

216919TH JUDICIAL DISTRICT COURT FOR THE P69ARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NUMBER: 641 928SECTION: 26

JAMES J. DONELON
COMMISSIONER OF INSURANCE FOR THE STATE OF LOUISIANA
VERSUS
LOUISIANA HEALTH COOPERATIVE, INC.

FILED: _____
DEPUTY CLERK

**MOTION TO SUBSTITUTE AND AMEND MOTION AND INCORPORATED MEMORANDUM
REQUESTING APPROVAL OF SETTLEMENT OF CLAIMS INVOLVING DEFENDANTS,
ALLIED WORLD SPECIALTY INSURANCE COMPANY
(F/K/A DARWIN NATIONAL ASSURANCE COMPANY) AND ITS AFFILIATES,
ATLANTIC SPECIALTY INSURANCE COMPANY,
EVANSTON INSURANCE COMPANY,
RSUI INDEMNITY COMPANY AND
ZURICH AMERICAN INSURANCE COMPANY ("EXCESS INSURERS")
IN 19TH JUDICIAL DISTRICT COURT CASE NUMBER 651 069, SECTION 22 AND
TO FILE SETTLEMENT AGREEMENT UNDER SEAL**

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

A.

On or about February 17, 2021, LAHC filed a motion to approve two settlements, one with insurer Allied World, and one with a group of insurers consisting of Atlantic Specialty Insurance Company, Evanston Insurance Company and Zurich American Insurance Company ("Excess Insurers").

B.

Paragraph 5 of that Motion mistakenly includes Evanston Insurance Company as one of the entities for which LAHC reserves rights.

C.

For this reason, LAHC desires to substitute the prior motion and amend the motion to delete the reference to Evanston Insurance Company in paragraph 5, as follows:

1.

LAHC operated as a health maintenance organization until December 31, 2015 and was placed in rehabilitation by this honorable Court on September1, 2015, which rehabilitation order was

made permanent on September 21, 2015 and the Receiver was appointed by the Court pursuant to those orders.

2.

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

3.

In furtherance of the order of rehabilitation and pursuant to the order of this Court of January 8, 2016, the Receiver filed an action against Allied World Specialty Insurance Company (f/k/a Darwin National Assurance Company), and its affiliates (“Allied World”) and Atlantic Specialty Insurance Company, Evanston Insurance Company, RSUI Indemnity Company, and Zurich American Insurance Company (all referred to as “Excess Insurers”), as well as other defendants, in case number 651 069, Section 22, on the docket of the 19th Judicial District Court for the Parish of East Baton Rouge, State of Louisiana on August 31, 2016. That suit has since been amended and restated as to the claims asserted.

4.

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

5.

The Excess Insurers allegedly provided insurance against the allegations made by the Receiver in the pending recovery suit with various policies of insurance. As part of the proposed settlement with the Excess Insurers, LAHC reserved all claims, rights, positions and defenses against all other defendants in the LAHC Recovery Suit, including, but not limited to, Group Resources, Inc., Milliman, Inc., Buck Consultants, LLC, and One Beacon Professional Insurance Company.

6.

In connection with the proposed settlement of the claims asserted on behalf of LAHC against the Excess Insurers, the Excess Insurers have agreed to pay the full and true sum of Two Hundred Fifty Thousand (\$250,000.00) Dollars to LAHC, to be paid as follows:

- 1) Two Hundred Thousand (\$200,000.00) Dollars to be paid by Allied World Specialty Insurance Company (formerly known as Darwin National Assurance Company) and its affiliates (“Allied World”) with the settlement agreement attached as **Exhibit A**;
- 2) Thirteen Thousand Three Hundred Thirty Three and 33/100 (\$13,333.33) Dollars to be paid by Atlantic Specialty Insurance Company (“Atlantic Specialty”);
- 3) Thirteen Thousand Three Hundred Thirty Three and 33/100 (\$13,333.33) Dollars to be paid by Evanston Insurance Company (“Evanston”);
- 4) Thirteen Thousand Three Hundred Thirty Three and 34/100 (\$13,333.34) to be paid by RSUI Indemnity Company (“RSUI”);
- 5) Ten Thousand and no/100 (\$10,000) Dollars to be paid by Zurich American Insurance Company (“Zurich”);

The settlement agreement for Atlantic Specialty, Evanston, RSUI and Zurich to be filed under seal as **Exhibit B**, pursuant to the terms of the Settlement Agreement.

7.

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

8.

The Receiver submits to the Court that the terms of the Settlement Agreements constitute a fair and reasonable settlement of the claims asserted by LAHC against the Excess Insurers, that the funds received pursuant to the Settlement Agreements will be used by LAHC in accordance with procedures utilized in this proceeding, as well as for attorneys fees, costs and related expenses arising out of the pending lawsuit filed against the remaining defendants, that the settlement is intended to resolve all claims against the Excess Insurers, except those specifically excepted, and that the settlement terms, under all applicable circumstances, are in the best interests of the creditors and other persons affected by the settlement and the rehabilitation of LAHC through these proceedings.

9.

Pursuant to the terms of the Settlement Agreements, the Receiver desires and is entitled to an order of this Court finding that the settlement is fair and equitable to all interested parties and

claimants (including all creditors of LAHC); that the Receiver has specific authority to release all claims pursuant to the terms of the Settlement Agreements and to dismiss the claims asserted against the Excess Insurers in the pending lawsuit with prejudice; that the Receiver has specific authority to execute the Settlement Agreements; that all creditors, claimants, and interested persons of the LAHC estate are and will be bound by the Settlement Agreements; and declaring that the claims of LAHC creditors against the Excess Insurers, except direct claims, if any, which the Receiver is unable by assignment or operation of law to assert, shall be deemed released as a result of this Court's finding of the fairness of the proposed settlement and approval of the proposed settlement.

10.

The Receiver further requests that the settlement agreement between LAHC and Atlantic Specialty, Evanston, RSUI, and Zurich Company be filed under seal pursuant to the terms of the Settlement Agreement.

11.

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

12.

The Receiver requests that the judgment rendered as to the proposed settlement be certified as a final judgment for purposes of appeal by this Court for the reasons that the judgment as prayed for will dismiss all claims of LAHC against the Excess Insurers with prejudice and there is no just reason for delay since the Excess Insurers will no longer be parties to the recovery actions in accordance with Louisiana Code of Civil Procedure article 1915.

WHEREFORE, Billy Bostick, Receiver for Louisiana Health Cooperative, Inc. in Rehabilitation, prays that this motion be deemed good and sufficient and that this honorable Court permit LAHC to substitute the prior motion with the present motion and amend paragraph 5 to delete the reference to Evanston Insurance Company; to approve the proposed settlement with the Excess Insurers and authorize the Receiver to enter into the proposed

agreements with the Excess Insurers, as reflected in **Exhibit A** and **Exhibit B**, with **Exhibit B to be filed under seal**; that the Receiver be authorized to sign such documents, to take such actions as may be required to accomplish same, and to implement same, in the sole discretion of the Receiver; and that the Court make a finding that:

- (1) the settlement is fair and equitable to all interested parties and claimants (including all creditors of LAHC);
- (2) the Receiver has specific authority to release all claims pursuant to the terms of the Settlement Agreements and to dismiss the claims asserted against the Excess Insurers in the pending lawsuit with prejudice;
- (3) the Receiver has specific authority to execute the Settlement Agreements;
- (4) all creditors, claimants, and interested persons of the LAHC estate will be bound by the Settlement Agreements
- (5) the claims of LAHC creditors against the Excess Insurers, except direct claims, if any, which the Receiver is unable by assignment or operation of law to assert and except as reserved in the proposed settlement agreement, shall be deemed released as a result of this Court's finding of the fairness of the proposed settlement and approval of the proposed settlement;
- (6) the Settlement Agreement between LAHC and Atlantic Specialty Insurance Company, Evanston Insurance Company, RSUI Indemnity Company, and Zurich American Insurance Company **be filed under seal** pursuant to the terms of the Settlement Agreement.
- (7) notice of this motion and order and the Court's ruling be given by posting a copy of this motion and order and the Court's ruling on the Louisiana Department of Insurance website at www.lidi.la.gov; Office Directory; Receivership; Domestic Receivers in receivership-Open; Louisiana Health Cooperative, Inc.; Receivership Pleadings; and that such notice be deemed sufficient notice to all interested persons or entities; and
- (8) the judgment rendered as to the proposed settlement be certified as a final judgment for purposes of appeal by this Court for the reasons that the judgment as prayed for will dismiss all claims of LAHC against the Excess Insurers with prejudice and there is no just reason for delay since the Excess Insurers will no longer be parties to

the recovery action in accordance with Louisiana Code of Civil Procedure article 1915,
and for all other appropriate relief.

Respectfully Submitted,

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ATTORNEY GENERAL



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

STATE OF LOUISIANA

NUMBER: 641 928

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VERSUS

LOUISIANA HEALTH COOPERATIVE, INC.

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DEPUTY CLERK

ORDER

Considering the foregoing Motion to Substitute and Amend the Prior Motion filed in this matter on or about February 17, 2021, by deleting reference to Evanston Insurance Company in paragraph 5 of the Motion filed on or about February 17, 2021 - the Motion Requesting Approval of Settlement of Claims Involving Allied World Specialty Insurance Company (f/k/a Darwin National Assurance Company) and its affiliates ("Allied World"), Atlantic Specialty Insurance Company ("Atlantic Specialty"), Evanston Insurance Company ("Evanston"), RSUI Indemnity Company ("RSUI"), and Zurich American Insurance Company ("Zurich") (all collectively "Excess Insurers"), Defendants in 19th Judicial District Court Case Number 651 069, Section 22, and to file Settlement Agreements under Seal, and the Court finding that the parties are entitled to the relief granted herein:

IT IS ORDERED, ADJUDGED AND DECREED that the Motion to Substitute and Amend the prior motion filed in this matter on or about February 17, 2021 be and same hereby is granted.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that paragraph 5 of the prior motion is amended to read as follows:

The Excess Insurers allegedly provided insurance against the allegations made by the Receiver in the pending recovery suit with various policies of insurance. As part of the proposed settlement with the Excess Insurers, LAHC reserved all claims, rights, positions and defenses against all other defendants in the LAHC Recovery Suit, including, but not limited to, Group Resources, Inc., Milliman, Inc., Buck Consultants, LLC, and One Beacon Professional Insurance Company.

IT IS ORDERED, ADJUDGED AND DECREED that the Amended Motion Requesting Approval of Settlement of Claims Involving Allied World Specialty Insurance Company (f/k/a Darwin National Assurance Company) and its affiliates ("Allied World"), Atlantic Specialty Insurance Company ("Atlantic Specialty"), Evanston Insurance Company ("Evanston"), RSUI

Indemnity Company ("RSUI"), and Zurich American Insurance Company ("Zurich"), (all collectively "Excess Insurers") be and same hereby is GRANTED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the proposed settlement with Allied World, **EXHIBIT A**, be and same hereby is APPROVED

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the proposed settlement with Atlantic Specialty, Evanston, RSUI, and Zurich, **EXHIBIT B**, be and same hereby is APPROVED and ordered **to be FILED UNDER SEAL**.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Receiver for Louisiana Health Cooperative, Inc. in Rehabilitation ("LAHC") be and hereby is authorized to enter into the proposed settlement agreements with the "Excess Insurers", as reflected in the proposed agreements, one with Allied World attached as **Exhibit A**, and the other settlement agreement with Atlantic Specialty, Evanston, RSUI, and Zurich **to be filed under seal as Exhibit B**, and that the Receiver is hereby authorized to sign such documents, to take such actions as may be required to accomplish same, and to implement same, in the sole discretion of the Receiver.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the settlement is fair and equitable to all interested parties and claimants (including all creditors of LAHC); that the Receiver has specific authority to release all claims pursuant to the terms of the Settlement Agreements and to dismiss the claims asserted against the Excess Insurers, in the pending lawsuit with prejudice; that the Receiver has specific authority to execute the Settlement Agreements; that all creditors, claimants, and interested persons of the LAHC estate are and will be bound by the Settlement Agreements, and that the claims of LAHC estate creditors against Allied World Specialty Insurance Company, Atlantic Specialty Insurance Company, Evanston Insurance Company, RSUI Indemnity Company, and Zurich American Insurance Company ("Excess Insurers"), except direct claims, if any, which the Receiver is unable by assignment or operation of law to assert, and except as reserved in the proposed settlement agreements, be and hereby are deemed released as a result of this Court's finding of the fairness of the settlement and this Court's approval of the settlement.

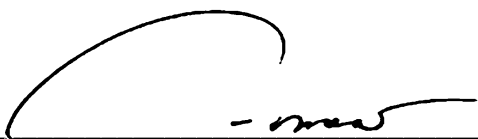
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that notice of this motion and order and the Court's ruling be given by posting a copy of this motion and order on the Louisiana Department of Insurance website at www.lidi.la.gov; Office Directory; Receivership;

Domestic Receivers in receivership-Open; Louisiana Health Cooperative, Inc.; Receivership Pleadings, and that such notice shall be deemed sufficient notice to all interested persons or entities.

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

The Court, in accordance with Louisiana Civil Code Article 1915, designates this as a final judgment by the Court after an express determination that there is no just reason for delay since the judgment rendered by the Court herein dismisses all claims in the recovery action as to Allied World Specialty Insurance Company (f/k/a Darwin National Assurance Company), and its affiliates (“Allied World”) and Atlantic Specialty Insurance Company, Evanston Insurance Company, RSUI Indemnity Company, and Zurich American Insurance Company (all referred to as “Excess Insurers”) with prejudice.

Baton Rouge, Louisiana, this **25** day of **February**, 2021.



DISTRICT COURT JUDGE RICHARD “CHIP” MOORE, III

CERTIFICATE OF SERVICE

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

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On this 19th day of February, 2021.



Sue Buser