically, according to the 2012 Loan Agreement with LAHC, the Louisiana CO-OP was awarded a Start-up Loan of \$12,426,560, and a Solvency Loan of \$52,614,100. Pursuant to the ACA, these loans were to be awarded only to entities that demonstrated a high probability of becoming financially viable. All CO-OP loans must be repaid with interest. LAHC’s Start-up Loan must be repaid no later than five (5) years from disbursement; and LAHC’s Solvency Loan must be repaid no later than fifteen (15) years from disbursement.

18.

From the start, because of the gross negligence of the Defendants named herein, LAHC failed miserably. Before ever offering a policy to the public, LAHC lost approximately \$8 million in 2013. While projecting a modest loss of about \$1.9 million in 2014 in its loan application to CMS, LAHC actually lost about \$20 million in its first year in business. And although LAHC projected turning a modest profit of about \$1.7 million in 2015, it actually lost more than \$54 million by the end of that year.

19.

The actuaries hired by LAHC to determine the CO-OP's feasibility, assess its funding needs, and set the premium rates to be charged by LAHC in both 2014 and 2015, breached their respective duties owed to LAHC. The actuaries hired by LAHC grossly underestimated the level of expenses that LAHC would incur, made erroneous assumptions regarding LAHC's relative position in the marketplace, and grossly misunderstood or miscalculated how the risk adjustment component of the ACA would impact LAHC. Rather than LAHC either receiving a risk adjustment payment or LAHC not being assessed any such risk adjustment payment at all, as the actuaries erroneously predicted, in actuality, LAHC incurred significant risk adjustment payments in both 2014 and 2015. These failures of the actuaries who served LAHC were a significant factor in causing LAHC's ultimate collapse.

20.

Not only did LAHC lose a tremendous amount of money, but, from its inception, LAHC was unable to process and manage the eligibility, enrollment, and claims handling aspects of the HMO competently. Almost every aspect of LAHC's eligibility, enrollment, and claims handling process was deficient, resulting in numerous unpaid claims, untimely paid claims, and erroneously paid claims.

21.

By July 2015, only eighteen months after it started issuing policies, LAHC decided to stop doing business. The LDI placed LAHC in rehabilitation in September 2015, and a Receiver, Billy Bostick, was appointed by this Court to take control of the failed Louisiana CO-OP.

22.

The various parties who created, developed, managed, and worked for LAHC (i.e., the Defendants named herein) completely failed to meet their respective obligations to the subscribers, providers, and creditors of this Louisiana HMO. From the beginning of its existence, LAHC was completely ill-equipped to service the needs of its subscribers (i.e., its members / policyholders), the healthcare providers who provided medical services to its members, and the vendors who did business with LAHC. As described in detail herein, the conduct of the Defendants named herein went way beyond simple negligence. For instance, when the LDI took over the operations of LAHC, the CO-OP had a backlog of approximately 50,000 claims that had not been processed.

Because of Defendant's gross negligence, as of December 31, 2015, LAHC had lost more than \$82 million.

23.

As set forth herein, Defendants are liable to Plaintiff for all compensatory damages caused by their actionable conduct.

#### CAUSES OF ACTION

##### **Count One: Breach of Fiduciary Duty (Against the D&O Defendants and Insurer Defendants)**

24.

Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

25.

The D&O Defendants owed LAHC, its members, and its creditors, fiduciary duties of loyalty, including the exercise of oversight as pleaded herein, due care, and the duty to act in good faith and in the best interest of LAHC. The D&O Defendants stand in a fiduciary relation to LAHC and its members and creditors and must discharge their fiduciary duties in good faith, and with that diligence, care, judgment and skill which the ordinarily prudent person would exercise under similar circumstances in like position.

26.

At all times when LAHC was insolvent and/or in the zone of insolvency, the D&O Defendants owed these fiduciary duties to the creditors of LAHC as well.

27.

The conduct of the D&O Defendants of LAHC, as pled herein, went beyond simple negligence. The conduct of the D&O Defendants constitutes gross negligence, and in some cases, willful misconduct. In other words, the D&O Defendants did not simply act negligently in the management and supervision of and their dealings with LAHC, but the D&O Defendants acted grossly negligently, incompetently in many instances, and deliberately, in other instances, all in a manner that damaged LAHC, its members, providers and creditors.

28.

The D&O Defendants knew or should have known that Beam Partners was unqualified and unsuited to develop and manage LAHC.

29.

The D&O Defendants knew or should have known that GRI was unqualified and unsuited to develop and manage LAHC.

30.

The failure of the D&O Defendants to select a competent TPA, negotiate an acceptable contract with GRI, and manage and oversee Beam Partners, CGI, and GRI's conduct, constitutes gross negligence on the part of the D&O Defendants that caused LAHC to hire other vendors and/or additional employees, in effect, to either do work and/or fix work that should have been competently done by Beam Partners, CGI, and/or GRI, resulting in tremendous additional and unnecessary expenses and inefficiencies to LAHC which played a significant role in LAHC's failure.

31.

The D&O Defendants breached their fiduciary obligations in the following, non-exclusive, ways:

- a. Paying excessive salaries to LAHC executives in relation to the poor, inadequate, or non-existent services rendered by them to LAHC and/or on its behalf;
- b. Paying excessive bonuses to LAHC executives in relation to the poor, inadequate, or non-existent services renders by them to LAHC and/or on its behalf;
- c. Grossly inadequate oversight of LAHC operations;
- d. Grossly inadequate oversight of contracts with outside vendors, including CGI and GRI;
- e. Lack of regularly scheduled and meaningful meetings of the Board of Directors and management; the few board meetings that took place (one in 2012; four in 2013; six in 2014; and one in 2015), generally lasted about an hour;
- f. Gross negligence in hiring key management and executives with limited or inadequate health insurance experience;
- g. Gross failure to protect the personal health information of subscribers; unauthorized disclosure of subscribers' personal health information; for example, in February 2014, an incorrect setting within LAHC's document production system caused 154 member ID cards to be erroneously distributed;
- h. Gross failure to issue ID cards to members accurately and timely;
- i. Gross failure to pay claims timely (if at all);
- j. Gross failure to bill premiums accurately and timely;
- k. Gross failure to properly calculate member out-of-pocket responsibilities resulting in members being over-billed for their portion of services rendered by providers;
- l. Gross failure to collect premium payments timely (if at all);

- m. Gross failure to process and record the effective dates of policies accurately or consistently;
- n. Gross failure to process and record the termination dates of policies accurately or consistently;
- o. Gross failure to process invoices correctly and timely;
- p. Gross failure to determine and report eligibility of members accurately;
- q. Gross failure to have in place and/or to implement a financial policy or procedure to verify check register expenditures;
- r. Gross failure to have in place and/or to implement a financial policy or procedure to verify credit card expenditures; for example, in or around October to November 2013, a VP of IT Operations at LAHC, Larry Butler, misused his LAHC credit card by incurring more than \$35,000 in charges, the vast majority of which were personal expenses, on a corporate account with limits of \$5,000;
- s. Gross failure to have in place and/or to implement a financial policy or procedure to verify sponsor invoices;
- t. Gross failure to have in place and/or to implement policies and procedures regarding operational, financial, and compliance areas (such as background checks, corrective action plans, procurement, contract management, and financial management) before engaging in meaningful work and offering insurance coverage to the public;
- u. Gross failure to understand, implement, and enforce the applicable “grace period” pertaining to subscribers as per the ACA and Louisiana Law, La. R.S. 22:1260.31, *et. seq.*;
- v. Gross failure to record and report LAHC’s claims reserves (IBNR) accurately;
- w. Gross failure to report and appoint agents and brokers;
- x. Gross failure to record and report the level of care provided to LAHC members, enrollees, and subscribers accurately;
- y. As of March 2014, LAHC described its own system to process enrollment, eligibility, and claims handling as a “broken” process;
- z. Grossly negligent to choose GRI to replace CGI; went from the frying pan into the fire; GRI was unqualified, ill-equipped, and unable to service the needs of LAHC, its members, providers, and creditors;
- aa. Erroneously terminating coverage for fully subsidized subscribers;
- bb. Failing to provide notice to providers regarding member terminations and lapses due to non-payment of premiums;
- cc. Failing to provide notice (delinquency letters) to subscribers prior to terminating coverage;
- dd. Failing to maintain an Information Technology environment with adequate controls and risk mitigation to protect the data, processes, and integrity of LAHC data;
- ee. Failing to collect binder payments on-time;
- ff. Failing to terminate members when binder payments were not received;
- gg. Failing to correct ambiguities in the GRI contract(s);

- hh. Failing to select qualified vendors
- ii. Failing to select qualified management;
- jj. They knew or should have known, prior to the public rollout of LAHC in January 2014, that LAHC would not be a viable HMO, and yet they proceeded to offer policies and services to the public and members knowing that LAHC would fail;
- kk. They caused and/or allowed LAHC to misrepresent the financial condition and viability of LAHC to the LDI, the federal government, its member, its creditors, and the public, thereby allowing LAHC to remain in operation much longer that they should and would otherwise have, adding additional members and incurring additional claims and debt;
- ll. They knowingly paid excessive salaries, professional service fees, and consulting fees, as alleged herein, without receiving appropriate value to LAHC;
- mm. They failed to implement internal controls that would have prevented the gross waste and damages sustained by LAHC as a result of their gross negligence;
- nn. They concealed LAHC's true financial condition and insolvency and artificially prolonged LAHC's corporate life beyond insolvency all to the detriment of LAHC, its members, and its creditors;
- oo. They grossly mismanaged LAHC's affairs;
- pp. They grossly failed to exercise oversight or supervise LAHC's financial affairs;
- qq. They failed to operate LAHC in a reasonably prudent manner;
- rr. They failed in their duty to operate LAHC in compliance with the laws and regulations applicable to them; and
- ss. Other acts of gross negligence as may be later discovered.

32.

The D&O Defendants also breached their fiduciary duty of loyalty, due care, and good faith by allowing, if not fostering, individuals with conflicts of interest to influence, if not control, LAHC, all to the detriment of LAHC, its members, providers, and creditors.

33.

Because of the grossly negligent conduct of the D&O Defendants, LAHC was woefully not prepared for its roll-out to the public on January 1, 2014.

34.

By approximately March 2014, just three (3) months after its ill-advised roll-out, the D&O Defendants compounded an already bad situation by deciding to replace CGI with GRI as TPA. At this point, the D&O Defendants should have either exercised appropriate oversight and management to reform CGI's grossly inadequate performance, or the D&O Defendants should have terminated the Agreement with CGI and found a suitable TPA, or the D&O Defendants

should have ceased operations altogether. Instead, the D&O Defendants made matters worse by hiring a TPA that was even less qualified and less prepared than CGI for the job: GRI.

35.

To further damage the struggling LAHC, in approximately mid-2014, the D&O Defendants decided to switch healthcare provider networks from Verity Healthnet, LLC (“Verity”) to Primary Healthcare Systems (“PHCS”). Once again, the D&O Defendants’ conduct constitutes gross negligence that further damaged LAHC, its members, providers, and creditors.

36.

The D&O Defendants, in breaching both their duty of loyalty and duty of care, showed a conscious disregard for the best interests of LAHC, its members, providers and creditors.

37.

As a direct and proximate result of the gross negligence and foregoing failures of the D&O Defendants to perform their fiduciary obligations, LAHC, its members, its providers and its creditors have sustained substantial, compensable damages for which the D&O Defendants and the Insurer Defendants are liable, and for which Plaintiff is entitled to recover in this action.

38.

The compensable damages caused by the D&O Defendants’ grossly negligent conduct, if not willful conduct, include, but are not limited to:

- a. damages in the form of all losses sustained by LAHC from its inception (i.e., they should have never started LAHC in the first place);
- b. damages in the form of lost profits (i.e., the amount LAHC would have earned, if any, but for their conduct);
- c. damages in the form of excessive losses (i.e., the difference between the amount LAHC would have lost, if any, and the amount LAHC did lose, because of their conduct);
- d. damages in the form of deepening insolvency (i.e., the damages caused by their decision to prolong the corporate existence of LAHC beyond insolvency);
- e. damages in the form of all legitimate debts owed to creditors of LAHC, including but not limited to those unpaid debts owed to health care providers who delivered services to members of LAHC, any debts owed to members of LAHC that were not paid, and the debt owed to CMS (both principal and interest) as a result of LAHC’s gross negligence as pled herein;
- f. disgorgement of all excessive salaries, bonuses, profits, benefits, and other compensation inappropriately obtained by them;
- g. damages in the form of all excessive administrative, operational, and/or management expenses, including:
  - i. Untimely payment of member and provider claims;

- ii. Incorrect payment of member and provider claims;
  - iii. Increased interest expense due to incorrect and/or untimely claims payments;
  - iv. Increased expenses due to incorrect and/or untimely claims payments;
  - v. Incorrect and/or untimely payment of agent/broker commissions;
  - vi. Inaccurate and/or untimely collection of premium due for health coverage;
  - vii. Increased expenses for services from LAHC vendors other than the third party administrator;
  - viii. Increased expenses for provider networks and medical services;
  - ix. Loss of money due to LAHC from the Center for Medicare and Medicaid Services ("CMS") for risk adjustments;
  - x. Fines incurred for failure to have agents/brokers properly appointed; and
  - xi. Inability to repay the millions of dollars loaned to LAHC by the federal government.
- h. all costs and disbursements of this action, including all compensable litigation expenses.

39.

Plaintiff recently reached a *Gasquet* settlement with the originally named D&O Defendants, specifically: Shilling, Cromer, Thomas, Oliver, Calvi, and Powers. Pursuant to the terms of the parties' settlement agreement, the D&O Defendants and Other Insured Persons (i.e., other employees or directors of LAHC) may be named as nominal defendants to the extent Plaintiff elects to pursue his rights against any excess insurer of the D&O Defendants or Other Insured Persons by naming such insurers in this suit (other than Travelers). In accordance with the settlement agreement, Plaintiff has named the Insurer Defendants as excess insurers, and he has named the following as nominal defendants herein: Thomas; Oliver; Posecai; Quinlan; November; and Hulefeld.

40.

The Insurer Defendants are liable to the Plaintiff jointly, severally and *in solido* with the D&O Defendants to the extent of the limits of its respective policies of insurance, for the following reasons:

- a. Allied/Darwin issued a Directors and Officers Liability Policy to Ochsner Clinic Foundation, with policy limits, upon information and belief, of \$5,000,000.00, which policy was in full force and effect at all relevant times and provided insurance coverage to the D&O Defendants for some or all of the claims asserted herein by Plaintiff;

- b. Allied/Darwin issued an Excess Insurance Policy to Ochsner Clinic Foundation, with policy limits, upon information and belief, of \$5,000,000.00, which policy was in full force and effect at all relevant times and provided insurance coverage to the D&O Defendants for some or all of the claims asserted herein by Plaintiff;
- c. Atlantic issued a Follow Form Excess Policy to Ochsner Clinic Foundation, with policy limits, upon information and belief, of \$10,000,000.00, which policy was in full force and effect at all relevant times and provided insurance coverage to the D&O Defendants for some or all of the claims asserted herein by Plaintiff;
- d. Evanston issued an Excess Management Liability Policy to Ochsner Clinic Foundation, with policy limits, upon information and belief, of \$5,000,000.00, which policy was in full force and effect at all relevant times and provided insurance coverage to the D&O Defendants for some or all of the claims asserted herein by Plaintiff;
- e. RSUI Indemnity issued an Excess Liability Policy to Ochsner Clinic Foundation, with policy limits, upon information and belief, of 10,000,000.00, which policy was in full force and effect at all relevant times and provided insurance coverage to the D&O Defendants for some or all of the claims asserted herein by Plaintiff;
- f. Zurich issued a Zurich Excess Select Insurance Policy to Ochsner Clinic Foundation, with policy limits, upon information and belief, of \$10,000,000.00, which policy was in full force and effect at all relevant times and provided insurance coverage to the D&O Defendants for some or all of the claims asserted herein by Plaintiff.

41.

The Insurer Defendants provide coverage for the liability of executives or employees of Ochsner Clinic Foundation who act as director or officer of any non-for-profit entity, such as LAHC, at the request of Ochsner. The Nominal Defendants, Thomas, Oliver, Posecai, Quinlan, November, and Hulefeld, were all Ochsner executives and/or employees who also served as directors and/or officers of LAHC at the request of Ochsner.

**Count Two: Breach of Contract  
(Against the TPA Defendants and Beam Partners)**

42.

Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

**CGI**

43.

On or about February 15, 2013, LAHC and CGI entered into an Administrative Services Agreement ("Agreement") whereby CGI agreed to perform certain administrative and management services to LAHC in exchange for certain monetary compensation as set forth in the Agreement. A true and correct copy of the Agreement and all exhibits was attached and incorporated by reference in the original Petition for Damages as "Exhibit 1."

44.

Under the terms of the Agreement, CGI represented and warranted, *inter alia*, that "CGI personnel who perform the services under the Agreement shall have the appropriate training, licensure and or certification to perform each task assigned to them" and that "CGI will make a good faith effort to maintain consistent staff performing the delegated functions" for LAHC.

45.

Under the terms of the Agreement, CGI was, among other things, obligated to:

- a. Function as a Third Party Administrator for LAHC;
- b. Accurately process and pay claims for covered services provided to LAHC's members by participating providers according to payment terms regarding timeliness and the rates and amounts set forth in LAHC's Participating Provider Agreements.
- c. Accurately process and pay claims for covered services provided to LAHC's members by providers;
- d. Competently perform all of those tasks set forth in the Agreement, including Exhibit 2 thereto, such as paying claims, adjudicating claims, determining covered services, identifying and processing clean and unclean claims, collecting and processing all encounter data, transmitting denial notifications to members and providers, transmitting all required notices, tracking and reporting its performance, tracking, reporting and reconciling all records regarding deductibles and benefit accumulators, monitoring all claims, submitting all claims, tracking, reporting, and paying all interest on late paid claims, coordinating the payment and processing of all claims and EOBs, and developing and implementing a functional coding system; and
- e. Competently perform all of those tasks expected and required of a Third Party Administration, whether specified in the Agreement or not.

46.

CGI breached its obligations and warranties set forth in the Agreement in a grossly negligent manner, all in the following, non-exclusive ways:

- a. Failed to pay claims at the proper contract rates and amounts, thus resulting in an overpayment of claims;
- b. Failed to accurately and properly process enrollment segments and failed to timely reconcile enrollment segments;
- c. Failed to provide proper notice to providers regarding member terminations and lapses due to non-payment of premiums;
- d. Failed to issue appropriate identification cards to subscribers;
- e. Failed to provide proper notice (delinquency letters) so subscribers prior to terminating coverage;
- f. Failed to process claims properly;

- g. Failed to enter, record, and process paper claims properly;
- h. Failed to establish, manage, and run the call center for LAHC properly;
- i. Failed to implement a billing system that would accurately calculate balance due;
- j. Failed to appropriately establish an EDGE server and/or failed to appropriately or timely provide the Department of Health and Human Services with access to required data on the EDGE server; and
- k. Other acts of gross negligence as may be later discovered.

47.

As of March 2014, just three (3) months after its roll-out, LAHC described the system designed and implemented by CGI to process enrollment, eligibility, and claims handling, as a “broken” process. Indeed, the conduct of CGI, as described herein in detail, goes well beyond simple negligence; almost every facet of the system designed and implemented by CGI as a third party administrator of LAHC was a failure. CGI’s conduct, as described herein in detail, constitutes gross negligence.

48.

Subsequently, LAHC and CGI memorialized their agreement to terminate the CGI Agreement via Letter Agreement dated June 19, 2014 (“Letter Agreement”) (Exhibit 3). Assuming that this purported release is applicable to Plaintiff’s claims against CGI, which Plaintiff expressly denies, the express terms of this Letter Agreement make clear that LAHC did not release CGI for “obligations assumed” by this Letter Agreement.

49.

According to this Letter Agreement, although the Original Agreement allegedly terminated on April 30, 2014, CGI assumed numerous obligations, including:

- For “the six month wind-down period [from April 2011 through October 2011], CGI shall provide such wind-down services as the parties may agree in a wind-down plan, all in accordance with Sections 2.5 and 2.5.1 of the Original Agreement.” (Exhibit 3, ¶ 1).
- “The general scope and structure of the wind down period is as specified in Attachment 1 to this Letter Agreement.” (Exhibit 3, ¶ 2). Attachment 1 to the Letter Agreement further specifies that, during the wind down period, CGI was responsible for transferring “membership data,” “enrollment data,” “paid claim data,” “pending and/or in-flight claim data,” “file server records,” and “other data transfer as the parties agree” to GRI. (Exhibit 3, Attachment 1).

- “During the wind-down period, CGI will make commercially reasonable efforts to perform the Delegated Functions in accordance with the Service Level Specifications set forth in Section 6 in Exhibit 1 to the Original Agreement.” (Exhibit 3, ¶ 3).

50.

Further, as evidenced by correspondence from LAHC to CGI dated April 17, 2014, requesting that the Original Agreement between LAHC and CGI be terminated because of numerous specific failures of CGI to perform under the agreement and asserting that “CGI is in fundamental breach of the Agreement, CGI continued to provide services to LAHC during the transitional “wind down” period. Specifically, in addition to detailing the numerous failures of CGI to perform, according to this correspondence:

- “LAHC must transition the revoked Delegated Functions to other organization(s) while relying on CGI to cooperatively effect a smooth and orderly transition of those services as required by Article 3.13.6.”
- “Consistent with the provisions of Article 3.13.6 of the Agreement, LAHC expects that CGI continue to provide services, including information and exchanges as reasonably requested by LAHC or its designee, until effective transition on or about October 1, 2014.”

51.

The services performed by CGI after April 30, 2014 are “obligations assumed” by the Letter Agreement. CGI breached its obligations and warranties set forth in the Letter Agreement in a grossly negligent manner.

52.

CGI was paid a total of approximately \$1,176,224.42 by LAHC over the course of their working relationship from approximately April 2013 to November 2014. Of this total amount, \$539,139.59—or about 46%—was paid to CGI on or after April 30, 2014, the alleged termination date of the original agreement. CGI did substantial work for LAHC after April 30, 2014 during the transitional or “wind down” period as GRI assumed the role of third party administrator of LAHC.

For example, both before and after April 30, 2014, CGI:

- failed to ensure that its personnel who performed services for LAHC were adequately and appropriately trained, licensed, and certified to perform the services and functions delegated by LAHC to CGI;
- failed to accurately process and pay claims on LAHC’s behalf in a timely manner at the correct rates and amounts;

- failed to cause LAHC to accurately process and pay health insurance claims in a timely manner at the correct rates and amounts; and
- in general, failed to provide for a smooth and seamless transition of LAHC's ongoing business to GRI.

53.

CGI's breaches of its warranties and obligations in both the Original Agreement and the Letter Agreement have directly caused LAHC to incur substantial, compensatory damages which are recoverable by Plaintiff herein.

**GRI**

54.

GRI was not qualified to render the services as a third party administrator ("TPA") that LAHC needed to be successful. Rather than decline taking on a job that was outside of its capabilities, GRI wrongly agreed to replace CGI and serve as TPA for LAHC. GRI's decision to serve as LAHC's TPA constitutes gross negligence, if not a conscious disregard for the best interests of LAHC, its members, providers, and creditors. But for GRI's gross negligence, most of LAHC's substantial, compensatory damages would have been avoided.

55.

In or about July 2014, LAHC and GRI entered into an Administrative Services Agreement whereby GRI agreed to perform certain administrative and management services to LAHC in exchange for certain monetary compensation as set forth in the Administrative Services Agreement. The Administrative Services Agreement had an effective date of July 1, 2014. The Administrative Services Agreement was amended both in September 2014 and December 2014. A true and correct copy of the Administrative Services Agreement and all amendments and exhibits are collectively referred to as the "Agreement" and were attached and incorporated by reference in the original Petition for Damages as "Exhibit 2." A true and correct copy of the Delegation Agreement between LAHC and GRI effective August 20, 2014, was attached and incorporated by reference in the First Supplemental, Amending and Restated Petition For Damages as "Exhibit 2A."

56.

Under the terms of the Agreement, CGI represented and warranted that "GRI personnel who perform or provide the Delegated Services specified services under this Agreement shall

possess the appropriate authorization, license, bond and certificates, and are full and appropriately trained, to properly perform the tasks assigned to them.”

57.

Under the terms of the Agreement, GRI was, among other things, obligated to:

- a. Accurately process and pay claims for covered services provided to LAHC's members by participating providers according to payment terms regarding timeliness and the rates and amounts set forth in LAHC's Participating Provider Agreements.
- b. Accurately process and pay claims for covered services provided to LAHC's members by providers;
- c. Competently perform all of those tasks set forth in the Agreement, including Exhibit A-1 to the agreement, such as paying claims, adjudicating claims, determining covered services, identifying and processing clean and unclean claims, collecting and processing all encounter data, transmitting denial notifications to members and providers, transmitting all required notices, tracking and reporting its performance, tracking, reporting and reconciling all records regarding deductibles and benefit accumulators, monitoring all claims, submitting all claims, tracking, reporting, and paying all interest on late paid claims, coordinating the payment and processing of all claims and EOBs, and developing and implementing a functional coding system; and
- d. Competently perform all of those tasks expected and required of a Third Party Administration, whether specified in the Agreement or not.

58.

GRI breached its obligations and warranties set forth in the Agreement in a grossly negligent manner, all in the following, non-exclusive ways:

- a. GRI failed to meet most, if not all, of the performance standards mandated by the Services Agreement of July 1, 2014;
- b. GRI was unqualified, ill-equipped, and unable to service the needs of LAHC, its member, providers, and creditors;
- c. GRI knew or should have known that it was unqualified to service the needs of LAHC;
- d. Pursuant to GRI's Service Agreement, GRI was responsible for critical processes that are typically covered by such a health insurance administrative service provider contracts, including the receipt and processing of member premium payments, the calculation and payment of broker commissions, and the process of managing calls into LAHC;
- e. GRI wholly failed to provide sufficient and adequately trained personnel to perform the services GRI agreed to perform under the Agreement;
- f. Failed to process and pay claims on a timely basis, resulting in interest payment alone in excess of \$600,000.00;
- g. Failed to pay claims at the proper contract rates and amounts, thus resulting in an overpayment of claims;
- h. Failed to accurately and properly process enrollment segments and failed to timely reconcile enrollment segments;

- i. Erroneously terminated coverage for fully subsidized subscribers (\$0 Invoices);
- j. Failed to provide proper notice to providers regarding member terminations and lapses due to non-payment of premiums;
- k. Failed to timely process enrollment interface (ANSI 834) from CMS;
- l. Failed to accurately process enrollment interface (ANSI 834) from CMS;
- m. Failed to pass CMS data edits for CMS Enrollment Reconciliation Process;
- n. Submitted inaccurate data to the CMS Enrollment Reconciliation Process causing erroneous terminations;
- o. Failed to pass CMS data edits for Enrollment Terminations & Cancellations Interface (ANSI 834) to CMS;
- p. Failed to pass CMS data edits for Edge Server Enrollment Submissions to CMS;
- q. Failed to use standard coding for illustrating non-effectuated members (using years 1915 and 1900 as termination year);
- r. Failed to provide proper notice (delinquency letters) to subscribers prior to terminating coverage;
- s. Failed to invoice subscribers accurately when APTC changed;
- t. Failed to invoice subscribers for previously unpaid amounts (no balance forward);
- u. Failed to cancel members for non-payment of binder payment;
- v. Failed to cancel members after passive enrollment;
- w. Failed to administer member benefits (maximum out-of-pockets exceeded);
- x. Failed to pay interest on claims to providers;
- y. Failed to pay claims within the contractual timeframes;
- z. Failed to adjust claims after retroactive disenrollments;
- aa. Failure to examine claims for potential subrogation
- bb. Failed to maintain adequate customer service staffing and call center technology;
- cc. Failed to process APTC changes from CMS within an appropriate timeframe;
- dd. Failed to capture all claims diagnoses data from providers;
- ee. Failed to pass CMS data edits for Edge Server claims submissions to CMS;
- ff. Failed to load the 1,817 claims from the 4/29/16 and 5/2/16 check runs onto the EDGE Server;
- gg. Incorrectly calculated claim adjustments, especially as it pertains to a subscriber's maximum out-of-pocket limit;
- hh. Paid claims for members that never effectuated;
- ii. Failed to protect the personal health information of subscribers;

- jj. Failed to issue ID cards to members accurately and timely and without effective dates;
- kk. Failed to have in place and/or to implement a financial policy or procedure to verify credit card expenditures;
- ll. Failed to understand, implement, and enforce the applicable “grace period” pertaining to subscribers as per the ACA and Louisiana Law, La. R.S. 22:1260.31, *et. seq.*;
- mm. Failed to record and report LAHC’s claims reserves (IBNR) accurately;
- nn. Failed to report and appoint agents and brokers appropriately;
- oo. Failed to record and report the level of care provided to LAHC members, enrollees, and subscribers accurately; and
- pp. Failed to maintain an Information Technology environment with adequate controls and risk mitigation to protect the data, processes, and integrity of LAHC data.
- qq. Failed to maintain correct Taxpayer Identification Numbers for providers and submitted incorrect Taxpayer Identification Numbers on tax forms for approximately 135 providers, resulting in IRS penalties and fines of at least \$37,700.

59.

According to the Agreement, GRI was obligated to pay claims within the time frame required by applicable law; and if claims were paid untimely because of GRI’s conduct, GRI “shall be responsible for paying any required interest penalty to Providers.” Because of GRI’s gross negligence and non-performance of its contractual obligations owed to LAHC, numerous claims were paid late and significant interest penalties were incurred and paid by LAHC. GRI is obligated to pay all such interest penalties.

60.

GRI's gross negligence and breaches of its warranties and obligations in the Agreement have directly caused LAHC to incur substantial, compensatory damages which are recoverable by Plaintiff herein.

**Beam Partners**

61.

Beam Partners was not qualified to render the services as a manager and developer and/or third party administrator (“TPA”) that the start-up, LAHC, needed to be successful. Rather than decline taking on a job that was outside of its capabilities, Beam Partners wrongly orchestrated and agreed to manage, develop, and serve as TPA for LAHC from its inception. Beam Partner’s decision to manage, develop, and effectively serve as LAHC’s TPA constitutes gross negligence, if not a conscious disregard for the best interests of LAHC, its members, providers, and creditors.

But for Beam's gross negligence, all of LAHC's substantial, compensatory damages would have been avoided.

62.

Given that numerous individuals who either owned, managed and/or worked for Beam Partners, including Terry Shilling, Alan Bayham, Mark Gentry, Jim McHaney, Deborah Sidener, Jim Krainz, Jim Pittman, Michael Hartnett, Eric LeMarbre, Etosha McGee, Diana Pitchford, Darla Coates, were also involved with and managed LAHC from the beginning as officers, directors, and employees of LAHC, for all intents and purposes, Beam Partners was closely related to and acted as LAHC.

63.

From approximately September 2012 through May 2014, LAHC paid more than \$3.7 million in the form of consulting fees, performance fees, and expenses to Beam Partners.

64.

LAHC and Beam Partners, LLC entered into a Management and Development Agreement whereby Beam Partners agreed to perform certain management, administrative, and developmental services for LAHC in exchange for certain monetary compensation as set forth in the Management and Development Agreement. Warner Thomas, as Chair of the Board of Directors of LAHC, signed this Management and Development Agreement on October 8, 2012; Terry Shilling signed the Management and Development Agreement on behalf of Beam Partners, LLC, with an effective date of August 28, 2012. At this time, Terry Shilling was simultaneously the Interim CEO of LAHC and a member and owner of Beam Partners. This Agreement was amended at least twice. A true and correct copy of the Management and Development Agreement, all Exhibits thereto (with the exception of Exhibit 2, "Performance Objectives for Services"; which is unavailable, Amendment 1, and Amendment 2), was attached and incorporated by reference on the original Petition for Damages as "Exhibit 3."

65.

According to the terms of the Agreement, Beam Partners agreed to provide "services essential to the formation of the Cooperative and its application for CO-OP program loans," including training all directors, securing the requisite licensure from LDI, developing a network of providers for LAHC, recruiting and vetting candidates for positions at LAHC, creating

processes, systems, and forms for the operation of LAHC, and identifying, negotiating and executing administrative services for the operation of LAHC.

66.

In short, Beam Partners agreed to transform the start-up LAHC into a well-organized, well-funded, and well-run HMO prior to January 1, 2014, the roll-out date of LAHC to the public. Beam Partners utterly failed to meet its contractual obligations owed to LAHC, and breached its obligations and warranties set forth in the Agreement in a grossly negligent manner, all in the following, non-exclusive ways:

- a. Failing to identify, select, and retain qualified third party contractors for LAHC, including but not limited to CGI and/or GRI;
- b. Failing to train all directors of LAHC regarding how to manage such an HMO;
- c. Failing to develop a network of providers for LAHC;
- d. Failing to recruit and adequately vet appropriate candidates for positions at LAHC;
- e. Failing to create adequate and/or functioning processes, systems, and forms for the operation of LAHC;
- f. Failing to identify, negotiate, and execute adequate and/or functioning administrative services for the operation of LAHC;
- g. Failing to report and provide LAHC with complete, accurate, and detailed records of its performance of all services provided to LAHC;
- h. Failing to adequately disclose conflict of interests regarding Beam Partners and LAHC to any regulatory authority;
- i. Failing to provide sufficient and adequately trained personnel to perform the services Beam Partners agreed to perform under the Agreement; and
- j. In general, by completely failing to have LAHC ready and able to meet its obligations to the public, members, providers, and creditors on or before the roll-out date of January 1, 2014.

67.

The numerous failures of Beam Partners to perform its obligations owed to LAHC constitute gross negligence, if not a conscious disregard for the best interests of LAHC, its members, providers, and creditors.

68.

To the extent that Beam Partners made the decision to keep using CGI as TPA until it was too late, Beam Partners is grossly negligent in that it knew or should have known that CGI was unqualified to serve as TPA.

69.

To the extent that Beam Partners made the decision to replace CGI with GRI as TPA, Beam Partners is grossly negligent in that it knew or should have known that GRI was unqualified to serve as TPA.

70.

To the extent that Beam Partners made the decision to terminate the Verity contract, Beam Partners is grossly negligent in that it knew or should have known that terminating the Verity contract would be a substantial factor in causing LAHC to incur additional, unnecessary expense and, ultimately, to collapse.

71.

Beam Partners' gross negligence and breaches of its warranties and obligations in the Agreement have directly caused LAHC to incur substantial, compensatory damages which are recoverable by Plaintiff herein.

**Count Three: Gross Negligence and Negligence  
(Against the TPA Defendants and Beam Partners)**

72.

Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

73.

CGI, GRI, and Beam Partners each had a duty to ensure that its personnel who performed services for LAHC were adequately and appropriately trained, licensed, and certified to perform the services and functions delegated by LAHC to each of them.

74.

CGI, GRI, and Beam Partners each had a duty to accurately process and pay claims on LAHC's behalf in a timely manner at the correct rates and amounts.

75.

CGI, GRI, and Beam Partners each had a duty to perform their obligations in a reasonable, competent, and professional manner.

76.

CGI, GRI, and Beam Partners each breached their duties in that it negligently failed to cause LAHC to accurately process and pay health insurance claims in a timely manner at the correct rates and amounts.

77.

CGI, GRI, and Beam Partners each breached their duties in that they negligently and wholly failed to perform their obligations in a reasonable, competent, and professional manner.

78.

CGI, GRI, and Beam Partners each were grossly negligent in that they wantonly failed to provide a sufficient number of adequately trained personnel who had sufficient knowledge of the system program utilized by LAHC to process and pay health insurance claims at the correct rates and amounts in complete and reckless disregard of the rights of LAHC, its members, providers, and creditors.

79.

CGI, GRI, and Beam Partners each were grossly negligent in that they wantonly failed to cause LAHC to accurately process and pay health insurance claims in a timely manner at the correct health insurance rates and amounts in complete and reckless disregard of the rights of LAHC, its members, providers, and creditors.

80.

As a direct and proximate result of CGI's, GRI's, and Beam Partners' negligence or gross negligence, LAHC has incurred substantial, compensatory damages, which are recoverable herein by Plaintiff.

**Count Four: Professional Negligence  
And Breach of Contract  
(Against the Actuary Defendants)**

81.

Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

**Milliman**

82.

At all relevant times, Milliman held itself out as having expertise to provide actuarial services and advice to health insurers like LAHC.

83.

In or around August 2011, Milliman was engaged by Shilling on behalf of Beam Partners and/or LAHC to provide "actuarial support" for LAHC, including the production of a "feasibility study and loan application as directed by the Funding Opportunity Announcement (Funding

Opportunity Number: 00-COO-11-001, CFDA 93.545) released from the U.S. Department of Health Services (“HHS”) on July 28, 2011.” This engagement letter pre-dated LAHC’s formal contract with Beam Partners by a year; the engagement letter dated August 4, 2011, was addressed to Shilling as “Owner/Partner” of “Beam Partners,” and was signed by Shilling on August 15, 2011, on behalf of LAHC. Indeed, this engagement letter pre-dated the incorporation of LAHC by about a month or so (LAHC was first registered with the Louisiana Secretary of State’s Office on or about September 12, 2011).

84.

In the feasibility study dated March 30, 2012, prepared by Milliman for LAHC to use in support of its loan application to CMS, Milliman concluded that, in general, LAHC “will be economically viable based upon our [Milliman’s] base case and moderately adverse scenarios.” According to Milliman’s actuarial analysis, “the projections for the scenarios are conservative, and in each of the scenarios modeled, LAHC remains financially solvent and is able to pay back federal loans within the required time periods.” Furthermore, Milliman estimated that “LAHC will be able to meet Louisiana’s solvency and reserve requirements.”

85.

The Milliman feasibility study was prepared using unrealistic assumption sets. None of the enrollment scenarios considered the possibility that LAHC would have trouble attracting an adequate level of enrollment (which is what actually happened in 2014 and 2015) and every economic scenario assumed that the loss ratio in nearly every modeled year would be 85% (an outlier loss ratio was never higher than 91%). These assumptions completely disregarded the very real possibility that there would be significant volatility in enrollment and/or the medical loss ratio. With all of the uncertainty within the ACA, a competent actuary would have understood that it was a very realistic possibility that LAHC would fail to be viable. Some of the modeled scenarios should have reflected this possibility. The Milliman feasibility study would imply that two “black swan” events occurred in 2014 and 2015 with low enrollment and very high medical costs. In actuality, these possibilities should have been anticipated by Milliman when they prepared the LAHC feasibility study.

86.

If CMS is considered to be a regulatory body, the actuary who prepared the feasibility study would be guided by Actuarial Standard of Practice (ASOP) No. 8 – Regulatory Filings for Health

Benefits, Accident & Health Insurance, and Entities Providing Health Benefits. The following paragraphs are applicable:

- Paragraph 3.4.2 of ASOP No. 8 states that the actuary “should consider the impact of future changes in the underlying covered population on the projected claims. These changes may include, but are not limited to, changes in demographics, risk profile, or family composition”. In the context of this feasibility study, Milliman should have considered the possibility that LAHC would not be able to successfully attract the level of enrollment necessary for LAHC to remain viable as an entity.
- Paragraphs 3.4.3 and 3.4.6 of ASOP No. 8 deal with claim morbidity and health cost trends. Given the enormous level of uncertainty with respect to the claim morbidity of the population that would be covered under the ACA (including many individuals who were previously uninsurable due to known medical conditions), Milliman should have generated economic scenarios that considered the possibility that the loss ratio of LAHC would have exceeded 91%. Established insurance entities with statistically credible claim experience will occasionally misprice their insurance products with resulting loss ratios exceeding 100%. Milliman should have recognized that high loss ratios were a very real possibility (given the known uncertainty of the covered population) for LAHC and illustrated such scenarios in the feasibility study.

87.

Milliman’s failure to consider the possibility of these adverse enrollment and/or medical loss ratio scenarios resulted in a feasibility study where every single scenario illustrated that LAHC would be generating significant cash earnings over the mid to long term time period. The only question to the reader of the feasibility study was how much money would be earned by LAHC.

88.

Upon information and belief, Milliman conditioned payment for its preparation of LAHC’s feasibility study upon LAHC being awarded a loan by CMS. That is, Milliman would only receive payment for its services if LAHC’s efforts to secure a loan from CMS were successful. By conditioning payment upon a successful result, Milliman may have compromised its independence as an actuary and thereby breached its duty to LAHC.

89.

Based in large part on the work performed by Milliman and relied upon by LAHC, in September 2012, LAHC was awarded a loan to become a qualified nonprofit health insurance issuer under the Consumer-Operated and Oriented Plan (CO-OP) Program established by Section 1322 of the ACA and applicable regulations. In other words, based in large part on the work performed by Milliman and relied upon by LAHC, the federal government authorized a Start-up Loan of \$12,426,560 to LAHC, and a Solvency Loan of \$54,614,100 to LAHC.

90.

In or around November 2012, Milliman was engaged by Shilling on behalf of LAHC to “develop 2014 premium rates in Louisiana” for LAHC. This engagement letter dated November 13, 2012, was addressed to Shilling as “Chief Executive” of LAHC and was signed by Shilling on behalf of LAHC on November 14, 2012.

91.

In the “Three Year Pro Forma Reports” dated August 15, 2013, prepared by Milliman and relied upon by LAHC, Milliman concluded and projected that, in general, LAHC would be economically viable, able to remain financially solvent, able to pay back federal loans within the required time periods, and would be able to meet Louisiana’s solvency and reserve requirements. In reliance upon Milliman’s professional services and actuarial estimates and projections, LAHC set its premium rate for 2014.

92.

The actuarial work performed by Milliman for LAHC, including the feasibility study and pro forma reports, were unreliable, inaccurate, and not the result of careful, professional analysis.

93.

For instance, according to the actuarial work performed by Milliman and relied upon by LAHC and the federal government as part of the ACA process, Milliman estimated that LAHC would lose \$1,892,000 in 2014 (i.e., that LAHC’s net income in 2014 would be negative \$1,892,000). In actuality, LAHC reported a statutory loss of more than \$20 million in 2014 (i.e., LAHC’s statutory net income in 2014 was actually negative \$20 million+). Milliman and LAHC’s projections for 2014 were off by a factor of more than 10. For 2015, Milliman’s projections were even more inaccurate: although Milliman projected that LAHC would earn \$1,662,000 in 2015 (i.e., LAHC’s net income in 2015 would be positive \$1,662,000), in actuality, LAHC reported a statutory loss of more than \$54 million in 2015 (i.e., LAHC’s statutory net income in 2015 was actually negative \$54 million+). Milliman and LAHC’s projections for 2015 were off by a factor of more than 32.

94.

Milliman owed a duty to LAHC to exercise reasonable care, and to act in accordance with the professional standards applicable to actuaries in providing its services to LAHC.

95.

Milliman's actuarial memorandums prepared as part of the 2014 rate filings for the individual and small group lines of business indicate that they assumed that LAHC would achieve provider discounts on their statewide PPO product that were equal to Blue Cross Blue Shield of Louisiana ("BCBSLA"). No support was provided for the basis of this assumption.

96.

Provider discounts are a key driver of the unit costs of medical (non-pharmacy) expenses that are incurred by LAHC members. Since providers (hospitals and physicians) typically provide the largest insurance carriers with the highest (compared to smaller carriers) discounts off billed charges, it was not reasonable for Milliman to assume that a start-up insurance entity with zero enrollment would be in a position to negotiate provider discounts as large as BCBSLA. Since LAHC was utilizing a rental network in 2014 (rather than building their own network), Milliman should have analyzed the level of discounts that would be present in the selected network (Verity Healthnet, LLC) and quantify the difference between these discounts and the BCBSLA discounts since a primary basis of the 2014 rate manual was the level of 2013 BCBSLA rates for their most popular individual and small group products.

97.

When developing estimates of the level of insured claims expense loads for 2014, Milliman would be guided by Actuarial Standard of Practice (ASOP) No. 5 – Incurred Health and Disability Claims. Paragraph 3.2.2 of ASOP No. 5 states that the actuary should consider economic influences that affect the level of incurred claims. ASOP No. 5 specifically says that should consider changes in managed care contracts and provider fee schedule changes when developing estimates of incurred claims.

98.

Based on a review of the LAHC actuarial memorandums for individual and small group, upon currently available information and belief, no support has been provided for the assumption that LAHC would achieve provider discounts equal to BCBSLA. This assumption was not reasonable; if Milliman assumed a lower level of provider discounts, the calculated premium rates would have been higher. As a result, LAHC's statutory losses in 2014 would have been lower.

99.

Milliman grossly underestimated the level of non-claim expenses in 2014. In Milliman's 2014 rate development, they assumed that the "per member per month" (PMPM) level of administrative expenses, taxes, and fees (non-claim expenses) would be \$70.85 PMPM for the individual line of business. For the small group line of business, the level of non-claim expenses built into the rate development was \$87.00 PMPM. Milliman projected total 2014 member months of 240,000 and 96,000 for the individual and small group lines of business respectively.

100.

The actual level of expenses in 2014 was significantly higher. On a composite basis, the PMPM level of non-claim expenses was \$145.70. Total member months were 111,689 of which 98.9% were from the individual line of business. At least part of the pricing error was due to Milliman significantly over-estimating the level of 2014 enrollment. For the component of LAHC expenses that were fixed, the impact of this incorrect enrollment estimate would be that they would need to be spread over a fewer number of members. This would result in the significantly higher level of expenses on a per member basis.

101.

When developing expense loads for 2014, Milliman would be guided by Actuarial Standard of Practice (ASOP) No. 8 – Regulatory Filings for Health Benefits, Accident & Health Insurance, and Entities Providing Health Benefits. The following sections of ASOP No. 8 are relevant for LAHC:

- Paragraph 3.4.2 of ASOP No. 8 states that the actuary "should consider the impact of future changes in the underlying covered population on the projected claims. These changes may include, but are not limited to, changes in demographics, risk profile, or family composition."
- Paragraph 3.4.4 of ASOP No. 8 instructs the actuary to "use appropriate methods and assumptions for calculating the non-benefit expenses component of premium rates. Possible methods include, but are not limited to, the use of a target loss ratio or the estimation of expenses appropriately attributed to the health benefit on a percentage of premium or fixed-dollar basis. When estimating the latter amounts, the actuary should consider the health plan entity's own experience, reasonably anticipated internal or external future events, inflation, and business plans. The actuary may also consider relevant external studies. The actuary should consider the reasonableness of the non-benefit expense component of premium rates relative to projected expenses."

102.

While there clearly was uncertainty about the overall size of the overall ACA Marketplace, it was unreasonable for Milliman to assume that LAHC, as an unknown entity in the Louisiana health insurance market, would be able to enroll 28,000 members (20,000 individual and 8,000

small group) in the first year of operation. While assuming a lower level of enrollment would have resulted in higher premiums, Milliman was aware that a significant percentage of the individual enrollment would be receiving government subsidies and thus would have limited sensitivity to pricing differences between the various plans offered on the ACA exchange.

103.

Assuming 100% individual members, the impact of this expense miscalculation is 111,689 times (\$145.70 - \$70.85), or about \$8.4 million.

104.

When developing their estimate of the level of Risk Adjustment (“RA”) transfer payments to build into the 2014 premium rates, Milliman assumed that there would be no difference in coding intensity between LAHC and the other insurance carriers in the State of Louisiana. This assumption was not reasonable as Milliman should have known that a small start-up health insurance carrier would be in no position to code claims as efficiently as Blue Cross Blue Shield of Louisiana (“BCBSLA”) and other established insurance carriers.

105.

Whatever difference that Milliman assumed as the true morbidity difference between the members that LAHC would enroll and the average state enrollment, it was not reasonable to assume that there would be no difference in claim coding intensity. If Milliman had assumed a lower level of coding intensity for LAHC, this would have resulted in a lower assumed average risk score for LAHC for 2014. As a result, the calculated premiums would have been higher.

106.

When developing estimates of average LAHC risk scores for 2014, Milliman would have been guided by Actuarial Standard of Practice (ASOP) No. 45 – The Use of Health Status Based Risk Adjustment Methodologies. The following sections of ASOP No. 45 are relevant for LAHC with respect to the estimation of relative coding intensity:

- Paragraph 3.2.3 states that “Because risk adjustment model results are affected by the accuracy and completeness of diagnosis codes or services coded, the actuary should consider the impact of differences in the accuracy and completeness of coding across organizations and time periods.”

107.

There is no indication that any meaningful assessment of LAHC claim coding capabilities took place by Milliman which resulted in the unreasonable assumption that LAHC’s coding efficacy would be the same as larger established health insurance carriers which have years of

experience paying claims optimizing the RA coding for some of those claims under other RA programs such as the long established RA program in the Medicare Advantage product.

108.

In their 2014 rating, Milliman assumed that LAHC would actually receive \$3.20 PMPM for the individual line of business and \$0.00 for the small group line of business. In actuality, the company was assessed a 2014 RA liability of \$7,456,986 and \$36,622 for the individual and small group lines of business respectively in June 2015 by the Center for Medicare and Medicaid Services (CMS). If Milliman had used a more reasonable assumption with respect to claim coding intensity, some of this liability would have been built into the 2014 premium rates.

109.

Milliman breached its duty by failing to discharge its duties to LAHC with reasonable care, and to act in accordance with the professional standards applicable to actuaries, by failing to produce a feasibility study that was accurate and reliable, by failing to set premium rates for LAHC that were accurate and reliable, and, in general, by failing to exercise the reasonable judgment expected of professional actuaries under like circumstances.

110.

Milliman's failure to exercise reasonable care, and its failure to act in accordance with the professional standards applicable to actuaries, and its breach of contract, was the legal cause of all of, or substantially all of, LAHC's damages as set forth herein.

**Buck**

111.

At all relevant times, Buck held itself out as having expertise to provide actuarial services and advice to health insurers like LAHC.

112.

In or around March 2014, Buck was engaged by LAHC to perform "certain actuarial and consulting services" for LAHC, including but not limited to: a review of the actuarial work previously performed by Milliman, "develop cost models to prepare 2015 rates for Public Exchange," "present target rates for review and revision," "review and price new plan designs," and "prepare and submit rate filings and assist" LAHC with "state rate filing" with LDI. Buck's engagement letter was signed by Powers on behalf of LAHC on April 4, 2014, and had an effective date of April 1, 2014. On or about December 1, 2014, this contract was amended, inter alia, to

extend the term of Buck's engagement through November 30, 2015, and provided for an additional fee of \$380,000 to be paid to Buck for its actuarial services provided to LAHC.

113.

On or about April 2, 2015, Buck issued its "Statement of Actuarial Opinion" to LAHC which was relied upon by LAHC and used to support its periodic ACA reporting requirements to the federal government. In Buck's actuarial opinion, "the March 2015 pro forma financial report is a reasonable projection of LAHC's financial position, subject to the qualifications noted below." In effect, Buck vouched for LAHC's economic health and continuing viability. Buck's professional opinion was clearly inaccurate and unreliable. LAHC would close its doors about three (3) months after Buck issued its April report, and LAHC would ultimately lose more than approximately \$54 million in 2015 alone.

114.

The actuarial work performed by Buck was unreliable, inaccurate, and not the result of careful, professional analysis. Furthermore, upon information and belief, Buck may have been unqualified, given its limited experience with insurers like LAHC, to provide actuarial services to LAHC.

115.

Buck owed a duty to LAHC to exercise reasonable care, and to act in accordance with the professional standards applicable to actuaries in providing its services to LAHC.

116.

When Buck developed individual and small group premium rates for 2015, they essentially disregarded the claim experience that had emerged from the start of LAHC operations on January 1, 2014 until the filing was finalized in August 2014. Buck's explanation for not utilizing the claim experience was that it was not statistically credible. Although the claim data was not fully credible, it was unreasonable for Buck to completely disregard LAHC's claim data and incurred claim estimates that were made for statutory financial reporting.

117.

When analyzing credibility of claim data, the actuary would be guided by Actuarial Standard of Practice (ASOP) No. 25 – Credibility Procedures. ASOP No. 25 discusses the concept of two types of experience:

- Subject experience - A specific set of data drawn from the experience under consideration for the purpose of predicting the parameter under study.

- Relevant Experience - Sets of data, that include data other than the subject experience, that, in the actuary's judgment, are predictive of the parameter under study (including but not limited to loss ratios, claims, mortality, payment patterns, persistency, or expenses). Relevant experience may include subject experience as a subset.

118.

For the 2015 pricing exercise, the Subject Experience would be the LAHC claims data and the Relevant Experience was the manual claim data (obtained from Optum) that Buck used to develop rates for 2015. Buck judgmentally applied, through a credibility procedure, 100% weight to the manual claim data (Relevant Experience) and 0% weight to the actual claim experience of LAHC.

119.

By the time the 2015 rate filing was submitted, LAHC would have already prepared their June 30, 2014 statutory financial statements that reported a level of incurred claims of \$23.3 million gross of Cost Sharing Reductions (CSR). This level on claims, on a per capita level, implies that LAHC would need a rate increase in the range of at least 40%. The incurred claim estimate prepared for statutory reporting effectively amounts to a data set of "Subject Experience" that was ignored by Buck.

120.

ASOP No 25 provides the following guidance to actuaries:

- Paragraph 3.2 states that "The actuary should use an appropriate credibility procedure when determining if the subject experience has full credibility or when blending the subject experience with the relevant experience."
- Paragraph 3.4 states that "The actuary should use professional judgment when selecting, developing, or using a credibility procedure."

121.

Buck's professional judgement in this case was to completely disregard the LAHC data that was available because they concluded that it had no predictive value in their credibility procedure. They arrived at this conclusion even though the filed rate increase for 2015 was inconsistent with the necessary rate increase that was implied by the incurred claim estimates reported on the LAHC statutory financial statements.

122.

At the time the 2015 rate filing was submitted in August 2014, there were already claims incurred and paid in the period from 1/1/2014 to 6/30/2014 of \$220 PMPM (paid through July 2014) gross of Cost Sharing Reduction subsidies ("CSR"). It was readily apparent that there were

very significant claim adjudication issues with LAHC's TPA and that the actual ultimate level of incurred claims would be significantly higher than \$220 PMPM and much higher than Buck's estimate of the manual level of LAHC claims.

123.

Buck underestimated the level of non-claim expenses in 2015. In Buck's 2015 rate development, they assumed that the "per member per month" (PMPM) level of administrative expenses, taxes, and fees (non-claim expenses) would be \$96.24 PMPM for the individual line of business. For the small group line of business, the level of non-claim expenses built into the rate development was \$96.70 PMPM. Per Buck, the expense load was based on a May 2014 expense budget that was prepared by LAHC.

124.

When developing expense loads for 2015, Buck would be guided by Actuarial Standard of Practice (ASOP) No. 8 – Regulatory Filings for Health Benefits, Accident & Health Insurance, and Entities Providing Health Benefits. The following sections of ASOP No. 8 are relevant for LAHC:

- Paragraph 3.4.2 of ASOP No. 8 states that the actuary "should consider the impact of future changes in the underlying covered population on the projected claims. These changes may include, but are not limited to, changes in demographics, risk profile, or family composition".
- Paragraph 3.4.4 of ASOP No. 8 instructs the actuary to "use appropriate methods and assumptions for calculating the non-benefit expenses component of premium rates. Possible methods include, but are not limited to, the use of a target loss ratio or the estimation of expenses appropriately attributed to the health benefit on a percentage of premium or fixed-dollar basis. When estimating the latter amounts, the actuary should consider the health plan entity's own experience, reasonably anticipated internal or external future events, inflation, and business plans. The actuary may also consider relevant external studies. The actuary should consider the reasonableness of the non-benefit expense component of premium rates relative to projected expenses."

125.

The actual level of expenses in 2015 was moderately higher. On a composite basis, the PMPM level of non-claim expenses was \$111.05. Total member months were 165,682 of which 99.4% were from the individual line of business.

126.

When developing their estimate of the level of Risk Adjustment ("RA") transfer payments to build into the 2015 premium rates, Buck assumed that there would be no difference in coding intensity between LAHC and the other insurance carriers in the State of Louisiana. This assumption was not reasonable as Buck should have known that a small start-up health insurance

carrier would be in no position to code claims as efficiently as BCBSLA and other established insurance carriers.

127.

Whatever difference that Buck assumed as the true morbidity difference between the members that LAHC would enroll and the average state enrollment, it was not reasonable to assume that there would be no difference in claim coding intensity. If Buck had assumed a lower level of coding intensity for LAHC, this would have resulted in lower assumed average risk score for LAHC for 2015. As a result, the calculated premiums would have been higher.

128.

In their rate filing, Buck also noted that the average age of the LAHC enrollees was lower than the State of Louisiana average. Since age is component of the risk score calculation, the younger than average population provided some evidence that the average risk score for the LAHC would be lower than the state average. It was not reasonable for Buck to ignore this known difference in member ages between LAHC and the state average.

129.

When developing estimates of average LAHC risk scores for 2014, Buck would be guided by Actuarial Standard of Practice (ASOP) No. 45 – The Use of Health Status Based Risk Adjustment Methodologies. The following sections of ASOP No. 45 is relevant for LAHC with respect to the estimation of relative coding intensity:

- Paragraph 3.2.3 states that “Because risk adjustment model results are affected by the accuracy and completeness of diagnosis codes or services coded, the actuary should consider the impact of differences in the accuracy and completeness of coding across organizations and time periods.”

130.

There is no indication that any meaningful assessment of LAHC claim coding capabilities took place by Buck which resulted in the unreasonable assumption that LAHC’s coding efficacy would be the same as larger established health insurance carriers which have years of experience paying claims optimizing the RA coding for some of those claims under other RA programs such as the long established RA program in the Medicare Advantage product.

131.

Data Quality is also relevant with respect to Buck ignoring the known demographic data when developing an estimate of the RA transfer payment that should be built into the 2015 rates. Paragraph 3.2 of ASOP No. 23 states “In undertaking an analysis, the actuary should consider

what data to use. The actuary should consider the scope of the assignment and the intended use of the analysis being performed in order to determine the nature of the data needed and the number of Alternative data sets or data sources, if any, to be considered.” Because demographic data was available, Buck should have used it to build in some level of RA transfer payment just on that basis alone (without regard for the coding intensity issue).

132.

In their 2015 rating, Buck assumed that LAHC would have a \$0 RA transfer payment. In actuality, the company was assessed a 2015 RA liability of \$8,658,833 and \$177,963 for the individual and small group lines of business respectively in June 2016 by the Center for Medicare and Medicaid Services (CMS). If Buck had incorporated the known demographic information and used a more reasonable assumption with respect to claim coding intensity, some of this liability would have been built into the 2015 premium rates.

133.

Buck breached its duty by failing to discharge its duties to LAHC with reasonable care, and to act in accordance with the professional standards applicable to actuaries, by failing to produce a feasibility study that was accurate and reliable, by failing to set premium rates for LAHC that were accurate and reliable, and, in general, by failing to exercise the reasonable judgment expected of professional actuaries under like circumstances.

134.

Buck’s failure to exercise reasonable care, and its failure to act in accordance with the professional standards applicable to actuaries was the legal cause of all of, or substantially all of, LAHC’s damages as set forth herein.

**Count Five: Negligent Misrepresentation  
(Against the Actuary Defendants)**

135.

Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

**Milliman**

136.

At all relevant times, Milliman held itself out as having expertise to provide actuarial services and advice to health insurers like LAHC.

137.

At all relevant times, Milliman held a special position of confidence and trust with respect to LAHC.

138.

LAHC justifiably expected Milliman to communicate with care when advising LAHC concerning its funding needs and the appropriate premium for LAHC.

139.

Milliman's advice and/or reports to LAHC and/or LDI and/or CMS concerning LAHC's funding needs negligently misrepresented the actual funding needs and premium rates of LAHC.

140.

Milliman had a duty to provide accurate and up-to-date information to LAHC that Milliman knew or should have known LAHC would rely on in making its decision concerning the amount of premium to charge policyholders.

**Buck**

141.

At all relevant times, Buck held itself out as having expertise to provide actuarial services and advice to insurers such as LAHC.

142.

At all relevant times, Buck held a special position of confidence and trust with respect to LAHC.

143.

LAHC justifiably expected Buck to communicate with care when advising LAHC concerning its funding needs and the appropriate premium rates for LAHC.

144.

Buck's advice and/or reports to the LAHC and/or LDI and/or CMS concerning LAHC's funding needs negligently misrepresented the actual funding needs and premium rates of LAHC.

145.

Buck had a duty to provide accurate and up-to-date information to LAHC that Buck knew or should have known LAHC would rely on in making its decision concerning the amount of premium to charge policyholders.

## **PRESCRIPTION AND DISCOVERY OF TORTIOUS CONDUCT**

146.

Plaintiff shows that LAHC was adversely dominated by the Defendants named herein, who effectively concealed the bases for the causes of action stated herein. Plaintiff did not discover the causes of action stated herein until well after the Receiver was appointed and these matters were investigated as part of the pending Receivership proceeding. Furthermore, Plaintiff had no ability to bring these actions prior to receiving authority as a result of the Receivership orders entered regarding LAHC. Further, none of the creditors, claimants, policyholders or members of LAHC knew or had any reason to know of any cause of action for the acts and omissions described in this Petition until after LAHC was placed into Receivership.

147.

Plaintiff further shows that the activities of the Defendants named herein constituted continuing torts which began in 2011 and continued unabated until shortly before LAHC was placed into Receivership, or at least in the case of GRI, continued until its services were terminated by LAHC in May 2016.

148.

Applicable statutes of limitations and prescriptive/peremptive periods did not commence as to Plaintiff until shortly before LAHC was placed into Receivership, at the earliest.

149.

Further, according to applicable Louisiana law, once the Commissioner of Insurance filed suit seeking an order of rehabilitation regarding LAHC on September 1, 2015, the running of prescription and preemption as to all claims in favor of LAHC was immediately suspended and tolled during the pendency of the LAHC Receivership proceeding; La.R.S. 22:2008(B).

### **JURY DEMAND**

150.

Plaintiff is entitled to and hereby demands a trial by jury on all triable issues.

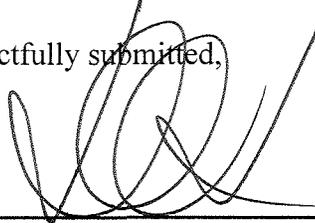
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**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, James J. Donelon, Commissioner of Insurance for the State of Louisiana in his capacity as Rehabilitator of Louisiana Health Cooperative, Inc., through his duly appointed Receiver, Billy Bostick, prays and demands that the following Defendants named herein, CGI Technologies and Solutions, Inc., Group Resources Incorporated, Beam Partners, LLC, Milliman, Inc., Buck Consultants, LLC, Allied World Specialty Insurance Company a/k/a Darwin National Assurance Company, Atlantic Specialty Insurance Company, Evanston Insurance Company, RSUI Indemnity Company, and Zurich American Insurance Company, be cited to appear and answer, and that upon a final hearing of the cause, judgment be entered against Defendants and in favor of Plaintiff for all compensable damages in an amount reasonable in the premises, including:

- a. All compensatory damages allowed by applicable law caused by Defendants' actionable conduct;
- b. the recovery from Defendants of all administrative costs incurred as a result of the necessary rehabilitation and/or liquidation proceedings;
- c. all fees, expenses, and compensation of any kind paid by LAHC to the D&O Defendants, Beam Partners, CGI, GRI, Milliman, and Buck;
- d. all recoverable costs and litigation expenses incurred herein;
- e. all judicial interest;
- f. any and all attorneys' fees recoverable pursuant to statute and/or contract;
- g. any and all equitable relief to which Plaintiff may appear properly entitled; and
- h. all further relief to which Plaintiff may appear entitled.

Respectfully submitted,



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J. E. Cullens, Jr., T.A., La. Bar #23011  
Edward J. Walters, Jr., La. Bar #13214  
Darrel J. Papillion, La. Bar #23243  
David Abboud Thomas, La. Bar #22701  
Jennifer Wise Moroux, La. Bar #31368  
**WALTERS, PAPIILLION,  
THOMAS, CULLENS, LLC**  
12345 Perkins Road, Bldg One  
Baton Rouge, LA 70810  
Phone: (225) 236-3636  
Facsimile: (225) 236-3650

[SERVICE INFORMATION ON FOLLOWING PAGES]

***PLEASE SERVE A COPY OF:***

THE PETITION FOR DAMAGES AND JURY DEMAND  
*AND*  
THE FIRST SUPPLEMENTAL, AMENDING AND RESTATED PETITION  
*AND*  
THE SECOND SUPPLEMENTAL, AMENDING AND RESTATED PETITION

***UPON THE FOLLOWING DEFENDANTS:***

**ALLIED WORLD SPECIALTY INSURANCE COMPANY a/k/a DARWIN  
NATIONAL ASSURANCE COMPANY**

**ATLANTIC SPECIALTY INSURANCE COMPANY**

**EVANSTON INSURANCE COMPANY**

**RSUI INDEMNITY COMPANY**

**ZURICH AMERICAN INSURANCE COMPANY**

All through their agent for service of process:

The Louisiana Secretary of State  
8585 Archives Avenue  
Baton Rouge, LA 70809

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***PLEASE SERVE A COPY OF:***

THE SECOND SUPPLEMENTAL, AMENDING AND RESTATED PETITION

***UPON THE FOLLOWING DEFENDANTS:***

**CGI TECHNOLOGIES AND  
SOLUTIONS, INC.**  
VIA LONG ARM SERVICE  
Through its agent for service of process:  
Corporation Service Company  
2711 Centerville Road  
Suite 400  
Wilmington, DE 19808

**GROUP RESOURCES  
INCORPORATED**  
VIA LONG ARM SERVICE  
Through its agent for service of process:  
Philip H. Weener  
5887 Glendridge Drive  
Suite 275  
Atlanta, GA 30328

**BEAM PARTNERS, LLC**  
VIA LONG ARM SERVICE  
Through its agent for service of process:  
Terry Shilling  
2451 Cumberland Parkway, #3170  
Atlanta, GA 30339

**MILLIMAN, INC.**  
VIA LONG ARM SERVICE  
Through its agent for service of process:  
CT Corporation System  
505 Union Avenue SE  
Suite 120  
Olympia, WA 98501

**BUCK CONSULTANTS, LLC**  
VIA LONG ARM SERVICE  
Through its agent for service of process:  
Corporation Service Company  
2711 Centerville Road  
Suite 400  
Wilmington, DE 19808

**CERTIFICATE OF SERVICE**

In addition to requesting service on the previously named defendants as directed on the prior page, undersigned counsel hereby certifies that the following counsel of record have been served this date pursuant to La.C.C.P. art. 1313 by transmitting a copy of the SECOND SUPPLEMENTAL, AMENDING AND RESTATED PETITION FOR DAMAGES AND REQUEST FOR JURY TRIAL by electronic means to the following defense counsel:

Harry (Skip) J. Philips, Jr.  
Taylor Porter  
Post Office Box 2471  
Baton Rouge, LA 70821  
[Skip.philips@taylorporter.com](mailto:Skip.philips@taylorporter.com)

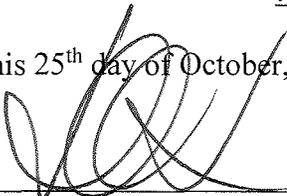
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Frederic Theodore 'Ted' Le Clercq  
Deutsch Kerrigan, LLP  
755 Magazine Street  
New Orleans, LA 70130  
[ted@deutschkerrigan.com](mailto:ted@deutschkerrigan.com)

Baton Rouge, Louisiana this 25<sup>th</sup> day of October, 2017.

  
\_\_\_\_\_  
J. E. Cullens, Jr.

June 19, 2014

Greg Cromer  
CEO  
Louisiana Health Cooperative, Inc.  
3445 N Causeway Blvd  
Metairie, LA 70002

Re: Termination of Administrative Services Agreement

Dear Greg:

I am writing to memorialize our agreement regarding termination of the Administrative Services Agreement (the "Original Agreement") between the Louisiana Health Cooperative, Inc. ("LAHC") and CGI Technologies and Solutions Inc. ("CGI") dated February 15, 2013. Once executed by you in the space provided, this letter agreement (this "Letter Agreement") shall be effective on the date of such execution and shall constitute an amendment to the Original Agreement. In the event of conflict between the terms of this Letter Agreement and the Original Agreement, the terms of this Letter Agreement shall control.

1. For the convenience of LAHC, the Original Agreement shall terminate on April 30, 2014. CGI shall continue to perform the Delegated Functions through April 30, 2014, to be followed by a six month wind-down period as specified in Section 2.5 of the Original Agreement. For the six month wind-down period, CGI shall provide such wind-down services as the parties may agree in a wind-down plan, all in accordance with Sections 2.5 and 2.5.1 of the Original Agreement.
2. LAHC shall pay all CGI invoices issued to date. CGI shall also be compensated for performance of the Delegated Functions prior to termination of the Original Agreement in accordance with Exhibit 1 to the Original Agreement. The general scope and structure of the wind down period is as specified in Attachment 1 to this Letter Agreement. CGI's compensation for services during the wind-down period shall be a fixed price of \$75,000 per month for May and \$60,000 per month for June and at LAHC direction on a time-and-materials basis July through October. In addition to CGI's compensation for performing Delegated Services during the wind-down period, LAHC will continue to pay Healthation (Aldera) Access Fees and direct expenses in accordance with Exhibit 1 of the Original Agreement. CGI waives all deferred implementation fees specified in Section 1 of Exhibit 1 to the Original Agreement (i.e., those implementation fees payable on December 31 of 2014, 2015 and 2016). LAHC waives all interest on late paid claims specified in Section 1.6 of Exhibit 2 to the Original Agreement.
3. No Service Level Credits shall be assessed for failures to meet one or more Service Level Specifications effective March 1, 2014. During the wind-down period, CGI will make commercially reasonable efforts to perform the Delegated Functions in accordance with the Service Level Specifications set forth in Section 6 in Exhibit 1 to the Original Agreement, but no additional CGI personnel will be assigned to the LAHC account for purposes of improving CGI's performance.
4. Neither party hereto will make any statement to any third party that disparages the other party's performance under the Original Agreement, nor will either party make statement to any third party that disparages any person or persons involved in the performance of the Original Agreement. LAHC will also



provide to CGI a reasonably complimentary letter of reference that CGI may use at its discretion in future efforts to secure new business.

5. Except for obligations assumed herein, LAHC and CGI hereby release each other, and their respective directors, officers, agents, employees, representatives, insurers, parents and subsidiaries, from any and all claims that either may have against the other arising out of or relating to the Original Agreement. Greg, if the foregoing accurately states our agreement to amend the Original Agreement, please sign below in the space provided (two signed originals enclosed) and return one fully executed original to me.

Sincerely,



David L. Henderson  
Senior Vice President  
CGI Technologies and Solutions Inc.

SO AGREED:



Greg Cromer  
CEO  
Louisiana Health Cooperative, Inc.

6/19/2014

Date

## Attachment 1 – Wind Down Period Services

### 1. May and June 2014

From May 1 to June 30, CGI will perform the Delegated Services as well as the following in-scope transition services, which will be further defined and mutually agreed in the more detailed Transition Plan:

#### In Scope

- Membership data transfer to GRI as follows:
  - Aldera Member Extract file, delivered initially at 6/1 and finally at 7/1
- Enrollment data transfer to GRI as follows:
  - 834 EDI files received from FFM, files received between 6/1 and 7/1
  - Effectuation EDI files sent to FFM, files sent between 6/1 and 7/1
  - Spreadsheets received from LAHC reflecting Bswift off-exchange enrollments, files received between 6/1 and 7/1
- Paid claim data transfer to GRI as follows:
  - TBD
- Pended and/or in-flight claim data transfer to GRI as follows:
  - TBD
- Compilation and hand-over of all Aldera and CGI file server records back to 10/1/13 where retention is required by law or regulation and/or essential for GRI continued operation, as listed and agreed with LAHC, as of the record date that all CGI processing terminates; destruction of all other records not listed and agreed with LAHC as soon as all CGI processing terminates
- Other data transfer as the parties agree

#### Not in Scope

- Completion of delivery of any intended system or interworking functionality not already operational at 5/16, except as the parties agree in advance
- Provider data updates or contract price/fee schedule updates, except as CGI determines helpful or necessary for claims processing
- Processing of any claims received after 6/8, regardless of service date
- Processing of member billings and associated payments for enrollments or enrollment modifications with an effective date of 7/1 or later
- Mailing of ID cards or welcome kits to paid-thru members with an effective date of 7/1 or later; the final mailing to be no later than GRI's initial bulk mailing of new ID cards
- Health Risk Assessment processing after 5/31
- FFM or other 3<sup>rd</sup> party system data reconciliation beyond 6/30

**2. July to October 2014**

Beginning July 1, CGI will perform all services on a Time and Materials basis, at the request of LAHC, using the rates in the table below. LAHC will make requests in writing and CGI will provide an estimate for approval by LAHC before any work is performed.

Role	Rate per Hour
Data Analyst Sr.	120.00
Data Analyst Jr.	100.00
Claim Supervisor	60.00
Project Manager	120.00
Claim Examiner or Customer Service Rep	35.00
Expenses	As Agreed

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

STATE OF LOUISIANA

NO.: 651,069

SECTION 22

JAMES J. DONELON, COMMISSIONER OF INSURANCE  
FOR THE STATE OF LOUISIANA, IN HIS CAPACITY AS REHABILITATOR OF  
LOUISIANA HEALTH COOPERATIVE, INC.

VERSUS

TERRY S. SHILLING, GEORGE G. CROMER, WARNER L. THOMAS, IV, WILLIAM A.  
OLIVER, CHARLES D. CALVI, PATRICK C. POWERS, CGI TECHNOLOGIES AND  
SOLUTIONS, INC., GROUP RESOURCES INCORPORATED, BEAM PARTNERS, LLC,  
MILLIMAN, INC., BUCK CONSULTANTS, LLC, AND TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA

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

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**PETITION FOR ISSUANCE OF LETTERS ROGATORY**

Defendant Buck Global, LLC (“Buck”) respectfully petitions this Court pursuant to La. R.S. § 13:3823 and article 1435 of the Louisiana Code of Civil Procedure to issue Letters Rogatory to non-party Lewis & Ellis, Inc. In support thereof, Buck respectfully represents to the Court the following:

1.

Louisiana Health Cooperative, Inc. (“LAHC”) was a qualified nonprofit health insurer co-operative organized in 2011. In September 2015, LAHC was placed into rehabilitation under the control of Plaintiff, James J. Donelon, Commissioner of Insurance for the State of Louisiana, as Rehabilitator, through Billy Bostick as his appointed Receiver.

2.

In August 2016, James J. Donelon, the Commissioner of Insurance for the State of Louisiana, appearing herein as Rehabilitator, filed an initial petition in this suit against several Defendants, including LAHC’s former directors and officers (the “D&O Defendants”), the developer and initial manager of LAHC, Beam Partners, LLC (“Beam”), and LAHC’s third-party administrators, CGI Technology and Solutions, Inc. (“CGI”) and GRI. He later amended

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**EXHIBIT  
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his suit to name two Defendants who provided actuarial services to LAHC – Buck and Milliman, Inc., and, later, several insurers of LAHC’s directors and officers.

3.

In his Petition, Plaintiff has made allegations seeking damages related to the failure of LAHC.

4.

To properly defend itself in this litigation, Buck needs access to certain records maintained by Lewis & Ellis, Inc. (“Lewis & Ellis”), a non-party.

5.

In connection therewith, Lewis & Ellis possesses records in the ordinary course of its business which pertain to the allegations that underlie the Plaintiff’s claims.

6.

In order that there be full discovery of the relevant facts pertaining to this matter, Buck needs to obtain certified copies of records from Lewis & Ellis, which is located in Allen, Texas and which can be served at: 700 Central Expressway South, Suite 550, Allen, TX 75013.

7.

The records sought, all of which are relevant to the underlying litigation, are set out in detail in the attached Notice of Records Only Deposition, which is attached to this Petition.

8.

Accordingly, Buck respectfully requests this Honorable Court to issue Letters Rogatory to the appropriate authorities in Collin County, Texas so that it may issue a Subpoena Duces Tecum to Lewis & Ellis, to produce records as set forth in the attached Notice of Records Only Deposition.

WHEREFORE, Defendant, Buck Global, LLC, respectfully prays that this Honorable Court grant its Petition for Issuance of Letters Rogatory to request the appropriate authorities in

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Collin County, Texas to process and issue a Subpoena Duces Tecum to Lewis & Ellis, Inc., to produce records as per the Notice of Records Only Deposition attached hereto as Exhibit "A."

Respectfully submitted,

/s/ James A. Brown

James A. Brown, T.A. (La. Bar #14101)

Sheri L. Corales (La. Bar # 37643)

**LISKOW & LEWIS**

701 Poydras Street, Suite 5000

New Orleans, Louisiana 70139-5099

Telephone: (504) 581-7979

Facsimile: (504) 556-410

jabrown@liskow.com

scorales@liskow.com

David R. Godofsky, *pro hac vice* (D.C. Bar # 469602)

**ALSTON & BIRD LLP**

950 F Street NW

Washington, DC 20004

Telephone: (202) 239-3392

Facsimile: (202) 654-4922

David.Godofsky@alston.com

*Attorneys for Buck Global, LLC*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above and foregoing Petition for Issuance of Letters Rogatory has been served upon all known counsel of record by e-mail, this 14th day of October, 2020.

/s/ James A. Brown

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

STATE OF LOUISIANA

NO.: 651,069

SECTION 22

JAMES J. DONELON, COMMISSIONER OF INSURANCE  
FOR THE STATE OF LOUISIANA, IN HIS CAPACITY AS REHABILITATOR OF  
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VERSUS

TERRY S. SHILLING, GEORGE G. CROMER, WARNER L. THOMAS, IV, WILLIAM A.  
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SOLUTIONS, INC., GROUP RESOURCES INCORPORATED, BEAM PARTNERS, LLC,  
MILLIMAN, INC., BUCK CONSULTANTS, LLC, AND TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA

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**NOTICE OF RECORDS ONLY DEPOSITION AND  
SUBPOENA DUCES TECUM**

TO:

Lewis & Ellis, Inc.  
Attn: Custodian of Records  
700 Central Expressway South  
Suite 550  
Allen, TX 75013.

PLEASE TAKE NOTICE that Buck Global, LLC f/k/a Buck Consultants, LLC (“Buck”) will take the records-only deposition of Lewis & Ellis, Inc. (“Lewis & Ellis”) on **November 19, 2020, beginning at 10:00 a.m. at the offices of Spector & Cox, PLLC, 12770 Coit Road, Suite 1100, Dallas, TX 75251**, continuing from day to day until completed. Lewis & Ellis is hereby requested to designate and to make available for deposition at the stated time and place one or more officers, directors or managing agents, or other persons designated to testify on its behalf concerning the production of and identification of the documents specified in Attachment “A.”

All counsel are invited to participate as they deem fit.

**THIS IS A RECORDS ONLY DEPOSITION. NO APPEARANCE WILL BE NECESSARY IF THE DOCUMENTS REQUESTED ON ATTACHMENT “A” ARE PRODUCED BY THE ABOVE SPECIFIED DATE AND TIME. This deposition notice**

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and subpoena may be satisfied by mailing certified copies of the subpoenaed materials to the following address: James A. Brown, Liskow & Lewis, 701 Poydras St., Suite 5000, New Orleans, La. 70139, Telephone: (504) 581-7979.

In lieu of producing hard copies, the records may be produced electronically to [jabrown@liskow.com](mailto:jabrown@liskow.com) and [scorales@liskow.com](mailto:scorales@liskow.com).

A copy of article 1354 of the Louisiana Code of Civil Procedure is attached as Exhibit "B."

Respectfully submitted,

/s/ James A. Brown  
James A. Brown, T.A. (La. Bar #14101)  
Sheri L. Corales (La. Bar # 37643)  
LISKOW & LEWIS  
701 Poydras Street, Suite 5000  
New Orleans, Louisiana 70139-5099  
Telephone: (504) 581-7979  
Facsimile: (504) 556-410  
[jabrown@liskow.com](mailto:jabrown@liskow.com)

David R. Godofsky, *pro hac vice* (D.C. Bar # 469602)  
ALSTON & BIRD LLP  
950 F Street NW  
Washington, DC 20004  
Telephone: (202) 239-3392  
Facsimile: (202) 654-4922  
[David.Godofsky@alston.com](mailto:David.Godofsky@alston.com)

*Attorneys for Buck Global, LLC*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above and foregoing has been served upon all counsel of record by e-mail this 14th day of October, 2020.

/s/ James A. Brown

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**EXHIBIT A TO SUBPOENA DUCES TECUM**  
**INSTRUCTIONS**

A. These document requests and the terms used herein shall be construed to require the fullest and most complete disclosure permitted by law.

B. Each paragraph herein shall be construed independently and not with reference to any other paragraph for the purposes of limitation.

C. In construing these document requests, the singular shall include the plural and the plural shall include the singular.

D. Information shall not be withheld merely because such information is stored electronically (*e.g.*, word processing files, electronic mail, text messages, databases, accounting information, and spreadsheets). For retrievable information stored in computers, please provide a copy both on paper and on magnetic media, and provide or identify a suitable program or method of retrieving the information.

E. Should you have any questions or concerns about these requests, please immediately contact undersigned counsel.

**DEFINITIONS**

1. The term "Document" shall be broadly construed as provided by the Louisiana Code of Civil Procedure and shall include, without limitation, every writing, drawing, graph, chart, photograph, sound recording, image, or other data that is in your possession, custody, or control, including those kept by electronic, magnetic, photographic, or mechanical means, any drafts or revisions pertaining to any of the foregoing, and any other data compilations from which information may be obtained. Any document or copy of any document that contains any note, comment, addition, deletion, insertion, annotation, alteration or otherwise comprises a nonidentical copy of another document shall be treated as a separate document subject to production.

2. "Person" shall mean natural persons, corporations, partnerships, joint ventures, associations, joint stock companies, trusts, unincorporated organizations, governments or political subdivisions thereof, and governmental agencies.

3. The terms "and" and "or," as used herein, shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this demand any document or information that might be deemed outside its scope by another construction of these terms.

4. The singular form of any noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun so used, and vice versa. The masculine form of a noun or pronoun shall be considered to include within its meaning the feminine and neuter genders.

5. "You" and "Your" and means Lewis & Ellis, its employees, directors, officers, members, agents and/or representatives.

6. "LDI" means the Louisiana Department of Insurance, its employees, directors, officers, members, agents and/or representatives.

7. "Rehabilitator" means James J. Donelon, the Commissioner of Insurance for the State of Louisiana, in his capacity as Rehabilitator of Louisiana Health Cooperative, Inc, through his duly appointed Receiver, Billy Bostick.

8. "Buck" means Buck Global, LLC f/k/a Buck Consultants, LLC ("Buck"), its employees, directors, officers, agents and/or representatives.

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9. “Milliman” means Milliman, Inc., its employees, directors, officers, agents and/or representatives.
10. “LAHC” means Louisiana Health Cooperative, Inc., its employees, directors, officers, members, agents and/or representatives.
11. “CMS” refers to the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services.
12. “SAP” refers to Plaintiff’s October 25, 2017 Second Supplemental, Amended and Restated Petition in the matter captioned *Donelon v. Shilling et al*, No. 651,069, 19th JDC, Parish of East Baton Rouge, State of Louisiana.
13. “Communication” shall mean any transmission or exchange of information by written, oral, pictorial, electronic, or other perceptible means, including, but not limited to, correspondence, hand deliveries, mailings, telefaxes, facsimiles, telecopies, telegraphs, cables, emails, cellular/telephone conversations, text messages, video conferences, instant messages or chats, video conversations through applications like Skype or FaceTime, personal conversations, meetings, and the like—whether in email accounts (including emails and attachments located in deleted folders), cellphones, laptops, netbooks/notebooks, workstations, servers, other drives, drive images, backup tapes and databases at your headquarters, one of your facilities, or hosted by your vendor.



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**DOCUMENTS TO BE PRODUCED**

1. All documents reflecting Buck's professional services and work for LAHC.
2. All documents reflecting Milliman's professional services and work for LAHC.
3. All documents, including e-mail, reflecting communications between You and Buck.
4. All documents, including e-mail, reflecting communications between You and Milliman.
5. All documents, including e-mail, reflecting communications between You and the LDI and/or CMS, pertaining to LAHC.
6. All documents, including e-mail, reflecting communications between You and the Rehabilitator, pertaining to LAHC.
7. All documents reflecting or analyzing the role and impact of expected risk corridor payments in the formation of LAHC and in the planning and projections for its financial performance following its formation.
8. All documents reflecting or analyzing the impact of the failure to make risk corridor payments to LAHC upon its operations and financial condition.
9. All documents reflecting LDI's review and approval of LAHC's 2014 and 2015 rates.
10. All documents reflecting Your review, assessments, findings and/or conclusions relating to Buck's and Milliman's actuarial analyses, reports and other work for LAHC.
11. All documents reflecting Your assessments and reviews of LAHC's rates arising from or related to Milliman's actuarial work for LAHC.
12. All documents reflecting Your assessments and reviews of LAHC's rates arising from Buck's actuarial work for LAHC, including but not limited to, Your 2014 review of LAHC's 2015 QHP (Individual Health) filing for individual and catastrophic products and LAHC's 2015 Small Group filing.
13. All documents reflecting any attempt by LAHC, LDI, You, or other person or entity to pressure or otherwise influence Milliman to lower the 2014 rates.
14. All documents reflecting or analyzing a) LAHC's CO-OP application (including any feasibility study or business plan), b) pro forma submissions, c) rate filing submissions, d) requests for additional funding, e) any corrective action plan, f) the "3Rs" set out under the Patient Protection and Affordable Care Act (the "ACA"), g) the decision to retain or terminate any consulting actuary or third-party administrator, h) LAHC's financial condition, i) the basis for terminating any actuary or third-party consultant.

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15. All documents, including e-mail, reflecting communications with the LDI and /or with CMS concerning: a) LAHC's CO-OP application (including any feasibility study or business plan), b) pro forma submissions, c) rate filing submissions, d) requests for additional funding, e) any corrective action plan, f) the "3Rs" set out under the Patient Protection and Affordable Care Act (the "ACA"), g) the decision to retain or terminate any consulting actuary or third-party administrator, h) LAHC's financial condition, i) the basis for terminating any actuary or third-party consultant.

16. All documents, including e-mail, reflecting communications between LDI and You, regarding (i) the review of LAHC's premium rates for any and all years, (ii) any and all work and services performed by Milliman for LAHC, and (iii) any and all work and services performed by Buck for LAHC.

17. All documents and communications, including e-mail, between LAHC and LDI regarding (i) the review of LAHC's premium rates for any and all years, (ii) any and all work and services performed by Milliman for LAHC, and (iii) any and all work and services performed by Buck for LAHC.

18. All internal documents and communications, including e-mail, within Lewis & Ellis regarding the review of any and all of LAHC's premium rates.

19. All documents and communications, including e-mail, between You and LDI and/or CMS regarding the review of any and all of LAHC's premium rates.

20. All documents and communications reflecting or analyzing LAHC financial statements for the 2014, 2015, 2016, and 2017 calendar years, including but not limited to: (a) GAAP financial statements; (b) Financial statements prepared in accordance with statutory accounting principles, including convention statements filed with LDI; (c) Actuarial memoranda prepared by actuaries other than Buck supporting the calculation of claim reserves, IBNR (incurred but not reported) liabilities, and any other liabilities used in the preparation of the LAHC financial statements.

21. All documents and communications, including e-mail, between You and LDI and/or CMS regarding LAHC's projected financial condition and solvency.

22. All documents and communications, including e-mail, between You and LDI and/or CMS regarding LAHC's operational problems.

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23. All engagement agreements and/or other agreements entered into between You and the LDI pertaining to LAHC.

24. All documents and communications reflecting any instructions from LDI, or any agreements between You and LDI, as to the method, standards, manner, procedure, and/or scope for Your reviews of premium rates and/or of the reports, analyses, recommendations or other work product of Buck, Milliman, or other actuaries.



**EXHIBIT "B" TO NOTICE OF RECORDS DEPOSITION AND  
SUBPOENA DUCES TECUM**

Louisiana Code of Civil Procedure Article 1354

A. A subpoena may order a person to appear and produce at the trial, deposition, or hearing, books, papers, documents, any other tangible things, or electronically stored information, in his possession or under his control, if a reasonably accurate description thereof is given. A subpoena may specify the form or forms in which electronically stored information is to be produced. A party or an attorney requesting the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or cost on a person subject to that subpoena. The court in which the action is pending in its discretion may vacate or modify the subpoena if it is unreasonable or oppressive. Except when otherwise required by order of the court, certified copies, extracts, or copies of books, papers, and documents may be produced in obedience to the subpoena duces tecum instead of the originals thereof. If the party or attorney requesting the subpoena does not specify that the named person shall be ordered to appear, the person may designate another person having knowledge of the contents of the books, papers, documents, other things, or electronically stored information, to appear as his representative.

B. A person commanded to respond to a subpoena duces tecum may within fifteen days after service of the subpoena or before the time specified for compliance, if such time is less than fifteen days after service, send to the party or attorney designated in the subpoena written objections, with supporting reasons, to any or all of the requests, including objection to the production of electronically stored information in the form or forms requested. If objection is so made, the party serving the subpoena may file a motion to compel compliance with the subpoena and may move for sanctions for failure to reasonably comply.

C. A person responding to a subpoena to produce books, papers, or documents shall produce them as they are kept in the usual course of business or may organize and label them to correspond with the categories in the demand.

D. If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena may produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably useable.

E. A person responding to a subpoena need not produce the same electronically stored information in more than one form.

F. A person responding to a subpoena need not produce books, papers, documents, or electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel production or to quash, the person from whom production is sought shall show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order production from such sources if the requesting party shows good cause. The court may specify conditions, including an allocation of the costs, for the production.

G. When the person subpoenaed is an adverse party, the party requesting the subpoena duces tecum may accompany his request with a written request under oath as to what facts he believes the books, papers, documents, electronically stored information, or tangible things will prove, and a copy of such statement shall be attached to the subpoena. If the party subpoenaed fails to comply with the subpoena, the facts set forth in the written statement shall be taken as confessed, and in addition the party subpoenaed shall be subject to the penalties set forth in Article 1357.

H. Subpoenas duces tecum shall reproduce in full the provisions of this Article.



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

NO.: 651,069

SECTION 22

JAMES J. DONELON, COMMISSIONER OF INSURANCE  
FOR THE STATE OF LOUISIANA, IN HIS CAPACITY AS REHABILITATOR OF  
LOUISIANA HEALTH COOPERATIVE, INC.

VERSUS

TERRY S. SHILLING, GEORGE G. CROMER, WARNER L. THOMAS, IV, WILLIAM A.  
OLIVER, CHARLES D. CALVI, PATRICK C. POWERS, CGI TECHNOLOGIES AND  
SOLUTIONS, INC., GROUP RESOURCES INCORPORATED, BEAM PARTNERS, LLC,  
MILLIMAN, INC., BUCK CONSULTANTS, LLC, AND TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA

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

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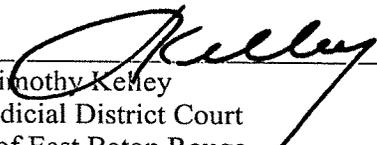
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**ORDER**

Considering the foregoing Petition for Issuance of Letters Rogatory and the information  
contained therein;

IT IS ORDERED that letters rogatory issue to the appropriate authority in Collin County,  
Texas to issue a Subpoena Duces Tecum, to Lewis & Ellis, Inc., 700 Central Expressway South,  
Suite 550, Allen, TX 75013, for all purposes provided for by the Louisiana Code of Civil  
Procedure.

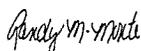
THUS DONE AND SIGNED at Baton Rouge, Louisiana this \_\_\_\_\_ day of  
**October 15, 2020**

  
\_\_\_\_\_  
Hon. Timothy Keley  
19th Judicial District Court  
Parish of East Baton Rouge

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

NO.: 651,069

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FOR THE STATE OF LOUISIANA, IN HIS CAPACITY AS REHABILITATOR OF  
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MILLIMAN, INC., BUCK CONSULTANTS, LLC, AND TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA

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**LETTER ROGATORY**

TO: Any Judge or other Officer of the Collin County, State of Texas, with authority to issue a  
Subpoena Duces Tecum

In the 19<sup>th</sup> Judicial District Court for the Parish of Baton Rouge State of Louisiana, there  
is pending a case entitled *James J. Donelon, Commissioner of Insurance for the State of  
Louisiana v. Terry S. Shilling et al* (Number 651069, Section 22) and it appears to this Court that  
the just determination of the issues therein presented requires Lewis & Ellis, Inc. ("Lewis &  
Ellis") to produce documents as per in the attached Notice of Records Only Deposition (Exhibit  
"A").

It is therefore requested that you assist this Court by issuing a Subpoena Duces Tecum in  
accordance with the attached Notice of Records Only Deposition directed to **Lewis & Ellis, 700  
Central Expressway South, Suite 550, Allen, TX 75013**, to appear on **November 19, 2020 at  
10:00 a.m.**, at the law offices of **Spector & Cox, PLLC, 12770 Coit Road, Suite 1100, Dallas,  
TX 75251** and to produce documents as noticed per the attached Exhibit "A" (Notice of Records  
Only Deposition).

THUS DONE AND SIGNED at Baton Rouge, Louisiana this \_\_\_\_\_ day of  
**October 15, 2020**

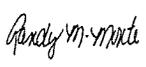
  
Hon. Timothy Kelley, 19th JDC Judge

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EAST BATON ROUGE PARISH  
Filed Oct 15, 2020 10:30 AM  
Deputy Clerk of Court  
E-File Received Oct 14, 2020 5:20 PM  
C-651069  
22

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

NO.: 651,069

SECTION 22

JAMES J. DONELON, COMMISSIONER OF INSURANCE  
FOR THE STATE OF LOUISIANA, IN HIS CAPACITY AS REHABILITATOR OF  
LOUISIANA HEALTH COOPERATIVE, INC.

VERSUS

TERRY S. SHILLING, GEORGE G. CROMER, WARNER L. THOMAS, IV, WILLIAM A.  
OLIVER, CHARLES D. CALVI, PATRICK C. POWERS, CGI TECHNOLOGIES AND  
SOLUTIONS, INC., GROUP RESOURCES INCORPORATED, BEAM PARTNERS, LLC,  
MILLIMAN, INC., BUCK CONSULTANTS, LLC, AND TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA

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

DEPUTY CLERK

LETTER ROGATORY

TO: Any Judge or other Officer of the Collin County, State of Texas, with authority to issue a  
Subpoena Duces Tecum

In the 19<sup>th</sup> Judicial District Court for the Parish of Baton Rouge State of Louisiana, there  
is pending a case entitled *James J. Donelon, Commissioner of Insurance for the State of  
Louisiana v. Terry S. Shilling et al* (Number 651069, Section 22) and it appears to this Court that  
the just determination of the issues therein presented requires Lewis & Ellis, Inc. ("Lewis &  
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"A").

It is therefore requested that you assist this Court by issuing a Subpoena Duces Tecum in  
accordance with the attached Notice of Records Only Deposition directed to Lewis & Ellis, 700  
Central Expressway South, Suite 550, Allen, TX 75013, to appear on November 19, 2020 at  
10:00 a.m., at the law offices of Spector & Cox, PLLC, 12770 Coit Road, Suite 1100, Dallas,  
TX 75251 and to produce documents as noticed per the attached Exhibit "A" (Notice of Records  
Only Deposition).

THUS DONE AND SIGNED at Baton Rouge, Louisiana this \_\_\_\_\_ day of

October 15, 2020

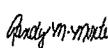
  
Hon. Timothy Kelley, 19th JDC Judge

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East Baton Rouge Parish  
Deputy Clerk of Court

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Alteration and subsequent re-filing of this certified copy may violate La. R.S. 14:132, 133, and/or RPC Rule 3.3(a)(3).

EXHIBIT  
C

CAUSE NO. 471-05599-2020

**JAMES J. DONELON, COMMISSIONER  
OF INSURANCE FOR THE STATE  
OF LOUISIANA, IN HIS CAPACITY  
AS REHABILITATOR OF LOUISIANA  
HEALTH COOPERATIVE, INC.**

**Plaintiff**

v.

**TERRY S. SHILLING, ET AL.**

**Defendants**

§ 471st JUDICIAL DISTRICT  
§  
§  
§  
§ COLLIN COUNTY  
§  
§  
§  
§ STATE OF TEXAS

**ORDER FOR ISSUANCE OF SUBPOENA FOR A DUCES TECUM PRODUCTION  
PURSUANT TO LETTER ROGATORY**

CONSIDERING THE FOREGOING Petition for Issuance of Subpoena for a Duces Tecum  
Production Pursuant to Letter Rogatory,

IT IS ORDERED that the Clerk shall issue the Notice of Records Only Deposition and  
Subpoena Duces Tecum attached hereto as Exhibit "A," to be served upon Lewis & Ellis, Inc. at  
700 Central Expressway South, Suite 550, Allen, TX 75013.

SO ORDERED this 29th day of October, 2020.

*Andrea H. Bourne*  
District Judge  
471st Judicial District  
Collin County

**EXHIBIT  
D**

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

STATE OF LOUISIANA

NO.: 651,069

SECTION 22

JAMES J. DONELON, COMMISSIONER OF INSURANCE  
FOR THE STATE OF LOUISIANA, IN HIS CAPACITY AS REHABILITATOR OF  
LOUISIANA HEALTH COOPERATIVE, INC.

VERSUS

TERRY S. SHILLING, GEORGE G. CROMER, WARNER L. THOMAS, IV, WILLIAM A.  
OLIVER, CHARLES D. CALVI, PATRICK C. POWERS, CGI TECHNOLOGIES AND  
SOLUTIONS, INC., GROUP RESOURCES INCORPORATED, BEAM PARTNERS, LLC,  
MILLIMAN, INC., BUCK CONSULTANTS, LLC, AND TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA

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

DEPUTY CLERK

**NOTICE OF RECORDS ONLY DEPOSITION AND  
SUBPOENA DUCES TECUM**

TO:

Lewis & Ellis, Inc.  
Attn: Custodian of Records  
700 Central Expressway South  
Suite 550  
Allen, TX 75013.

PLEASE TAKE NOTICE that Buck Global, LLC f/k/a Buck Consultants, LLC ("Buck") will take the records-only deposition of Lewis & Ellis, Inc. ("Lewis & Ellis") on **November 19, 2020, beginning at 10:00 a.m. at the offices of Spector & Cox, PLLC, 12770 Coit Road, Suite 1100, Dallas, TX 75251**, continuing from day to day until completed. Lewis & Ellis is hereby requested to designate and to make available for deposition at the stated time and place one or more officers, directors or managing agents, or other persons designated to testify on its behalf concerning the production of and identification of the documents specified in Attachment "A."

All counsel are invited to participate as they deem fit.

**THIS IS A RECORDS ONLY DEPOSITION. NO APPEARANCE WILL BE NECESSARY IF THE DOCUMENTS REQUESTED ON ATTACHMENT "A" ARE PRODUCED BY THE ABOVE SPECIFIED DATE AND TIME. This deposition notice**

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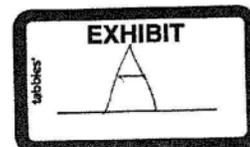
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East Baton Rouge Parish  
Deputy Clerk of Court



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and subpoena may be satisfied by mailing certified copies of the subpoenaed materials to the following address: James A. Brown, Liskow & Lewis, 701 Poydras St., Suite 5000, New Orleans, La. 70139, Telephone: (504) 581-7979.

In lieu of producing hard copies, the records may be produced electronically to jabrown@liskow.com and scorales@liskow.com.

A copy of article 1354 of the Louisiana Code of Civil Procedure is attached as Exhibit "B."

Respectfully submitted,

/s/ James A. Brown  
James A. Brown, T.A. (La. Bar #14101)  
Sheri L. Corales (La. Bar # 37643)  
LISKOW & LEWIS  
701 Poydras Street, Suite 5000  
New Orleans, Louisiana 70139-5099  
Telephone: (504) 581-7979  
Facsimile: (504) 556-410  
jabrown@liskow.com

David R. Godofsky, *pro hac vice* (D.C. Bar #  
469602)  
ALSTON & BIRD LLP  
950 F Street NW  
Washington, DC 20004  
Telephone: (202) 239-3392  
Facsimile: (202) 654-4922  
David.Godofsky@alston.com

*Attorneys for Buck Global, LLC*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above and foregoing has been served upon all counsel of record by e-mail this 14th day of October, 2020.

/s/ James A. Brown

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*Gandy M. Mink*

East Baton Rouge Parish  
Deputy Clerk of Court

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**EXHIBIT A TO SUBPOENA DUCES TECUM  
INSTRUCTIONS**

- A. These document requests and the terms used herein shall be construed to require the fullest and most complete disclosure permitted by law.
- B. Each paragraph herein shall be construed independently and not with reference to any other paragraph for the purposes of limitation.
- C. In construing these document requests, the singular shall include the plural and the plural shall include the singular.
- D. Information shall not be withheld merely because such information is stored electronically (e.g., word processing files, electronic mail, text messages, databases, accounting information, and spreadsheets). For retrievable information stored in computers, please provide a copy both on paper and on magnetic media, and provide or identify a suitable program or method of retrieving the information.
- E. Should you have any questions or concerns about these requests, please immediately contact undersigned counsel.

**DEFINITIONS**

1. The term "Document" shall be broadly construed as provided by the Louisiana Code of Civil Procedure and shall include, without limitation, every writing, drawing, graph, chart, photograph, sound recording, image, or other data that is in your possession, custody, or control, including those kept by electronic, magnetic, photographic, or mechanical means, any drafts or revisions pertaining to any of the foregoing, and any other data compilations from which information may be obtained. Any document or copy of any document that contains any note, comment, addition, deletion, insertion, annotation, alteration or otherwise comprises a nonidentical copy of another document shall be treated as a separate document subject to production.
2. "Person" shall mean natural persons, corporations, partnerships, joint ventures, associations, joint stock companies, trusts, unincorporated organizations, governments or political subdivisions thereof, and governmental agencies.
3. The terms "and" and "or," as used herein, shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this demand any document or information that might be deemed outside its scope by another construction of these terms.
4. The singular form of any noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun so used, and vice versa. The masculine form of a noun or pronoun shall be considered to include within its meaning the feminine and neuter genders.
5. "You" and "Your" and means Lewis & Ellis, its employees, directors, officers, members, agents and/or representatives.
6. "LDI" means the Louisiana Department of Insurance, its employees, directors, officers, members, agents and/or representatives.
7. "Rehabilitator" means James J. Donelon, the Commissioner of Insurance for the State of Louisiana, in his capacity as Rehabilitator of Louisiana Health Cooperative, Inc, through his duly appointed Receiver, Billy Bostick.
8. "Buck" means Buck Global, LLC f/k/a Buck Consultants, LLC ("Buck"), its employees, directors, officers, agents and/or representatives.

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*[Handwritten Signature]*

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Deputy Clerk of Court

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9. "Milliman" means Milliman, Inc., its employees, directors, officers, agents and/or representatives.

10. "LAHC" means Louisiana Health Cooperative, Inc., its employees, directors, officers, members, agents and/or representatives.

11. "CMS" refers to the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services.

12. "SAP" refers to Plaintiff's October 25, 2017 Second Supplemental, Amended and Restated Petition in the matter captioned *Donelon v. Shilling et al*, No. 651,069, 19th JDC, Parish of East Baton Rouge, State of Louisiana.

13. "Communication" shall mean any transmission or exchange of information by written, oral, pictorial, electronic, or other perceptible means, including, but not limited to, correspondence, hand deliveries, mailings, telefaxes, facsimiles, telecopies, telegraphs, cables, emails, cellular/telephone conversations, text messages, video conferences, instant messages or chats, video conversations through applications like Skype or FaceTime, personal conversations, meetings, and the like—whether in email accounts (including emails and attachments located in deleted folders), cellphones, laptops, netbooks/notebooks, workstations, servers, other drives, drive images, backup tapes and databases at your headquarters, one of your facilities, or hosted by your vendor.



*[Handwritten Signature]*

**DOCUMENTS TO BE PRODUCED**

1. All documents reflecting Buck's professional services and work for LAHC.
2. All documents reflecting Milliman's professional services and work for LAHC.
3. All documents, including e-mail, reflecting communications between You and Buck.
4. All documents, including e-mail, reflecting communications between You and Milliman.
5. All documents, including e-mail, reflecting communications between You and the LDI and/or CMS, pertaining to LAHC.
6. All documents, including e-mail, reflecting communications between You and the Rehabilitator, pertaining to LAHC.
7. All documents reflecting or analyzing the role and impact of expected risk corridor payments in the formation of LAHC and in the planning and projections for its financial performance following its formation.
8. All documents reflecting or analyzing the impact of the failure to make risk corridor payments to LAHC upon its operations and financial condition.
9. All documents reflecting LDI's review and approval of LAHC's 2014 and 2015 rates.
10. All documents reflecting Your review, assessments, findings and/or conclusions relating to Buck's and Milliman's actuarial analyses, reports and other work for LAHC.
11. All documents reflecting Your assessments and reviews of LAHC's rates arising from or related to Milliman's actuarial work for LAHC.
12. All documents reflecting Your assessments and reviews of LAHC's rates arising from Buck's actuarial work for LAHC, including but not limited to, Your 2014 review of LAHC's 2015 QHP (Individual Health) filing for individual and catastrophic products and LAHC's 2015 Small Group filing.
13. All documents reflecting any attempt by LAHC, LDI, You, or other person or entity to pressure or otherwise influence Milliman to lower the 2014 rates.
14. All documents reflecting or analyzing a) LAHC's CO-OP application (including any feasibility study or business plan), b) pro forma submissions, c) rate filing submissions, d) requests for additional funding, e) any corrective action plan, f) the "3Rs" set out under the Patient Protection and Affordable Care Act (the "ACA"), g) the decision to retain or terminate any consulting actuary or third-party administrator, h) LAHC's financial condition, i) the basis for terminating any actuary or third-party consultant.

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East Baton Rouge Parish  
Deputy Clerk of Court

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15. All documents, including e-mail, reflecting communications with the LDI and /or with CMS concerning: a) LAHC's CO-OP application (including any feasibility study or business plan), b) pro forma submissions, c) rate filing submissions, d) requests for additional funding, e) any corrective action plan, f) the "3Rs" set out under the Patient Protection and Affordable Care Act (the "ACA"), g) the decision to retain or terminate any consulting actuary or third-party administrator, h) LAHC's financial condition, i) the basis for terminating any actuary or third-party consultant.
16. All documents, including e-mail, reflecting communications between LDI and You, regarding (i) the review of LAHC's premium rates for any and all years, (ii) any and all work and services performed by Milliman for LAHC, and (iii) any and all work and services performed by Buck for LAHC.
17. All documents and communications, including e-mail, between LAHC and LDI regarding (i) the review of LAHC's premium rates for any and all years, (ii) any and all work and services performed by Milliman for LAHC, and (iii) any and all work and services performed by Buck for LAHC.
18. All internal documents and communications, including e-mail, within Lewis & Ellis regarding the review of any and all of LAHC's premium rates.
19. All documents and communications, including e-mail, between You and LDI and/or CMS regarding the review of any and all of LAHC's premium rates.
20. All documents and communications reflecting or analyzing LAHC financial statements for the 2014, 2015, 2016, and 2017 calendar years, including but not limited to: (a) GAAP financial statements; (b) Financial statements prepared in accordance with statutory accounting principles, including convention statements filed with LDI; (c) Actuarial memoranda prepared by actuaries other than Buck supporting the calculation of claim reserves, IBNR (incurred but not reported) liabilities, and any other liabilities used in the preparation of the LAHC financial statements.
21. All documents and communications, including e-mail, between You and LDI and/or CMS regarding LAHC's projected financial condition and solvency.
22. All documents and communications, including e-mail, between You and LDI and/or CMS regarding LAHC's operational problems.

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East Baton Rouge Parish  
Deputy Clerk of Court

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23. All engagement agreements and/or other agreements entered into between You and the LDI pertaining to LAHC.

24. All documents and communications reflecting any instructions from LDI, or any agreements between You and LDI, as to the method, standards, manner, procedure, and/or scope for Your reviews of premium rates and/or of the reports, analyses, recommendations or other work product of Buck, Milliman, or other actuaries.



*[Handwritten Signature]*

**EXHIBIT "B" TO NOTICE OF RECORDS DEPOSITION AND  
SUBPOENA DUCES TECUM**

Louisiana Code of Civil Procedure Article 1354

A. A subpoena may order a person to appear and produce at the trial, deposition, or hearing, books, papers, documents, any other tangible things, or electronically stored information, in his possession or under his control, if a reasonably accurate description thereof is given. A subpoena may specify the form or forms in which electronically stored information is to be produced. A party or an attorney requesting the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or cost on a person subject to that subpoena. The court in which the action is pending in its discretion may vacate or modify the subpoena if it is unreasonable or oppressive. Except when otherwise required by order of the court, certified copies, extracts, or copies of books, papers, and documents may be produced in obedience to the subpoena duces tecum instead of the originals thereof. If the party or attorney requesting the subpoena does not specify that the named person shall be ordered to appear, the person may designate another person having knowledge of the contents of the books, papers, documents, other things, or electronically stored information, to appear as his representative.

B. A person commanded to respond to a subpoena duces tecum may within fifteen days after service of the subpoena or before the time specified for compliance, if such time is less than fifteen days after service, send to the party or attorney designated in the subpoena written objections, with supporting reasons, to any or all of the requests, including objection to the production of electronically stored information in the form or forms requested. If objection is so made, the party serving the subpoena may file a motion to compel compliance with the subpoena and may move for sanctions for failure to reasonably comply.

C. A person responding to a subpoena to produce books, papers, or documents shall produce them as they are kept in the usual course of business or may organize and label them to correspond with the categories in the demand.

D. If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena may produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably useable.

E. A person responding to a subpoena need not produce the same electronically stored information in more than one form.

F. A person responding to a subpoena need not produce books, papers, documents, or electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel production or to quash, the person from whom production is sought shall show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order production from such sources if the requesting party shows good cause. The court may specify conditions, including an allocation of the costs, for the production.

G. When the person subpoenaed is an adverse party, the party requesting the subpoena duces tecum may accompany his request with a written request under oath as to what facts he believes the books, papers, documents, electronically stored information, or tangible things will prove, and a copy of such statement shall be attached to the subpoena. If the party subpoenaed fails to comply with the subpoena, the facts set forth in the written statement shall be taken as confessed, and in addition the party subpoenaed shall be subject to the penalties set forth in Article 1357.

H. Subpoenas duces tecum shall reproduce in full the provisions of this Article.



*Randy M. Mink*

THE STATE OF TEXAS  
CIVIL CITATION

CASE NO. 380-05599-2020

James J. Donelon, Commissioner of Insurance for  
the State of Louisiana, in His Capacity as  
Rehabilitator of Louisiana Health Cooperative, Inc.  
v. Terry S. Shilling, et al.

In the 380th District Court

Of Collin County, Texas

OFFICER'S RETURN BY MAILING

Came to hand the 30th day of October, 2020, 3:12pm, and executed by mailing to the defendant certified mail, return receipt requested with restricted delivery a true copy of this citation together with an attached copy of the Order for Issuance of Subpoena for a Duces Tecum Production Pursuant to Letter Rogatory and/or citation to the following address:

Lewis & Ellis, Inc.  
700 Central Expressway South Suite 550  
Allen TX 75013.

Please Check Method of Service

Service upon the defendant is evidenced by the return receipt incorporated herein and attached hereto, signed by Lewis & Ellis, Inc. and dated the 5th day of November, 2020.

This citation was not executed for the following reason:

To certify which witness my hand officially.

Lynne Finley, District Clerk

ATTACH  
RETURN RECEIPT (S)  
WITH  
ADDRESSEE'S SIGNATURE

By: Kathy Richardson, Deputy  
Kathy Richardson

EXHIBIT  
E



Fee for serving citation \$75.00

Lynne Finley, District Clerk  
Collin County, Texas  
I, Lynne Finley, District Clerk in and for Collin County, Texas, do hereby certify that the above foregoing is a true and correct copy of the original document as the same appears on the file in the District Court of Collin County, Texas. Witness my hand and seal of said court this \_\_\_\_\_ day of \_\_\_\_\_, 2020.





STATE OF TEXAS )  
COUNTY OF COLLIN )

I, Lynne Finley, District Clerk in and for Collin County Texas,  
do hereby certify that the above foregoing is a true and correct copy of the  
original document as the same appears on the file in the District Court,  
Collin County, Texas. Witness my hand and seal of said Court, this  
the 12 day of NOV A.D., 20 22

LYNNE FINLEY, DISTRICT CLERK  
COLLIN COUNTY, TEXAS

Kynga Stamm DEPUTY



200.05599.2020

Date Produced: 11/06/2020

THE MAIL GROUP INC - 1 / CONFIRM DELIVERY INC:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 0661 540001 56136659. Our records indicate that this item was delivered on 11/05/2020 at 11:33 a.m. in ALLEN, TX 75013. The scanned image of the recipient information is provided below.

Signature of Recipient :

Address of Recipient :

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,  
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

The customer reference information shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Reference ID: 92148901066154000156136659

Lewis & Ellis, Inc.  
700 Central Expy S Ste 550  
Allen, TX 75013-8125



FILED

2020 NOV -9 AM 8:45

LYNNE FINLEY  
DISTRICT CLERK  
COLLIN COUNTY, TX  
BY: [Signature]



STATE OF TEXAS )  
COUNTY OF COLLIN )

I, Lynne Finley, District Clerk in and for Collin County Texas,  
do hereby certify that the above foregoing is a true and correct copy of the  
original document as the same appears on the file in the District Court,  
Collin County, Texas. Witness my hand and seal of said Court, this  
the 12 day of NOV, A.D., 20 20

LYNNE FINLEY, DISTRICT CLERK  
COLLIN COUNTY, TEXAS

*Ky High Harris*  
DEPUTY

**TAYLOR PORTER**

LOUISIANA'S LAW FIRM®

SINCE 1912  
November 9, 2020

VIA EMAIL AND U.S. MAIL

Mr. James A. Brown  
Ms. Sheri L. Corales  
Liskow & Lewis  
701 Poydras Street, Suite 5000  
New Orleans, LA 70139-5099

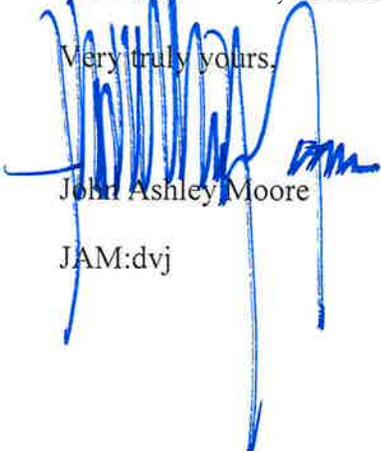
Re: **James J. Donelon, Commissioner of Insurance for the State of Louisiana, in His Capacity as Rehabilitator of Louisiana Health Cooperative, Inc. v. Terry S. Shilling, George G. Cromer, Warner L. Thomas, IV, William A. Oliver, Charles D. Calvi, Patrick C. Powers, CGI Technologies and Solutions, Inc., Group Resources Incorporated, Beam Partners, LLC, and Travelers Casualty and Surety Company of America State of Louisiana, No. 651,069, Section 22, 19<sup>th</sup> Judicial District Court, State of Louisiana, Parish of East Baton Rouge**

Dear Mr. Brown and Ms. Corales:

Enclosed, please find Objections of Lewis & Ellis, Inc. to *Subpoena Duces Tecum* Served by Defendant, Buck Global, LLC.

With best wishes, I remain

Very truly yours,

  
John Ashley Moore

JAM:dvj

JOHN ASHLEY MOORE  
Partner

(225) 381-0218 TELEPHONE  
(225) 346-8049 FACSIMILE  
ashley.moore@taylorporter.com

**EXHIBIT  
F**

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TAYLOR, PORTER, BROOKS & PHILLIPS L.L.P.

BATON ROUGE

LAKE CHARLES

[www.taylorporter.com](http://www.taylorporter.com)

450 Laurel Street, Suite 800  
Baton Rouge, Louisiana 70801

Post Office Box 2471  
Baton Rouge, LA 70821

225.387.3221 PHONE  
225.346.8049 FAX

19<sup>TH</sup> JUDICIAL DISTRICT COURT

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

JAMES J. DONELON, COMMISSIONER : SUIT NO.: 651,069  
OF INSURANCE FOR THE STATE OF :  
LOUISIANA, IN HIS CAPACITY AS : SECTION: 22  
REHABILITATOR OF LOUISIANA :  
HEALTH COOPERATIVE, INC. :

VERSUS :

TERRY S. SHILLING, GEORGE G. :  
CROMER, WARNER L. THOMAS, IV, :  
WILLIAM A. OLIVER, CHARLES D. :  
CALVI, PATRICK C. POWERS, CGI :  
TECHNOLOGIES AND SOLUTIONS, :  
INC., GROUP RESOURCES :  
INCORPORATED, BEAM PARTNERS, :  
LLC, AND TRAVELERS CASUALTY :  
AND SURETY COMPANY OF :  
AMERICA STATE OF LOUISIANA :

**OBJECTIONS OF LEWIS & ELLIS, INC. TO *SUBPOENA DUCES TECUM*  
SERVED BY DEFENDANT, BUCK GLOBAL, LLC**

NOW INTO COURT, through undersigned counsel, comes Lewis & Ellis, Inc. (“L&E”), which objects to the subpoena duces tecum (“SDT”), served by Defendant, Buck Global, LLC, f/k/a Buck Consultants, LLC (“Buck”), as follows:

**1. All documents reflecting Buck's professional services and work for LAHC.**

LDI objects to SDT Request No. 1 as incomprehensible and lacking a reasonably accurate description of the documents being requested. The word “work” is undefined, vague and indefinite, and the request lacks a subject designation and a temporal limitation. Furthermore, the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

**2. All documents reflecting Milliman's professional services and work for LAHC.**

LDI objects to SDT Request No. 2 as incomprehensible and lacking a reasonably accurate description of the documents being requested. The word “work” is undefined, vague and indefinite, and the request lacks a subject designation and a temporal limitation. Furthermore, the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

**3. All documents, including e-mail, reflecting communications between You and Buck.**

L&E objects to SDT Request No. 3 as lacking a reasonably accurate description of the documents being requested. The request lacks a subject designation and a temporal limitation. Furthermore, the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

**4. All documents, including e-mail, reflecting communications between You and Milliman.**

L&E objects to SDT Request No. 4 as lacking a reasonably accurate description of the documents being requested. The request lacks a subject designation and a temporal limitation. Furthermore, the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

**5. All documents, including e-mail, reflecting communications between You and the LDI and/or CMS, pertaining to LAHC.**

L&E objects to SDT Request No. 5 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding Louisiana Health Cooperative, Inc. (“**LAHC**”), subject to production pursuant to La. R.S. 44:1, **et seq.**, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**6. All documents, including e-mail, reflecting communications between You and the Rehabilitator, pertaining to LAHC.**

L&E objects to SDT Request No. 6 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, **et seq.**, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation

of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**7. All documents reflecting or analyzing the role and impact of expected risk corridor payments in the formation of LAHC and in the planning and projections for its financial performance following its formation.**

L&E objects to SDT Request No. 7 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding Louisiana Health Cooperative, Inc. (“**LAHC**”), subject to production pursuant to La. R.S. 44:1, **et seq.**, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion,

Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**8. All documents reflecting or analyzing the impact of the failure to make risk corridor payments to LAHC upon its operations and financial condition.**

L&E objects to SDT Request No. 8 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, *et seq.*, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate."

**9. All documents reflecting LDI's review and approval of LAHC's 2014 and 2015 rates.**

L&E objects to SDT Request No. 9 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, **et seq.**, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to "All Defense Counsel in LAHC," and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

"A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code."

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

"A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be

given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate."

**10. All documents reflecting Your review, assessments, findings and/or conclusions relating to Buck's and Milliman's actuarial analyses, reports and other work for LAHC.**

L&E objects to SDT Request No. 10 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, *et seq.*, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to "All Defense Counsel in LAHC," and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

"A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the

receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**11. All documents reflecting Your assessments and reviews of LAHC's rates arising from or related to Milliman's actuarial work for LAHC.**

L&E objects to SDT Request No. 11 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, **et seq.**, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property.

Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**12. All documents reflecting Your assessments and reviews of LAHC's rates arising from Buck's actuarial work for LAHC, including but not limited to, Your 2014 review of LAHC's 2015 QHP (Individual Health) tiling for individual and catastrophic products and LAHC's 2015 Small Group tiling.**

L&E objects to SDT Request No. 12 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, *et seq.*, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**13. All documents reflecting any attempt by LAHC, LDI, You, or other person or entity to pressure or otherwise influence Milliman to lower the 2014 rates.**

L&E objects SDT Request No. 13 as vague, indefinite, and lacking a reasonably accurate description of the documents being sought. Furthermore, L&E objects to this request on the

grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

**14. All documents reflecting or analyzing a) LAHC's CO-OP application (including any feasibility study or business plan), b) pro forma submissions, c) rate filing submissions, d) requests for additional funding, e) any corrective action plan, f) the "3Rs" set out under the Patient Protection and Affordable Care Act (the "ACA"), g) the decision to retain or terminate any consulting actuary or third-party administrator, h) LAHC's financial condition, i) the basis for terminating any actuary or third-party consultant.**

L&E objects to SDT Request No. 14 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, *et seq.*, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to "All Defense Counsel in LAHC," and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

"A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code."

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**15. All documents, including e-mail, reflecting communications with the LDI and /or with CMS concerning: a) LAHC's CO-OP application (including any feasibility study or business plan), b) pro forma submissions, c) rate filing submissions, d) requests for additional funding, e) any corrective action plan, f) the "3Rs" set out under the Patient Protection and Affordable Care Act (the "ACA"), g) the decision to retain or terminate any consulting actuary or third-party administrator, h) LAHC's financial condition, i) the basis for terminating any actuary or third-party consultant.**

L&E objects to SDT Request No. 15 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, *et seq.*, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be

entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**16. All documents, including e-mail, reflecting communications between LDI and You, regarding (i) the review of LAHC's premium rates for any and all years, (ii) any and all work and services performed by Milliman for LAHC, and (iii) any and all work and services performed by Buck for LAHC.**

L&E objects to SDT Request No. 16 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, *et seq.*, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar

document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**17. All documents and communications, including e-mail, between LAHC and LDI regarding (i) the review of LAI-IC's premium rates for any and all years, (ii) any and**

**all work and services performed by Milliman for LAHC, and (iii) any and all work and services performed by Buck for LAHC.**

L&E objects to SDT Request No. 17 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, **et seq.**, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential

treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**18. All internal documents and communications, including e-mail, within Lewis & Ellis regarding the review of any and all of LAHC's premium rates.**

L&E objects to SDT Request No. 18 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, *et seq.*, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**19. All documents and communications, including e-mail, between You and LDI and/or CMS regarding the review of any and all of LAHC's premium rates.**

L&E objects to SDT Request No. 19 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, **et seq.**, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**20. All documents and communications reflecting or analyzing LAI IC financial statements for the 2014, 2015, 2016, and 2017 calendar years, including but not limited to: (a) GAAP financial statements; (b) Financial statements prepared in accordance with statutory accounting principles, including convention statements filed with LDI; (c) Actuarial memoranda prepared by actuaries other than Buck supporting the calculation of claim reserves, IBNR (incurred but not reported) liabilities, and any other liabilities used in the preparation of the LAHC financial statements.**

L&E objects to SDT Request No. 20 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, **et seq.**, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**21. All documents and communications, including e-mail, between You and LDI and/or CMS regarding LAHC's projected financial condition and solvency.**

L&E objects to SDT Request No. 21 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, **et seq.**, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the

furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**22. All documents and communications, including e-mail, between You and LDI and/or CMS regarding LAHC's operational problems.**

L&E objects to SDT Request No. 22 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, *et seq.*, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**23. All engagement agreements and/or other agreements entered into between You and the LDI pertaining to LAHC.**

L&E objects to SDT Request No. 23 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, *et seq.*, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

**24. All documents and communications reflecting any instructions from LDI, or any agreements between You and LDI, as to the method, standards, manner, procedure, and for scope for Your reviews of premium rates and/or of the reports, analyses, recommendations or other work product of Buck, Milliman, or other actuaries.**

L&E objects to SDT Request No. 24 on the grounds that the documents requested are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection, L&E respectfully submits that public records regarding LAHC, subject to production pursuant to La. R.S. 44:1, **et seq.**, were produced by the Louisiana Department of Insurance to J.E. Cullens, Jr. of Walters, Papillion, Thomas, Cullens, LLC, who produced all such documents to “All Defense Counsel in LAHC,” and that same or similar document requests directed to LAHC in Receivership have been previously and properly responded to.

Subject to the objection, L&E further states that La. R.S. 22:2043.1 provides as follows:

“A. No prior wrongful or negligent actions of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may be asserted as a defense to a claim by the receiver under a theory of estoppel, comparative fault, intervening cause, proximate cause, reliance, mitigation of damages, or otherwise. However, the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract. A principal under a surety bond or a surety undertaking shall be entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to

the extent that the receiver has possession or control of the property or the insurer or its agents misappropriated or commingled such property. Evidence of fraud in the inducement shall be admissible only if it is contained in the records of the insurer.

B. No action or inaction by the insurance regulatory authorities may be asserted as a defense to a claim by the receiver.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the department or its employees, or the commissioner or his designee in his capacity as receiver, liquidator, rehabilitator or conservator, or otherwise, or any special deputy, the receiver's assistants or contractors, or the attorney general's office for any action taken by them in performance of their powers and duties under this Code.”

Subject to the objection, L&E further states that La. R.S. 22:2045 provides as follows:

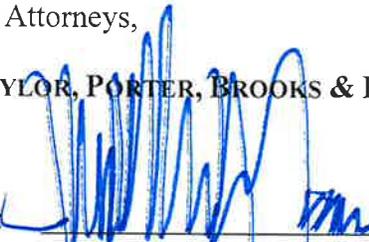
“A. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner, or any other person, in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

B. All working papers, recorded information, documents, and copies thereof disclosed by the commissioner, or any other person, to the receiver in the course of an action pursuant to this Chapter, which are confidential or privileged pursuant to any other provision of law, shall be given confidential treatment and shall not be subject to subpoena or disclosed pursuant to the Public Records Law.

C. Nothing contained in this Chapter shall be construed to limit the commissioner's authority to use any working papers, recorded information, documents, and copies thereof or any other information discovered or developed during the course of any action pursuant to this Chapter in the furtherance of any legal or regulatory action that the commissioner may, in his sole discretion, deem appropriate.”

By Attorneys,

**TAYLOR, PORTER, BROOKS & PHILLIPS L.L.P.**

By: 

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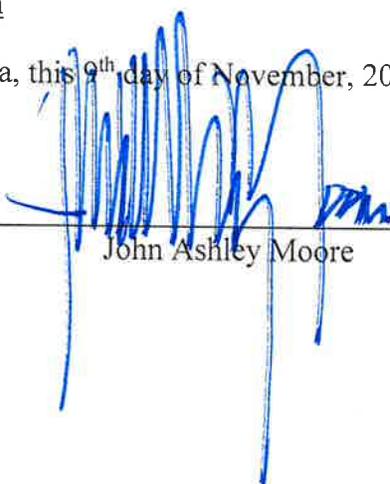
*Attorneys for Lewis & Ellis, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Objections of Lewis & Ellis, Inc. to *Subpoena Duces Tecum* Served by Defendant, Buck Global, LLC, was this day sent via U.S. Mail, properly addressed and postage pre-paid, and via electronic mail to all counsel, as follows:

James A. Brown  
Sheri L. Corales  
Liskow & Lewis  
701 Poydras Street, Suite 5000  
New Orleans, LA 70139-5099  
Telephone: (504) 581-7979  
Facsimile: (504) 556-4108  
Email: [jabrown@liskow.com](mailto:jabrown@liskow.com)  
Email: [scorales@liskow.com](mailto:scorales@liskow.com)

Baton Rouge, Louisiana, this 9<sup>th</sup> day of November, 2020.



---

John Ashley Moore

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November 25, 2020

James A. Brown

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**VIA PDF(ashley.moore@taylorporter.com) and U.S. MAIL**

John Ashley Moore, Esq.  
Taylor Porter  
450 Laurel Street, Suite 800  
Baton Rouge, Louisiana 70801

Re: Lewis & Ellis, Inc.'s Objections to Subpoena Duces Tecum Served by Buck Global, LLC

Dear Mr. Moore,

I write in response to your November 9, 2020 letter enclosing Lewis & Ellis, Inc.'s ("L&E") Objections ("Objections") to the Subpoena Duces Tecum (the "Subpoena") served by Buck Global, LLC ("Buck"). Buck is disappointed by L&E's boilerplate, copied and pasted Objections and refusal to provide a single document in response to the Subpoena. We would like to have a meet & confer call with you. To facilitate a productive call, Buck provides the following comments to L&E's Objections.

First, the Objections appear to be merely copied from the Louisiana Department of Insurance's ("LDI") objections to Buck's subpoena duces tecum served on the LDI. For example, Buck requested that *L&E* produce "[a]ll documents reflecting [Buck's and Milliman's] professional services and work for LAHC." (Requests #1 and #2.) L&E objected to these requests as follows: "***LDI*** objects to SDT Request No. 1 as incomprehensible and lacking in reasonably accurate description of the documents being requested," because "[t]he word 'work' is undefined, vague and indefinite. . . . Furthermore, the documents are not relevant. . . ." These objections are untenable, particularly in context of the information requested from L&E. Despite the fact that *L&E* has failed to object to these requests, Buck will clarify the scope of information and documents sought.

To begin with, however, the objection that L&E does not know what the word "work" means – and finds it "incomprehensible" – is simply implausible. We know that L&E performed reviews of Buck's "work" for the Louisiana Health Cooperative, Inc. ("LAHC"), as the Commissioner has already published a report of at least one of those reviews. In addition, we have seen copies of various L&E reports which evidence, specifically, an understanding of the meaning of the word "work" in the context of actuarial reports.<sup>1</sup> L&E's failure to turn over even these

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<sup>1</sup> For example, L&E regularly notes in its reports that nothing would "impair the objectivity of our *work*." And, "The purpose of this document was to provide... a summary of the rate review

November 25, 2020

reports and the associated papers and communications, on the theory that they do not understand what “work” means, is completely untenable.

### **Requests #1 and #2**

The Subpoena requires L&E to produce documents reflecting L&E’s review of the professional services and “work” Buck and Milliman performed for LAHC. L&E does not object to the use of the term “professional services” in Requests #1 and #2, yet claims not to know the meaning of “work.” Thus, to be clear, Buck requests any documents reflecting L&E’s review of the professional services rendered by Buck and Milliman to LAHC, including reports, draft reports, associated communications (including internal L&E communications and communications between L&E and LAHC and/or the LDI), notes, and any other document or writing reflecting Buck’s and Milliman’s professional services rendered to LAHC. Milliman provided professional services to LAHC during the period August 2011 through 2013. Buck provided professional services to LAHC during the period from March 2014 through April 2015. Your assertion that these are not reasonably limited temporal periods is unfounded.

Further, while L&E objects to Requests #1 and #2 as irrelevant, the objection itself is improper. L&E’s perfunctory, boilerplate objections copied and pasted from another party’s objections, without any explanation, are insufficient. *See* La. C.C.P. art. 1420(B); *In re Kuntz*, 06-0487 (La. 05/26/2006), 934 So. 2d 34, 35 (Louisiana discovery rules are derived from federal rules, and analogous federal rules are persuasive authority); *Am. Fed’n of Musicians of the United States & Can. v. Skodam Films, LLC*, 313 F.R.D. 39, 46 (N.D. Tex. 2015) (“A non-party’s Rule 45(d)(2)(B) objections to discovery requests in a subpoena are subject to the same prohibition on general or boiler-plate objections and requirements that the objections must be made with specificity and that the responding party must explain and support its objections.”).

Aside from the waiver of the objection, the documents sought by these requests are directly relevant to the Commissioner’s allegation that Buck performed sub-standard or negligent work. L&E reviewed the “work” and professional services Buck performed for LAHC. L&E would have examined such things as “the reasonableness of the assumptions,” considering at least 15 different factors. The Commissioner’s publication of L&E’s favorable reviews of Buck’s 2015 QHP and Catastrophic rate filings for LAHC indicate that L&E ultimately concluded that Buck’s work and rate projections were reasonable and in accordance with applicable guidelines and standards. Documents relating to such issues are clearly relevant to the allegation that Buck’s work was negligent, and Buck looks forward to receiving documents in response to Requests #1 and #2.

### **Requests #3 and #4**

L&E objects to Requests #3 and #4—documents, including email, reflecting communications between L&E and Buck/Milliman—for lack of specificity and as irrelevant. To

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*work* on a particular rate filing...” Similarly, L&E’s website talks about the “*work*” that it performs for clients.

November 25, 2020

be more specific, Buck is requesting only documents, emails, correspondence, and notes related to LAHC. And, as explained above, these documents are relevant to the Commissioner's allegations that Buck and Milliman were negligent or performed sub-standard professional services—a key issue in the lawsuit. In light of this clarification, Buck again requests L&E produce documents responsive to Requests #3 and #4.

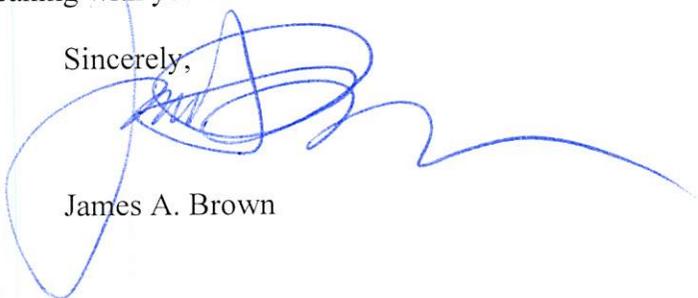
### **Requests #5-24**

L&E submitted nearly identical objections to Requests #5-24, contending as follows: the documents requested are irrelevant; relevant documents were already produced pursuant to La. R.S. 44:1; and the documents are not subject to production under La. R.S. 22:2043.1 and La. R.S. 22:2045. Again, the documents requested are clearly relevant to the allegation that Buck and Milliman were negligent, which is directly at issue in the lawsuit filed by the Commissioner. These requests are targeted at and aim to prove that Buck was not negligent, *not* that the Commissioner was at fault, and that L&E verified Buck's work was reasonable and compliant with standards of practice. Responsive documents may also reflect whether or not LAHC properly reviewed, understood and/or relied upon Buck's and Milliman's professional services and rate projections. And the public records production to which you refer was grossly insufficient and did *not* produce the L&E documents responsive to the instant subpoena duces tecum.

Finally, L&E has not asserted with any specificity a privilege or other basis for objecting to production of the subpoenaed documents or any particular document. "Under Louisiana law, the party asserting the privilege has the burden of proving that the privilege applies; further, the party asserting the privilege must adequately substantiate the claim and cannot rely on a blanket assertion of privilege." *Nelson v. Carroll Cuisine Concepts, LLC*, 2018-1079 (La. App. 1 Cir. 11/09/18), 2018 WL 5881710, at \*1. And any such objection has been waived by the Commissioner's previous publication of L&E's favorable reviews of Buck's 2015 rate filings and by the bringing of the instant lawsuit placing at issue Buck's compliance with standards of practice.

Buck hopes that this additional information resolves any confusion, and respectfully demands that L&E produce documents responsive to the subpoena duces tecum as soon as possible. We look forward to receiving the documents that have been requested, in accordance with L&E's legal obligations. I look forward to speaking with you soon.

Sincerely,



James A. Brown

## Sheri Corales

---

**From:** Ashley Moore <ashley.moore@taylorporter.com>  
**Sent:** Monday, December 21, 2020 8:35 AM  
**To:** James A Brown  
**Cc:** Sheri Corales  
**Subject:** Re: Buck Global, LLC's Document Subpoena to Lewis & Ellis  
**Attachments:** ATT00001.jpg; ATT00002.png

[EXTERNAL EMAIL]

James:

Lewis & Ellis, preserving all other rights, has no objection to your motion to compel being brought before Judge Kelley.

Best wishes throughout the holidays.

Sent from my iPhone



### John Ashley Moore

Partner  
Taylor Porter

t: (225) 387-3221 | d: (225) 381-0218  
ashley.moore@taylorporter.com | www.taylorporter.com  
450 Laurel Street, 8th Floor, Baton Rouge, LA 70801  
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On Dec 10, 2020, at 1:49 PM, James A Brown <jabrown@liskow.com> wrote:

Ashley:

Circling back to you to see if L&E will agree to submission of our motion to compel against L&E to Judge Kelley for resolution. Please let me know.

Regards,

**James A Brown**

**EXHIBIT  
H**

(504) 556-4116 Direct  
(504) 556-4108 Fax  
(504) 473-3665 Cell

<mime-attachment.jpg>

New Orleans | Lafayette | Houston  
One Shell Square  
701 Poydras Street, Suite 5000  
New Orleans, LA 70139  
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**From:** Ashley Moore <ashley.moore@taylorporter.com>  
**Sent:** Tuesday, December 1, 2020 3:44 PM  
**To:** James A Brown <jabrown@liskow.com>  
**Subject:** Re: Buck Global, LLC's Document Subpoenas to Louisiana Department of Insurance ("LDI") and to Lewis & Ellis

[EXTERNAL EMAIL]

James:

As to my understandings in paragraphs 2 and 3 below, please confirm.

The positions of LDI and do not completely align with that of Lewis and Ellis, so I cannot agree.

As to your request regarding Lewis and Ellis, I will check with the client.

Best wishes.

Sent from my iPhone

— | John Ashley Moore  
Partner

**Taylor Porter**

t: (225) 387-3221 | d: (225) 381-0218

ashley.moore@taylorporter.com | [www.taylorporter.com](http://www.taylorporter.com)

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On Dec 1, 2020, at 3:04 PM, James A Brown <[jabrown@liskow.com](mailto:jabrown@liskow.com)> wrote:

Dear Ashley:

While we do not agree with your statements in your below e-mail, your concluding sentence indicates your belief that further discussion would not be productive so we don't see any point in responding further. The reference of your e-mail indicates that your positions below apply to both our client's subpoena duces tecum served on Lewis and Ellis and our subpoena duces tecum served on the LDI. Can you confirm that? Further, we would propose that Lewis and Ellis agree to submit to the jurisdiction of Judge Kelley for the limited purpose of his hearing and ruling on our motion to compel to be filed against Lewis and Ellis. Are you agreeable to that?

Regards,

**James A Brown**

(504) 556-4116 Direct

(504) 556-4108 Fax

(504) 473-3665 Cell

<mime-attachment.jpg>

**New Orleans | Lafayette | Houston**

One Shell Square

701 Poydras Street, Suite 5000

New Orleans, LA 70139

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**From:** Ashley Moore <[ashley.moore@taylorporter.com](mailto:ashley.moore@taylorporter.com)>  
**Sent:** Monday, November 30, 2020 4:06 PM  
**To:** James A Brown <[jabrown@liskow.com](mailto:jabrown@liskow.com)>  
**Subject:** Buck Global, LLC's Document Subpoenas to Louisiana Department of Insurance ("LDI") and to Lewis & Ellis

[EXTERNAL EMAIL]

James:

I have and thank you for your letter of November 25.

I appreciate LDI has produced to J. Cullens, who has produced to "All Defense Counsel in LAHC," public records subject to production pursuant to La. R.S. 44:1, et seq. If that's not the case, please let me know.

I appreciate that LAHC in Receivership has responded to requests for its documents, that a motion to compel was filed and overruled by Judge Kelley, and is now the subject of a supervisory writ application to the 1st Circuit. If that's not the case, please let me know.

I appreciate that LDI has not made any allegations about the quality of Buck or Milliman's "work," whether defined or not, and substituting "Commissioner" for LDI does not change that conclusion.

I appreciate that, among other objections, and without waiver, production of the each category of documents was objected to as not reasonably calculated to lead to the discovery of admissible evidence. La. R.S. 22:2043.1 is quoted, and there is nothing general or "boilerplate" about the objections.

In any event, in light of the foregoing, I don't believe a call would be productive, and you are welcome to represent that we have further discussed in good faith but were unable to resolve these discovery disputes.

Best wishes.

Sent from my iPhone

<mime-attachment.png>

**John Ashley Moore**  
Partner

**Taylor Porter**

t: (225) 387-3221 | d: (225) 381-0218

ashley.moore@taylorporter.com | [www.taylorporter.com](http://www.taylorporter.com)

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Edward J. Walters, Jr. \*  
Darrel J. Papillion  
David Abboud Thomas  
J. Cullens \* †  
Andrée Matherne Cullens  
Hayden A. Moore  
Jennifer Wise Moroux  
Reneé C. Crasto

\*Board Certified in Civil Trial Advocacy, NBTA  
†American Board of Professional Liability Attorneys

WALTERS  
PAPILLION  
THOMAS  
CULLENS  
ATTORNEYS ◻ LAW

Of Counsel  
John S. McLindon, LLC  
Michelle McCune Sorrells, LLC

Colleen C. Milfelt,  
Business Manager

P: 225.236.3636  
F: 225.236.3650

LAWBR.NET

September 3, 2020

Custodian of Records  
Louisiana Department of Insurance  
1702 North 3rd Street  
Baton Rouge, LA 70802-5143

AND

Custodian of Records  
Louisiana Department of Insurance  
P.O. Box 94214  
Baton Rouge, LA 70804-9214

Re: James J. Donelon, Commissioner of Insurance for the State of Louisiana, in his capacity as Rehabilitator of Louisiana Health Cooperative, Inc. v. Terry S. Shilling, *et al.*  
Suit No.: 651,069, Section 22, 19<sup>th</sup> Judicial District Court  
Our File No.: 15142

To Whom It May Concern:

Please consider this a formal public records request for the Louisiana Department of Insurance (“LDI”) to produce the following records pursuant to applicable law:

All communications, whether in the form of paper correspondence, email, or otherwise, regarding Louisiana Health Cooperative, Inc. (“LAHC”) at any time between January 1, 2011 and September 1, 2015 (the date LAHC was placed into Receivership), between LDI, on the one hand, and any of the following individuals, agencies, or entities, on the other hand:

- (1) CGI Technologies and Solutions, Inc.;
- (2) Group Resources Incorporated;
- (3) Beam Partners, LLC;
- (4) Milliman, Inc.;
- (5) Buck Consultants, LLC;
- (6) LAHC;
- (7) Any directors or officers of LAHC, including by not limited to:
  - (a) Terry S. Shilling;
  - (b) George G. Cromer;
  - (c) Warner L. Thomas, IV;

**EXHIBIT**  
**I**

- (d) William A. Oliver;
  - (e) Charles D. Calvi;
  - (f) Patrick C. Powers;
  - (g) Scott Posecai;
  - (h) Patrick Quinlan;
  - (i) Peter November;
  - (j) Michael Hulefeld; AND
- (8) U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services

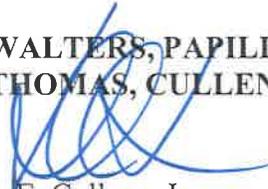
Depending upon the relative size of this production, LDI may email these documents to me (cullens@lawbr.net) and/or arrange for these documents to be delivered to me via DropBox (or its equivalent) and/or deliver a paper copy of these documents to my office at my firm's address here in Baton Rouge, or advise me when they are ready to be picked up from the LDI.

Please email or call me with any questions or concerns LDI may have regarding this public records request.

We appreciate and thank LDI for its attention to this request, and look forward to hearing from you.

Sincerely,

**WALTERS, PAPILLION,  
THOMAS, CULLENS, LLC**

  
J. E. Cullens, Jr.

JECjr/kr  
Enclosure

cc: All Defense Counsel in LAHC

# The Louisiana Department of Insurance

James J. Donelon, Commissioner

## PUBLIC RECORDS REQUEST FORM

**STEP 1. PRINT & COMPLETE** all information. BE SURE TO DATE AND SIGN REQUEST.

If you are requesting free or reduced copy of your request, you must complete the Certification for Free or Reduced Rates form.

**STEP 2: SUBMIT** completed form to: Custodian of Records, Louisiana Department of Insurance, 1702 North 3<sup>rd</sup> Street, P.O. Box 94214, Baton Rouge, LA 70802-9214, FAX: 225-342-1632. DO NOT ATTACH PAYMENT TO THIS FORM. WAIT to receive a notice of estimated cost.

**STEP 3. PAY FEE** if applicable. Once you have received a notice of estimated cost, submit fees PAYABLE TO THE LOUISIANA DEPARTMENT OF INSURANCE AND A COPY OF THE INVOICE to: Assessment & Data Management, Louisiana Department of Insurance, 1702 North 3<sup>rd</sup> Street, P.O. Box 94214, Baton Rouge, LA 70802-9214. If payment is not received within 10 working days after notice of estimated cost is forwarded, it may be necessary to initiate a new request. CHECK OR MONEY ORDER ONLY. RECORDS ARE NOT RELEASED BEFORE FEES ARE PAID.

**COMPLETE BELOW:**

DATE 9/3/2020

LAST NAME Cullens FIRST NAME Joseph MIDDLE INITIAL E.

NAME OF ORGANIZATION/COMPANY Walters, Papillion, Thomas, Cullens, LLC

MAILING ADDRESS 12345 Perkins Rd., Bldg. 1

CITY Baton Rouge STATE LA ZIP 70810

TELEPHONE ( 225 ) 236-3636 FAX ( 225 ) 236-3650

E-MAIL cullens@lawbr.net

**Description of Records Requested (Type or Print):** To expedite request, be as specific as possible. You may attach additional pages to the form as necessary. Clearly mark attachments.

Please see attached correspondence to LDI Custodian of Records dated September 3, 2020, for a list of specific public records requested.

**Delivery Information—Check appropriate box.** Cost of copies shall be paid in advance of delivery.

- Make public records available for viewing. The requestor will be notified when records are available for review at the Department of Insurance. There is NO COST to view the public record.
- Make copies for pick up by requestor. The requestor will be invoiced and must pay for the copies before the copies are released
- Make copies and mail to requestor. The requestor will be invoiced and must pay for the copies before the copies are released.
- Make copies and fax to requestor. The requestor may be invoiced, and if so, the requestor must pay for the copies before the copies are released. NOTE: The LDI is unable to fax high-volume requests.

SUBMISSION OF REQUEST IS CERTIFICATION THAT REQUESTOR UNDERSTANDS AND ACCEPTS OBLIGATION TO PAY APPLICABLE FEES FOR COPIES OF RECORDS REQUESTED AND THAT NO COPIES MAY BE RETURNED FOR CREDIT.

SIGNATURE OF REQUESTOR: 

If submitted electronically, signature and date on line above unnecessary.

If you have any questions please email us at [publicrecrequest@ldi.state.la.us](mailto:publicrecrequest@ldi.state.la.us).  
This form is available at <http://www.ldi.state.la.us/Programs/publicrecords/RequestForm.pdf>.

(Orig.0104)

## Sheri Corales

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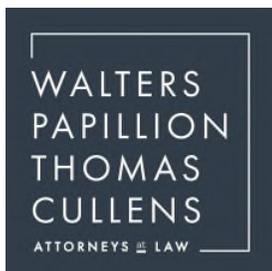
**From:** J. Cullens <cullens@lawbr.net>  
**Sent:** Thursday, September 10, 2020 4:25 PM  
**To:** Ashinoff, Reid; Barrasso, Judy; James A Brown; Burst, Bonnie; Crohan, Blake; sdegan@degan.com; Dorothy Sullivan (dsullivan@stonepigman.com); Doug Cochran (dcochran@stonepigman.com); Fagan, George D. (gfagan@leakeanderson.com); A'Dair Flynt; Godofsky, David; Hite, John W., III (jhite@shmlaw.com); Johnson, H. Alston, III (alston.johnson@phelps.com); Kattan, Justin; Lemaire, Justin; Licciardi, Connie; Luo, Catharine; Margolis, Justine; Mason, Brett; McFall, Shaun P.; Michael A. Balascio (mbalascio@barrassousdin.com); Mike McKay (mmckay@stonepigman.com); Nicole Babb; Phillips, Charlotte L.; Robert B. Bieck Jr. (rbieck@joneswalker.com); Rosenberg, Harry (harry.rosenberg@phelps.com); sschmeckle@lawla.com; Schmid, Karl H. (kschmid@degan.com); Simone Almon (salmon@degan.com); Smith, Jena; Whitworth, Adam  
**Cc:** S. Layne Lee; Andrée M. Cullens; Kristi Rojas  
**Subject:** FW: Public Records Request :: W006063-090320

### [EXTERNAL EMAIL]

Below is the hyperlink to the documents produced by LDI to our recent records request.

As always, please call or email me with any questions or concerns.

J. Cullens



### J. Cullens

12345 Perkins Road, Building 1, Baton Rouge, LA, 70810

cullens@lawbr.net

**Tel:** 225.236.3636 **Fax:** 225.236.3650

www.lawbr.net

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---

**From:** Louisiana Department of Insurance  
**Sent:** Thursday, September 10, 2020 11:33 AM  
**To:** J. Cullens  
**Subject:** Public Records Request :: W006063-090320

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

--- Please respond above this line ---

09/10/2020

Joseph Cullens  
12345 Perkins Rd. Bldg. 1  
Baton Rouge, LA 70810

RE: PUBLIC RECORDS REQUEST of 9/3/2020, Reference # W006063-090320

Dear Mr. Cullens,

The Department has reviewed its files and have attached a link below with all responsive records to your request. This link will expire a week from today, 09-17-2020.

[https://ladi-my.sharepoint.com/:f/g/personal/nina\\_graham\\_ldi\\_la\\_gov/EhDFdfcc-6pKuK7g-aFNkkgBLu-RATYKqKoGk IA1kw-oQ?e=3XaSL1](https://ladi-my.sharepoint.com/:f/g/personal/nina_graham_ldi_la_gov/EhDFdfcc-6pKuK7g-aFNkkgBLu-RATYKqKoGk IA1kw-oQ?e=3XaSL1)

If you have any questions, or wish to discuss this further, please contact me.

Sincerely,

Nina Graham  
Office of Management and Finance

**Rate Review Summary**

**Section I. Filing Information**

---

Name of Health Insurance Issuer: Louisiana Health Cooperative Inc  
 State Filing Number: 311976  
 SERFF Filing Number: LHCO-129615054  
 Product Name: 2015CATPOS  
 Form Number(s): 2015CATHPOSOC, et al  
 Rate Request Effective Date: 1/1/2015  
 Percent Rate Weighted Average Change Requested: 10.12%  
 Minimum: -1.8%  
 Maximum: 11.8%  
 Number of Affected Policyholders: 63  
 Number of Affected Covered Lives: 63

**Section II. Effective Rate Review Program Summary**

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	Yes	No	N/A
<b>Did the review include an examination of:</b>			
1) The reasonableness of the assumptions used by the issuer to develop the proposed rate increase and the validity of the historical data underlying the assumptions:	X		
2) The issuer's data related to past projections and actual experience:	X		
3)The reasonableness of assumptions used by issuer to estimate the rate impact of the reinsurance and risk adjustment programs:	X		
4)The issuer's data related to the market-wide single risk pool, EHB, AVs, and other market reform rules:	X		

**EXHIBIT  
J**

# Louisiana Department of Insurance

<b>Did the review take into consideration the following factors to the extent applicable:</b>	Yes	No	N/A
1) The impact of medical trend changes by major service categories:	X		
2) The impact of utilization changes by major service categories:	X		
3) The impact of cost-sharing changes by major service categories:	X		
4) The impact of benefit changes , including EHBs and non-EHBs:	X		
5) The impact of enrollee risk profile and pricing, including rating limitations for age and tobacco use:	X		
6) The impact of overestimate or underestimate of medical trend for prior year periods:	X		
7) The impact of changes in reserve needs:	X		
8) The impact of changes in administrative costs related to programs that improve health care:	X		
9) The impact of changes in other administrative costs:	X		
10) The impact of changes in applicable taxes, licensing or regulatory fees:	X		
11) Medical loss ratio (both Federal and non-Federal):	X		
12) The health insurer's capital and surplus:	X		
13) The impact of geographic factors and variations:	X		
14) The impact of changes within a single risk pool to all products or plans within the risk pool:	X		
15) The impact of reinsurance and risk adjustment payments and charges:	X		

### **Section III. Reviewers**

Primary Reviewer Name: Brian Stentz, ASA, MAAA

Primary Reviewer Title: Assistant Vice President, Lewis & Ellis, Inc.

Additional Reviewer Name: Dave Dillon, FSA, MAAA

Additional Reviewer Title: Vice President & Principal, Lewis & Ellis, Inc.

# Louisiana Department of Insurance

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## Section IV. Rate Review Determination

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Final Rate % Change Proposed:	11.17%
-------------------------------	--------

<b>Do the proposed rates appear:</b>	Yes	No	N/A
Excessive?		X	
Inadequate?		X	
Unfairly discriminatory?		X	
Unjustified?		X	
Compliant with laws, regulations, or bulletins?	X		

### The rates were determined to be:

Unreasonable	
Unreasonable (Modified)	
Not Unreasonable	
Not Unreasonable (Modified)	X
Withdrawn Prior to Determination	

**RATE REVIEW DETAIL**

**Section I. Filing Information**

**Name of Health Plan:** Louisiana Health Cooperative Inc  
**State tracking number:** 311976  
**SERFF filing number:** LHCO - 129615054  
**Plan Actuary:** Harvey Sobel, FSA, MAAA, Buck Consultants

**Type of product:** Individual Major Medical - POS

**Product Name:** 2015CATPOS

**Is this a new product?**  Yes  No

**Reviewer Name:** Brian Stentz, ASA, MAAA Assistant Vice President, Lewis & Ellis, Inc.

**Requested:**  Increase  Decrease  No change or New Filing

**Effective Date:** 1/1/2015

**Questions & Response Information:**

Date Submitted on SERFF: 06/30/2014

Date of Inquiry #1:	07/23/2014	Date of Response #1:	07/31/2014
Date of Inquiry #2:	08/08/2014	Date of Response #2:	08/14/2014
Date of Inquiry #3:	08/18/2014	Date of Response #3:	08/21/2014
Date of Inquiry #4:	08/27/2014	Date of Response #4:	08/29/2014
Date of Inquiry #5:		Date of Response #5:	

**Section II. Topical Review**

**L&E's Recommendation:**

The proposed rate is actuarially sound and is supported by the actuarial memorandum submitted.  
 After modifications, the proposed rate is reasonable, not excessive or inadequate and not unfairly discriminatory.

**Main Comments/Concerns:**

- General Observations:
  - Louisiana Health Cooperative Inc (LAHC) submitted 4 SERFF filings for the Individual market which were 2 PPO products and 2 HMO products.
    - LA Filing #: 311989 – Product name: 2015INDVPOS
    - LA Filing #: 311976 – Product name: 2015CATPOS
    - LA Filing #: 311990 – Product name: 2015INDVHMO
    - LA Filing #: 311978 – Product name: 2015CATHMO
  - The Actuarial Memorandums and documentation items are similar for all filings as expected since each are included in LAHC's individual single risk pool.
  - The proposed rate increase varied by product.

LA Filing #	Product Name	Avg	Max	Min
311989	2015INDVPOS	10.17%	14.8%	-5.8%
311976	2015CATPOS	10.12%	11.8%	-1.8%
311990	2015INDVHMO	New	New	New

311978	2015CATHMO	New	New	New
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- The primary reasons for the varying rate increases are changes to relativities by region and by product.
  - Region – The Company used competitive data and Buck’s rate manual to conclude that the New Orleans region had been overpriced in 2014. The rates for New Orleans decreased from 137% of Baton Rouge rates to 120%.
  - Product – Based on Buck’s rate manuals, the Company modified the Silver Plus plan rate to fall more in line with the Gold Plus and Bronze Plus plans.
  - The combination of these two changes in relativities generated the rate variation.
- LAHC changed consulting actuaries from 2014. Since the Company was a startup, it was difficult to compare some of the underlying manual rate assumption changes from the previous filing.
- Other rate increase factors were:
  - Anticipated medical trend, both utilization and cost of services;
  - Changes in the Federal Transitional Reinsurance Program;
  - Increase in Non-Benefit Expenses - Admin, Taxes/Fees, Profit

**Experience Basis:**

- Experience period:
  - The Company was new in 2014 therefore no 2013 experience was available.
  - The manual rates for each plan of benefits were developed using an average of statewide claim costs PMPM. This was developed from a combination of the OptumInsight Comprehensive Pricing Model Version CY 2013, and market research.
  - Since experience was no available, the consulting actuaries used its proprietary pricing software to develop the rate manual. We were provided very detailed assumptions, final allowed costs by service category, final adjustments and the weighting between the POS and HMO products. After our review we concluded the final manual rate allowed costs were reasonable.
  - The starting final allowed costs used in the development of the proposed 2015 rates were approx. 10% lower than the allowed costs used in the development of the 2014.

**Medical Cost Change/Support for Rating Period Projected Claims Costs:**

- Projected: The Company’s annual trend assumption is 7.3% per year. The utilization and unit cost trends used in the development of the rates are based on the Company’s consulting actuary’s medical trend assumptions. The Company was new in 2014 and therefore had no trend experience. Overall, based on our overall perspective of the market, the proposed trends appear reasonable.
- The Company stated the only two calibration factors used in the development of the Plan Adjusted Index Rate and the Consumer Adjusted Premium Rate were Age and Geography. In addition, the resulting calibration factors for Age and Geography were applied uniformly to all plans in the market.
- Tobacco: The tobacco load is a flat 1.15. Based on the expected smoking population the allowed costs were

reduced by a factor of .9789 to account for the increased revenue for the smoking load. This appeared reasonable and no further support was requested.

**Non-Medical Cost Change/Support for Rating Period Projected Non-Claims Costs:**

- The primary driver of the rate increase was the increase in non-benefit expenses
- The expected Non-benefit costs being used in the development of the proposed 2015 rates are:

Administrative Expense Load	20.8%
Profit & Risk Load	-1.3%
Taxes & Fees	4.3%

- The Company said that the 2015 NBE is based on LAHC’s 2014 budget, projected to 2015. At this time, LAHC is staffed and has a reasonably good idea of its cost structure. In contrast, LAHC was still in start-up mode in mid-2013 when the 2014 rates were priced.
- The Company provided the current expenses from the first and second quarter in 2014 which supported the increase in expense assumption. In fact, the actual expenses would have supported an even higher load in the rate development.
- We requested support for LAHC’s assumption that it would be exempt from the Health Insurance tax being imposed in 2015. The Company responded by stating the following: “LAHC, being a non-profit, to be exempt from the Federal Insurer Tax. As a result of your question, we have further researched the issue and now believe LAHC will be obligated to pay a tax in 2015. If permitted, we request the ability to revise our rate filing to reflect the tax.”
- The Company is currently pricing to a -1% profit margin. When additional support was requested for this margin, the Company stated that the initial year was a 4% loss. Given this company is a startup, it would be reasonable to assume a loss in the first couple of years due to experience levels. The Company stated that their business model has them expecting a profit in the following year.
- The proposed average rate increase of 10.2% did not include the health insurance tax and if not included, the company could expect an even greater loss.
- After inclusion of the health insurance tax, the average increase went from -10.2% to -11.2%.

**AV Metal & Pricing Values:**

- AV Metal Values
  - The sampled AV metal values were appropriately calculated using the AV Calculator and reasonable adjustments were made for plan designs didn’t fit into the AV calculator.
- AV Pricing Values
  - LAHC developed the AV Pricing Values included based on the rate manuals. Expected differences in utilization were based on the HHS induced demand utilization factors and were equal to or less than the HHC factors. The Company reduced the AV Pricing Values for Catastrophic by 35%, reflecting the younger population expected. We reviewed the proposed factors and have determined they are reasonable. No additional support was requested.

**Morbidity Change & Membership Projections:**

- Membership Projection: 186, 827 Member Months
  - We requested a breakdown of the company's projected membership used in the 2014 rate development, the actual 2014 Membership & the assumed projected membership. The Company provided a spreadsheet showing how it determined the projected membership based on current experience. The development appeared reasonable and no further support was requested.

**Index Rate, Market Adjusted Index Rate EHB & Non-EHB:**

- The Index Rate is equal to Projected Allowed Experience Claims PMPM (\$534.49)
- The Market adjusted Index Rate is equal to Projected Allowed Experience Claims PMPM (\$531.60), and is calculated as follows:
  - Market Adjusted Index Rate (\$531.60) = Index Rate (\$534.49) - Risk Adjustment program adjustment (\$0.08) - Federal reinsurance program adjustment (\$16.45) + Exchange User Fees (\$13.48)

**3 R's (Federal Reinsurance, Risk Adjustment & Risk Corridors):**

- Projected Risk Adjustment: \$0.08 PMPM net of the user fee
  - Since HHC risk score data was not available the Company compared it's own demographic data to demographics of the Louisiana Health Exchange marketplace. The analysis suggested that LAHC's demographics were slightly younger. Since risk adjustment is based on health status, not just age, they assumed no Risk Adjustment payment recovery. The \$.08 shown in the URRT is the CMS Risk Adjustment Program fee.
  - Since the Company has no actual experience to estimate risk scores, we believe this to be a reasonable assumption.
- Risk Corridors: No explicit consideration; such are not allowed as rating factors
- Reinsurance: \$16.45 net of the 2015 Reinsurance Contribution (\$44.00 PMPY or approximately \$3.67 PMPM)
  - LAHC used the Federal Transitional Reinsurance Program assumptions of 50% of specific large claims between \$70,000 and \$250,000. LAHC projects it will recover 5.92% of claims, based on the claim distributions underlying their rate manual. The reduced expected reinsurance based on its rate manual resulted in an increase of approx. 6.8% over the expected recoveries in 2014. We requested and were provided support for the development and found it reasonable.

**Gain/Loss & Plan Finances:**

- -1.3% Profit and Risk load. The Company was a startup in 2014 and therefore it could be expected the company would need to price with a negative profit margin due to experience levels. The Company stated that its business plan has them expecting to be profitable in 2016. LDI reviewed the Company's financials and decided that it was acceptable for the Company to price with a negative profit margin for 2015.

**Compliance with Quantitative Tests:**

- Projected Loss Ratio: Approx. 76.2% medical loss ratio calculated from Wks 2 of the URRT
- Adjusted Federal Minimum Loss Ratio: 81.1%
  - Based on the breakdown provided, the proposed rates can reasonable expect to meet the minimum loss

ratio of 80%.

**Provision for Reforms & Fees:**

- PCORI: .04% of premium (\$0.19 PMPM)
- Risk adjustment user fee: \$0.08 PMPM
- Reinsurance premium: \$3.67 PMPM
- Exchange fee: 3.23% of premium
- Health Insurer fee: Originally 0% but revised to be .90% of premium
- Premium tax: .11% of premium

**Unreasonableness Determination:**

- Federal criteria:
  - Inadequate? No.
  - Excessive? No.
  - Unfairly Discriminatory? No.
  - Unjustified? No.
- Other Comments
  - N/A

**Actuarial Certification & Memorandum:**

- All required certifications and disclosures were provided in the Memorandum.

# Louisiana Department of Insurance

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## ASOP 41 Disclosures

The Actuarial Standards Board (ASB), vested by the U.S.-based actuarial organizations<sup>1</sup>, promulgates actuarial standards of practice (ASOPs) for use by actuaries when providing professional services in the United States. Each of these organizations requires its members, through its Code of Professional Conduct<sup>2</sup>, to observe the ASOPs of the ASB when practicing in the United States. ASOP 41 provides guidance to actuaries with respect to actuarial communications and requires certain disclosures which are contained in the following.

Identification of the Responsible Actuary: The responsible actuary is Brian Stentz, ASA, MAAA, Assistant Vice President at Lewis & Ellis, Inc. (“L&E”). This actuary is available to provide supplementary information and explanation. The actuary also acknowledges that he/she may be acting as an advocate.

Identification of Actuarial Documents: The date of this document is October 1, 2014. The date (aka “latest information date”) through which data or other information has been considered in performing the rate review is April 30, 2014. Its subject is rate review summary of a health insurance rate filing, and the document version identification is Version 2014.08.15. As an ordinary practice, this actuary and L&E do not retain drafts of such work products.

## Disclosures

- The contents of this summary are intended for the use of the officers, and employees of the Louisiana Department of Insurance (LDI). The limitations on the use or applicability of the actuarial findings are that it is limited to internal documentation for LDI and these communications should not be relied upon for any other purpose.
- Lewis & Ellis Inc. is financially and organizationally independent from the health plan submitting the rate filing. There is nothing in our relationship with the carrier that would impair or seem to impair the objectivity of our work.
- The purpose of this document was to provide the Department with a summary of the rate review work on a particular rate filing under the Department’s regulatory purview.
- The responsible actuary identified above is qualified as specified in the *Qualification Standards* of the American Academy of Actuaries.
- Lewis & Ellis reviewed this rate filing based on the data, files, communications, and documents uploaded in SERFF by the carrier. Neither L&E nor the responsible actuary assumes responsibility for these items but has a material impact on the rate review. We have reviewed the data for reasonableness, but have not audited it. To the extent that there are material inaccuracies in, misrepresentations in, or lack of adequate disclosure by the data, the rate review results may be accordingly affected.
- We are not aware of any subsequent events that may have a material effect on the actuarial findings.
- There are no other documents or files that accompany this rate review summary.
- The findings of this rate review summary, as well as the methods, procedures, assumptions, and data, can be found in Section II. Topical Review.
- The rate review summary was prepared according to federal law and regulations, Louisiana law and regulations, as well as LDI guidance thereto.

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<sup>1</sup> The American Academy of Actuaries (Academy), the American Society of Pension Professionals and Actuaries, the Casualty Actuarial Society, the Conference of Consulting Actuaries, and the Society of Actuaries.

<sup>2</sup> These organizations adopted identical *Codes of Professional Conduct* effective January 1, 2001

## Rate Review Summary

### Section I. Filing Information

Name of Health Insurance Issuer: Louisiana Health Cooperative Inc

State Filing Number: 311989

SERFF Filing Number: LHCO-129614404

Product Name: 2015INDVPOS

Form Number(s): 2015INDVPOSCOC, et al

Rate Request Effective Date: 1/1/2015

Percent Rate Weighted Average Change Requested: 10.2%

Minimum: -5.8%

Maximum: 14.8%

Number of Affected Policyholders: 1,592

Number of Affected Covered Lives: 1,989

### Section II. Effective Rate Review Program Summary

	Yes	No	N/A
<b>Did the review include an examination of:</b>			
1) The reasonableness of the assumptions used by the issuer to develop the proposed rate increase and the validity of the historical data underlying the assumptions:	X		
2) The issuer's data related to past projections and actual experience:	X		
3) The reasonableness of assumptions used by issuer to estimate the rate impact of the reinsurance and risk adjustment programs:	X		
4) The issuer's data related to the market-wide single risk pool, EHB, AVs, and other market reform rules:	X		

# Louisiana Department of Insurance

<b>Did the review take into consideration the following factors to the extent applicable:</b>	Yes	No	N/A
1) The impact of medical trend changes by major service categories:	X		
2) The impact of utilization changes by major service categories:	X		
3) The impact of cost-sharing changes by major service categories:	X		
4) The impact of benefit changes , including EHBs and non-EHBs:	X		
5) The impact of enrollee risk profile and pricing, including rating limitations for age and tobacco use:	X		
6) The impact of overestimate or underestimate of medical trend for prior year periods:	X		
7) The impact of changes in reserve needs:	X		
8) The impact of changes in administrative costs related to programs that improve health care:	X		
9) The impact of changes in other administrative costs:	X		
10) The impact of changes in applicable taxes, licensing or regulatory fees:	X		
11) Medical loss ratio (both Federal and non-Federal):	X		
12) The health insurer's capital and surplus:	X		
13) The impact of geographic factors and variations:	X		
14) The impact of changes within a single risk pool to all products or plans within the risk pool:	X		
15) The impact of reinsurance and risk adjustment payments and charges:	X		

### **Section III. Reviewers**

Primary Reviewer Name: Brian Stentz, ASA, MAAA

Primary Reviewer Title: Assistant Vice President, Lewis & Ellis, Inc.

Additional Reviewer Name: Dave Dillon, FSA, MAAA

Additional Reviewer Title: Vice President & Principal, Lewis & Ellis, Inc.

# Louisiana Department of Insurance

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## Section IV. Rate Review Determination

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Final Rate % Change Proposed:	11.2%
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<b>Do the proposed rates appear:</b>	Yes	No	N/A
Excessive?		X	
Inadequate?		X	
Unfairly discriminatory?		X	
Unjustified?		X	
Compliant with laws, regulations, or bulletins?	X		

### The rates were determined to be:

Unreasonable	
Unreasonable (Modified)	
Not Unreasonable	
Not Unreasonable (Modified)	X
Withdrawn Prior to Determination	

**RATE REVIEW DETAIL**

**Section I. Filing Information**

**Name of Health Plan:** Louisiana Health Cooperative Inc  
**State tracking number:** 311989  
**SERFF filing number:** LHCO - 129614404  
**Plan Actuary:** Harvey Sobel, FSA, MAAA, Buck Consultants

**Type of product:** Individual Major Medical - POS

**Product Name:** 2015INDVPOS

**Is this a new product?**  Yes  No

**Reviewer Name:** Brian Stentz, ASA, MAAA Assistant Vice President, Lewis & Ellis, Inc.

**Requested:**  Increase  Decrease  No change or New Filing

**Effective Date:** 1/1/2015

**Questions & Response Information:**

Date Submitted on SERFF: 06/30/2014

Date of Inquiry #1:	07/23/2014	Date of Response #1:	07/31/2014
Date of Inquiry #2:	08/08/2014	Date of Response #2:	08/14/2014
Date of Inquiry #3:	08/18/2014	Date of Response #3:	08/21/2014
Date of Inquiry #4:	08/27/2014	Date of Response #4:	08/29/2014
Date of Inquiry #5:		Date of Response #5:	

**Section II. Topical Review**

**L&E's Recommendation:**

The proposed rate is actuarially sound and is supported by the actuarial memorandum submitted.  
 After modifications, the proposed rate is reasonable, not excessive or inadequate and not unfairly discriminatory.

**Main Comments/Concerns:**

- General Observations:
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- AV Metal Values
  - The sampled AV metal values were appropriately calculated using the AV Calculator and reasonable adjustments were made for plan designs didn’t fit into the AV calculator.
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- Projected Loss Ratio: Approx. 76.2% medical loss ratio calculated from Wks 2 of the URRT
- Adjusted Federal Minimum Loss Ratio: 81.1%
  - Based on the breakdown provided, the proposed rates can reasonable expect to meet the minimum loss

ratio of 80%.

**Provision for Reforms & Fees:**

- PCORI: .04% of premium (\$0.19 PMPM)
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- Exchange fee: 3.23% of premium
- Health Insurer fee: Originally 0% but revised to be .90% of premium
- Premium tax: .11% of premium

**Unreasonableness Determination:**

- Federal criteria:
  - Inadequate? No.
  - Excessive? No.
  - Unfairly Discriminatory? No.
  - Unjustified? No.
- Other Comments
  - N/A

**Actuarial Certification & Memorandum:**

- All required certifications and disclosures were provided in the Memorandum.

# Louisiana Department of Insurance

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Identification of Actuarial Documents: The date of this document is October 1, 2014. The date (aka “latest information date”) through which data or other information has been considered in performing the rate review is April 30, 2014. Its subject is rate review summary of a health insurance rate filing, and the document version identification is Version 2014.08.15. As an ordinary practice, this actuary and L&E do not retain drafts of such work products.

## Disclosures

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JAMES J. DONELON, COMMISSIONER  
OF INSURANCE FOR THE STATE OF  
LOUISIANA, IN HIS CAPACITY AS  
REHABILITATOR OF LOUISIANA  
HEALTH COOPERATIVE, INC.

SUIT NO.: 651,069 SECTION: 22

VERSUS

19<sup>TH</sup> JUDICIAL DISTRICT COURT

TERRY S. SHILLING, GEORGE G.  
CROMER, WARNER L. THOMAS, IV,  
WILLIAM A. OLIVER, CHARLES D.  
CALVI, PATRICK C. POWERS, CGI  
TECHNOLOGIES AND SOLUTIONS,  
INC., GROUP RESOURCES  
INCORPORATED, BEAM PARTNERS,  
LLC, AND TRAVELERS CASUALTY  
AND SURETY COMPANY OF  
AMERICA

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

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**AFFIDAVIT OF RICHARD BLAKEMAN CROHAN**

I, Richard Blakeman Crohan, declare under penalty of perjury that the following is true and correct:

1. My name is Richard Blakeman Crohan. I am over twenty-one (21) years of age, and I have personal knowledge of, and am fully competent to testify to, the matters set forth herein.
2. I am an Associate Attorney at Alston & Bird, LLP in Atlanta, Georgia.
3. On November 24, 2020, I accessed the Louisiana Department of Insurance's website (<https://www.lidi.la.gov/onlineservices/HealthRates/>) (last accessed November 24, 2020) and the "Health Rate Filing Search for Individual and Small Group Markets" webpage.
4. A true and accurate screenshot of the Louisiana Department of Insurance's "Health Rate Filing Search for Individual and Small Group Markets" webpage as of November 24, 2020, is attached hereto as Exhibit "A".
5. While on <https://www.lidi.la.gov/onlineservices/HealthRates/> I toggled the "Year Filed" under "Rate Filing Summaries" to 2014. A true and accurate screenshot of the Louisiana

**EXHIBIT  
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Department of Insurance's website <https://www.lidi.la.gov/onlineservices/HealthRates/> toggled to "Year Filed: 2014" as of November 24, 2020 is attached hereto as Exhibit "B".

6. After I toggled the "Year Filed" to 2014, the "Rate Filings of 10% and Above" revealed two "Proposed Rate Changes" by the Louisiana Health Cooperative, Inc. of 10.12% and 10.17% (See Exhibit B.)

7. While on the webpage seen in Exhibit B, I selected the "View" link to the right of the Louisiana Department of Insurance's "Proposed Rate Change" of 10.12%. (Exhibit B.)

8. After selecting the "View" link to the right of the Louisiana Department of Insurance's "Proposed Rate Change" of 10.12%, the "Filing Details" revealed a file named LACOOB – 2015 ACA Ind QHP Filing – Rate Review Summary 311976 9 13 14.pdf. A true and accurate screenshot of the Louisiana Department of Insurance's webpage after selecting the "View" link to the right of the Louisiana Department of Insurance's proposed rate change of 10.12% is attached hereto as Exhibit "C".

9. While on the webpage seen in Exhibit C, a "View" link was available to the right of the LACOOB – 2015 ACA Ind QHP Filing – Rate Review Summary 311976 9 13 14.pdf. (Exhibit C). I selected this "View" link, which revealed Lewis & Ellis, Inc.'s "Rate Review" Report of the Louisiana Health Cooperative, Inc.'s Individual Major Medical – POS ("Lewis & Ellis 2015CATPOS Report").

10. A copy of the Lewis & Ellis 2015CATPOS Report was available in PDF format on the Louisiana Department of Insurance's public website. See [LACOOB- 2015 ACA IND QHP Filing - Rate Review Summary 311976 9 13 14 \(1\).pdf](#) (last accessed December 12, 2020). See Exhibit D.

11. A true and correct copy of the Lewis & Ellis 2015CATPOS Report I downloaded from the Louisiana Department of Insurance's public website is attached hereto as Exhibit "D".
12. The Lewis & Ellis 2015CATPOS Report revealed the following "Reviewers" of the Report:
  - a. Primary Reviewer Name: Brian Stentz, ASA, MAAA; Primary Reviewer Title: Assistant Vice President, Lewis & Ellis, Inc. (Exhibit D at p. 2.)
  - b. Additional Reviewer Name: Dave Dillon, FSA, MAA; Additional Reviewer Title: Vice President & Principal, Lewis & Ellis, Inc. (Exhibit D at p. 2.)
13. The Lewis & Ellis 2015CATPOS Report determined that the proposed rates did not appear excessive, inadequate, unfairly discriminatory, or unjustified. (Exhibit D at p. 3.)
14. The Lewis & Ellis 2015CATPOS Report provided that "the rates were determined to be 'Not Unreasonable (Modified)'" (Exhibit D at p. 3.)
15. The Lewis & Ellis 2015CATPOS Report provides the following identification information: State tracking number – 311976; SERFF filing number – LHCO – 129615054. (Exhibit D at p. 4.)
16. The Lewis & Ellis 2015CATPOS Report states it was "Submitted on SERFF" on June 30, 2014. (Exhibit D at p. 4)
17. The Lewis & Ellis 2015CATPOS Report is marked "Lewis & Ellis, Inc. – Actuaries & Consultants 10/1/14" on the bottom of each page of the report. (Exhibit D.)
18. On November 24, 2020, I again accessed the Louisiana Department of Insurance's website (<https://www.lidi.la.gov/onlineservices/HealthRates/>) (last accessed November 24, 2020) and specifically the "Health Rate Filing Search for Individual and Small Group Markets" page.

19. A true and accurate screenshot of the Louisiana Department of Insurance's "Health Rate Filing Search for Individual and Small Group Markets" webpage as of November 24, 2020, is attached hereto as Exhibit "A".
20. While on the <https://www.lidi.la.gov/onlineservices/HealthRates/> webpage, I toggled the "Year Filed" under "Rate Filing Summaries" to 2014. A true and accurate screenshot of the Louisiana Department of Insurance's website <https://www.lidi.la.gov/onlineservices/HealthRates/> toggled to "Year Filed: 2014" is attached hereto as Exhibit "B".
21. After I toggled the "Year Filed" to 2014, the "Rate Filings of 10% and Above" revealed two "Proposed Rate Changes" by the Louisiana Health Cooperative Inc. of 10.12% and 10.17% (See Exhibit B.)
22. While on the webpage seen in Exhibit B, I selected the "View" link to the right of Louisiana Department of Insurance's proposed rate change of 10.17%. (See Exhibit B.)
23. After selecting the "View" link next to the Louisiana Department of Insurance's proposed rate change of 10.12%, the "Filing Details" revealed a file name of LACOOP – 2015 ACA Ind QHP Filing – Rate Review Summary 311989 9 13 14.pdf.
24. A true and accurate screenshot of the Louisiana Department of Insurance's website after selecting the "View" link next to the Louisiana Department of Insurance's proposed rate change of 10.17% is attached hereto as Exhibit "E".
25. While on the webpage seen in Exhibit E, I selected the "View" link to the right of the file name of LACOOP – 2015 ACA Ind QHP Filing – Rate Review Summary 311989 9 13 14.pdf., which revealed Lewis & Ellis, Inc.'s "Rate Review" Report of the Louisiana Health Cooperative, Inc.'s Product Name 2015INDVPOS ("Lewis & Ellis 2015INDVPOS Report").

26. A copy of the Lewis & Ellis 2015INDVPOS Report was available in PDF format on the Louisiana Department of Insurance's public website. *See* LACOOOP- 2015 ACA IND QHP Filing - Rate Review Summary 311989 9 13 14 (2).pdf (last accessed December 12, 2020).
27. A true and correct copy of the Lewis & Ellis 2015INDVPOS Report I downloaded from the Louisiana Department of Insurance's public website is attached hereto as Exhibit "F".
28. The Lewis & Ellis 2015INDVPOS Report revealed the following "Reviewers" of the Report:
- a. Primary Reviewer Name: Brian Stentz, ASA, MAAA; Primary Reviewer Title: Assistant Vice President, Lewis & Ellis, Inc. (Exhibit F at p. 2.)
  - b. Additional Reviewer Name: Dave Dillon, FSA, MAAA; Additional Reviewer Title: Vice President & Principal, Lewis & Ellis, Inc. (Exhibit F at p. 2.)
29. The Lewis & Ellis 2015INDVPOS Report determined that the proposed rates did not appear excessive, inadequate, unfairly discriminatory, or unjustified. (Exhibit F at p. 3.)
30. The Lewis & Ellis 2015INDVPOS Report found that "the rates were determined to be 'Not Unreasonable (Modified).'" (Exhibit F at p. 3.)
31. The Lewis & Ellis 2015INDVPOS Report provided the following identification information: State tracking number/State filing number – 311989; SERFF filing number – LHCO – 129614404. (Exhibit F at p. 1, 4.)
32. The Lewis & Ellis 2015INDVPOS Report was "Submitted on SERFF" on June 30, 2014. (Exhibit F at p. 4.)
33. The Lewis & Ellis 2015INDVPOS Report is marked "Lewis & Ellis, Inc. – Actuaries & Consultants 10/1/14" on the bottom of each page of the report. (Exhibit F.)
34. I affirm that I personally took all of the screenshots attached hereto as Exhibits.

35. I affirm that all of the Exhibits attached hereto fairly and fully capture the material for which they are cited.

36. I affirm that all of the information and Exhibits attached hereto were available on the Louisiana Department of Insurance's publicly available website.

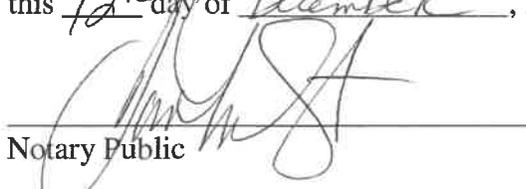
I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

FURTHER AFFIANT SAITH NOT.

Executed this 12<sup>th</sup> day of December, 2020, in Dunwoody, Georgia.

  
Richard Blakeman Crohan

Sworn to and subscribed before me  
this 12<sup>th</sup> day of December, 2020.

  
Notary Public

My commission expires: 10-25-2024



# EXHIBIT "A"



Consumers > Industry >

Industry Access

## Health Rate Filing Search for Individual and Small Group Markets

The Louisiana Department of Insurance (LDI) does not have approval authority over health insurance rates. The LDI reviews proposed health insurance rate filings from health insurance issuers for two purposes:

- To determine compliance with laws
- To determine reasonableness and actuarial justification on proposed rate increases of 10 percent or more for plan years prior to 2019
- To determine reasonableness and actuarial justification on proposed rate increases of 15 percent or more beginning with plan year 2019

Summaries of the rate filings that will impact individual or small group health insurance plans are listed below. If you get your insurance through an employer that has more than 50 eligible employees, your rate increases are not subject to the same review process and will not be posted here. For a consumer guide to health insurance rates, please [click here](#).

### Public Filing Online Search

You can find detailed submissions by going to the National Association of Insurance Commissioners System for Electronic Rate and Form Filing Access (SERFF) interface.

[CLICK HERE TO VIEW RATE FILINGS VIA SERFF FILING ACCESS](#)

You can also submit a public records request for a rate filing by going to <http://ldi.la.gov/public-records/>.

### Rate Filing Summaries

The charts below provide brief summaries of health rate filings that impact health insurance premiums.

If you have questions about a proposed rate increase, you may email [healthrates@ldi.la.gov](mailto:healthrates@ldi.la.gov).

Year Filed:

### Rate Filings of 10% and Above

To sort by column, please click on the column header.

Date Filed	Company	Proposed Rate Change	Implemented Rate	
02/07/2020	Humana Health Benefit Plan of Louisiana, Inc. ( Humana, Humana of Louisiana )	13.11%	13.11%	<a href="#">View</a>
05/01/2020	LOUISIANA HEALTH SERVICE & INDEMNITY COMPANY ( Blue Cross/Blue Shield of Louisiana )	21.00%	21.00%	<a href="#">View</a>
06/16/2020	Humana Health Benefit Plan of Louisiana, Inc. ( Humana, Humana of Louisiana )	12.02%	12.59%	<a href="#">View</a>
06/16/2020	HMO LOUISIANA, INC. ( HMO Louisiana )	11.43%	11.43%	<a href="#">View</a>
06/16/2020	LOUISIANA HEALTH SERVICE & INDEMNITY COMPANY ( Blue Cross/Blue Shield of Louisiana )	10.85%	10.85%	<a href="#">View</a>

# EXHIBIT “B”



Consumers > Industry >

Industry Access

## Health Rate Filing Search for Individual and Small Group Markets

The Louisiana Department of Insurance (LDI) does not have approval authority over health insurance rates. The LDI reviews proposed health insurance rate filings from health insurance issuers for two purposes:

- To determine compliance with laws
- To determine reasonableness and actuarial justification on proposed rate increases of 10 percent or more for plan years prior to 2019
- To determine reasonableness and actuarial justification on proposed rate increases of 15 percent or more beginning with plan year 2019

Summaries of the rate filings that will impact individual or small group health insurance plans are listed below. If you get your insurance through an employer that has more than 50 eligible employees, your rate increases are not subject to the same review process and will not be posted here. For a consumer guide to health insurance rates, please [click here](#).

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You can find detailed submissions by going to the National Association of Insurance Commissioners System for Electronic Rate and Form Filing Access (SERFF) interface.

[CLICK HERE TO VIEW RATE FILINGS VIA SERFF FILING ACCESS](#)

You can also submit a public records request for a rate filing by going to <http://ldi.la.gov/public-records/>.

### Rate Filing Summaries

The charts below provide brief summaries of health rate filings that impact health insurance premiums.

If you have questions about a proposed rate increase, you may email [healthrates@ldi.la.gov](mailto:healthrates@ldi.la.gov).

Year Filed:

#### Rate Filings of 10% and Above

To sort by column, please click on the column header.

Date Filed	Company	Proposed Rate Change	Implemented Rate	
06/21/2014	ALL SAVERS INSURANCE COMPANY	11.50%	7.10%	<a href="#">View</a>
06/24/2014	Humana Health Benefit Plan of Louisiana, Inc. ( Humana, Humana of Louisiana )	15.50%	9.90%	<a href="#">View</a>
06/27/2014	Time Insurance Company	24.00%	15.60%	<a href="#">View</a>
06/27/2014	Humana Health Benefit Plan of Louisiana, Inc. ( Humana, Humana of Louisiana )	15.70%	9.90%	<a href="#">View</a>
06/30/2014	LOUISIANA HEALTH COOPERATIVE INC	10.12%	11.17%	<a href="#">View</a>
06/30/2014	LOUISIANA HEALTH COOPERATIVE INC	10.17%	11.21%	<a href="#">View</a>

# EXHIBIT “C”



[Consumers >](#)

[Industry >](#)

[Industry Access](#)

## Health Rate Filing Search for Individual and Small Group Markets

### Filing Details

LOUISIANA HEALTH COOPERATIVE INC

SERFF Tracking # [LHCO-129615054](#)

### Filing Information

Status: Closed

Product Name: 2015CATPOS

Classification: ACA Compliant

Includes Exchange Plan(s): No

### Overall Rate Impact

Requested Overall Rate Impact: 10.12 %

Implemented Rate: 11.17 %

Market [L](#): Individual

Effective Date: 01/01/2015

Affected Policy Holders: 50

Affected Covered Lives [L](#): 63

**Brief Description:** We are requesting a composite 10.17% premium rate increase for the POS product. A key contributor is the reduction in revenue expected from the Federal Transitional Reinsurance and Risk Adjustment Programs. Other factors contributing to the rate increase include:  
1. Higher hospital, physician, and prescription drug expenses due to increased utilization of services, inflation and intensity of health care services; and  
2. An increase in LAHC administrative expenses.

**Actuarial Disposition:** See attached document.

Supporting Doc(s):

File Name	
LACOO- 2015 ACA IND QHP Filing - Rate Review Summary 311976 9 13 14.pdf	<a href="#">View</a>

# EXHIBIT “D”

# Louisiana Department of Insurance

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## Rate Review Summary

### Section I. Filing Information

Name of Health Insurance Issuer: Louisiana Health Cooperative Inc

State Filing Number: 311976

SERFF Filing Number: LHCO-129615054

Product Name: 2015CATPOS

Form Number(s): 2015CATHPOSOC, et al

Rate Request Effective Date: 1/1/2015

Percent Rate Weighted Average Change Requested: 10.12%

Minimum: -1.8%

Maximum: 11.8%

Number of Affected Policyholders: 63

Number of Affected Covered Lives: 63

### Section II. Effective Rate Review Program Summary

	Yes	No	N/A
<b>Did the review include an examination of:</b>			
1) The reasonableness of the assumptions used by the issuer to develop the proposed rate increase and the validity of the historical data underlying the assumptions:	X		
2) The issuer's data related to past projections and actual experience:	X		
3) The reasonableness of assumptions used by issuer to estimate the rate impact of the reinsurance and risk adjustment programs:	X		
4) The issuer's data related to the market-wide single risk pool, EHB, AVs, and other market reform rules:	X		

# Louisiana Department of Insurance

<b>Did the review take into consideration the following factors to the extent applicable:</b>	Yes	No	N/A
1) The impact of medical trend changes by major service categories:	X		
2) The impact of utilization changes by major service categories:	X		
3) The impact of cost-sharing changes by major service categories:	X		
4) The impact of benefit changes , including EHBs and non-EHBs:	X		
5) The impact of enrollee risk profile and pricing, including rating limitations for age and tobacco use:	X		
6) The impact of overestimate or underestimate of medical trend for prior year periods:	X		
7) The impact of changes in reserve needs:	X		
8) The impact of changes in administrative costs related to programs that improve health care:	X		
9) The impact of changes in other administrative costs:	X		
10) The impact of changes in applicable taxes, licensing or regulatory fees:	X		
11) Medical loss ratio (both Federal and non-Federal):	X		
12) The health insurer's capital and surplus:	X		
13) The impact of geographic factors and variations:	X		
14) The impact of changes within a single risk pool to all products or plans within the risk pool:	X		
15) The impact of reinsurance and risk adjustment payments and charges:	X		

## **Section III. Reviewers**

Primary Reviewer Name: Brian Stentz, ASA, MAAA

Primary Reviewer Title: Assistant Vice President, Lewis & Ellis, Inc.

Additional Reviewer Name: Dave Dillon, FSA, MAAA

Additional Reviewer Title: Vice President & Principal, Lewis & Ellis, Inc.

# Louisiana Department of Insurance

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## Section IV. Rate Review Determination

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Final Rate % Change Proposed:	11.17%
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<b>Do the proposed rates appear:</b>	Yes	No	N/A
Excessive?		X	
Inadequate?		X	
Unfairly discriminatory?		X	
Unjustified?		X	
Compliant with laws, regulations, or bulletins?	X		

### The rates were determined to be:

Unreasonable	
Unreasonable (Modified)	
Not Unreasonable	
Not Unreasonable (Modified)	X
Withdrawn Prior to Determination	

**RATE REVIEW DETAIL**

**Section I. Filing Information**

**Name of Health Plan:** Louisiana Health Cooperative Inc  
**State tracking number:** 311976  
**SERFF filing number:** LHCO - 129615054  
**Plan Actuary:** Harvey Sobel, FSA, MAAA, Buck Consultants

**Type of product:** Individual Major Medical - POS

**Product Name:** 2015CATPOS

**Is this a new product?**  Yes  No

**Reviewer Name:** Brian Stentz, ASA, MAAA Assistant Vice President, Lewis & Ellis, Inc.

**Requested:**  Increase  Decrease  No change or New Filing

**Effective Date:** 1/1/2015

**Questions & Response Information:**

Date Submitted on SERFF: 06/30/2014

Date of Inquiry #1: 07/23/2014 Date of Response #1: 07/31/2014

Date of Inquiry #2: 08/08/2014 Date of Response #2: 08/14/2014

Date of Inquiry #3: 08/18/2014 Date of Response #3: 08/21/2014

Date of Inquiry #4: 08/27/2014 Date of Response #4: 08/29/2014

Date of Inquiry #5: Date of Response #5:

**Section II. Topical Review**

**L&E's Recommendation:**

The proposed rate is actuarially sound and is supported by the actuarial memorandum submitted. After modifications, the proposed rate is reasonable, not excessive or inadequate and not unfairly discriminatory.

**Main Comments/Concerns:**

- General Observations:
  - Louisiana Health Cooperative Inc (LAHC) submitted 4 SERFF filings for the Individual market which were 2 PPO products and 2 HMO products.
    - LA Filing #: 311989 – Product name: 2015INDVPOS
    - LA Filing #: 311976 – Product name: 2015CATPOS
    - LA Filing #: 311990 – Product name: 2015INDVHMO
    - LA Filing #: 311978 – Product name: 2015CATHMO
  - The Actuarial Memorandums and documentation items are similar for all filings as expected since each are included in LAHC's individual single risk pool.
  - The proposed rate increase varied by product.

LA Filing #	Product Name	Avg	Max	Min
311989	2015INDVPOS	10.17%	14.8%	-5.8%
311976	2015CATPOS	10.12%	11.8%	-1.8%
311990	2015INDVHMO	New	New	New

# Louisiana Department of Insurance

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311978	2015CATHMO	New	New	New
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- The primary reasons for the varying rate increases are changes to relativities by region and by product.
  - Region – The Company used competitive data and Buck’s rate manual to conclude that the New Orleans region had been overpriced in 2014. The rates for New Orleans decreased from 137% of Baton Rouge rates to 120%.
  - Product – Based on Buck’s rate manuals, the Company modified the Silver Plus plan rate to fall more in line with the Gold Plus and Bronze Plus plans.
  - The combination of these two changes in relativities generated the rate variation.
- LAHC changed consulting actuaries from 2014. Since the Company was a startup, it was difficult to compare some of the underlying manual rate assumption changes from the previous filing.
- Other rate increase factors were:
  - Anticipated medical trend, both utilization and cost of services;
  - Changes in the Federal Transitional Reinsurance Program;
  - Increase in Non-Benefit Expenses - Admin, Taxes/Fees, Profit

## Experience Basis:

- Experience period:
  - The Company was new in 2014 therefore no 2013 experience was available.
  - The manual rates for each plan of benefits were developed using an average of statewide claim costs PMPM. This was developed from a combination of the OptumInsight Comprehensive Pricing Model Version CY 2013, and market research.
  - Since experience was no available, the consulting actuaries used its proprietary pricing software to develop the rate manual. We were provided very detailed assumptions, final allowed costs by service category, final adjustments and the weighting between the POS and HMO products. After our review we concluded the final manual rate allowed costs were reasonable.
  - The starting final allowed costs used in the development of the proposed 2015 rates were approx. 10% lower than the allowed costs used in the development of the 2014.

## Medical Cost Change/Support for Rating Period Projected Claims Costs:

- Projected: The Company’s annual trend assumption is 7.3% per year. The utilization and unit cost trends used in the development of the rates are based on the Company’s consulting actuary’s medical trend assumptions. The Company was new in 2014 and therefore had no trend experience. Overall, based on our overall perspective of the market, the proposed trends appear reasonable.
- The Company stated the only two calibration factors used in the development of the Plan Adjusted Index Rate and the Consumer Adjusted Premium Rate were Age and Geography. In addition, the resulting calibration factors for Age and Geography were applied uniformly to all plans in the market.
- Tobacco: The tobacco load is a flat 1.15. Based on the expected smoking population the allowed costs were

reduced by a factor of .9789 to account for the increased revenue for the smoking load. This appeared reasonable and no further support was requested.

## **Non-Medical Cost Change/Support for Rating Period Projected Non-Claims Costs:**

- The primary driver of the rate increase was the increase in non-benefit expenses
- The expected Non-benefit costs being used in the development of the proposed 2015 rates are:

Administrative Expense Load	20.8%
Profit & Risk Load	-1.3%
Taxes & Fees	4.3%

- The Company said that the 2015 NBE is based on LAHC's 2014 budget, projected to 2015. At this time, LAHC is staffed and has a reasonably good idea of its cost structure. In contrast, LAHC was still in start-up mode in mid-2013 when the 2014 rates were priced.
- The Company provided the current expenses from the first and second quarter in 2014 which supported the increase in expense assumption. In fact, the actual expenses would have supported an even higher load in the rate development.
- We requested support for LAHC's assumption that it would be exempt from the Health Insurance tax being imposed in 2015. The Company responded by stating the following: "LAHC, being a non-profit, to be exempt from the Federal Insurer Tax. As a result of your question, we have further researched the issue and now believe LAHC will be obligated to pay a tax in 2015. If permitted, we request the ability to revise our rate filing to reflect the tax."
- The Company is currently pricing to a -1% profit margin. When additional support was requested for this margin, the Company stated that the initial year was a 4% loss. Given this company is a startup, it would be reasonable to assume a loss in the first couple of years due to experience levels. The Company stated that their business model has them expecting a profit in the following year.
- The proposed average rate increase of 10.2% did not include the health insurance tax and if not included, the company could expect an even greater loss.
- After inclusion of the health insurance tax, the average increase went from -10.2% to -11.2%.

## **AV Metal & Pricing Values:**

- AV Metal Values
  - The sampled AV metal values were appropriately calculated using the AV Calculator and reasonable adjustments were made for plan designs didn't fit into the AV calculator.
- AV Pricing Values
  - LAHC developed the AV Pricing Values included based on the rate manuals. Expected differences in utilization were based on the HHS induced demand utilization factors and were equal to or less than the HHC factors. The Company reduced the AV Pricing Values for Catastrophic by 35%, reflecting the younger population expected. We reviewed the proposed factors and have determined they are reasonable. No additional support was requested.

**Morbidity Change & Membership Projections:**

- Membership Projection: 186, 827 Member Months
  - We requested a breakdown of the company's projected membership used in the 2014 rate development, the actual 2014 Membership & the assumed projected membership. The Company provided a spreadsheet showing how it determined the projected membership based on current experience. The development appeared reasonable and no further support was requested.

**Index Rate, Market Adjusted Index Rate EHB & Non-EHB:**

- The Index Rate is equal to Projected Allowed Experience Claims PMPM (\$534.49)
- The Market adjusted Index Rate is equal to Projected Allowed Experience Claims PMPM (\$531.60), and is calculated as follows:
  - Market Adjusted Index Rate (\$531.60) = Index Rate (\$534.49) - Risk Adjustment program adjustment (\$0.08) - Federal reinsurance program adjustment (\$16.45) + Exchange User Fees (\$13.48)

**3 R's (Federal Reinsurance, Risk Adjustment & Risk Corridors):**

- Projected Risk Adjustment: \$0.08 PMPM net of the user fee
  - Since HHC risk score data was not available the Company compared it's own demographic data to demographics of the Louisiana Health Exchange marketplace. The analysis suggested that LAHC's demographics were slightly younger. Since risk adjustment is based on health status, not just age, they assumed no Risk Adjustment payment recovery. The \$.08 shown in the URRT is the CMS Risk Adjustment Program fee.
  - Since the Company has no actual experience to estimate risk scores, we believe this to be a reasonable assumption.
- Risk Corridors: No explicit consideration; such are not allowed as rating factors
- Reinsurance: \$16.45 net of the 2015 Reinsurance Contribution (\$44.00 PMPY or approximately \$3.67 PMPM)
  - LAHC used the Federal Transitional Reinsurance Program assumptions of 50% of specific large claims between \$70,000 and \$250,000. LAHC projects it will recover 5.92% of claims, based on the claim distributions underlying their rate manual. The reduced expected reinsurance based on its rate manual resulted in an increase of approx. 6.8% over the expected recoveries in 2014. We requested and were provided support for the development and found it reasonable.

**Gain/Loss & Plan Finances:**

- -1.3% Profit and Risk load. The Company was a startup in 2014 and therefore it could be expected the company would need to price with a negative profit margin due to experience levels. The Company stated that its business plan has them expecting to be profitable in 2016. LDI reviewed the Company's financials and decided that it was acceptable for the Company to price with a negative profit margin for 2015.

**Compliance with Quantitative Tests:**

- Projected Loss Ratio: Approx. 76.2% medical loss ratio calculated from Wks 2 of the URRT
- Adjusted Federal Minimum Loss Ratio: 81.1%
  - Based on the breakdown provided, the proposed rates can reasonable expect to meet the minimum loss

ratio of 80%.

**Provision for Reforms & Fees:**

- PCORI: .04% of premium (\$0.19 PMPM)
- Risk adjustment user fee: \$0.08 PMPM
- Reinsurance premium: \$3.67 PMPM
- Exchange fee: 3.23% of premium
- Health Insurer fee: Originally 0% but revised to be .90% of premium
- Premium tax: .11% of premium

**Unreasonableness Determination:**

- Federal criteria:
  - Inadequate? No.
  - Excessive? No.
  - Unfairly Discriminatory? No.
  - Unjustified? No.
- Other Comments
  - N/A

**Actuarial Certification & Memorandum:**

- All required certifications and disclosures were provided in the Memorandum.

# Louisiana Department of Insurance

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## ASOP 41 Disclosures

The Actuarial Standards Board (ASB), vested by the U.S.-based actuarial organizations<sup>1</sup>, promulgates actuarial standards of practice (ASOPs) for use by actuaries when providing professional services in the United States. Each of these organizations requires its members, through its Code of Professional Conduct<sup>2</sup>, to observe the ASOPs of the ASB when practicing in the United States. ASOP 41 provides guidance to actuaries with respect to actuarial communications and requires certain disclosures which are contained in the following.

Identification of the Responsible Actuary: The responsible actuary is Brian Stentz, ASA, MAAA, Assistant Vice President at Lewis & Ellis, Inc. (“L&E”). This actuary is available to provide supplementary information and explanation. The actuary also acknowledges that he/she may be acting as an advocate.

Identification of Actuarial Documents: The date of this document is October 1, 2014. The date (aka “latest information date”) through which data or other information has been considered in performing the rate review is April 30, 2014. Its subject is rate review summary of a health insurance rate filing, and the document version identification is Version 2014.08.15. As an ordinary practice, this actuary and L&E do not retain drafts of such work products.

## Disclosures

- The contents of this summary are intended for the use of the officers, and employees of the Louisiana Department of Insurance (LDI). The limitations on the use or applicability of the actuarial findings are that it is limited to internal documentation for LDI and these communications should not be relied upon for any other purpose.
- Lewis & Ellis Inc. is financially and organizationally independent from the health plan submitting the rate filing. There is nothing in our relationship with the carrier that would impair or seem to impair the objectivity of our work.
- The purpose of this document was to provide the Department with a summary of the rate review work on a particular rate filing under the Department’s regulatory purview.
- The responsible actuary identified above is qualified as specified in the *Qualification Standards* of the American Academy of Actuaries.
- Lewis & Ellis reviewed this rate filing based on the data, files, communications, and documents uploaded in SERFF by the carrier. Neither L&E nor the responsible actuary assumes responsibility for these items but has a material impact on the rate review. We have reviewed the data for reasonableness, but have not audited it. To the extent that there are material inaccuracies in, misrepresentations in, or lack of adequate disclosure by the data, the rate review results may be accordingly affected.
- We are not aware of any subsequent events that may have a material effect on the actuarial findings.
- There are no other documents or files that accompany this rate review summary.
- The findings of this rate review summary, as well as the methods, procedures, assumptions, and data, can be found in Section II. Topical Review.
- The rate review summary was prepared according to federal law and regulations, Louisiana law and regulations, as well as LDI guidance thereto.

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<sup>1</sup> The American Academy of Actuaries (Academy), the American Society of Pension Professionals and Actuaries, the Casualty Actuarial Society, the Conference of Consulting Actuaries, and the Society of Actuaries.

<sup>2</sup> These organizations adopted identical *Codes of Professional Conduct* effective January 1, 2001

# EXHIBIT “E”



Consumers >

Industry >

Industry Access

### Health Rate Filing Search for Individual and Small Group Markets

#### Filing Details

LOUISIANA HEALTH COOPERATIVE INC

SERFF Tracking # [LHCO-129614404](#)

#### Filing Information

Status: Closed

Product Name: 2015INDVPOS

Classification: ACA Compliant

Includes Exchange Plan(s): No

#### Overall Rate Impact

Requested Overall Rate Impact: 10.17 %

Implemented Rate: 11.21 %

Market [📍](#): Individual

Effective Date: 01/01/2015

Affected Policy Holders:

Affected Covered Lives [📍](#): 1989

**Brief Description:** We are requesting a composite 10.17% premium rate increase for the POS product. A key contributor is the reduction in revenue expected from the Federal Transitional Reinsurance and Risk Adjustment Programs.  
Other factors contributing to the rate increase include:  
1. Higher hospital, physician, and prescription drug expenses due to increased utilization of services, inflation and intensity of health care services; and  
2. An increase in LAHC administrative expenses.

**Actuarial Disposition:** See attached document.

Supporting Doc(s):

File Name	
LACOOB- 2015 ACA IND QHP Filing - Rate Review Summary 311989 9 13 14.pdf	<a href="#">View</a>

# EXHIBIT “F”

## Rate Review Summary

### Section I. Filing Information

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Name of Health Insurance Issuer: Louisiana Health Cooperative Inc

State Filing Number: 311989

SERFF Filing Number: LHCO-129614404

Product Name: 2015INDVPOS

Form Number(s): 2015INDVPOSCOC, et al

Rate Request Effective Date: 1/1/2015

Percent Rate Weighted Average Change Requested: 10.2%

Minimum: -5.8%

Maximum: 14.8%

Number of Affected Policyholders: 1,592

Number of Affected Covered Lives: 1,989

### Section II. Effective Rate Review Program Summary

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	Yes	No	N/A
<b>Did the review include an examination of:</b>			
1) The reasonableness of the assumptions used by the issuer to develop the proposed rate increase and the validity of the historical data underlying the assumptions:	X		
2) The issuer's data related to past projections and actual experience:	X		
3) The reasonableness of assumptions used by issuer to estimate the rate impact of the reinsurance and risk adjustment programs:	X		
4) The issuer's data related to the market-wide single risk pool, EHB, AVs, and other market reform rules:	X		

# Louisiana Department of Insurance

<b>Did the review take into consideration the following factors to the extent applicable:</b>	Yes	No	N/A
1) The impact of medical trend changes by major service categories:	X		
2) The impact of utilization changes by major service categories:	X		
3) The impact of cost-sharing changes by major service categories:	X		
4) The impact of benefit changes , including EHBs and non-EHBs:	X		
5) The impact of enrollee risk profile and pricing, including rating limitations for age and tobacco use:	X		
6) The impact of overestimate or underestimate of medical trend for prior year periods:	X		
7) The impact of changes in reserve needs:	X		
8) The impact of changes in administrative costs related to programs that improve health care:	X		
9) The impact of changes in other administrative costs:	X		
10) The impact of changes in applicable taxes, licensing or regulatory fees:	X		
11) Medical loss ratio (both Federal and non-Federal):	X		
12) The health insurer's capital and surplus:	X		
13) The impact of geographic factors and variations:	X		
14) The impact of changes within a single risk pool to all products or plans within the risk pool:	X		
15) The impact of reinsurance and risk adjustment payments and charges:	X		

### **Section III. Reviewers**

Primary Reviewer Name: Brian Stentz, ASA, MAAA

Primary Reviewer Title: Assistant Vice President, Lewis & Ellis, Inc.

Additional Reviewer Name: Dave Dillon, FSA, MAAA

Additional Reviewer Title: Vice President & Principal, Lewis & Ellis, Inc.

# Louisiana Department of Insurance

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## Section IV. Rate Review Determination

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Final Rate % Change Proposed:	11.2%
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<b>Do the proposed rates appear:</b>	Yes	No	N/A
Excessive?		X	
Inadequate?		X	
Unfairly discriminatory?		X	
Unjustified?		X	
Compliant with laws, regulations, or bulletins?	X		

### The rates were determined to be:

Unreasonable	
Unreasonable (Modified)	
Not Unreasonable	
Not Unreasonable (Modified)	X
Withdrawn Prior to Determination	

**RATE REVIEW DETAIL**

**Section I. Filing Information**

**Name of Health Plan:** Louisiana Health Cooperative Inc  
**State tracking number:** 311989  
**SERFF filing number:** LHCO - 129614404  
**Plan Actuary:** Harvey Sobel, FSA, MAAA, Buck Consultants

**Type of product:** Individual Major Medical - POS

**Product Name:** 2015INDVPOS

**Is this a new product?**  Yes  No

**Reviewer Name:** Brian Stentz, ASA, MAAA Assistant Vice President, Lewis & Ellis, Inc.

**Requested:**  Increase  Decrease  No change or New Filing

**Effective Date:** 1/1/2015

**Questions & Response Information:**

Date Submitted on SERFF: 06/30/2014

Date of Inquiry #1: 07/23/2014 Date of Response #1: 07/31/2014

Date of Inquiry #2: 08/08/2014 Date of Response #2: 08/14/2014

Date of Inquiry #3: 08/18/2014 Date of Response #3: 08/21/2014

Date of Inquiry #4: 08/27/2014 Date of Response #4: 08/29/2014

Date of Inquiry #5: Date of Response #5:

**Section II. Topical Review**

**L&E's Recommendation:**

The proposed rate is actuarially sound and is supported by the actuarial memorandum submitted.  
 After modifications, the proposed rate is reasonable, not excessive or inadequate and not unfairly discriminatory.

**Main Comments/Concerns:**

- General Observations:
  - Louisiana Health Cooperative Inc (LAHC) submitted 4 SERFF filings for the Individual market which were 2 PPO products and 2 HMO products.
    - LA Filing #: 311989 – Product name: 2015INDVPOS
    - LA Filing #: 311976 – Product name: 2015CATPOS
    - LA Filing #: 311990 – Product name: 2015INDVHMO
    - LA Filing #: 311978 – Product name: 2015CATHMO
  - The Actuarial Memorandums and documentation items are similar for all filings as expected since each are included in LAHC's individual single risk pool.
  - The proposed rate increase varied by product.

LA Filing #	Product Name	Avg	Max	Min
311989	2015INDVPOS	10.17%	14.8%	-5.8%
311976	2015CATPOS	10.12%	11.8%	-1.8%
311990	2015INDVHMO	New	New	New

# Louisiana Department of Insurance

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311978	2015CATHMO	New	New	New
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- The primary reasons for the varying rate increases are changes to relativities by region and by product.
  - Region – The Company used competitive data and Buck’s rate manual to conclude that the New Orleans region had been overpriced in 2014. The rates for New Orleans decreased from 137% of Baton Rouge rates to 120%.
  - Product – Based on Buck’s rate manuals, the Company modified the Silver Plus plan rate to fall more in line with the Gold Plus and Bronze Plus plans.
  - The combination of these two changes in relativities generated the rate variation.
- LAHC changed consulting actuaries from 2014. Since the Company was a startup, it was difficult to compare some of the underlying manual rate assumption changes from the previous filing.
- Other rate increase factors were:
  - Anticipated medical trend, both utilization and cost of services;
  - Changes in the Federal Transitional Reinsurance Program;
  - Increase in Non-Benefit Expenses - Admin, Taxes/Fees, Profit

## Experience Basis:

- Experience period:
  - The Company was new in 2014 therefore no 2013 experience was available.
  - The manual rates for each plan of benefits were developed using an average of statewide claim costs PMPM. This was developed from a combination of the OptumInsight Comprehensive Pricing Model Version CY 2013, and market research.
  - Since experience was no available, the consulting actuaries used its proprietary pricing software to develop the rate manual. We were provided very detailed assumptions, final allowed costs by service category, final adjustments and the weighting between the POS and HMO products. After our review we concluded the final manual rate allowed costs were reasonable.
  - The starting final allowed costs used in the development of the proposed 2015 rates were approx. 10% lower than the allowed costs used in the development of the 2014.

## Medical Cost Change/Support for Rating Period Projected Claims Costs:

- Projected: The Company’s annual trend assumption is 7.3% per year. The utilization and unit cost trends used in the development of the rates are based on the Company’s consulting actuary’s medical trend assumptions. The Company was new in 2014 and therefore had no trend experience. Overall, based on our overall perspective of the market, the proposed trends appear reasonable.
- The Company stated the only two calibration factors used in the development of the Plan Adjusted Index Rate and the Consumer Adjusted Premium Rate were Age and Geography. In addition, the resulting calibration factors for Age and Geography were applied uniformly to all plans in the market.
- Tobacco: The tobacco load is a flat 1.15. Based on the expected smoking population the allowed costs were

reduced by a factor of .9789 to account for the increased revenue for the smoking load. This appeared reasonable and no further support was requested.

## **Non-Medical Cost Change/Support for Rating Period Projected Non-Claims Costs:**

- The primary driver of the rate increase was the increase in non-benefit expenses
- The expected Non-benefit costs being used in the development of the proposed 2015 rates are:

Administrative Expense Load	20.8%
Profit & Risk Load	-1.3%
Taxes & Fees	4.3%

- The Company said that the 2015 NBE is based on LAHC's 2014 budget, projected to 2015. At this time, LAHC is staffed and has a reasonably good idea of its cost structure. In contrast, LAHC was still in start-up mode in mid-2013 when the 2014 rates were priced.
- The Company provided the current expenses from the first and second quarter in 2014 which supported the increase in expense assumption. In fact, the actual expenses would have supported an even higher load in the rate development.
- We requested support for LAHC's assumption that it would be exempt from the Health Insurance tax being imposed in 2015. The Company responded by stating the following: "LAHC, being a non-profit, to be exempt from the Federal Insurer Tax. As a result of your question, we have further researched the issue and now believe LAHC will be obligated to pay a tax in 2015. If permitted, we request the ability to revise our rate filing to reflect the tax."
- The Company is currently pricing to a -1% profit margin. When additional support was requested for this margin, the Company stated that the initial year was a 4% loss. Given this company is a startup, it would be reasonable to assume a loss in the first couple of years due to experience levels. The Company stated that their business model has them expecting a profit in the following year.
- The proposed average rate increase of 10.2% did not include the health insurance tax and if not included, the company could expect an even greater loss.
- After inclusion of the health insurance tax, the average increase went from -10.2% to -11.2%.

## **AV Metal & Pricing Values:**

- AV Metal Values
  - The sampled AV metal values were appropriately calculated using the AV Calculator and reasonable adjustments were made for plan designs didn't fit into the AV calculator.
- AV Pricing Values
  - LAHC developed the AV Pricing Values included based on the rate manuals. Expected differences in utilization were based on the HHS induced demand utilization factors and were equal to or less than the HHC factors. The Company reduced the AV Pricing Values for Catastrophic by 35%, reflecting the younger population expected. We reviewed the proposed factors and have determined they are reasonable. No additional support was requested.

**Morbidity Change & Membership Projections:**

- Membership Projection: 186, 827 Member Months
  - We requested a breakdown of the company's projected membership used in the 2014 rate development, the actual 2014 Membership & the assumed projected membership. The Company provided a spreadsheet showing how it determined the projected membership based on current experience. The development appeared reasonable and no further support was requested.

**Index Rate, Market Adjusted Index Rate EHB & Non-EHB:**

- The Index Rate is equal to Projected Allowed Experience Claims PMPM (\$534.49)
- The Market adjusted Index Rate is equal to Projected Allowed Experience Claims PMPM (\$531.60), and is calculated as follows:
  - Market Adjusted Index Rate (\$531.60) = Index Rate (\$534.49) - Risk Adjustment program adjustment (\$0.08) - Federal reinsurance program adjustment (\$16.45) + Exchange User Fees (\$13.48)

**3 R's (Federal Reinsurance, Risk Adjustment & Risk Corridors):**

- Projected Risk Adjustment: \$0.08 PMPM net of the user fee
  - Since HHC risk score data was not available the Company compared it's own demographic data to demographics of the Louisiana Health Exchange marketplace. The analysis suggested that LAHC's demographics were slightly younger. Since risk adjustment is based on health status, not just age, they assumed no Risk Adjustment payment recovery. The \$.08 shown in the URRT is the CMS Risk Adjustment Program fee.
  - Since the Company has no actual experience to estimate risk scores, we believe this to be a reasonable assumption.
- Risk Corridors: No explicit consideration; such are not allowed as rating factors
- Reinsurance: \$16.45 net of the 2015 Reinsurance Contribution (\$44.00 PMPY or approximately \$3.67 PMPM)
  - LAHC used the Federal Transitional Reinsurance Program assumptions of 50% of specific large claims between \$70,000 and \$250,000. LAHC projects it will recover 5.92% of claims, based on the claim distributions underlying their rate manual. The reduced expected reinsurance based on its rate manual resulted in an increase of approx. 6.8% over the expected recoveries in 2014. We requested and were provided support for the development and found it reasonable.

**Gain/Loss & Plan Finances:**

- -1.3% Profit and Risk load. The Company was a startup in 2014 and therefore it could be expected the company would need to price with a negative profit margin due to experience levels. The Company stated that its business plan has them expecting to be profitable in 2016. LDI reviewed the Company's financials and decided that it was acceptable for the Company to price with a negative profit margin for 2015.

**Compliance with Quantitative Tests:**

- Projected Loss Ratio: Approx. 76.2% medical loss ratio calculated from Wks 2 of the URRT
- Adjusted Federal Minimum Loss Ratio: 81.1%
  - Based on the breakdown provided, the proposed rates can reasonable expect to meet the minimum loss

ratio of 80%.

**Provision for Reforms & Fees:**

- PCORI: .04% of premium (\$0.19 PMPM)
- Risk adjustment user fee: \$0.08 PMPM
- Reinsurance premium: \$3.67 PMPM
- Exchange fee: 3.23% of premium
- Health Insurer fee: Originally 0% but revised to be .90% of premium
- Premium tax: .11% of premium

**Unreasonableness Determination:**

- Federal criteria:
  - Inadequate? No.
  - Excessive? No.
  - Unfairly Discriminatory? No.
  - Unjustified? No.
- Other Comments
  - N/A

**Actuarial Certification & Memorandum:**

- All required certifications and disclosures were provided in the Memorandum.

# Louisiana Department of Insurance

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## ASOP 41 Disclosures

The Actuarial Standards Board (ASB), vested by the U.S.-based actuarial organizations<sup>1</sup>, promulgates actuarial standards of practice (ASOPs) for use by actuaries when providing professional services in the United States. Each of these organizations requires its members, through its Code of Professional Conduct<sup>2</sup>, to observe the ASOPs of the ASB when practicing in the United States. ASOP 41 provides guidance to actuaries with respect to actuarial communications and requires certain disclosures which are contained in the following.

Identification of the Responsible Actuary: The responsible actuary is Brian Stentz, ASA, MAAA, Assistant Vice President at Lewis & Ellis, Inc. (“L&E”). This actuary is available to provide supplementary information and explanation. The actuary also acknowledges that he/she may be acting as an advocate.

Identification of Actuarial Documents: The date of this document is October 1, 2014. The date (aka “latest information date”) through which data or other information has been considered in performing the rate review is April 30, 2014. Its subject is rate review summary of a health insurance rate filing, and the document version identification is Version 2014.08.15. As an ordinary practice, this actuary and L&E do not retain drafts of such work products.

## Disclosures

- The contents of this summary are intended for the use of the officers, and employees of the Louisiana Department of Insurance (LDI). The limitations on the use or applicability of the actuarial findings are that it is limited to internal documentation for LDI and these communications should not be relied upon for any other purpose.
- Lewis & Ellis Inc. is financially and organizationally independent from the health plan submitting the rate filing. There is nothing in our relationship with the carrier that would impair or seem to impair the objectivity of our work.
- The purpose of this document was to provide the Department with a summary of the rate review work on a particular rate filing under the Department’s regulatory purview.
- The responsible actuary identified above is qualified as specified in the *Qualification Standards* of the American Academy of Actuaries.
- Lewis & Ellis reviewed this rate filing based on the data, files, communications, and documents uploaded in SERFF by the carrier. Neither L&E nor the responsible actuary assumes responsibility for these items but has a material impact on the rate review. We have reviewed the data for reasonableness, but have not audited it. To the extent that there are material inaccuracies in, misrepresentations in, or lack of adequate disclosure by the data, the rate review results may be accordingly affected.
- We are not aware of any subsequent events that may have a material effect on the actuarial findings.
- There are no other documents or files that accompany this rate review summary.
- The findings of this rate review summary, as well as the methods, procedures, assumptions, and data, can be found in Section II. Topical Review.
- The rate review summary was prepared according to federal law and regulations, Louisiana law and regulations, as well as LDI guidance thereto.

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<sup>2</sup> These organizations adopted identical *Codes of Professional Conduct* effective January 1, 2001

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

STATE OF LOUISIANA

NO.: 651,069

SECTION 22

JAMES J. DONELON, COMMISSIONER OF INSURANCE  
FOR THE STATE OF LOUISIANA, IN HIS CAPACITY AS REHABILITATOR OF  
LOUISIANA HEALTH COOPERATIVE, INC.

VERSUS

TERRY S. SHILLING, GEORGE G. CROMER, WARNER L. THOMAS, IV, WILLIAM A.  
OLIVER, CHARLES D. CALVI, PATRICK C. POWERS, CGI TECHNOLOGIES AND  
SOLUTIONS, INC., GROUP RESOURCES INCORPORATED, BEAM PARTNERS, LLC,  
MILLIMAN, INC., BUCK CONSULTANTS, LLC, AND TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA

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

\_\_\_\_\_  
DEPUTY CLERK

**RULE TO SHOW CAUSE**

Considering the Foregoing Motion to Compel Lewis & Ellis to Comply with Subpoena  
*Duces Tecum* filed by Defendant Buck Global, LLC,

IT IS ORDERED that a hearing will be conducted on the \_\_\_\_\_ day of \_\_\_\_\_,  
2021 at \_\_\_\_\_ .m. on the Motion to Compel. The hearing will be held by Zoom for the  
safety of all participants due to the COVID-19 pandemic.

Baton Rouge, Louisiana, this \_\_\_\_\_ day of January, 2021.

\_\_\_\_\_  
HONORABLE JUDGE TIMOTHY KELLEY

**Movant will serve the foregoing  
Rule to Show Cause upon Lewis & Ellis  
through counsel, John Ashley Moore,  
450 Laurel Street, Suite 800  
Baton Rouge, LA 70801  
by CERTIFIED MAIL, RETURN RECEIPT REQUESTED  
in accordance with La. CCP art. 1313(C).**