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**SR**

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*Counsel for Barbara D. Richardson,  
Commissioner of Insurance,  
as the Permanent Receiver for  
Nevada Health CO-OP*

**IN THE EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

STATE OF NEVADA, EX REL.	)	Case No. A-15-725244-C
COMMISSIONER OF INSURANCE, IN HER	)	
OFFICIAL CAPACITY AS STATUTORY	)	Dept. No. 1
RECEIVER FOR DELINQUENT DOMESTIC	)	
INSURER,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
NEVADA HEALTH CO-OP,	)	
	)	
Defendant.	)	
	)	
	)	
	)	

**FOURTEENTH STATUS REPORT**

COME NOW, Commissioner of Insurance Barbara D. Richardson in her capacity as Receiver of Nevada Health CO-OP ("NHC," or the "CO-OP"), and CANTILO & BENNETT, L.L.P., Special Deputy Receiver ("SDR" - SDR and the Commissioner as Receiver are referred to

**Greenberg Traurig, LLP**  
3773 Howard Hughes Parkway, Ste. 400 N.  
Las Vegas, Nevada 89169

1 collectively herein as “Receiver”) and file this Fourteenth Status Report in the above-captioned  
2 receivership.

3 **I. INTRODUCTION AND HISTORICAL BACKGROUND**

4 The CO-OP is a state-licensed health insurer, formed in 2012 as a Health Maintenance  
5 Organization (“HMO”), with a Certificate of Authority granted by the State of Nevada Division  
6 of Insurance effective January 2, 2013. NHC is an Internal Revenue Code 501(c)(29) Qualified  
7 Non-Profit Health Insurance Issuer, entitled to tax exemption by the Internal Revenue Service  
8 (“IRS”). NHC was formed under a provision of the Patient Protection and Affordable Care Act  
9 (“ACA”) providing for the formation of Consumer Operated and Oriented Plans. Having  
10 received from the Centers for Medicare and Medicaid Services (“CMS”) of the United States  
11 Department of Health and Human Services (“HHS”) a start-up loan of \$17,080,047, and a  
12 “solvency” loan of \$48,820,349, NHC was required to operate as a non-profit, consumer-driven  
13 health insurance issuer for the benefit of the public. The CO-OP’s primary business was to  
14 provide ACA-compliant health coverage to residents of Nevada, and it operated its business  
15 for the benefit of Nevadans within the state, save for certain arrangements to provide  
16 nationwide health coverage to Nevadans traveling outside the state in certain circumstances.  
17 NHC began selling products on and off the Silver State Health Insurance Exchange (the  
18 “Exchange”) on January 1, 2014. Its products include individual, small group, and large group  
19 managed care coverages.

20 On October 1, 2015, this Court issued its Order Appointing the Acting Insurance  
21 Commissioner, Amy L. Parks as Temporary Receiver of NHC Pending Further Orders of the  
22 Court and Granting Temporary Injunctive Relief Pursuant to NRS 696B.270 (the “Temporary  
23 Receivership Order”). Further, on October 14, 2015, the Receivership Court entered its  
24 Permanent Injunction and Order Appointing Commissioner as Permanent Receiver of Nevada  
25 Health CO-OP (the “Permanent Receivership Order”), appointing the law firm of CANTILO &  
26  
27  
28

1 BENNETT, L.L.P. (“C&B”) as SDR of NHC, in accordance with Chapter 696B of the Nevada  
2 Revised Statutes.

3 Via a Notice of Substitution of Receiver dated April 6, 2016, Ms. Joanna N. Grigoriev  
4 informed interested parties of the substitution of Commissioner Barbara D. Richardson, in place  
5 and stead of former Acting Commissioner Amy L. Parks, as the Receiver of NHC. This  
6 substitution of Receiver was subsequent to Commissioner Richardson’s appointment as  
7 Commissioner of Insurance for the State of Nevada.

8 This Court, through its Final Order Finding and Declaring Nevada Health CO-OP to be  
9 Insolvent and Placing Nevada Health CO-OP into Liquidation (the “Final Order”) dated  
10 September 20, 2016, adjudged NHC to be insolvent on grounds that it is unable to meet  
11 obligations as they mature. The Final Order also authorized the Receiver to liquidate the  
12 business of NHC and wind up its ceased operations pursuant to applicable Nevada law. The  
13 Receiver has since transitioned the receivership estate from rehabilitation to liquidation.

14 The Receiver continues to file quarterly status reports as ordered by this Court.

## 15 **II. RECEIVERSHIP ADMINISTRATION**

### 16 **Receivership Administrative Services and Oversight**

17 CANTILO & BENNETT, L.L.P., as SDR of NHC, manages the receivership estate and  
18 conducts its affairs. PALOMAR FINANCIAL, LC (“Palomar”), an affiliate of the SDR, performs  
19 administration, information technology, and other related services for the Receiver under the  
20 supervision of the SDR. The Receiver has included an informational copy, as Exhibit 1 to this  
21 Fourteenth Status Report, of the invoices either deferred or paid to the SDR and other  
22 receivership consultants since the last status report to this Court.<sup>1</sup>

23  
24 <sup>1</sup> The *in camera* materials are being submitted in a separate envelope that reflect paid or deferred  
25 invoices. The Receiver has elected to defer certain administrative expenses until a later date when further assets  
26 become available to the Receiver. The Receiver has included copies of all invoices that have been approved but  
27 deferred as to the payment of fee amounts only.

1 **Resolution of Outstanding Receivership Matters**

2 ***Claims Adjudications***

3 NHC has finalized and mailed the claims adjudications and applicable Notices of Claim  
4 Determination (“NCD”) for healthcare claims previously submitted by providers. The total  
5 allowed amount of these claims is approximately \$33.7 million. The NCDs are similar in nature  
6 to the typical Explanation of Benefit or Explanation of Payment that members and providers  
7 received pre-receivership. However, the NCD contains legal notice of information pertaining  
8 to the receivership, including information concerning a claimant’s right to an appeal hearing on  
9 a claim determination in the Receivership Court. Providers received notice of the amount that  
10 the SDR has approved to be paid for their claims, depending upon the availability of assets.  
11 Members also received notices, as their rights are impacted by the SDR’s determination of the  
12 provider’s claim and the amount of member responsibility (*i.e.*, copay, coinsurance, deductible)  
13 on each claim. The Receiver expects to be able to evaluate any appeals under the

14 \_\_\_\_\_  
15 Certain billings submitted to the Court are appropriate for *in camera* review (as opposed to being made  
16 part of a public filing). More particularly, and as discussed in further detail below, certain consultants in this matter  
are providing expert witness related services. As such, the billing entries relating thereto should be considered  
confidential and/or otherwise not subject to discovery.

17 In this regard, courts have held that the bills of legal counsel and experts may be withheld from legal  
18 discovery and are not subject to legal disclosure, as this information may provide indications or context concerning  
19 potential litigation strategy and the nature of the expert services being provided. *See, e.g., Avnet, Inc. v. Avana*  
20 *Technologies Inc.*, No. 2:13-cv-00929- GMN-PAL, 2014 WL 6882345, at \*1 (D. Nev. Dec. 4, 2014) (finding that  
21 billing entries were privileged because they reveal a party’s strategy and the nature of services provided); *Fed.*  
22 *Sav. & Loan Ins. Corp. v. Ferm*, 909 F.2d 372, 374-75 (9th Cir. 1990) (considering whether or not fee information  
23 revealed counsel’s mental impressions concerning litigation strategy). Other courts that have addressed this issue  
24 have recognized that the “attorney-client privilege embraces attorney time, records and statements to the extent  
25 that they reveal litigation strategy and the nature of the services provided.” *Real v. Cont’l Grp., Inc.*, 116 F.R.D.  
26 211, 213 (N.D. Cal. 1986).

27 The *in-camera* review should apply not only to documentation concerning attorneys’ fees, but it also  
28 extends to “details of work revealed in [an] expert’s work description [which] would relate to tasks for which she  
[or he] was compensated[.]” a situation which is “analogous to protecting attorney-client privileged information  
contained in counsel’s bills describing work performed.” *See DaVita Healthcare Partners, Inc. v. United States*,  
128 Fed. Cl. 584, 592-93 (2016); *see also Chaudhry v. Gallerizzo*, 174 F.3d 394, 402 (4th Cir. 1999) (recognizing  
that “correspondence, bills, ledgers, statements, and time records which also reveal the motive of the client in  
seeking representation, litigation strategy, or the specific nature of the services provided, such as researching  
particular areas of law,” are protected from disclosure) (quoting *Clarke v. Am. Commerce Nat’l Bank*, 974 F.2d  
127, 129 (9th Cir. 1992)).

1 Receivership Appeal Procedure (the “RAP”) approved previously by this Court. The total  
2 allowed amount of the provider claims is subject to some change, depending upon the outcome  
3 of provider appeals. The SDR is evaluating appeals as they are received and will attempt to  
4 resolve them when possible without the need for a hearing. Once all appeal deadlines have  
5 run, and all appeals have been reviewed by the SDR, the SDR will inform the Receivership  
6 Court of any unresolved appeals so that a hearing or hearings may be set.

7 The Receiver has coordinated with those plan members who were reported to collection  
8 agencies by healthcare providers and facilities, or who were being sought for payment based  
9 on the receivership estate’s obligations. In cases where collection efforts have taken place in  
10 violation of the Permanent Receivership Order, NHC staff members contact those providers  
11 and any related collection agencies to inform them of the Permanent Receivership Order and  
12 its moratorium on the payment of health claims. When necessary, the SDR has also sends  
13 letters to such providers to advise them that their direct collection actions violate the Permanent  
14 Receivership Order and may justify receivership remedies against them. The sending of NCDs  
15 as discussed above has triggered some members to contact the SDR for help in these matters,  
16 which the SDR has provided to the members.

17 ***CMS Receivables***

18 As explained in prior status reports, and throughout the pendency of the receivership,  
19 the Receiver is working to resolve certain outstanding matters relating to the collection of  
20 amounts due under the various federal receivables programs of which the CO-OP was a  
21 participant, and which are administered primarily by CMS. Considering the size of these federal  
22 receivables in relation to the CO-OP’s potential total liabilities, the receipt of these funds by the  
23 receivership estate represents a key component of any future claim payments by NHC – as is  
24 the legal determination of the government’s asserted right to be paid ahead of all other creditors  
25 in the estate (including providers and members). CMS has maintained the position that any  
26 monies deemed owed to NHC (and thus the receivership estate) are to be offset against the  
27

1 amounts CMS asserts it is owed under the start-up loan awarded to NHC. To date, CMS has  
2 offset approximately \$13.4 million against the start-up loan that, the Receiver maintains, should  
3 have instead been paid to NHC. When the full amount of 2014 - 2015 risk corridors payments  
4 (*i.e.*, not just the prorated amount<sup>2</sup>) are included in the total, NHC is owed over \$55 million by  
5 CMS.

6 As of the date of filing of this Fourteenth Status Report, the Receiver asserts that the  
7 CO-OP, according to the various formulae applicable to Qualified Health Plans under the ACA,  
8 and notwithstanding prior attempts by CMS to offset these receivables against start-up loan  
9 funds in contravention of Nevada's laws relating to the regulation of insurer solvency, is owed  
10 over \$13.4M more in promised payments under various other CMS programs. The Receiver  
11 reserves the right to revise, adjust, or otherwise restate her basis for the CMS Receivables  
12 claims as new information is received and litigation progresses with CMS.

### 13 **Use of Third-Party Contractors as Part of Business Operations**

14 The Receiver utilizes the services of several third-party contractors that had been  
15 engaged before commencement of the receivership, and some that were engaged after the  
16 receivership commenced to assist in management of NHC's affairs. The Receiver has also  
17 subsequently engaged the services of some third-party contractors (*i.e.*, Jacobson and ADP)  
18 to perform administrative and support services to assist the administration of the Company.

19 The following is a list of independent contractors currently assisting the receivership:  
20  
21

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22 <sup>2</sup> Due to a shortfall in risk corridor collections, CMS asserts it can only pay a prorated percentage of  
23 issuers' 2014 Risk Corridors payments and it will use all collections in subsequent years towards the 2014  
24 payments (*i.e.*, they are unable to make payments for the subsequent years at all). DEP'T OF HEALTH & HUMAN  
25 SERVICES & CENTERS FOR MEDICARE & MEDICAID SERVICES ("CMS"), CCIIO MEMORANDUM, RISK  
26 CORRIDORS PAYMENT AND CHARGE AMOUNTS FOR THE 2015 BENEFIT YEAR (November 18, 2016)  
(available at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2015-RC-Issuer-level-Report-11-18-16-FINAL-v2.pdf>); CMS, CCIIO MEMORANDUM, RISK CORRIDORS PAYMENT AND  
27 CHARGE AMOUNTS FOR THE 2016 BENEFIT YEAR (November 15, 2017) (available at  
28 <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/Risk-Corridors-Amounts-2016.pdf>).

1 1. Eldorado, a division of Mphasis Corporation, the former hosting and software  
2 service for claims data, to provide continued storage and read-only access to historical claims  
3 and enrollment data.

4 2. The Jacobson Group, to provide customer service staffing support.

5 3. ADP, to provide payroll support and processing for employee compensation and  
6 benefits.

### 7 **Internal Administrative Matters Related to Wind Down**

8 Based on the current needs of the receivership, the Receiver has trimmed existing staff  
9 to two staff members as of early February 2019. The Receiver has refunded premium  
10 overpayments to members since NHC was not entitled to such overpayments. Thus, the  
11 overpayments were outside the normal claim process.

12 The wind down of NHC's 401(k) retirement plan is complete, with the distribution of funds  
13 to participating employees having taken place over the first half of 2018. The assets have  
14 either been transferred to the former participants' accounts at their election, or, in the case that  
15 a participant neglected to elect a distribution option, have been placed into Individual  
16 Retirement Accounts with Principal Bank, outside of NHC's retirement plan. The final Form  
17 5500 tax return for the 401(k), the last major filing for the plan, has been filed and accepted by  
18 the IRS. As assets have not remained in the 401(k) into 2019, a subsequent Form 5500 will  
19 not need to be filed, and the dissolution of the CO-OP retirement plan is complete.

20 The Receiver has maintained an office for NHC's essential office staff and expects to  
21 have essentially completed the wind down of NHC's administrative office this year. In  
22 November 2018, the SDR consolidated the office space (to a single suite from two), made  
23 plans to liquidate unneeded furniture and equipment, and will continue to wind down the  
24 Information Technology needs of the CO-OP to reduce estate expenses. As part of that  
25 process, the Receiver is terminating, or has terminated, a number of non-essential service  
26 agreements, as well as preventing all agreements from auto-renewing at the end of their terms.

1 **Continuation of Action Against Various Professionals and Other Firms Who Performed**  
2 **Services for and on Behalf of NHC**

3 On August 25, 2017, Counsel for the Receiver filed in Clark County District Court a  
4 complaint (Case No. A-17-760558-C in Department No. 18) against various persons, third-  
5 party vendors, and professional service firms which are alleged to have contributed to NHC's  
6 losses by, among other things, failing to adhere to applicable standards of professional care  
7 and requirements imposed by law, misrepresentation concerning quality and standard of care  
8 for services performed, and breaches of contract, duty, and implied covenants of good faith  
9 and fair dealing. The complaint names, among others, NHC's former actuaries, accountants,  
10 auditors, and providers of certain business operations and utilization review services, as well  
11 as those individuals who specifically performed, or who were in the role of supervising the  
12 performance of, those services. The Complaint also names several NHC former directors and  
13 executive management.

14 Via Plaintiff's Motion to Amend Complaint, filed on July 17, 2018, the Receiver sought  
15 an order granting leave to amend the August 25, 2017, complaint against certain of NHC's  
16 various directors, officers, and third-party contractors, citing the discovery of additional facts in  
17 support of assertions made in the first complaint, as well as the need to add a new defendant  
18 to the existing proceedings. This Motion to Amend Complaint was filed in judicial department  
19 number 16, in line with the terms of contemporaneous Notice of Department Reassignment  
20 assigning the proceedings to Judge Timothy C. Williams. The Motion to Amend Complaint was  
21 approved via an order entered on September 18, 2018.

22 Milliman filed its Motion to Compel Arbitration on November 6, 2017, a motion which  
23 was challenged by the December 11, 2017, filing of Plaintiff's Opposition to Milliman's Motion  
24 to Compel Arbitration. The hearing to address this issue was scheduled for December 12,  
25 2017, but had been reset for a hearing on January 9, 2018. Milliman would again state its  
26 bases to compel arbitration of those matters raised in the instant litigation via a reply dated



1 January 3, 2018. This motion and related briefing were heard by Judge Kathleen Delaney on  
2 January 9, 2018. The related Order Granting Milliman’s Motion to Compel Arbitration, dated  
3 March 12, 2018, held that a requirement to arbitrate in the pre-receivership agreements  
4 between NHC and Milliman did apply to the Receiver’s claims against Milliman. The Receiver  
5 filed a Motion for Reconsideration of the Milliman arbitration ruling, dated March 29, 2018. The  
6 Motion for Reconsideration sought review of the prior judgment compelling arbitration on  
7 various grounds.

8 Via an Opposition to Plaintiff’s Motion for Reconsideration filed April 16, 2018, Milliman  
9 sought to challenge the Receiver’s effort to avoid compelled arbitration, largely restating the  
10 grounds set forth in Milliman’s original November 6, 2017, Motion to Compel Arbitration. The  
11 Receiver filed her Reply in Support of Motion for Reconsideration on April 24, 2018. On May 1,  
12 2018, argument on the Motion for Reconsideration was heard by Judge Delaney, who  
13 subsequently ordered the proceedings continued to May 29, 2018, and requested more briefing  
14 from the parties on the most relevant legal questions underlying the Motion for Reconsideration.  
15 The Receiver filed her Sur-Reply in Support of Motion for Reconsideration, elaborating on the  
16 relevant choice-of-law and forum selection questions at issue in the dispute, dated June 29,  
17 2018. Hearing was held on the Motion for Reconsideration before Judge Delaney on July 24,  
18 2018. Through an order dated August 7, 2018, Judge Delaney denied Plaintiff’s Motion for  
19 Reconsideration of that Court’s March 12, 2018, order granting Milliman’s Motion to Compel  
20 Arbitration.

21 The Receiver then determined it was necessary to file, and did file on December 17,  
22 2018, a Petition under Nevada Rule of Appellate Procedure 21 for Writ of Mandamus in the  
23 Supreme Court of the State of Nevada (the “Petition for Writ”). The Petition for Writ requests  
24 that the Supreme Court of Nevada “issue a writ of mandamus directing the District Court to  
25 exercise subject matter jurisdiction over the claims raised by Petitioner against Real Parties in  
26 Interest.” The Receiver determined it was necessary to file the Petition for Writ in order to both  
27

1 protect the interests of the various creditors of the receivership estate, as well as to carry out  
2 the purposes of the Nevada Insurance Code and other law applicable to the rehabilitation and  
3 liquidation of insolvent insurers. The Petition for Writ asserts the Receiver's position that in  
4 "determining that the Commissioner's claims [*i.e.*, against Milliman] must be resolved through  
5 confidential arbitration, rather than litigated in the Court that has jurisdiction over the liquidation  
6 of the delinquent insurer as provided by the Nevada Insurance Code, the District Court  
7 manifestly abused its discretion." The Petition for Writ raises several legal issues of first  
8 impression in Nevada, to include certain questions of statewide public importance concerning  
9 the complex interaction between state and federal laws which may apply not only to this  
10 litigation, but the entire receivership estate and plan for liquidation. In response, and on March  
11 20, 2019, Milliman filed its Response of Real Parties in Interest to Petition for Writ of  
12 Mandamus, asserting *inter alia* its rights to compel arbitration in this action. The Receiver is  
13 carefully considering Milliman's Response and will submit a reply if determined necessary.

14 Millennium filed a Motion to Dismiss on October 26, 2017, and an opposition to such  
15 motion was filed by the Receiver on December 18, 2017. The hearing on that Motion to Dismiss  
16 was scheduled for December 12, 2017, but this was later rescheduled to January 9, 2018, on  
17 stipulation of the parties, and then again rescheduled to be heard on January 16, 2018, by  
18 another stipulation. Millennium restated its bases for dismissing several claims in the litigation  
19 against it in its Reply in Support of its Motion to Dismiss dated January 9, 2018. The related  
20 hearing on these matters was conducted by Judge Elizabeth Gonzalez on January 16, 2018,  
21 who denied the Motion in all respects. In light of the Receiver's Amended Complaint in this  
22 matter, Millennium filed, on October 16, 2018, its Answer to Amended Complaint, generally  
23 denying "each and every, all and singular, the allegations and statements contained in the  
24 amended complaint" and requesting "judgment that plaintiff take nothing by plaintiff's amended  
25 complaint and that be dismissed with an award of its costs of suit." On February 14, 2019, both  
26 the Receiver and Millennium, through counsel, filed their Joint Motion for Determination of  
27

1 Good Faith Settlement by Plaintiff and Defendant Millennium Consulting Services, LLC on  
2 Order Shortening Time, seeking among other things, a determination from the Court that the  
3 settlement agreement dated August 10, 2018, by and between Millennium and the Receiver,  
4 proposes a good faith settlement of the Receiver's claims, barring all claims for equitable  
5 indemnity and/or contribution in connection with the settlement, and granting Rule 54(b)  
6 certification upon a determination that there is no just reason for delay in confirming the  
7 agreement. This motion was approved by the Court after hearing on March 19, 2019.

8 The six NHC former directors and officers named specifically in the Original Petition  
9 joined together in filing their January 16, 2018, Motion to Dismiss, Alternatively for More Definite  
10 Statement, seeking to have the Court dismiss all claims against them for intentional  
11 misrepresentation and fraud, negligent misrepresentation, constructive fraud, unjust  
12 enrichment, and civil conspiracy, on the basis that the Receiver had not sufficiently articulated  
13 her claims under such causes of action in the Original Petition. Counsel for InsureMonkey and  
14 Alex Rivlin filed a Limited Joinder to the aforementioned Motion to Dismiss on January 23,  
15 2018, stating essentially similar grounds to justify a dismissal of the claims based on  
16 "impermissibly vague allegations" relating to them. The hearing on this Motion and its related  
17 matters was initially scheduled to occur on February 20, 2018, but was later rescheduled to  
18 March 20, 2018, via a stipulation reached between the parties. As litigation has continued on  
19 this Motion, the Court has granted several stipulations between the parties to reset the date of  
20 the hearing, which was most recently scheduled for September 5, 2018. However, via a  
21 Stipulation and Order to Withdraw dated August 15, 2018, the parties to the action agreed to  
22 permit withdrawal of the Motion to Dismiss without prejudice, thus cancelling that hearing.

23 InsureMonkey and Mr. Rivlin filed their Motion for Summary Judgment and Declaratory  
24 Relief on June 5, 2018, claiming that all the Receiver's tort claims against both InsureMonkey  
25 and Alex Rivlin are time-barred pursuant to Nevada law and by private contract. Further,  
26 InsureMonkey and Rivlin argue that certain contractual provisions limit any potential recovery  
27

1 against them to twice the total expected value of fees paid by the CO-OP. On June 22, 2018,  
2 the Receiver filed Plaintiff's Opposition to InsureMonkey, Inc. and Alex Rivlin's Motion for  
3 Summary Judgment and Declaratory Relief, setting forth the legal and factual grounds for  
4 rejecting InsureMonkey and Rivlin's position. A Reply to Plaintiff's Opposition to the Motion for  
5 Summary Judgment and Declaratory Relief was filed as of July 10, 2018. A hearing on this  
6 Motion before Judge Williams occurred on July 25, 2018, after which the Court ordered that  
7 the Motion for Summary Judgment and Declaratory Relief be denied without prejudice, that  
8 discovery be permitted on the assertions made in Plaintiff's complaint in this case. Following  
9 this result, InsureMonkey elected, via the same Stipulation and Order to Withdraw by NHC's  
10 former directors and officers averred to above, to withdraw its limited joinder to their Motion to  
11 Dismiss, though reserving the right to re-file.

12 Subsequent to the approval of filing the Receiver's Amended Complaint, the  
13 aforementioned directors and officers filed a renewed Motion to Dismiss, Alternatively for More  
14 Definite Statement, dated October 5, 2018. This October 5, 2018, Motion to Dismiss was  
15 formally joined by InsureMonkey and Alex Rivlin via a Joinder filed on October 15, 2018. These  
16 renewed pleadings advanced similar arguments as in the earlier attempts to dismiss all or part  
17 of the claims against NHC's former directors, officers, and certain vendors, and were  
18 responded to by the Receiver via Oppositions filed on October 22, 2018, against the motion  
19 made by the directors and officers, and on October 25, 2018, against the joinder filed by  
20 InsureMonkey and Rivlin. Subsequent to an October 30, 2018, Reply in Support of Motion to  
21 Dismiss First Amended Complaint filed by the former directors and officers of the CO-OP, the  
22 Court in that matter ordered, in the November 6, 2018, hearing on such motions, that the  
23 renewed Motion to Dismiss and the related Joinder were denied pursuant to Rule 12(b), without  
24 impact as to future summary judgment relief being sought. The former directors and officers  
25 of NHC filed their Answer to the Receiver's Amended Complaint on February 19, 2019.

1           The Parties had their mandatory pre-trial conference under Nevada Rule of Civil  
2 Procedure 16 on January 23, 2018, in order to establish the applicable deadlines for finalizing  
3 discovery, participating in a mandatory settlement conference, and setting forth the provisional  
4 schedule for trial. In a subsequent status check conference, held on August 21, 2018, these  
5 deadlines were rescheduled, *inter alia*, in light of the then-recently-filed Motion to Amend  
6 Complaint. New dates have been specified in the Court’s August 27, 2018, Amended Order  
7 Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions. Until further  
8 revised, the deadline for motions to amend pleadings, add parties, or designate experts is April  
9 29, 2019; the deadline to designate rebuttal experts is May 29, 2019; and the discovery cut-off  
10 is July 26, 2019. The deadline for dispositive motions in this matter is August 26, 2019, in  
11 anticipation of a pre-trial conference and calendar call to be held on October 3, 2019. These  
12 deadlines are in anticipation of an October 14, 2019, trial date, to be tried on a five-week stack  
13 until conclusion.

14           The Receiver continues to conduct discovery with parties to the suit, producing and  
15 responding to requests as received. In service of this, and in coordination with the opposing  
16 parties and the Court in this matter through status check conferences on October 23, 2018,  
17 and November 2, 2018, the Receiver has noticed for deposition via an electronic filing dated  
18 December 14, 2018, thirteen different persons known or believed to have knowledge relevant  
19 to this case, these depositions to have taken place between January and March 2019. The  
20 Receiver has found it necessary to postpone or reschedule certain depositions as necessary  
21 in order to accommodate the personal and professional circumstances of some defendants but  
22 will continue the process of noticing and taking depositions until all necessary persons have  
23 been deposed, and this process being expected to continue for the next three months. The  
24 persons noticed for deposition in this manner include several former directors or officers of  
25 NHC, principals or responsible officers for several of the CO-OP’s vendors, and other persons  
26 believed to have relevant personal knowledge of the underlying factual issues. As reported  
27

1 before and throughout discovery, the prior-approved “ESI Protocol” governs certain aspects of  
2 the discovery process in this suit, and specifically, the production and designation of documents  
3 believed to be responsive evidence.

4 **Commencement of Action Against the United States in the Court of Federal Claims**

5 On November 8, 2018, the Receiver filed a Complaint in the United States Court of  
6 Federal Claims (the “CFC Complaint”) against the United States for monetary amounts owed  
7 to NHC under the Consumer Operated and Oriented Plan program organized pursuant to the  
8 ACA. The Receiver determined that such litigation was necessary in order to advance the  
9 interests of the receivership estate’s various creditors, and to protect and conserve assets that  
10 rightfully belong to the estate.

11 The CFC Complaint prays for relief in the form of an award of damages and monetary  
12 relief equal to the difference between the amount NHC actually received in payments under  
13 Sections 1341, 1342, and 1343 of the ACA – the statutes which describe and enact the  
14 transitional reinsurance, risk corridors, and risk adjustment receivables programs respectively  
15 – and the amount NHC should have received under those laws. The CFC Complaint also  
16 seeks an award of damages and monetary relief equal to the difference between what NHC  
17 actually received in premium tax credits for 2015 under Section 1401 and the amount it should  
18 have received. As well, the CFC Complaint seeks all other available relief under applicable  
19 law, costs and attorney fees, and any such other and further relief as that Court deems just  
20 and proper.

21 The CFC Complaint alleges that the United States, through its agents at HHS and CMS,  
22 improperly offset payments owed to NHC with funds NHC allegedly owed pursuant to the terms  
23 of the CO-OP start-up loan, in violation of the Nevada Permanent Receivership Order which  
24 precludes self-help remedies by any creditor of the estate. The CFC Complaint also alleges  
25 that the United States is in knowing violation of multiple ACA provisions which are money-  
26 mandating and require the government to make such federal receivables payments. The CFC  
27

1 Complaint argues that the actions of HHS/CMS constitute not only a breach of contract by  
2 wrongful setoff, but also illegal exaction.

3 The United States, through a Motion to Dismiss the Complaint filed on March 7, 2019,  
4 seeks to dismiss the CFC Complaint on the basis of, *inter alia*, prior precedent from the Federal  
5 Circuit Court, the United States' claimed right to offset amounts owed to it against those  
6 amounts owed to NHC under the ACA, and because the Receiver's argument that the United  
7 States' decision to offset amounts owed does not amount to an illegal exaction. The Receiver  
8 is carefully reviewing the arguments made and authorities cited by the United States attorneys  
9 in this Motion, and the Receiver will respond in those proceedings as appropriate.

10 **Resolution of POCs, Provision of NCDs, Appeals**

11 The Receiver has implemented the POC process approved by this Court in its Final  
12 Order and has already conducted general mailings and publication of necessary notices to  
13 claimants and other interested parties.

14 The Claims Filing Deadline was April 28, 2017, and the SDR received 141 POCs. Many  
15 of these are incomplete or unable to be adjudicated for various other reasons, and the SDR  
16 has notified various claimants of claim deficiencies. After receiving no response to such  
17 notices, the SDR has denied a number of the incomplete POCs.

18 It does not appear now that there will be sufficient assets to pay claims beyond those  
19 assigned a Class B priority pursuant to NRS 696B.420(1)(b). The SDR has been finalizing and  
20 mailing notices of claim determination for the Class B POCs, and this process is expected to  
21 be completed in the near future. The SDR has received a number of POCs that should be  
22 assigned to priority classes C through L, pursuant to NRS 696B.420(1)(c)-(l). In such  
23 instances, the SDR will send claimants NCDs that determine the priority of their claims is no  
24 higher than NRS § 696B.420(1)(c) ("Class C"), which determination will be subject to appeal  
25 under the Receivership Appeal Procedure ("RAP"). To conserve the assets of the estate, and  
26 per NRS696B.330(4), the SDR of NHC will refrain from reaching the merits of these claims until  
27

1 such time it appears that assets will be available for distribution to that class. If additional  
2 assets later become available for distribution to these claimants, the SDR will make a second  
3 claim determination as to the merits of each claim and notify the claimants of such  
4 determination.

5 **Current Receivership Assets**

6 The Receiver's evaluation of the assets and liabilities of the CO-OP is ongoing, and  
7 adjusted periodically to accommodate new authorized payments, receipts, and transfers.  
8 Below is an overview of some key asset matters thus far identified by the Receiver (other than  
9 those already mentioned herein):

10 1. The unrestricted cash assets of the CO-OP have fluctuated with post-  
11 receivership expenses and claim payments, as well as with the Receiver's receipt of member  
12 premiums. The currently-available, unrestricted cash assets of the CO-OP as of February 28,  
13 2019, were approximately \$734,471. The majority of NHC's currently available and liquid  
14 assets have been invested in a bond mutual fund, with the remainder of such assets held in  
15 bank deposits.

16 2. The financial information of NHC in this Fourteenth Status Report provides  
17 estimates. NHC's financials may materially vary depending upon the estate's receipt of the  
18 promised federal receivables payments under the various ACA programs described in this  
19 report and future litigation recoverables. These figures will remain estimates until the estate  
20 receives clearer indications from CMS and the federal government as to the amount and timing  
21 of any federal payments or future appropriations, as well as the final disposition of CMS  
22 receivable balances in which CMS has placed an administrative hold and asserted rights to  
23 setoff, many of these matters being litigated currently.

24 3. The Receiver is enclosing, as Exhibit 2 attached hereto, a cash flow report for  
25 NHC for the period covering the inception of the receivership through February 28, 2019. This  
26 report reflects a summary of disbursements and collections made by NHC during this period.



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**CONCLUSION**

The Receiver has submitted this report in compliance with the Receivership Court's instructions for a status report on NHC. The Receiver requests that the Court approve this Fourteenth Status Report and the actions taken by the Receiver.

DATED this 2nd day of April 2019.

Respectfully submitted:

Barbara D. Richardson, Commissioner of Insurance of the State of Nevada, in her Official Capacity as Statutory Receiver of Delinquent Domestic Insurer

By: /s/ CANTILO & BENNETT, L.L.P.  
Special Deputy Receiver  
By Its Authorized Representative  
Patrick H. Cantilo

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