

IN THE SUPREME COURT OF NEVADA

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UNITE HERE HEALTH, a multi-employer health and welfare ERISA Section 3(37); and NEVADA HEALTH SOLUTIONS, LLC, a Nevada limited liability company,

Electronically Filed  
Jun 14 2021 01:25 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Appellants,

vs.

STATE OF NEVADA EX REL. COMMISSIONER OF INSURANCE,  
BARBARA D. RICHARDSON, IN HER OFFICIAL CAPACITY AS  
STATUTORY RECEIVER FOR DELINQUENT DOMESTIC INSURER,  
NEVADA HEALTH CO-OP; and GREENBERG TRAURIG, LLP,

Respondents.

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District Court Case No. A-15-725244-C, Department XXI

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**APPELLANTS' APPENDIX - VOLUME 2 OF 13**

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**June 14, 2021**

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**APPELLANTS' APPENDIX - VOLUME 2 OF 13**

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## **APPELLANTS' APPENDIX**

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**TAB 12**

**TAB 12**

  
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DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA, EX REL.  
COMMISSIONER OF INSURANCE, IN HER  
OFFICIAL CAPACITY AS STATUTORY  
RECEIVER FOR DELINQUENT DOMESTIC  
INSURER,

Plaintiff,

vs.

NEVADA HEALTH CO-OP,

Defendant

Case No. A-15-725244

Dept. No. I

**NOTICE OF ENTRY OF ORDER**

TO: ALL INTERESTED PARTIES;

PLEASE TAKE NOTICE that an ORDER was filed in the above captioned matter on January 18, 2017, a copy of which is attached hereto.

Dated: January 23, 2017.

ADAM PAUL LAXALT  
Attorney General

By: /s/ Joanna N. Grigoriev  
JOANNA N. GRIGORIEV  
Senior Deputy Attorney General

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on January 23, 2017, I filed the foregoing document via this Court's electronic filing system. Parties that are registered with this Court's EFS will be served electronically:

**E-Service Master List**

**For Case**

**State of Nevada, ex rel Commissioner of Insurance, Plaintiff(s) vs. Nevada Health CO-OP, Defendant(s)**

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/s/Marilyn Millam

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CLERK OF THE COURT

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DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA, EX REL.  
COMMISSIONER OF INSURANCE, IN HER  
OFFICIAL CAPACITY AS STATUTORY  
RECEIVER FOR DELINQUENT DOMESTIC  
INSURER,

Plaintiff,

vs.

NEVADA HEALTH CO-OP,

Defendant

Case No. A-15-725244

Dept. No. I

**ORDER**

Commissioner of Insurance and Receiver ("Receiver"), Barbara D. Richardson's Motion to Approve Professional Fee Rates ("Motion") came before this Court on January 10, 2017. Receiver was present by and through counsel, Joanna N. Grigoriev, Senior Deputy Attorney General and through her Special Deputy Receiver representative, Mark F. Bennett ("SDR"). Upon review of the papers and pleadings on file in this matter and upon the argument of counsel and of the SDR, the Receiver's Motion is **GRANTED** as follows:

1. The Court approves, ratifies and confirms the engagement of Greenberg, Traurig, L.L.P., Santoro Whitmire, Ltd., FTI Consulting, Inc., and DeVito Consulting, Inc. ("Service Providers"), as set forth in the Motion.

2. The Court approves, ratifies and confirms the professional rates for Service Providers, as set forth in Exhibit A to the Motion;

3. The Court permits the Receiver to approve and pay invoices of the Service Providers as deemed necessary without subsequent application to the Court.

4. The Court authorizes the Receiver to continue paying such “hardship claims” as in the Receiver’s discretion are deemed necessary and appropriate, as previously authorized by this Court in its February 25, 2016 Order.

**IT IS SO ORDERED.**

DATED: January 17, 2017.

DISTRICT COURT/JUDGE

Respectfully submitted by:

ADAM PAUL LAXALT  
Attorney General

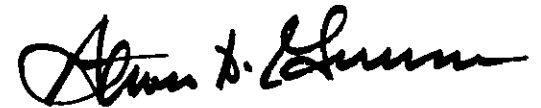
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**TAB 13**

**TAB 13**



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

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

22 **SIXTH STATUS REPORT**

23  
24 COME NOW, Commissioner of Insurance Barbara D. Richardson in her capacity as  
25 Receiver of Nevada Health CO-OP ("NHC," or the "CO-OP"), and CANTILO & BENNETT, L.L.P.,  
26 Special Deputy Receiver ("SDR" - SDR and the Commissioner as Receiver are referred to  
27 collectively herein as "Receiver"), and file this Sixth Status Report in the above-captioned  
28 receivership.

## I. INTRODUCTION AND HISTORICAL BACKGROUND

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

On October 1, 2015, this Court issued its Order Appointing the Acting Insurance Commissioner, Amy L. Parks as Temporary Receiver of NHC Pending Further Orders of the Court and Granting Temporary Injunctive Relief Pursuant to NRS 696B.270 (the “Temporary Receivership Order”). Further, on October 14, 2015, the Receivership Court entered its Permanent Injunction and Order Appointing Commissioner as Permanent Receiver of Nevada Health CO-OP (the “Permanent Receivership Order”), appointing the law firm of CANTILO & BENNETT, L.L.P. as SDR of NHC, in accordance with Chapter 696B of the Nevada Revised Statutes.

Via a Notice of Substitution of Receiver dated April 6, 2016, Ms. Joanna N. Grigoriev informed interested parties of the substitution of Commissioner Barbara D. Richardson, in place and stead of former Acting Commissioner Amy L. Parks, as the Receiver of NHC. This

1 substitution of Receiver was subsequent to Commissioner Richardson's appointment as  
2 Commissioner of Insurance for the State of Nevada.

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

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

## 10 **II. RECEIVERSHIP ADMINISTRATION**

### 11 **Receivership Administrative Services and Oversight**

12 CANTILO & BENNETT, L.L.P. as SDR of NHC, manages the receivership estate and  
13 conducts its affairs. PALOMAR FINANCIAL, LC ("Palomar"), an affiliate of the SDR, performs  
14 administration, information technology, and other related services for the Receiver under the  
15 supervision of the SDR. The Receiver has included an informational copy, as Exhibit 1 to this  
16 Sixth Status Report, of the invoices paid to the SDR and Palomar since the last status report  
17 to this Court.

### 18 **Resolution of Outstanding Receivership Matters**

#### 19 ***Pre-Liquidation Claims Adjudications and Data Inaccuracy Resolution***

20 NHC's staff continues the process of claims adjudications to adjudicate all new and  
21 pending claims. Additionally, NHC's staff also continues to correct what inaccuracies remain  
22 in NHC's enrollment databases. This enrollment evaluation is necessary to determine dates  
23 of coverage for each member's medical care. The final evaluation of enrollment information  
24 will also reconcile NHC's obligations to pay for member health care. NHC staff members  
25 continue to keep interested parties informed of relevant updates concerning the status of their  
26 claims, as well as any applicable deadlines.

27 Throughout the receivership, the Receiver has received reports that some plan  
28 members were reported to collection agencies by healthcare providers. In cases where

collection efforts have taken place in violation of the Permanent Receivership Order, NHC staff members contact those providers and any related collection agencies to inform them of the Permanent Receivership Order and its moratorium on the payment of health claims. When necessary, the SDR sends a letter to such providers to advise them that their actions are in violation of the Permanent Receivership Order.

### ***Continuation of Mandatory Regulatory Reporting to CMS***

As explained in prior status reports, the Receiver and SDR continue to coordinate with CMS in the submission of essential data for the various regulatory reporting processes required for CO-OPs under the ACA. These submissions are also critical to NHC's right to claim amounts under the federal receivables programs for the CO-OP's revenues.

NHC remains a participant in several such programs, which include the following: Cost Sharing Reduction ("CSR") Reconciliation, Federal Transitional Reinsurance, Risk Adjustment, and the Risk Corridors. The expected receipt of these federal receivables is a key part of NHC's finances, and their receipt remains critical for future payments to NHC's creditors. The non-receipt of substantially all federal reimbursements for plan year 2015, including a material portion of reimbursements for plan year 2014, has greatly diminished NHC's assets and, therefore, its claims-paying ability.

### ***Updates as to Current Status of Regulatory Submissions Projects***

NHC Risk Adjustment and Federal Transitional Reinsurance data was submitted to CMS on May 2, 2016. Periodically, CMS inquires about particular subsets of this data, which the SDR continues to resolve. On June 30, 2016, CMS released its Summary Report on Transactional Reinsurance and Permanent Risk Adjustment Transfers for the 2015 Benefit Year.<sup>1</sup> Per the report, for coverage year 2015, the CO-OP is owed a Federal Transitional Reinsurance payment of \$8,842,009.69 and net Risk Adjustment transfer of \$4,532,560.29. The 2015 Federal Transitional Reinsurance payment amount increased by \$4,601.65 to \$8,846,611.34 in the December 6, 2016, Amendment to the Summary Report on Transitional

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<sup>1</sup> Available at: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/June-30-2016-RA-and-RI-Summary-Report-5CR-063016.pdf>.

1 Reinsurance Payments and Permanent Risk Adjustment Transfers for the 2015 Benefit  
2 Year.<sup>2</sup>

3 The reporting related to the CSR Reconciliation program resulted in a net amount  
4 owed by NHC to CMS of \$3,579,359.65 for 2014 and 2015 CSRs. NHC is working on an  
5 updated CSR filing with CMS for 2017. The SDR is working with Truven Health Analytics to  
6 prepare 2014 and 2015 CSR files in advance of the June 2, 2017, CMS deadline for CSR  
7 submission. All issuers have the opportunity to submit their 2015 CSR files during this  
8 submission window. NHC requested CMS permission to submit a 2014 CSR file as well.  
9 After follow-up correspondence by the SDR, CMS granted NHC permission to submit an  
10 updated 2014 CSR file. The deadline for the final submission of CSR data is June 2, 2017,  
11 and CMS will notify issuers of reconciled amounts on June 30, 2017.

12 The second installment payment of the 2015 Federal Transitional Reinsurance ("FTR")  
13 premium in the amount of \$195,660.30 was withdrawn by CMS from NHC's operating  
14 account on November 15, 2016. NHC did not contest this transaction in order to preserve its  
15 claims for reinsurance. However, NHC has requested a recalculation of the FTR premium  
16 and partial refund based upon enrollment corrections. On January 6, 2017, CMS informed  
17 NHC that its request does not meet the criteria to receive a refund. The SDR plans to  
18 request additional clarification and may challenge this determination.

19 The 2015 Risk Corridors data submissions were reported by the deadline of August 1,  
20 2016, and showed a significant receivable for the CO-OP. CMS originally requested a small  
21 restatement to one line item in NHC's submission, which would have had a small impact  
22 upon the amount owed to NHC. However, CMS then directed NHC not to make any  
23 restatement(s) of the 2015 Risk Corridors or Medical Loss Ratio ("MLR") data in 2016.  
24 Instead, CMS advised that a restatement of Risk Corridors and MLR data may be filed in  
25 2017. After advising that the 2015 Risk Corridors and MLR data may be filed in 2017, CMS  
26  
27

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28 <sup>2</sup> Available at: [https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/DDC\\_RevisedJune30thReport\\_v2\\_5CR\\_120516.pdf](https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/DDC_RevisedJune30thReport_v2_5CR_120516.pdf)

1 provided different instructions on the re-filing of this data, and consequently, the SDR has  
2 requested that CMS clarify its position on when and whether to re-file this data in 2017.

3 In regard to the original 2015 filing of the Risk Corridors, CMS confirmed that NHC is  
4 owed \$29.9 million for its individual market and \$3.75M for its small group market.<sup>3</sup> CMS has  
5 previously announced that, based on its preliminary analysis, “. . . all 2015 benefit year  
6 collections will be used towards remaining 2014 benefit year risk corridors payments, and no  
7 funds will be available at this time for 2015 benefit year risk corridors payments.”<sup>4</sup>

8 In addition to balances due for year 2015, the CO-OP is still owed over \$9.5 million for  
9 2014 Risk Corridors payments.<sup>5</sup> CMS stated in its November 18, 2016, Risk Corridors report  
10 that the expected payment towards NHC’s 2014 Risk Corridors amounts is only \$355,443.99.  
11 However, CMS has also maintained the position that any new monies deemed owed to the  
12 receivership estate are to be set-off against the amounts CMS asserts it is owed pursuant to  
13 its decision to accelerate, and therefore declare presently due, the original funds loaned to  
14 NHC.

15 NHC has made monthly submissions of Advance Premium Tax Credit (“APTC”) billing  
16 data in accordance with CMS reporting requirements. The total of APTC payments received  
17 from CMS is substantially less than what NHC billed CMS for 2015 APTC, and the SDR has  
18 asserted a claim for the shortfall. NHC’s data indicates that CMS still owes NHC at least \$4.7  
19 million for APTC. NHC is evaluating APTC data recently provided by CMS, but NHC’s  
20 current data reflects that at least \$4.7 million is still owed by CMS. The SDR will be following  
21 up with CMS in an attempt to resolve the APTC matter.

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23 <sup>3</sup> DEP’T OF HEALTH & HUMAN SERVICES & CENTERS FOR MEDICARE & MEDICAID SERVICES,  
24 CCIIO MEMORANDUM, RISK 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>)

25 <sup>4</sup> DEP’T OF HEALTH & HUMAN SERVICES & CENTERS FOR MEDICARE & MEDICAID SERVICES,  
26 CCIIO MEMORANDUM, Risk Corridors Payments for 2015 (September 9, 2016) (available at:  
<https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/Risk-Corridors-for-2015-FINAL.PDF>).

27 <sup>5</sup> DEP’T OF HEALTH & HUMAN SERVICES & CENTERS FOR MEDICARE & MEDICAID SERVICES,  
28 CCIIO MEMORANDUM, RISK CORRIDORS PAYMENT AND CHARGE AMOUNTS FOR BENEFIT YEAR 2014  
(1, Table 29) (November 19, 2015) (stating CMS’ need to decrease, or “prorate,” amounts owed to issuers due  
to budget shortfall, providing amounts owed to each issuer) (available at: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/RC-Issuer-level-Report.pdf>).

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

The Receiver utilizes the services of several third-party contractors that had been engaged before commencement of the receivership, and of two who were engaged after the receivership commenced to assist in management of NHC's affairs

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

1. Change Healthcare Solutions, LLC, to perform paper claims scanning services.
2. Eldorado, a division of Mphasis Corporation, to provide a hosting service for claims data and information.
3. The Jacobson Group, to provide claims adjustment and customer service staffing support.
4. Redcard, to perform check processing and delivery to health care providers, and delivery of Explanation of Benefit disclosures to plan members.
5. Truven Health Analytics, to provide services for the resubmission of CSR filings with CMS for calendar years 2014 and 2015.
6. ADP, to provide payroll support and processing for employee compensation and benefits.

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

NHC maintains staff to address calls from interested parties regarding the recently approved proof of claim ("POC") process, other claim matters, and the collection of assets for the receivership. The Receiver also continues to determine and refund premium overpayments to members since such overpayments were not funds to which NHC was entitled and are therefore outside the normal claim process. Currently, the receivership estate has returned approximately \$151,789 in premium overpayments to members since January 1, 2016.

The wind down of NHC's 401(k) retirement plan continues, with the SDR having submitted to the Internal Revenue Service the Form 5310 for the retirement plan wind down. The Form 5310 filing seeks a tax determination letter that would permit the distribution of 401(k) assets to employees without the need for an expensive and time-consuming audit.



1 The Receiver also maintains an office for NHC's essential office staff<sup>6</sup> in a smaller and less  
2 expensive office space than was used by NHC before, and just after, the receivership. The  
3 Receiver has not yet received disposition of the prior Form 5310 filing from the IRS, but such  
4 determinations are not typically made until several months following a filing. The SDR  
5 expects to receive a final disposition of this matter by later this year.

6 **Authorization from this Court to Hire Consultants for Various Purposes**

7 Previously, the Receiver filed a Motion to Approve Professional Fee Rates on an  
8 Order Shortening Time, seeking from this Court the approval of the professional fee rates for  
9 certain service providers deemed essential to receivership operations, as well as  
10 authorization for the Receiver to include paid invoices with quarterly status reports to this  
11 Court. Following a hearing which took place on January 10, 2017, this Court did enter an  
12 Order dated January 17, 2017, which approved that Motion in all relevant respects. The  
13 Receiver has been working with these professional firms regarding the receivership's affairs.

14 **Submission of Fees for *In-Camera* Review, Legal Authority Supporting Same**

15 The Receiver submits legal and expert consulting firm invoices as Exhibit 2 with this  
16 Status Report filing. These invoices are in the form of summary bills that memorialize the  
17 fees and costs of these legal and expert firms. The detailed time and billing entries of the  
18 legal and expert firms have been submitted separately to the Court for its *in-camera*  
19 review. The Receiver submits these invoices and related documentation for the *in-camera*  
20 inspection by the Court to prevent the inappropriate disclosure of confidential and/or  
21 privileged information. In this connection, courts have held that the bills of legal counsel and  
22 experts may be withheld from legal discovery and are not subject to legal disclosure, as this  
23 information may provide indications or context concerning potential litigation strategy and the  
24 nature of the expert services being provided. See Avnet, Inc. v. Avana Technologies Inc.,  
25 No. 2:13-cv-00929-GMN-PAL, 2014 WL 6882345, at \*1 (D. Nev. Dec. 4, 2014) (finding that  
26 billing entries were privileged because they reveal a party's strategy and the nature of  
27

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28 <sup>6</sup> Currently, NHC maintains sixteen full-time and two part-time employees.

1 services provided); Fed. Sav. & Loan Ins. Corp. v. Ferm, 909 F.2d 372, 374-75 (9th Cir.  
2 1990) (considering whether or not fee information revealed counsel's mental impressions  
3 concerning litigation strategy). Other courts that have addressed this issue have recognized  
4 that the "attorney-client privilege embraces attorney time, records and statements to the  
5 extent that they reveal litigation strategy and the nature of the services provided." Real v.  
6 Cont'l Grp., Inc., 116 F.R.D. 211, 213 (N.D. Cal. 1986).

7 The *in-camera* review should apply not only to documentation concerning attorneys'  
8 fees, but it also extends to "details of work revealed in [an] expert's work description [which]  
9 would relate to tasks for which she [or he] was compensated[,]" a situation which is  
10 "analogous to protecting attorney-client privileged information contained in counsel's bills  
11 describing work performed." See DaVita Healthcare Partners, Inc. v. United States, 128 Fed.  
12 Cl. 584, 592-93 (2016); see also Chaudhry v. Gallerizzo, 174 F.3d 394, 402 (4th Cir. 1999)  
13 (recognizing that "correspondence, bills, ledgers, statements, and time records which also  
14 reveal the motive of the client in seeking representation, litigation strategy, or the specific  
15 nature of the services provided, such as researching particular areas of law," are protected  
16 from disclosure) (quoting Clarke v. Am. Commerce Nat'l Bank, 974 F.2d 127, 129 (9th Cir.  
17 1992)).<sup>7</sup>

### 18 **Commencement of Action against CMS to Settle Questions of Setoff as to** 19 **Mutual Obligations**

20 On March 16, 2017, Counsel for the Receiver filed in the United States District Court  
21 for the District of Nevada a Complaint and Demand for Jury Trial (the "Complaint") against  
22 the United States Department of Health and Human Services, the Centers for Medicare and  
23 Medicaid Services, Thomas E. Price, M.D. in his capacity as the U.S. Secretary of Health and  
24

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25 <sup>7</sup> This outcome is also supported by, among other things, the 2010 Advisory Committee Note to  
26 Federal Rules of Civil Procedure 26, which suggests that the proper focus of permitted discovery into expert  
27 compensation concerns the compensation amount, not the tasks performed that led to compensation; the  
28 objective of discovery into expert compensation "is to permit full inquiry into such potential source of bias" – not  
a roving inquiry into litigation strategy as documented in invoices. Fed. R. Civ. P. 26, Advisory Committee Notes  
on 2010 Amendment, ¶ 15 (noting that any "benefits to the expert" are discoverable).

1 Human Services, and the United States (the “Defendants”). Through this Complaint, the  
2 Receiver seeks both judicial review of a final agency action made by Defendants and a  
3 declaratory judgment as to Defendants’ right to set-off any monies claimed against NHC  
4 through funds that HHS/CMS is statutorily obligated to pay to NHC. As has been reported to  
5 this Court on several occasions, Defendants (via CMS) have provided notice to the Receiver  
6 of their termination of the underlying Loan Agreement through which the CO-OP received its  
7 funds under the ACA, declaring those loans immediately due and payable. Further, on March  
8 6, 2016, HHS/CMS stated that an “administrative hold” on payables due to NHC had been  
9 implemented at the request of the U.S. Department of Justice. As part of this chain of events,  
10 on September 29, 2016, HHS/CMS claimed that approximately \$7 million had been offset  
11 against funds payable to NHC from the outstanding amount of the start-up loan, and  
12 prospectively asserted its “right” to offset future payables.

13 The Complaint therefore seeks relief in the form of a declaratory judgment which holds  
14 that the federal government’s setoffs and prospective setoffs are unlawful under Nevada  
15 state reserve requirements, solvency regulations, requisite surplus note requirements, and  
16 other similar laws. As well, the Receiver seeks a declaration that both the start-up and  
17 solvency loans given to NHC are subordinated to the claims of NHC’s policyholders and  
18 subscriber members, that the debts the Defendants seek to set-off lack the requirement of  
19 mutuality necessary to permit such a setoff, and that any such setoffs were and are improper.

20 **Post-Receivership Hardship Claim Payments Made by the Receiver of NHC**

21 The Receiver has thus far paid approximately \$8.4 million in hardship claim payments  
22 to different health care providers or members for necessary pharmacological, psychological,  
23 and health care services. These hardship claim payments to providers and/or members  
24 concerned emergency services, vital prescription medicines, protection against instances of  
25 balance billing, and medical or financial hardships. The SDR continues to utilize the  
26 procedure developed and provided alongside the Fourth Status Report to adjudicate and  
27  
28

1 process these payments. The Receiver will allow hardship claim payments to continue  
2 pursuant to this Court's prior order.<sup>8</sup>

3  
4 **Post-Receivership Non-hardship Claim Payments to be Made by the Receiver of NHC**

5  
6 Certain members and other providers have contacted receivership staff to inquire as to  
7 when non-hardship claim payments will be made, and when the suspension on claims and  
8 other general creditor payments will be lifted. There are two reasons why non-hardship claim  
9 payments are now suspended and delayed from being paid by NHC. Both of these reasons  
10 are because of CMS actions and delays that have had a substantial and harmful impact on  
11 NHC's ability to pay claims. The Receiver of NHC would be paying non-hardship claim  
12 payments (as currently authorized—or as may be further authorized by this Court) if it were  
13 not for these CMS actions.

14 ***Reason Number 1 for Suspension and Claims Payment Delay***

15 NHC received approximately \$65.9 million of loans from CMS before receivership as  
16 funds for the start-up and solvency of this health insurer. After receivership began, CMS  
17 demanded loan repayment and asserted that such repayment was legally entitled to a super-  
18 priority so that it had to be made before payment of any other claims against NHC other than  
19 costs of administration. The Receiver is working to resolve this super-priority issue with CMS  
20 and the United States Department of Justice. Unless this issue is resolved satisfactorily,  
21 there is substantial uncertainty about the Receiver's ability to pay non-hardship claims.

22 ***Reason Number 2 for Suspension and Claims Payment Delay***

23 CMS placed "an administrative hold" on all reimbursements due NHC under the  
24 federal receivables programs. The CMS reimbursements due NHC are in the tens of  
25 millions. There is more than \$52.9 million due from CMS and the federal government for  
26 federal receivables, not including APTC amounts, or at least \$57.7 million is due from CMS

27  
28 <sup>8</sup> On February 24, 2016, this Court entered its Order Granting Special Deputy Receiver, Cantilo & Bennett, L.L.P.'s First Motion, on Order Shortening Time, for Order Authorizing Payments, and this Court Order authorized hardship claim payments by the Special Deputy Receiver.

1 when APTC is included. NHC's claim liabilities are also in the tens of millions, so federal  
2 receivables from CMS are essential to the ability of the Receiver to make meaningful claims  
3 payments. However, as discussed above, no payments (not even small ones) may be made  
4 on non-hardship claims without resolution of CMS' assertion of federal super-priority for  
5 payment of its loans before all other claims. According to CMS, the placement of the hold on  
6 federal receivable reimbursements due NHC is because of the above-mentioned loans that  
7 are now claimed due by CMS.

8 **Resolution of Proofs of Claim, Provision of Notices of Claim Determination,**  
9 **Appeals**

10 The Receiver has implemented the POC process approved by this Court in its Final  
11 Order Granting Other Relief Related to Receiver's Motion for Final Order Finding and  
12 Declaring Nevada Health CO-OP to be Insolvent and Placing Nevada Health CO-OP into  
13 Liquidation, and has already conducted general mailings and publication of necessary notices  
14 to claimants and other interested parties.

15 The Claims Filing Deadline is April 28, 2017, and the SDR has so far received eighty-  
16 eight POCs. A large number of these are incomplete or unable to be adjudicated for various  
17 other reasons. The SDR has written to such claimants to inform them that their POCs cannot  
18 be processed as submitted and, unless supplemented or amended by April 28, 2017, will be  
19 denied and barred. The SDR will proceed with adjudicating POCs and mailing Notices of  
20 Claim Determination ("NCDs") after the Claims Filing Deadline has passed.

21 **Claims for Which There Are Currently Insufficient Assets to Pay**

22 It does not appear at this time that there will be sufficient assets to pay claims beyond  
23 those assigned a Class B priority pursuant to NRS 696B.420(1)(b). The SDR has received a  
24 number of POCs that should be assigned to priority classes C through L, pursuant to NRS  
25 696B.420(1)(c)-(l). The SDR will send such claimants NCDs that determine the priority of  
26 their claims, which determination will be subject to appeal under the Receivership Appeal  
27 Procedure ("RAP"). In order to conserve the assets of the estate, and per NRS696B.330(4),  
28 the SDR of NHC will refrain from reaching the merits of these claims until such time it

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

#### 6 **Claims Asserted Against the Estate by Providers**

7 Health care providers are not required to use the POC form to submit their claims,  
8 because NHC already has an existing process for receiving and processing such claims and  
9 already has thousands of processed claims in its claim processing system. Providers are  
10 required to have submitted all of their claims by the Claims Filing Deadline in the manner they  
11 have previously submitted claims to NHC. Providers have been notified that they may  
12 request a claim submission report from NHC to confirm that their claims are all present and  
13 accounted for in NHC's claim processing database. NHC has provided a number of such  
14 reports to providers. The pre-established procedures for processing claims in the normal  
15 course of business of NHC still apply. For instance, claims filed for the first time more than  
16 twelve (12) months after the date of service are considered late-filed claims by NHC and will  
17 be denied unless the provider can show proof of timely filing. Thus, providers who file claims  
18 between now and the April 28, 2017, Claims Filing Deadline will most likely be denied unless  
19 the provider can show proof that they originally submitted the claim within NHC's timely-filing  
20 window.

21 After the Claims Filing Deadline has passed, the SDR will prepare to send NCDs for  
22 the provider claims. The SDR should begin reporting specific provider claim determinations  
23 in the Seventh Status Report. After reporting claim determinations to the Court, the SDR will  
24 begin mailing providers' NCDs. The provider NCD will show the amount the SDR has  
25 approved to be paid for each claim, along with the member's responsibility portion of the  
26 claim—which the provider may collect from the member without violating the Permanent  
27 Receivership Order. For this reason, the member will also receive a copy of the NCD. When  
28

1 issuing NCDs, the member and provider will be notified that they may appeal the  
2 determination, with a copy of the RAP provided to each of them.

### 3 **Current Receivership Assets**

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

8 1. The potential amount due from NHC's reinsurer will depend on claim approvals  
9 by the Receiver that meet reinsurance coverage. The Receiver believes that substantial  
10 amounts are due the CO-OP from PartnerRe America Insurance Company ("PartnerRe"), its  
11 private reinsurer, with a portion of these claims now becoming due in light of the Order  
12 placing NHC into liquidation. NHC has received a refund of \$374,513 for certain premiums  
13 previously paid in 2014 under the PartnerRe reinsurance arrangement. The SDR has  
14 coordinated with PartnerRe claims staff to make filings of reinsurance reimbursement claims  
15 incurred in plan years 2014 and 2015 that are below or exceed the applicable triggering point  
16 for reinsurance coverage, having completed that submission by year-end 2016. The SDR  
17 has not yet received a response from PartnerRe concerning the reinsurance reimbursement.

18 2. The unrestricted cash assets of the CO-OP have fluctuated with post-  
19 receivership expenses and claim payments, as well as with the Receiver's receipt of member  
20 premiums. The unrestricted cash assets of the CO-OP as of February 28, 2017, were  
21 approximately \$9,136,347. The majority of NHC's currently available and liquid assets have  
22 been invested in a short-term bond mutual fund, with the remainder of such assets invested  
23 in bank deposits. This amount does not take into account the \$766,978 (as of February 28,  
24 2017) in restricted cash assets held in a statutory special deposit account for the benefit of  
25 NHC's creditors.

26 3. The financial information of NHC in this Sixth Status Report provides estimates.  
27 NHC's financials may materially vary depending upon the estate's receipt of the promised  
28 federal receivables payments under the various ACA programs described in this report.

1 These figures will remain estimates until the estate receives clearer indications from CMS  
2 and the federal government as to the amount and timing of any federal payments, as well as  
3 the outcome of the recent lawsuit filed by the Receiver against CMS concerning the matter of  
4 the administrative hold and asserted rights to setoff. As mentioned, the Receiver continues  
5 work to resolve matters with CMS.

6 4. The Receiver is enclosing, as Exhibit 3 attached hereto, a cash flow report for  
7 NHC for the time period covering the inception of the receivership through February 28, 2017.  
8 This report reflects a summary of disbursements and collections made by NHC during this  
9 period.

### 10 CONCLUSION

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

14 DATED this 5<sup>th</sup> day of April 2017.

15 Respectfully submitted:

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

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

22 Respectfully submitted by:

23 /s/ ERIC W. SWANIS  
24 MARK E. FERRARIO, ESQ. (BAR NO. 1625)  
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Las Vegas, Nevada 89169

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



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on the 5<sup>th</sup> day of April 2017, and pursuant to NEFCR 9, NRCP 5(b), and EDCR 7.26, I served this **SIXTH STATUS REPORT** on all parties receiving service in this action through electronic transmission via this Court's electronic filing system to:

**E-Service Master List  
For Case**

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Defendant(s)**

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Ridge Portelli

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<b>Senior Deputy Attorney General</b>	
<b>Contact</b>	<b>Email</b>
Joanna N. Grigoriev	<a href="mailto:jgrigoriev@ag.nv.gov">jgrigoriev@ag.nv.gov</a>
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<b>US Department of Health and Human Services</b>	
<b>Contact</b>	<b>Email</b>
Leslie Stafford	<a href="mailto:Leslie.Stafford@HHS.GOV">Leslie.Stafford@HHS.GOV</a>
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<b>US Department of Justice</b>	
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<hr/>	

/s/ Andrea Lee Rosehill  
An employee of Greenberg Traurig, LLP

# EXHIBIT “1”

# CANTILO & BENNETT, L.L.P.

ATTORNEYS & COUNSELORS  
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December 21, 2016

## BILL SUMMARY

70750 Nevada Health Co-Op ("NHC")

July 1, 2016 - July 31, 2016

<u>Matter No. and Description</u>	<u>Invoice Number</u>	<u>Fees</u>	<u>Costs</u>	<u>Total</u>
July 2016	21583- 21593 21582	\$116,355.50	\$ 8,526.60	\$124,882.10
<u>Totals (1)</u>		\$116,355.50	\$ 8,526.60	\$124,882.10

## **Cantilo & Bennett, L.L.P.**

**NEVADA HEALTH CO-OP  
TIMEKEEPER SUMMARY REPORT  
7/1/16 - 7/31/16**

		<b>Billable Hours</b>	<b>Billable Rate</b>	<b>July 2016 Billing</b>
1	Timekeeper - Patrick H. Cantilo	5.00	\$450.00	\$2,250.00
2	Timekeeper - Mark F. Bennett	41.55	\$375.00	\$15,581.25
3	Timekeeper - Kristen W. Johnson	157.40	\$175.00	\$27,545.00
4	Timekeeper - Josh O. Lively	126.40	\$175.00	\$22,120.00
5	Timekeeper - Nelson J. Dunlap	0.00	\$135.00	\$0.00
6	Timekeeper - Arati Bhattacharya	73.50	\$200.00	\$14,700.00
7	Timekeeper - Law Clerks	39.05	\$85.00	\$3,319.25
8	Timekeeper - Isaiah Samaniego	140.50	\$100.00	\$14,050.00
9	TimeKeeper -- Pierre Riou	72.90	\$225.00	\$16,402.50
9	TimeKeeper -- Jeffrey L. Collins	3.10	\$125.00	\$387.50
	<b>GRAND TOTAL</b>	<b>659.40</b>		<b>\$116,355.50</b>

December 21, 2016  
11:49 am

Cantilo & Bennett, L.L.P.  
Timekeeper Submitted Work by Matter

Page 1  
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Work Date 07/01/2016:07/31/2016  
Client ID 70750

TimeKeeper		Hours	Fees	NC Hours	NC Fees
MFB MARK F. BENNETT					
70750	Nevada Health CO-OP				
70750000	General	0.50	187.50	0.00	0.00
70750002	Legal	24.75	9,281.25	0.00	0.00
70750003	Claims	1.15	431.25	0.00	0.00
70750004	Financial Matters	3.45	1,293.75	0.00	0.00
70750006	Provider Issues	0.30	112.50	0.00	0.00
70750008	Company Administration	3.70	1,387.50	0.00	0.00
70750010	CMS	3.45	1,293.75	0.00	0.00
70750100	Asset Recovery	1.00	375.00	0.00	0.00
70750102	NHC vs. CMS Litigation	3.25	1,218.75	0.00	0.00
	Sub Total (MFB)	41.55	15,581.25	0.00	0.00*
ABS ARATI BHATTACHARYA					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	73.50	14,700.00	0.00	0.00
	Sub Total (ABS)	73.50	14,700.00	0.00	0.00*
PHC PATRICK H. CANTILO					
70750	Nevada Health CO-OP				
70750002	Legal	1.50	675.00	0.00	0.00
70750010	CMS	3.00	1,350.00	0.00	0.00
70750100	Asset Recovery	0.50	225.00	0.00	0.00
	Sub Total (PHC)	5.00	2,250.00	0.00	0.00*
JLC JEFFREY L. COLLINS					
70750	Nevada Health CO-OP				
70750002	Legal	3.10	387.50	0.00	0.00
	Sub Total (JLC)	3.10	387.50	0.00	0.00*
KWJ KRISTEN W. JOHNSON					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	157.40	27,545.00	0.00	0.00
	Sub Total (KWJ)	157.40	27,545.00	0.00	0.00*
JOL JOSHUA O. LIVELY					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	5.50	962.50	0.00	0.00
70750002	Legal	31.50	5,512.50	0.00	0.00
70750003	Claims	7.00	1,225.00	0.00	0.00
70750004	Financial Matters	6.90	1,207.50	0.00	0.00
70750005	Asset Marshaling	16.25	2,843.75	0.00	0.00
70750008	Company Administration	21.75	3,806.25	0.00	0.00
70750100	Asset Recovery	37.50	6,562.50	0.00	0.00
	Sub Total (JOL)	126.40	22,120.00	0.00	0.00*
SEM SARAH E. MOKAMKAR					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	39.05	3,319.25	0.00	0.00
	Sub Total (SEM)	39.05	3,319.25	0.00	0.00*
PJR PIERRE J. RIOU					
70750	Nevada Health CO-OP				
70750002	Legal	10.70	2,407.50	0.00	0.00
70750010	CMS	2.10	472.50	0.00	0.00
70750100	Asset Recovery	22.80	5,130.00	0.00	0.00
70750102	NHC vs. CMS Litigation	37.30	8,392.50	0.00	0.00
	Sub Total (PJR)	72.90	16,402.50	0.00	0.00*
IXS ISAIAS SAMANIEGO					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	140.50	14,050.00	0.00	0.00
	Sub Total (IXS)	140.50	14,050.00	0.00	0.00*
Grand Total		659.40	116,355.50	0.00	0.00

December 22, 2016  
10:54 am

Cantilo & Bennett, L.L.P.  
Timekeeper Costs by Work Code

Page 1  
[cs1c]

Work Date 07/01/2016:07/31/2016  
Client ID 70750

Staff ID	Cost Code	Units	Amount	Write Down	Total
	BM1A BUSINESS MEALS	0.00	1,376.00	0.00	1,376.00
	FD1A FEDERAL EXPRESS	0.00	25.12	0.00	25.12
	PK1A PARKING	0.00	345.00	0.00	345.00
	PO1E POSTAGE	0.00	28.50	0.00	28.50
	TA1A TRAVEL-AIRFARE	0.00	1,929.79	0.00	1,929.79
	TE1A TRANSPORTATION EXPENSE	0.00	1,587.52	0.00	1,587.52
	TH1A TRAVEL-HOTEL	0.00	1,838.40	0.00	1,838.40
	TL2E TELEPHONE	0.00	1,396.27	0.00	1,396.27
	Sub Total ( )	0.00	8,526.60	0.00	8,526.60
	Grand Total	0.00	8,526.60	0.00	8,526.60

# CANTILO & BENNETT, L.L.P.

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January 4, 2017

## BILL SUMMARY

70750 Nevada Health Co-Op ("NHC")

August 1, 2016 - August 31, 2016

<u>Matter No. and Description</u>	<u>Invoice Number</u>	<u>Fees</u>	<u>Costs</u>	<u>Total</u>
August 2016	21625- 21623 21623	\$118,391.25	\$ 7,336.01	\$125,727.26
<b>Totals (1)</b>		\$118,391.25	\$ 7,336.01	\$125,727.26



## **Cantilo & Bennett, L.L.P.**

**NEVADA HEALTH CO-OP  
TIMEKEEPER SUMMARY REPORT  
8/1/16 - 8/31/16**

		<b>Billable Hours</b>	<b>Billable Rate</b>	<b>August 2016 Billing</b>
1	Timekeeper - Patrick H. Cantilo	5.00	\$450.00	\$2,250.00
2	Timekeeper - Mark F. Bennett	57.85	\$375.00	\$21,693.75
3	Timekeeper - Kristen W. Johnson	146.00	\$175.00	\$25,550.00
4	Timekeeper - Josh O. Lively	173.00	\$175.00	\$30,275.00
5	Timekeeper - Nelson J. Dunlap	0.00	\$135.00	\$0.00
6	Timekeeper - Arati Bhattacharya	20.20	\$200.00	\$4,040.00
7	Timekeeper - Law Clerks	0.00	\$85.00	\$0.00
8	Timekeeper - Isaiah Samaniego	164.50	\$100.00	\$16,450.00
9	TimeKeeper -- Pierre Riou	76.70	\$225.00	\$17,257.50
9	TimeKeeper -- Jeffrey L. Collins	7.00	\$125.00	\$875.00
	<b>GRAND TOTAL</b>	<b>650.25</b>		<b>\$118,391.25</b>

January 04, 2017  
8:56 am

Cantilo & Bennett, L.L.P.  
Timekeeper Submitted Work by Matter

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Work Date 08/01/2016:08/31/2016  
Client ID 70750

TimeKeeper		Hours	Fees	NC Hours	NC Fees
MFB MARK F. BENNETT					
70750	Nevada Health CO-OP				
70750000	General	0.30	112.50	0.00	0.00
70750002	Legal	22.80	8,550.00	0.00	0.00
70750003	Claims	1.50	562.50	0.00	0.00
70750004	Financial Matters	4.75	1,781.25	0.00	0.00
70750006	Provider Issues	1.65	618.75	0.00	0.00
70750008	Company Administration	9.85	3,693.75	0.00	0.00
70750010	CMS	12.95	4,856.25	0.00	0.00
70750100	Asset Recovery	1.30	487.50	0.00	0.00
70750102	NHC vs. CMS Litigation	2.75	1,031.25	0.00	0.00
	Sub Total (MFB)	57.85	21,693.75	0.00	0.00*
ABS ARATI BHATTACHARYA					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	20.20	4,040.00	0.00	0.00
	Sub Total (ABS)	20.20	4,040.00	0.00	0.00*
PHC PATRICK H. CANTILO					
70750	Nevada Health CO-OP				
70750010	CMS	4.50	2,025.00	0.00	0.00
70750103	Potential claims against Milliman	0.50	225.00	0.00	0.00
	Sub Total (PHC)	5.00	2,250.00	0.00	0.00*
JLC JEFFREY L. COLLINS					
70750	Nevada Health CO-OP				
70750000	General	5.00	625.00	0.00	0.00
70750102	NHC vs. CMS Litigation	2.00	250.00	0.00	0.00
	Sub Total (JLC)	7.00	875.00	0.00	0.00*
KWJ KRISTEN W. JOHNSON					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	146.00	25,550.00	0.00	0.00
	Sub Total (KWJ)	146.00	25,550.00	0.00	0.00*
JOL JOSHUA O. LIVELY					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	18.25	3,193.75	0.00	0.00
70750002	Legal	47.00	8,225.00	0.00	0.00
70750004	Financial Matters	14.00	2,450.00	0.00	0.00
70750005	Asset Marshaling	10.75	1,881.25	0.00	0.00
70750008	Company Administration	21.75	3,806.25	0.00	0.00
70750100	Asset Recovery	15.75	2,756.25	0.00	0.00
70750103	Potential claims against Milliman	45.50	7,962.50	0.00	0.00
	Sub Total (JOL)	173.00	30,275.00	0.00	0.00*
PJR PIERRE J. RIOU					
70750	Nevada Health CO-OP				
70750002	Legal	17.70	3,982.50	0.00	0.00
70750100	Asset Recovery	30.70	6,907.50	0.00	0.00
70750102	NHC vs. CMS Litigation	6.50	1,462.50	0.00	0.00
70750103	Potential claims against Milliman	21.80	4,905.00	0.00	0.00
	Sub Total (PJR)	76.70	17,257.50	0.00	0.00*
IXS ISAAH SAMANIEGO					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	164.50	16,450.00	0.00	0.00
	Sub Total (IXS)	164.50	16,450.00	0.00	0.00*
Grand Total		650.25	118,391.25	0.00	0.00

Work Date 08/01/2016:08/31/2016  
Client ID 70750

Staff ID	Cost Code	Units	Amount	Write Down	Total
	BM1A BUSINESS MEALS	0.00	1,296.00	0.00	1,296.00
	FD1A FEDERAL EXPRESS	0.00	25.94	0.00	25.94
	PK1A PARKING	0.00	391.00	0.00	391.00
	TA1A TRAVEL-AIRFARE	0.00	1,318.85	0.00	1,318.85
	TE1A TRANSPORTATION EXPENSE	0.00	1,149.82	0.00	1,149.82
	TH1A TRAVEL-HOTEL	0.00	1,733.70	0.00	1,733.70
	TL2E TELEPHONE	0.00	1,420.70	0.00	1,420.70
	Sub Total ( )	0.00	7,336.01	0.00	7,336.01
	Grand Total	0.00	7,336.01	0.00	7,336.01

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February 7, 2017

## BILL SUMMARY

70750 Nevada Health Co-Op ("NHC")

September 1, 2016 - September 30, 2016

<u>Matter No. and Description</u>	<u>Invoice Number</u>	<u>Fees</u>	<u>Costs</u>	<u>Total</u>
September 2016	21710- 22173	\$119,733.75	\$ 9,654.45	\$129,388.20
<b>Totals (1)</b>		\$119,733.75	\$ 9,654.45	\$129,388.20

## **Cantilo & Bennett, L.L.P.**

**NEVADA HEALTH CO-OP  
TIMEKEEPER SUMMARY REPORT  
9/1/16 - 9/30/16**

		<b>Billable Hours</b>	<b>Billable Rate</b>	<b>September 2016 Billing</b>
1	Timekeeper - Patrick H. Cantilo	11.50	\$450.00	\$5,175.00
2	Timekeeper - Mark F. Bennett	50.35	\$375.00	\$18,881.25
3	Timekeeper - Kristen W. Johnson	145.90	\$175.00	\$25,532.50
4	Timekeeper - Josh O. Lively	166.75	\$175.00	\$29,181.25
5	Timekeeper - Nelson J. Dunlap	0.00	\$135.00	\$0.00
6	Timekeeper - Arati Bhattacharya	35.70	\$200.00	\$7,140.00
7	Timekeeper - Law Clerks	14.75	\$85.00	\$1,253.75
8	Timekeeper - Isaiah Samaniego	115.75	\$100.00	\$11,575.00
9	TimeKeeper -- Pierre Riou	89.70	\$225.00	\$20,182.50
9	TimeKeeper -- Jeffrey L. Collins	6.50	\$125.00	\$812.50
	<b>GRAND TOTAL</b>	<b>636.90</b>		<b>\$119,733.75</b>

February 07, 2017  
4:04 pm

Cantilo & Bennett, L.L.P.  
Timekeeper Submitted Work by Matter

Page 1  
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Work Date 09/01/2016:09/30/2016  
Client ID 70750

TimeKeeper		Hours	Fees	NC Hours	NC Fees
MFB MARK F. BENNETT					
70750 Nevada Health CO-OP					
70750002 Legal	22.50	8,437.50	0.00	0.00	
70750003 Claims	1.05	393.75	0.00	0.00	
70750004 Financial Matters	6.00	2,250.00	0.00	0.00	
70750008 Company Administration	9.10	3,412.50	0.00	0.00	
70750010 CMS	1.45	543.75	0.00	0.00	
70750100 Asset Recovery	9.50	3,562.50	0.00	0.00	
70750102 NHC vs. CMS Litigation	0.75	281.25	0.00	0.00	
Sub Total (MFB)	50.35	18,881.25	0.00	0.00*	
ABS ARATI BHATTACHARYA					
70750 Nevada Health CO-OP					
70750001 Takeover Administration	35.70	7,140.00	0.00	0.00	
Sub Total (ABS)	35.70	7,140.00	0.00	0.00*	
PHC PATRICK H. CANTILO					
70750 Nevada Health CO-OP					
70750002 Legal	0.50	225.00	0.00	0.00	
70750008 Company Administration	2.60	1,170.00	0.00	0.00	
70750010 CMS	5.80	2,610.00	0.00	0.00	
70750100 Asset Recovery	0.30	135.00	0.00	0.00	
70750102 NHC vs. CMS Litigation	2.30	1,035.00	0.00	0.00	
Sub Total (PHC)	11.50	5,175.00	0.00	0.00*	
JLC JEFFREY L. COLLINS					
70750 Nevada Health CO-OP					
70750000 General	4.50	562.50	0.00	0.00	
70750102 NHC vs. CMS Litigation	2.00	250.00	0.00	0.00	
Sub Total (JLC)	6.50	812.50	0.00	0.00*	
KWJ KRISTEN W. JOHNSON					
70750 Nevada Health CO-OP					
70750001 Takeover Administration	145.90	25,532.50	0.00	0.00	
Sub Total (KWJ)	145.90	25,532.50	0.00	0.00*	
KTO KYLE T. OSBORNE					
70750 Nevada Health CO-OP					
70750001 Takeover Administration	4.25	361.25	0.00	0.00	
70750102 NHC vs. CMS Litigation	10.50	892.50	0.00	0.00	
Sub Total (KTO)	14.75	1,253.75	0.00	0.00*	
JOL JOSHUA O. LIVELY					
70750 Nevada Health CO-OP					
70750001 Takeover Administration	19.50	3,412.50	0.00	0.00	
70750002 Legal	52.25	9,143.75	0.00	0.00	
70750004 Financial Matters	20.00	3,500.00	0.00	0.00	
70750005 Asset Marshaling	5.25	918.75	0.00	0.00	
70750008 Company Administration	35.00	6,125.00	0.00	0.00	
70750100 Asset Recovery	11.00	1,925.00	0.00	0.00	
70750103 Potential claims against Milliman	23.75	4,156.25	0.00	0.00	
Sub Total (JOL)	166.75	29,181.25	0.00	0.00*	
PJR PIERRE J. RIOU					
70750 Nevada Health CO-OP					
70750002 Legal	18.70	4,207.50	0.00	0.00	
70750010 CMS	71.00	15,975.00	0.00	0.00	
Sub Total (PJR)	89.70	20,182.50	0.00	0.00*	
IXS ISAAH SAMANIEGO					
70750 Nevada Health CO-OP					
70750001 Takeover Administration	115.75	11,575.00	0.00	0.00	
Sub Total (IXS)	115.75	11,575.00	0.00	0.00*	
Grand Total	636.90	119,733.75	0.00	0.00	

Work Date 09/01/2016:09/30/2016  
Client ID 70750

Staff ID	Cost Code	Units	Amount	Write Down	Total
	BM1A BUSINESS MEALS	0.00	1,520.00	0.00	1,520.00
	MT1A MISCELLANEOUS	0.00	126.80	0.00	126.80
	PK1A PARKING	0.00	380.00	0.00	380.00
	PO1E POSTAGE	0.00	61.01	0.00	61.01
	TA1A TRAVEL-AIRFARE	0.00	2,518.79	0.00	2,518.79
	TE1A TRANSPORTATION EXPENSE	0.00	1,374.36	0.00	1,374.36
	TH1A TRAVEL-HOTEL	0.00	2,236.68	0.00	2,236.68
	TL2E TELEPHONE	0.00	1,436.81	0.00	1,436.81
	Sub Total ( )	0.00	9,654.45	0.00	9,654.45
	Grand Total	0.00	9,654.45	0.00	9,654.45

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December 22, 2016

### BILL SUMMARY

707500 Nevada Health Co-Op ("NHC")

July 1, 2016 – July 31, 2016

<u>Matter No. and Description</u>	<u>Fees</u>	<u>Costs</u>	<u>Total</u>
July 2016	\$16,977.50	\$419.19	\$17,396.69
<b>Totals (1)</b>	\$16,977.50	\$419.19	\$17,396.69



## Palomar Financial, LC

**NEVADA HEALTH CO-OP  
PRIVILEGED AND CONFIDENTIAL  
SUMMARY REPORT  
PERIOD JULY 2016**

		<b>Billable Hours</b>	<b>Billable Rate</b>	<b>July 2016 Billing</b>
<b>1</b>	<b>TIME KEEPER - Nicole Wilkins</b>	9.50	\$250.00	\$2,375.00
<b>2</b>	<b>TIME KEEPER - Mike Loya</b>	25.75	\$160.00	\$4,120.00
<b>3</b>	<b>TIME KEEPER - Johanna Eades</b>	0.00	\$150.00	\$0.00
<b>4</b>	<b>TIME KEEPER - Brenda Stewart</b>	0.00	\$160.00	\$0.00
<b>5</b>	<b>TIME KEEPER - Neda Khalaf</b>	17.00	\$160.00	\$2,720.00
<b>5</b>	<b>TIME KEEPER - Susan Roehm</b>	41.75	\$150.00	\$6,262.50
<b>6</b>	<b>TIME KEEPER - Gayathri Sivadasan</b>	10.00	\$150.00	\$1,500.00
<b>7</b>	<b>TIME KEEPER - Angela Messina</b>	0.00	\$80.00	\$0.00
	<b>GRAND TOTAL</b>	<b>104.00</b>		<b>\$16,977.50</b>

Palomar Financial, LC  
07/01/2016-07/31/2016  
Client: Nevada Health Co-Op ("NHC")

Staff ID	Name	Description	Hours	Amount
NMW	Nicole Wilkins	Payroll & Employee Benefits	0.50	\$ 125.00
		Accounts Payable and Receivable	9.00	\$ 2,250.00
		<b>Sub Total (NMW)</b>	<b>9.50</b>	<b>\$ 2,375.00</b>
MJL	Mike Loya	Payroll & Employee Benefits	19.25	\$ 3,080.00
		Maintenance & Retrieval of Records Information	6.50	\$ 1,040.00
		<b>Sub Total (MJL)</b>	<b>25.75</b>	<b>\$ 4,120.00</b>
NK	Neda Khalaf	Accounts Payable and Receivable	17.00	\$ 2,720.00
		<b>Sub Total (NK)</b>	<b>17.00</b>	<b>\$ 2,720.00</b>
SER	Susan Roehm	Regulatory Responses/Compliance	28.75	\$ 4,312.50
		IT Support & Administration	13.00	\$ 1,950.00
		<b>Sub Total (SER)</b>	<b>41.75</b>	<b>\$ 6,262.50</b>
GS	Gayathri Sivadasan	Accounts Payable and Receivable	10	\$ 1,500.00
		<b>Sub Total (GS)</b>	<b>10</b>	<b>\$ 1,500.00</b>
	<b>Grand Total</b>		<b>104.00</b>	<b>\$ 16,977.50</b>

Palomar Financial, LC  
 Costs by Type  
 07/01/2016-07/31/2016  
 Client: Nevada Health Co-Op ("NHC")

TCD	Type	Description	Total
FD1A	Federal Express	Shipping	\$ 419.19
<b>Grand Total</b>			<b>\$ 419.19</b>

11401 Century Oaks Terrace  
Suite 310  
Austin, Texas 78758



## PALOMAR FINANCIAL, LC

Telephone (512) 404-6555  
Facsimile (512) 404-6530  
Toll Free (877) 309-7105  
[www.palomarfin.com](http://www.palomarfin.com)

January 4, 2017

### BILL SUMMARY

707500 Nevada Health Co-Op ("NHC")

August 1, 2016 – August 31, 2016

<hr/>			
Matter No. and Description	Fees	Costs	Total
<hr/>			
August 2016	\$16,890.00	\$1,097.61	\$17,987.61
<hr/>			
<b>Totals (1)</b>	\$16,890.00	\$1,097.61	\$17,987.61
<hr/>			

## Palomar Financial, LC

NEVADA HEALTH CO-OP  
PRIVILEGED AND CONFIDENTIAL  
SUMMARY REPORT  
PERIOD AUGUST 2016

		Billable Hours	Billable Rate	August 2016 Billing
1	TIME KEEPER - Nicole Wilkins	7.55	\$250.00	\$1,887.50
2	TIME KEEPER - Mike Loya	26.25	\$160.00	\$4,200.00
3	TIME KEEPER - Johanna Eades	0.00	\$150.00	\$0.00
4	TIME KEEPER - Neda Khalaf	19.00	\$160.00	\$3,040.00
5	TIME KEEPER - Susan Roehm	41.00	\$150.00	\$6,150.00
6	TIME KEEPER - Gayathri Sivadasan	10.75	\$150.00	\$1,612.50
7	TIME KEEPER - Angela Messina	0.00	\$80.00	\$0.00
	GRAND TOTAL	104.55		\$16,890.00

Palomar Financial, LC  
08/01/2016-08/31/2016  
Client: Nevada Health Co-Op ("NHC")

Staff ID	Name	Description	Hours	Amount
NMW	Nicole Wilkins	Accounts Payable and Receivable	7.55	\$ 1,887.50
		<b>Sub Total (NMW)</b>	<b>7.55</b>	<b>\$ 1,887.50</b>
MJL	Mike Loya	Payroll & Employee Benefits	23.75	\$ 3,800.00
		Maintenance & Retrieval of Records Information	2.50	\$ 400.00
		<b>Sub Total (MJL)</b>	<b>26.25</b>	<b>\$ 4,200.00</b>
NK	Neda Khalaf	Accounts Payable and Receivable	19.00	\$ 3,040.00
		<b>Sub Total (NK)</b>	<b>19.00</b>	<b>\$ 3,040.00</b>
SER	Susan Roehm	Regulatory Responses/Compliance	2.25	\$ 337.50
		Reports/Replies to Policyholders, Creditors, Other Parties	0.50	\$ 75.00
		Claims Matter	3.50	\$ 525.00
		IT Support & Administration	34.75	\$ 5,212.50
		<b>Sub Total (SER)</b>	<b>41.00</b>	<b>\$ 6,150.00</b>
GS	Gayathri Sivadasan	Accounts Payable and Receivable	10.75	\$ 1,612.50
		<b>Sub Total (GS)</b>	<b>10.75</b>	<b>\$ 1,612.50</b>
	<b>Grand Total</b>		<b>104.55</b>	<b>\$ 16,890.00</b>

Palomar Financial, LC  
Costs by Type  
08/01/2016-08/31/2016  
Client: Nevada Health Co-Op ("NHC")

TCD	Type	Description	Total
BM1A	Business Meals	Takeover Administration	\$ 288.00
PK1A	Parking	Takeover Administration	\$ 115.00
TA1A	Travel-Airfare	Takeover Administration	\$ 277.97
TH1A	Travel-Hotel	Takeover Administration	<u>\$ 416.64</u>
<b>Grand Total</b>			<u><b>\$ 1,097.61</b></u>

11401 Century Oaks Terrace  
Suite 310  
Austin, Texas 78758



## PALOMAR FINANCIAL, LC

Telephone (512) 404-6555  
Facsimile (512) 404-6530  
Toll Free (877) 309-7105  
[www.palomarfin.com](http://www.palomarfin.com)

February 8, 2017

### BILL SUMMARY

707500 Nevada Health Co-Op ("NHC")

September 1, 2016 – September 30, 2016

<u>Matter No. and Description</u>	<u>Fees</u>	<u>Costs</u>	<u>Total</u>
September 2016	\$16,285.00	\$0.00	\$16,285.00
<b>Totals (1)</b>	\$16,285.00	\$0.00	\$16,285.00



## Palomar Financial, LC

NEVADA HEALTH CO-OP  
PRIVILEGED AND CONFIDENTIAL  
SUMMARY REPORT  
PERIOD SEPTEMBER 2016

		Billable Hours	Billable Rate	September 2016 Billing
1	TIME KEEPER - Nicole Wilkins	10.40	\$250.00	\$2,600.00
2	TIME KEEPER - Mike Loya	25.75	\$160.00	\$4,120.00
3	TIME KEEPER - Johanna Eades	0.00	\$150.00	\$0.00
4	TIME KEEPER - Neda Khalaf	19.00	\$160.00	\$3,040.00
5	TIME KEEPER - Susan Roehm	15.50	\$150.00	\$2,325.00
6	TIME KEEPER - Gayathri Sivadasan	28.00	\$150.00	\$4,200.00
7	TIME KEEPER - Angela Messina	0.00	\$80.00	\$0.00
	GRAND TOTAL	98.65		\$16,285.00

Palomar Financial, LC  
09/01/2016-09/30/2016  
Client: Nevada Health Co-Op ("NHC")

Staff ID	Name	Description	Hours	Amount
NMW	Nicole Wilkins	Payroll & Employee Benefits	0.40	\$ 100.00
		Accounts Payable and Receivable	9.80	\$ 2,450.00
		Bank Account Administration/Reconciliations	0.20	\$ 50.00
		Sub Total (NMW)	10.40	\$ 2,600.00
MJL	Mike Loya	Payroll & Employee Benefits	20.25	\$ 3,240.00
		Maintenance & Retrieval of Records Information	5.50	\$ 880.00
		Sub Total (MJL)	25.75	\$ 4,120.00
NK	Neda Khalaf	Accounts Payable and Receivable	19.00	\$ 3,040.00
		Sub Total (NK)	19.00	\$ 3,040.00
SER	Susan Roehm	Claims Matter	6.75	\$ 1,012.50
		IT Support & Administration	8.75	\$ 1,312.50
		Sub Total (SER)	15.50	\$ 2,325.00
GS	Gayathri Sivadasan	Accounts Payable and Receivable	28.00	\$ 4,200.00
		Sub Total (GS)	28.00	\$ 4,200.00
Grand Total			98.65	\$ 16,285.00

# EXHIBIT “2”

# SANTORO WHITMIRE

10100 W. Charleston Blvd.

Ste. 250

Las Vegas, NV 89135

Telephone (702) 948-8771

Attn: Mark Bennett  
State of NV Division of Insurance, Receiver  
NCIC/BIC Receivership  
mfbennett@cb-firm., CO

Statement Date: January 31, 2017

Statement No. 12569

Account No. 871.01

Page: 1

Report Date: February 23, 2017

---

Previous Balance	Fees	Expenses	Advances	Payments	Balance
Nevada Health Co-Operative					
0.00	1,610.00	33.00	0.00	0.00	<u>\$1,643.00</u>

---

Please make checks payable to Santoro Whitmire.

We accept Visa, Master Card, Discover Card and American Express.

Payment may be made telephone 702-948-8771.

Tax ID 45-4396259

Billing inquiries may be emailed to [billing@santoronevada.com](mailto:billing@santoronevada.com)

Please include this page with your remittance.

Status Report Exhibit Page 026

0280



Invoice No. : 4422228  
File No. : 170678.010100  
Bill Date : February 21, 2017

Nevada Health Cooperative in Receivershi  
840 S. Rancho Drive  
Suite 4-321  
Las Vegas 89106

Attn: Barbara Richardson  
Cantilo & Bennett

**INVOICE**

Re: NHC in Receivership

Legal Services through January 31, 2017:

Total Fees: \$ 26,433.50

Expenses:

Conference Calls  
Parking Charges

1.42  
6.00

Total Expenses: \$ 7.42

Total Current Invoice: \$ 26,440.92

MEF/TKK  
Tax ID: 13-3613083

Greenberg Traurig, LLP | Attorneys at Law | 3773 Howard Hughes Parkway | Suite 400 North | Las Vegas, Nevada 89169  
Tel 702.792.3773 | Fax 702.792.9002 | www.gtlaw.com

MR. MARK E. BENNETT  
CANTILLO & BENNETT, LLP  
11401 CENTURY OAKS TERRACE, SUITE 300  
AUSTIN, TX 78758

In reference to: NHC Review

Period: January 1, 2017 through January 31, 2017

Consultant	Hours	Hourly Rate	Fees for Current Period
Joseph J. DeVito	4.75	\$350.00	\$1,662.50
	Consulting Fees – NHC		\$1,662.50
	Total Due from NHC		\$1,662.50

# EXHIBIT “3”

NEVADA HEALTH CO-OP

**Cash Flow Analysis**  
**Oct 2015 - Feb 2017**

**Sources & Uses**

Beginning Cash on October 1, 2015

\$ 5,352,417

**SOURCES:**

Premium Revenue	17,772,149
CSR Recoveries	2,347,121
Rx Rebates	-
Claims Overpayment Recoveries	447,276
PartnerRe 2014 Premium Refund	374,513
Traditional Reins Recoveries	-
FTR Reins Recoveries	735,747
Risk Corridor 2014	1,163,872
Federal Receivables Bridge Loan	-
Other	297,746
<b>TOTAL SOURCES:</b>	<b>\$23,138,424</b>

**USES:**

Medical Claims Q4 2015	(161,019)
Rx Claims Q4 2015	(7,599,195)
Risk Adjustment 2015	-
Medical PMPMs Q4	(\$43,967)
FTR Reinsurance Premium	(898,687)
Traditional Reins Premium Q4 2015	(547,319)
Premium Tax	(294,665)
Other Admin	(5,569,183)
9010 ACA Fee / 720 PCORI Fee	(161,242)
Other	(2,190,687)
Professional Services	(1,888,530)

**TOTAL USES:**

(19,354,494)

Net cash increase for period

\$3,783,930

Ending Cash at end of February 28, 2017

\$ 9,136,347

\*\*\*

\*\*\* Excl \$766,978 restricted US Bank bal February 28, 2017



**TAB 14**

**TAB 14**

## POC FORM AND ACCOMPANYING INSTRUCTIONS

For Internal Office Use Only: POC # \_\_\_\_\_, Claim Type: \_\_\_\_\_, Date Received: \_\_\_\_\_

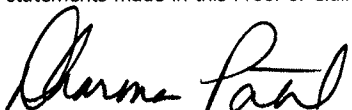
Claimant Name & Address	Policy Information (if applicable)
Name	Insured Name
Date of Birth                      SSN	Insured DOB
Company Name and Tax ID (if applicable)    UNITE HERE HEALTH #23-7385560	Member ID
Street Address    711 North Commons Drive	Coverage Date(s)
City/State/Zip    Aurora, IL 60504	<b>Alternate Contact Name &amp; Telephone No.</b>
Phone    (630) 236-5100                      E-Mail    dpatel@uniteherehealth.org	Andrea Flaherty (630) 236-5163
<b>If Claimant is represented by an attorney, please complete this section and attach copy of Power of Attorney</b>	
Name of Attorney & Attorney's Firm	Bar Card No.
Street Address	Tax ID No.
City/State/Zip	Ph.
E-mail Address	Fax

All claims submitted to the Special Deputy Receiver ("SDR") shall set forth in reasonable detail: (1) the amount of each of the claims; (2) the facts and basis upon which each of the claims and claim amounts is based; and (3) the priority level for the claims being submitted to the SDR (*i.e.*, "priorities" mean a secured creditor claim, a policyholder claim, an unsecured general creditor claim, etc.). All such claims must be verified by the claimant's affidavit, or someone authorized to act on behalf of the claimant and having knowledge of the facts (and must include adequate documentation). All claims and documentation supportive of each of the claims should be submitted to the SDR. The SDR reserves the right to request additional documentation, as needed, to make a determination of your claim. Health Care Providers ("Providers"), such as physicians or hospitals, are exempt from using this POC form for existing claims that they have already filed with NHC or new claims that they may file. Providers should not submit the POC form for their claims, but should closely review the POC Instructions for detailed guidance regarding deadlines and submission requirements for Provider claims. See the pages that follow for the POC Instructions to use when completing this POC form and for information about Provider claims.


<b>Explanation of Claim:</b>	<b>(Attach additional pages if necessary)</b>
<p>Services were provided to the Nevada Health CO-OP (NHC) by UNITE HERE HEALTH (UHH) under an Administrative Services Agreement and Executive Services Agreements. A final reconciliation of the services provided to NHC is ongoing and the parties continue to exchange correspondence and documents. The exact amount of the UHH claim is not yet known. The supporting documentation for the UHH claim is voluminous and will be provided to NHC upon request.</p>	

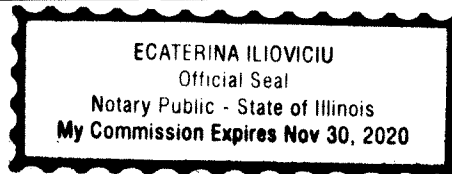
State of Illinois                      §  
    §  
 County of DuPage                      §

Unless otherwise expressly noted in this Proof of Claim Form, I alone am entitled to file this Proof of Claim Form, no others have an interest in the claims being submitted through this Proof of Claim Form, no payments have been made on the claim or claims herein submitted, no third party is liable on this debt, the sums claimed in this Proof of Claim Form are justly owing, and there is no set-off or other defense to the payment of this claim. I declare, under penalty of perjury, that all of the statements made in this Proof of Claim Form and all the documents attached to this form are true, complete, and correct.

  
 \_\_\_\_\_  
 Signature of Claimant or Authorized Agent  
  
 Dharma Patel, General Counsel  
 \_\_\_\_\_  
 Printed Name

Sworn to and subscribed before me this 27<sup>th</sup> day of April 2017.

  
 \_\_\_\_\_  
 Notary Public Signature



**NOTE: ATTACH DOCUMENTATION TO SUPPORT YOUR CLAIM.**

## **PROOF OF CLAIM INSTRUCTIONS**

### **READ CAREFULLY BEFORE COMPLETING THE PROOF OF CLAIM FORM**

Use this Proof of Claim (“**POC**”) form to make your claim against the receivership estate of Nevada Health CO-OP (“**NHC**”). By accurately completing this form, you make your claim for payment and help the Special Deputy Receiver (“**SDR**”) properly consider your claim. *It is very important that you complete all the sections applicable to you, and sign and return the form to the SDR as provided below. Forms that are incomplete or inaccurate may result in a delay or denial of your claim.* The SDR will review your claim and determine whether you are entitled to any claim payment.

**A POC FORM MUST BE COMPLETED, SIGNED, AND RECEIVED BY NHC ON OR BEFORE APRIL 28, 2017 (THE “CLAIMS DEADLINE”). ANY POC SENT BY U.S. MAIL WILL BE DEEMED TIMELY FILED SO LONG AS IT IS RECEIVED WITHIN THREE BUSINESS DAYS AFTER THE CLAIMS DEADLINE. FAILURE TO TIMELY FILE YOUR POC BEFORE THE CLAIMS DEADLINE WILL CAUSE YOUR CLAIM TO BE CLASSIFIED AS LATE AND MADE INELIGIBLE FOR A DISTRIBUTION OF ASSETS, IF ANY, FROM NHC. CLAIMS MUST BE NON-CONTINGENT AND LIQUIDATED IN AMOUNT BY THE DEADLINE TO SHARE IN NHC’S ASSETS.**

---

To complete this form, please follow these instructions:

Provide your full name, permanent address, telephone number, and (if you have e-mail access) your e-mail address. You must notify the SDR in writing of any change in mailing address or telephone number that occurs during the receivership.

1. The “Claimant” is the person/entity believed to be owed money by NHC. You must provide the Claimant’s name and Social Security number and/or Tax ID number on the POC form. The POC form must also be signed and dated. Claims filed by business organizations must be signed by an authorized representative, and the capacity of the signatory must be stated on the claim form. A power of attorney must be attached if an attorney is signing this form on behalf of a client.

Health Care Providers (“Providers”), such as physicians or hospitals, are exempt from being required to use the POC form for existing claims that they already have filed with NHC or new claims that they may file. Providers are not required to re-file existing claims with NHC, and these existing claims will be considered timely filed so long as they comply with the pre-established procedures for processing claims in the normal course of business of NHC (e.g., in most cases, claims filed for the first time more than 12 months after the date of service are considered late-filed claims by NHC and may be denied by the SDR for this reason). New claims of Providers must be filed with NHC by the Claims Deadline, but the claims for healthcare services must be submitted as they have previously been to NHC, and will still be subject to all pre-established NHC claim processing requirements and deadlines. Providers should not use this POC form for the submission of new claims. New Provider claims filed after the Claims Deadline will be considered late-filed claims and are ineligible for payment. PROVIDERS SHOULD NOT SUBMIT DUPLICATE CLAIMS (i.e., claims that have been previously submitted to NHC), as this will delay the processing time for all of their claims. However, you may re-submit claims that require correction. Providers who have received any partial claim payment are not required to submit a POC form for the remaining amount owed—and they are not required to take any further action unless notified by NHC in receivership.

Providers should contact 1-855-606-2667 or e-mail [POC@NevadaHealthCoop.org](mailto:POC@NevadaHealthCoop.org) to verify that all their claims have been submitted and are being processed.

## PROOF OF CLAIM INSTRUCTIONS

### READ CAREFULLY BEFORE COMPLETING THE PROOF OF CLAIM FORM

For all claims other than Providers, new claims must be submitted by the Claims Deadline by using this POC form and following these instructions. Claims received after the Claims Deadline will be considered late-filed claims and ineligible for payment.

2. If you are a **Member** filing your own claims, please note all bills must be itemized showing dates of service and type(s) of service rendered. If you previously assigned your claim to a medical provider, another person or entity, please provide the SDR a copy of the assignment.
3. Claims for healthcare services rendered in 2016 or later should not be submitted to NHC. As announced on August 25, 2015, NHC ceased providing health coverage effective January 1, 2016. All NHC policies were terminated by December 31, 2015.
4. **YOU MUST INCLUDE DOCUMENTATION SUPPORTING YOUR CLAIM.** A claim may be disallowed partially or entirely if it fails to adequately describe or document the claim. All supporting documentation must be submitted to the Receiver of NHC before the Claims Deadline.
5. To reduce expenses to the receivership estate, the SDR will not be sending acknowledgement of receipt of the POC forms. You will, however, receive notice of any decision on your claim at the address you have provided to the SDR on the POC form. If you have a change of address after submitting your POC form, you must update the SDR so that you will continue to receive correspondence regarding your claim. Claimants may contact 1-855-606-2667 or e-mail [\*\*POC@NevadaHealthCoop.org\*\*](mailto:POC@NevadaHealthCoop.org) to verify that all their POCs have been received by the SDR.
6. The receivership estate may only pay part of approved claims based on NHC's available assets.
7. If applicable, you must disclose all deposits, cash, premiums, securities, trust funds, letters of credit, or other assets of NHC you hold, control, or expect to receive from anyone other than NHC. Agents or brokers must submit an accounting of all premiums and commissions held at the time plans were terminated.
8. After you complete the POC form, review the completed form, sign in front of a Notary Public, and date. Failure to properly complete the POC form according to these instructions may cause your claim to be delayed or disallowed. It is recommended that you return the POC form using Certified Mail, Return Receipt Requested, or another method providing proof of delivery. Please retain a copy for your records, and submit the form to:

Nevada Health CO-OP  
ATTN: Special Deputy Receiver/POC  
840 S. Rancho Drive #4-321  
Las Vegas, Nevada 89106

You may also submit your POC form by e-mail, to [\*\*POC@nevadahealthcoop.org\*\*](mailto:POC@nevadahealthcoop.org), so long as the e-mail includes an executed and sworn (*i.e.* signed and notarized) proof of claim. Claimants submitting by e-mail may wish to contact NHC to confirm that their POC form was received, particularly if they have attached large files. Claimants are responsible for assuring that their claims are received by the above deadline!

**TAB 15**

**TAB 15**



nevada  
health  
co-op  
*In Receivership for Liquidation*

BARBARA D. RICHARDSON, *Receiver*  
CANTILO & BENNETT, L.L.P., *Special Deputy Receiver*

June 29, 2017

VIA E-MAIL ([welshkirmsew@gtlaw.com](mailto:welshkirmsew@gtlaw.com))

Ms. Whitney L. Welch-Kirmse  
Greenberg Taurig, LLP  
3773 Howard Hughes Parkway  
Suite 400 North  
Las Vegas, Nevada 89169

Re: Basich v. Xerox et al. (A-14-698567-C), Casale v. Xerox et al. (A-14-706171-C)

Dear Whitney:

Thank you for your recent letters dated June 14 and 21, 2017, and for meeting with me recently. NHC has been unable to confirm the accuracy of the short-pay and overpayment refund amounts by comparing the limited data in the two tables with the 2014 on-exchange eligibility and financial Nevada Health CO-OP previously received from Xerox.

Due to the short timeframe for response and information that is unavailable to NHC, we are requesting the following additional information – **the backup data Xerox used to calculate each refund amount and the eligibility coverage dates for members in both tables.**

We look forward to receiving this additional information as soon as possible. Please let us know if you have any questions or concerns.

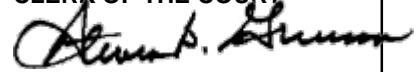
Sincerely,

Mark F. Bennett  
CANTILO & BENNETT, L.L.P.  
Special Deputy Receiver of Nevada Health CO-OP,  
in Receivership

MFB:tts

**TAB 16**

**TAB 16**



1 **SR**

2 MARK E. FERRARIO, ESQ.  
3 Nevada Bar No. 1625  
4 ERIC W. SWANIS, ESQ.  
5 Nevada Bar No. 6840  
6 GREENBERG TRAURIG, LLP  
7 3773 Howard Hughes Parkway  
8 Suite 400 North  
9 Las Vegas, Nevada 89169  
10 Telephone: (702) 792-3773  
11 Facsimile: (702) 792-9002  
12 Emails: [ferrariom@gtlaw.com](mailto:ferrariom@gtlaw.com)  
13 [swanise@gtlaw.com](mailto:swanise@gtlaw.com)

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

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

20 STATE OF NEVADA, EX REL.	)	Case No. A-15-725244-C
21 COMMISSIONER OF INSURANCE, IN HER	)	
22 OFFICIAL CAPACITY AS STATUTORY	)	Dept. No. 1
23 RECEIVER FOR DELINQUENT DOMESTIC	)	
24 INSURER,	)	
25	)	
26 Plaintiff,	)	
27	)	
28 vs.	)	
29	)	
30 NEVADA HEALTH CO-OP,	)	
31	)	
32 Defendant.	)	
33	)	
34	)	
35	)	

36 **SEVENTH STATUS REPORT**

37 COME NOW, Commissioner of Insurance Barbara D. Richardson in her capacity as  
38 Receiver of Nevada Health CO-OP ("NHC," or the "CO-OP"), and CANTILO & BENNETT, L.L.P.,  
39 Special Deputy Receiver ("SDR" - SDR and the Commissioner as Receiver are referred to  
40 collectively herein as "Receiver"), and file this Seventh Status Report in the above-captioned  
41 receivership.



## I. INTRODUCTION AND HISTORICAL BACKGROUND

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

On October 1, 2015, this Court issued its Order Appointing the Acting Insurance Commissioner, Amy L. Parks as Temporary Receiver of NHC Pending Further Orders of the Court and Granting Temporary Injunctive Relief Pursuant to NRS 696B.270 (the “Temporary Receivership Order”). Further, on October 14, 2015, the Receivership Court entered its Permanent Injunction and Order Appointing Commissioner as Permanent Receiver of Nevada Health CO-OP (the “Permanent Receivership Order”), appointing the law firm of CANTILO & BENNETT, L.L.P. as SDR of NHC, in accordance with Chapter 696B of the Nevada Revised Statutes.

Via a Notice of Substitution of Receiver dated April 6, 2016, Ms. Joanna N. Grigoriev informed interested parties of the substitution of Commissioner Barbara D. Richardson, in place and stead of former Acting Commissioner Amy L. Parks, as the Receiver of NHC. This

1 substitution of Receiver was subsequent to Commissioner Richardson's appointment as  
2 Commissioner of Insurance for the State of Nevada.

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

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

## 10 **II. RECEIVERSHIP ADMINISTRATION**

### 11 **Receivership Administrative Services and Oversight**

12 CANTILO & BENNETT, L.L.P. as SDR of NHC, manages the receivership estate and  
13 conducts its affairs. PALOMAR FINANCIAL, LC ("Palomar"), an affiliate of the SDR, performs  
14 administration, information technology, and other related services for the Receiver under the  
15 supervision of the SDR. The Receiver has included an informational copy, as Exhibit 1 to this  
16 Seventh Status Report, of the invoices paid to the SDR and Palomar since the last status  
17 report to this Court.

### 18 **Resolution of Outstanding Receivership Matters**

#### 19 ***Pre-Liquidation Claims Adjudications and Data Inaccuracy Resolution***

20 NHC's staff continues the process of claims adjudications to adjudicate all new and  
21 pending claims. Additionally, NHC's staff also continues to correct what inaccuracies remain  
22 in NHC's enrollment databases. This enrollment evaluation is necessary to determine dates  
23 of coverage for each member's medical care. The final evaluation of enrollment information  
24 will also reconcile NHC's obligations to pay for member health care.

25 During the receivership, the Receiver has received reports that some plan members  
26 were reported to collection agencies by healthcare providers. In cases where collection  
27 efforts have taken place in violation of the Permanent Receivership Order, NHC staff  
28 members contact those providers and any related collection agencies to inform them of the

Permanent Receivership Order and its moratorium on the payment of health claims. When necessary, the SDR has also sent letters to such providers to advise them that their direct collection actions violate the Permanent Receivership Order.

#### ***Continuation of Mandatory Regulatory Reporting to CMS***

As explained in prior status reports, the Receiver and SDR continue to coordinate with CMS in the submission of essential data for the various regulatory reporting processes required for CO-OPs under the ACA. These submissions are also critical to NHC's right to claim amounts under the federal receivables programs for the CO-OP's revenues.

NHC remains a participant in several such programs, which include the following: Cost Sharing Reduction ("CSR") Reconciliation, Federal Transitional Reinsurance, Risk Adjustment, and the Risk Corridors. The expected receipt of these federal receivables is a key part of NHC's finances, and their receipt remains critical for future payments to NHC's creditors. The non-receipt of substantially all federal reimbursements for plan year 2015, including a material portion of reimbursements for plan year 2014, has greatly diminished NHC's assets and, therefore, its claims-paying ability.

#### ***Updates as to Current Status of Regulatory Submissions Projects***

NHC Risk Adjustment and Federal Transitional Reinsurance data was submitted to CMS on May 2, 2016. Periodically, CMS inquires about particular subsets of this data, which the SDR continues to resolve. On June 30, 2016, CMS released its Summary Report on Transactional Reinsurance and Permanent Risk Adjustment Transfers for the 2015 Benefit Year.<sup>1</sup> Per the report, for coverage year 2015, the CO-OP is owed a Federal Transitional Reinsurance payment of \$8,842,009.69 and net Risk Adjustment transfer of \$4,532,560.29. The 2015 Federal Transitional Reinsurance payment amount increased by \$4,601.65 to \$8,846,611.34 in the December 6, 2016, Amendment to the Summary Report on Transitional Reinsurance Payments and Permanent Risk Adjustment Transfers for the 2015 Benefit Year.<sup>2</sup>

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<sup>1</sup> Available at: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/June-30-2016-RA-and-RI-Summary-Report-5CR-063016.pdf>.

<sup>2</sup> Available at: [https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/DDC\\_RevisedJune30thReport\\_v2\\_5CR\\_120516.pdf](https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/DDC_RevisedJune30thReport_v2_5CR_120516.pdf)

1 In 2016, the reporting related to the CSR Reconciliation program resulted in a net  
2 amount owed by NHC to CMS of \$3,579,359.65 for 2014 and 2015 CSRs. At the beginning  
3 of June 2017, the SDR submitted amended filings to CMS of the 2014 and 2015 CSRs,  
4 resulting in NHC owing an adjusted balance to CMS of \$482,948.54 rather than  
5 \$3,579,359.65—or a reduction in NHC liability of \$3,096,411.11.

6 The 2015 Risk Corridors data submissions were reported by the deadline of August 1,  
7 2016. CMS originally requested a small restatement to one line item in NHC's submission,  
8 which would have had a small impact upon the amount owed to NHC. However, CMS then  
9 directed NHC not to make any restatement(s) of the 2015 Risk Corridors or Medical Loss  
10 Ratio ("MLR") data in 2016. Instead, CMS advised that a restatement of Risk Corridors and  
11 MLR data may be filed in 2017. The SDR has decided that it would not be worthwhile to do  
12 further work on making further restatements to Risk Corridors and MLR data; thus, the  
13 balances for these matters should now be final.

14 In regard to the final amount for the 2015 Risk Corridors, CMS confirmed that NHC is  
15 owed \$29.9 million for its individual market and \$3.75M for its small group market.<sup>3</sup> CMS has  
16 previously announced that, based on its preliminary analysis, ". . . all 2015 benefit year  
17 collections will be used towards remaining 2014 benefit year risk corridors payments, and no  
18 funds will be available at this time for 2015 benefit year risk corridors payments."<sup>4</sup>

19 In addition to balances due for year 2015, the CO-OP is still owed over \$9.5 million for  
20 2014 Risk Corridors payments.<sup>5</sup> CMS stated in its November 18, 2016, Risk Corridors report  
21 that the expected payment towards NHC's 2014 Risk Corridors amounts is only \$355,443.99.

22  
23 <sup>3</sup> DEP'T OF HEALTH & HUMAN SERVICES & CENTERS FOR MEDICARE & MEDICAID SERVICES, CCIIO  
24 MEMORANDUM, RISK 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>)

25 <sup>4</sup> DEP'T OF HEALTH & HUMAN SERVICES & CENTERS FOR MEDICARE & MEDICAID SERVICES, CCIIO  
26 MEMORANDUM, Risk Corridors Payments for 2015 (September 9, 2016) (available at:  
<https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/Risk-Corridors-for-2015-FINAL.PDF>).

27 <sup>5</sup> DEP'T OF HEALTH & HUMAN SERVICES & CENTERS FOR MEDICARE & MEDICAID SERVICES, CCIIO  
28 MEMORANDUM, RISK CORRIDORS PAYMENT AND CHARGE AMOUNTS FOR BENEFIT YEAR 2014 (1,  
Table 29) (November 19, 2015) (stating CMS' need to decrease, or "prorate," amounts owed to issuers due to  
budget shortfall, providing amounts owed to each issuer) (available at: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/RC-Issuer-level-Report.pdf>).

1 However, CMS has also maintained the position that any new monies deemed owed to the  
2 receivership estate are to be set-off against the amounts CMS asserts it is owed pursuant to  
3 its decision to accelerate, and therefore declare presently due, the original funds loaned to  
4 NHC.

5 NHC has made monthly submissions of Advance Premium Tax Credit ("APTC") billing  
6 data in accordance with CMS reporting requirements. The total of APTC payments received  
7 from CMS is substantially less than what NHC billed CMS for 2015 APTC, and the SDR has  
8 asserted a claim for the shortfall. CMS and NHC currently do not agree on APTC balances  
9 due for years 2014 and 2015. The SDR will advise CMS that NHC may file an amended  
10 APTC for year 2014. Currently, the SDR is working to gather and analyze data for member  
11 enrollments and terminations in calendar year 2014. The APTC balance that may be due  
12 NHC for years 2014 and 2015 is undetermined until the SDR further evaluates 2014  
13 enrollment and termination information for members.

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

15 The Receiver utilizes the services of several third-party contractors that had been  
16 engaged before commencement of the receivership, and some of them were engaged after  
17 the receivership commenced to assist in management of NHC's affairs.

18 The following is a list of independent contractors currently assisting the receivership:

- 19 1. Change Healthcare Solutions, LLC, to perform paper claims scanning services.
- 20 2. Eldorado, a division of Mphasis Corporation, to provide a hosting service for  
21 claims data and information.
- 22 3. The Jacobson Group, to provide claims adjustment and customer service  
23 staffing support.
- 24 4. Redcard, to perform check processing and delivery to health care providers,  
25 and delivery of Explanation of Benefit disclosures to plan members.
- 26 5. Truven Health Analytics, to provide services for the resubmission of CSR  
27 filings with CMS for calendar years 2014 and 2015.
- 28

1           6.       ADP, to provide payroll support and processing for employee compensation  
2 and benefits.

3 **Internal Administrative Matters Related to Wind Down**

4           NHC maintains staff to address calls from interested parties regarding the recently  
5 approved proof of claim ("POC") process, other claim matters, and the collection of assets for  
6 the receivership. The Receiver also continues to determine and refund premium  
7 overpayments to members since such overpayments were not funds to which NHC was  
8 entitled and are therefore outside the normal claim process. Currently, the receivership  
9 estate has returned approximately \$166,076.67 in premium overpayments to members since  
10 January 1, 2016.

11           The wind down of NHC's 401(k) retirement plan continues, with the SDR having  
12 submitted to the Internal Revenue Service the Form 5310 for the retirement plan wind down.  
13 The Form 5310 filing seeks a tax determination letter that would permit the distribution of  
14 401(k) assets to employees without the need for an expensive and time-consuming audit.  
15 The Receiver also maintains an office for NHC's essential office staff<sup>6</sup> in a smaller and less  
16 expensive office space than was used by NHC before, and just after, the receivership. The  
17 Receiver has not yet received disposition of the prior Form 5310 filing from the IRS, and the  
18 IRS has recently requested additional information regarding the 401(k) wind down, which the  
19 SDR will soon provide. The SDR expects to receive a final disposition of this matter by later  
20 this year.

21 **Authorization from this Court to Hire Consultants for Various Purposes**

22           Previously, the Receiver filed a Motion to Approve Professional Fee Rates on an  
23 Order Shortening Time, seeking from this Court the approval of the professional fee rates for  
24 certain service providers deemed essential to receivership operations, as well as  
25 authorization for the Receiver to include paid invoices with quarterly status reports to this  
26 Court. Following a hearing which took place on January 10, 2017, this Court did enter an  
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<sup>6</sup> Currently, NHC maintains sixteen full-time and two part-time employees.

Order dated January 17, 2017, which approved that Motion in all relevant respects. The Receiver has been working with these professional firms regarding the receivership's affairs.

**Submission of Fees for *In-Camera* Review, Legal Authority Supporting Same**

The Receiver submits legal and expert consulting firm invoices as Exhibit 2 with this Status Report filing. These invoices are in the form of summary bills that memorialize the fees and costs of these legal and expert firms. The detailed time and billing entries of the legal and expert firms have been submitted separately to the Court for its *in-camera* review. The Receiver submits these invoices and related documentation for the *in-camera* inspection by the Court to prevent the inappropriate disclosure of confidential and/or privileged information. In this connection, courts have held that the bills of legal counsel and experts may be withheld from legal discovery and are not subject to legal disclosure, as this information may provide indications or context concerning potential litigation strategy and the nature of the expert services being provided. See Avnet, Inc. v. Avana Technologies Inc., No. 2:13-cv-00929-GMN-PAL, 2014 WL 6882345, at \*1 (D. Nev. Dec. 4, 2014) (finding that billing entries were privileged because they reveal a party's strategy and the nature of services provided); Fed. Sav. & Loan Ins. Corp. v. Ferm, 909 F.2d 372, 374-75 (9th Cir. 1990) (considering whether or not fee information revealed counsel's mental impressions concerning litigation strategy). Other courts that have addressed this issue have recognized that the "attorney-client privilege embraces attorney time, records and statements to the extent that they reveal litigation strategy and the nature of the services provided." Real v. Cont'l Grp., Inc., 116 F.R.D. 211, 213 (N.D. Cal. 1986).

The *in-camera* review should apply not only to documentation concerning attorneys' fees, but it also 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



1 reveal the motive of the client in seeking representation, litigation strategy, or the specific  
2 nature of the services provided, such as researching particular areas of law,” are protected  
3 from disclosure) (quoting Clarke v. Am. Commerce Nat’l Bank, 974 F.2d 127, 129 (9th Cir.  
4 1992)).<sup>7</sup>

#### 5 **Recent Motions Filed with the Court**

6 On June 8, 2017, Counsel for the Receiver filed with this Court a “Motion for Order of  
7 Release of Special Deposit and All Accrued Interest Thereon to the Receiver.” If approved  
8 by the Court, the NHC special deposit amount of approximately \$767,823 would be released  
9 to the custody of the Receiver. This motion is set for hearing on July 10, 2017.

10 On June 20, 2017, Counsel for the Receiver filed with this Court a “Motion for  
11 Instructions for ESI Protocol and Protective Order,” regarding management of electronically  
12 stored information and protection from disclosure of private healthcare information. If  
13 approved, the ESI Protocol would govern how records are stored, provided, and protected in  
14 any future receivership litigation. This motion is set for hearing on July 24, 2017.

#### 15 **Commencement of Action against CMS to Settle Questions of Setoff as to Mutual** 16 **Obligations**

17 On March 16, 2017, Counsel for the Receiver filed in the United States District Court  
18 for the District of Nevada a Complaint and Demand for Jury Trial (the “Complaint”) against  
19 the United States Department of Health and Human Services, the Centers for Medicare and  
20 Medicaid Services, Thomas E. Price, M.D. in his capacity as the U.S. Secretary of Health and  
21 Human Services, and the United States (the “Defendants”). Through this Complaint, the  
22 Receiver seeks both judicial review of a final agency action made by Defendants and a  
23 declaratory judgment as to Defendants’ right to set-off any monies claimed against NHC  
24 through funds that HHS/CMS is statutorily obligated to pay to NHC. As has been reported to

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25 <sup>7</sup> This outcome is also supported by, among other things, the 2010 Advisory Committee Note to Federal Rules  
26 of Civil Procedure 26, which suggests that the proper focus of permitted discovery into expert compensation  
27 concerns the compensation amount, not the tasks performed that led to compensation; the objective of  
28 discovery into expert compensation “is to permit full inquiry into such potential source of bias” – not a roving  
inquiry into litigation strategy as documented in invoices. Fed. R. Civ. P. 26, Advisory Committee Notes on  
2010 Amendment, ¶ 15 (noting that any “benefits to the expert” are discoverable).



1 this Court on several occasions, Defendants (via CMS) have provided notice to the Receiver  
2 of their termination of the underlying Loan Agreement through which the CO-OP received its  
3 funds under the ACA, declaring those loans immediately due and payable. Further, on March  
4 6, 2016, HHS/CMS stated that an “administrative hold” on payables due to NHC had been  
5 implemented at the request of the U.S. Department of Justice. As part of this chain of events,  
6 on September 29, 2016, HHS/CMS claimed that approximately \$7 million had been offset  
7 against funds payable to NHC from the outstanding amount of the start-up loan, and  
8 prospectively asserted its “right” to offset future payables.

9 The Complaint therefore seeks relief in the form of a declaratory judgment which holds  
10 that the federal government’s setoffs and prospective setoffs are unlawful under Nevada  
11 state reserve requirements, solvency regulations, requisite surplus note requirements, and  
12 other similar laws. As well, the Receiver seeks a declaration that both the start-up and  
13 solvency loans given to NHC are subordinated to the claims of NHC’s policyholders and  
14 subscriber members, that the debts the Defendants seek to set-off lack the requirement of  
15 mutuality necessary to permit such a setoff, and that any such setoffs were and are improper.

16 Pursuant to an Order entered on May 18, 2017, the parties agreed to the following  
17 briefing schedule for the United States forthcoming Motion to Dismiss:

- 18 1. Defendants’ Motion to Discuss is to be filed no later than June 29, 2017.
- 19 2. Plaintiff’s Response is to be filed no later than August 14, 2017.
- 20 3. Defendants’ Reply is to be filed no later than September 20, 2017.

#### 21 **Notice of Claim Determination to CMS**

22 In response to a proof of claim filed by CMS against the NHC receivership estate  
23 before expiration of the April 28, 2017, claims filing deadline, a notice of claim determination  
24 was issued by the SDR to CMS on June 14, 2017, making the following claim determinations:

- 25 a. CMS claims are have priority no higher than NRS § 696B.420(1)(d) (“Class D”).
- 26 b. Federal law, including 31 U.S.C. § 3713, does not give CMS a claim priority  
27 higher than Class D with respect to NHC’s assets or in the NHC liquidation  
28 proceeding.

- c. Under federal and state law, including NRS 696B.440, CMS claims may not be properly set off “against debts owed to NHC by the United States.”
- d. Any set off of amounts claimed by the U.S., if set off against amounts owed to NHC, would impermissibly elevate the U.S. claims above their statutory priority level.
- e. Any set off of amounts claimed by the U.S., if set off against amounts owed to NHC, would violate the NHC permanent receivership order.
- f. The CMS claims are not entitled to secured creditor claim priority to the extent they are subject to a set off by a claim of NHC against the U.S.
- g. It appears at this time that the receivership estate has insufficient assets to pay NHC claims with priority lower than Class B. Thus, the Receiver makes no determination right now as to the following: (1) the merit of the CMS claim, (2) the amount claimed, or (3) whether the CMS claim would have a Class D or lower priority.
- h. No claim received after the NHC claims deadline, if not rendered absolute, is allowed to participate in a share of NHC’s assets. Thus, any later or additional claim by CMS will be deemed a late filed claim for which NHC is not liable. The purported claim reservation of the U.S. to assert later determined claims is therefore ineffective.

CMS has not yet provided any response to the aforementioned notice of claim determination sent on June 14, 2017.

#### **Post-Receiverhsip Hardship Claim Payments Made by the Receiver of NHC**

The Receiver has thus far paid approximately \$8.4 million in hardship claim payments to different health care providers or members for necessary pharmacological, psychological, and health care services. These hardship claim payments to providers and/or members concerned emergency services, vital prescription medicines, protection against instances of balance billing, and medical or financial hardships. The SDR continues to utilize the procedure developed and provided alongside the Fourth Status Report to adjudicate and

1 process these payments. The Receiver will allow hardship claim payments to continue  
2 pursuant to this Court's prior order.<sup>8</sup>

3 **Post-Receivership Non-hardship Claim Payments to be Made by the Receiver of NHC**

4 Certain members and other providers have contacted receivership staff to inquire as to  
5 when non-hardship claim payments will be made, and when the suspension on claims and  
6 other general creditor payments will be lifted. There are two reasons why non-hardship claim  
7 payments are now suspended and delayed from being paid by NHC. Both of these reasons  
8 are because of CMS actions and delays that have had a substantial and harmful impact on  
9 NHC's ability to pay claims. The Receiver of NHC would be paying non-hardship claim  
10 payments (as currently authorized—or as may be further authorized by this Court) if it were  
11 not for these CMS actions.

12 ***Reason Number 1 for Suspension and Claims Payment Delay***

13 NHC received approximately \$65.9 million of loans from CMS before receivership as  
14 funds for the start-up and solvency of this health insurer. After receivership began, CMS  
15 demanded loan repayment and asserted that such repayment was legally entitled to a super-  
16 priority so that it had to be made before payment of any other claims against NHC other than  
17 costs of administration. The Receiver tried without success to resolve this super-priority  
18 issue with CMS and the United States Department of Justice. Until this issue is resolved,  
19 there is substantial uncertainty about the Receiver's ability to pay non-hardship claims.

20 ***Reason Number 2 for Suspension and Claims Payment Delay***

21 CMS placed "an administrative hold" on all reimbursements due NHC under the  
22 federal receivables programs. The CMS reimbursements due NHC are in the tens of  
23 millions. Approximately \$56 million is due from CMS and the federal government for federal  
24 receivables, not including APTC amounts that are currently in dispute between CMS and  
25 NHC. NHC's unpaid claim liabilities are also in the tens of millions, so federal receivables  
26 from CMS are essential to the ability of the Receiver to make meaningful claims payments.

27 \_\_\_\_\_  
28 <sup>8</sup> On February 24, 2016, this Court entered its Order Granting Special Deputy Receiver, Cantilo & Bennett,  
L.L.P.'s First Motion, on Order Shortening Time, for Order Authorizing Payments, and this Court Order  
authorized hardship claim payments by the Special Deputy Receiver.

1 However, as discussed above, no payments (not even small ones) may be made on non-  
2 hardship claims without resolution of CMS' assertion of federal super-priority for payment of  
3 its loans before all other claims. According to CMS, the placement of the hold on federal  
4 receivable reimbursements due NHC is because of the above-mentioned loans that are now  
5 claimed due by CMS.

#### 6 **Resolution of Proofs of Claim, Provision of Notices of Claim Determination, Appeals**

7 The Receiver has implemented the POC process approved by this Court in its Final  
8 Order Granting Other Relief Related to Receiver's Motion for Final Order Finding and  
9 Declaring Nevada Health CO-OP to be Insolvent and Placing Nevada Health CO-OP into  
10 Liquidation, and has already conducted general mailings and publication of necessary notices  
11 to claimants and other interested parties.

12 The Claims Filing Deadline was April 28, 2017, and the SDR received 131 POCs. A  
13 large number of these are incomplete or unable to be adjudicated for various other reasons,  
14 and the SDR has notified various claimants of claim deficiencies. The SDR will continue  
15 adjudicating POCs and mailing notices of claim determination ("NCDs").

#### 16 **Claims for Which There Are Currently Insufficient Assets to Pay**

17 It does not appear at this time that there will be sufficient assets to pay claims beyond  
18 those assigned a Class B priority pursuant to NRS 696B.420(1)(b). The SDR has received a  
19 number of POCs that should be assigned to priority classes C through L, pursuant to NRS  
20 696B.420(1)(c)-(l). In such instances, the SDR will send claimants NCDs that determine the  
21 priority of their claims, which determination will be subject to appeal under the Receivership  
22 Appeal Procedure ("RAP"). In order to conserve the assets of the estate, and per  
23 NRS696B.330(4), the SDR of NHC will refrain from reaching the merits of these claims until  
24 such time it appears that assets will be available for distribution to that class. If additional  
25 assets later become available for distribution to these claimants, the SDR will make a second  
26 claim determination as to the merits of each claim and notify the claimants of such  
27 determination.

#### 28 **Claims Asserted Against the Estate by Providers**

1 Health care providers are not required to use the POC form to submit their claims,  
2 because NHC already has a pre-existing process for receiving and processing such claims,  
3 having thousands of such processed claims already in its claim processing system.  
4 Providers were required to use (and most did use) the pre-existing claims process to submit  
5 their claims before the Claims Filing Deadline.

6 The SDR will be preparing NCDs to send providers for their claims. After reporting  
7 claim determinations to the Court, the SDR will begin mailing providers' NCDs. The provider  
8 NCD will show the amount the SDR has approved to be paid for each claim, along with the  
9 member's responsibility portion of the claim—which the provider may collect from the  
10 member without violating the Permanent Receivership Order. For this reason, the member  
11 will also receive a copy of the NCD. Members and providers may appeal NCDs in  
12 accordance with the RAP.

### 13 **Current Receivership Assets**

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

18 1. Before year-end 2014, the Receiver submitted a reinsurance claim to Partner  
19 Re based on 2015 claims information. In April and May 2017, Partner Re paid the Receiver a  
20 total of \$787,352.41 in satisfaction of NHC's reinsurance claims. The Receiver has submitted  
21 a recent additional claim to Partner Re of approximately \$3,000, and this appears to be the  
22 full amount due from Partner Re at this time. The Receiver will submit further claims to  
23 Partner Re if the attachment point of reinsurance coverage is reached in the future.

24 2. The unrestricted cash assets of the CO-OP have fluctuated with post-  
25 receivership expenses and claim payments, as well as with the Receiver's receipt of member  
26 premiums. The unrestricted cash assets of the CO-OP as of June 27, 2017, were  
27 approximately \$8,107,817. The majority of NHC's currently available and liquid assets have  
28 been invested in a short-term bond mutual fund, with the remainder of such assets invested

1 in bank deposits. This amount does not take into account the \$767,823 (as of June 27, 2017)  
2 in restricted cash assets held in a statutory special deposit account for the benefit of NHC's  
3 creditors.

4       3. The financial information of NHC in this Seventh Status Report provides  
5 estimates. NHC's financials may materially vary depending upon the estate's receipt of the  
6 promised federal receivables payments under the various ACA programs described in this  
7 report. These figures will remain estimates until the estate receives clearer indications from  
8 CMS and the federal government as to the amount and timing of any federal payments, as  
9 well as the outcome of the recent lawsuit filed by the Receiver against CMS concerning the  
10 matter of the administrative hold and asserted rights to setoff. As mentioned, the Receiver  
11 continues work to resolve matters with CMS.

12       4. The Receiver is enclosing, as Exhibit 3 attached hereto, a cash flow report for  
13 NHC for the time period covering the inception of the receivership through May 31, 2017.  
14 This report reflects a summary of disbursements and collections made by NHC during this  
15 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 Seventh Status Report and the actions taken by the Receiver.

DATED this 6th day of July 2017.

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

Respectfully submitted by:

/s/ Eric W. Swanis

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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on the 6th day of July 2017, and pursuant to NEFCR 9, NRCP 5(b), and EDCR 7.26, I served this **SEVENTH STATUS REPORT** on all parties receiving service in this action through electronic transmission via this Court's electronic filing system to:

**E-Service Master List  
For Case**

**State of Nevada, ex rel Commissioner of Insurance, Plaintiff(s) vs. Nevada Health CO-OP, Defendant(s)**

<b>Attorney General's Office</b>	
<b>Contact</b>	<b>Email</b>
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<b>Senior Deputy Attorney General</b>	
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/s/ Joyce Heilich  
An employee of Greenberg Traurig, LLP

# EXHIBIT “1”

# CANTILO & BENNETT, L.L.P.

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*Comprised of Professional Corporations*

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Austin, Texas 78758

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March 23, 2017

## BILL SUMMARY

70750 Nevada Health Co-Op ("NHC")

October 1, 2016 - October 31, 2016

<u>Matter No. and Description</u>	<u>Invoice Number</u>	<u>Fees</u>	<u>Costs</u>	<u>Total</u>
October 2016	21770- 21771 21773- 21787	\$127,508.75	\$ 9,105.98	\$136,614.73
<b>Totals (1)</b>		\$127,508.75	\$ 9,105.98	\$136,614.73

## **Cantilo & Bennett, L.L.P.**

**NEVADA HEALTH CO-OP  
TIMEKEEPER SUMMARY REPORT  
10/1/16 - 10/31/16**

		<b>Billable Hours</b>	<b>Billable Rate</b>	<b>October 2016 Billing</b>
1	Timekeeper - Patrick H. Cantilo	9.50	\$450.00	\$4,275.00
2	Timekeeper - Mark F. Bennett	63.00	\$375.00	\$23,625.00
3	Timekeeper - Kristen W. Johnson	145.00	\$175.00	\$25,375.00
4	Timekeeper - Josh O. Lively	157.25	\$175.00	\$27,518.75
5	Timekeeper - Nelson J. Dunlap	0.00	\$135.00	\$0.00
6	Timekeeper - Arati Bhattacharya	19.90	\$200.00	\$3,980.00
7	Timekeeper - Law Clerks	0.00	\$85.00	\$0.00
8	Timekeeper - Isaiah Samaniego	140.00	\$100.00	\$14,000.00
9	TimeKeeper -- Pierre Riou	121.60	\$225.00	\$27,360.00
9	TimeKeeper -- Jeffrey L. Collins	11.00	\$125.00	\$1,375.00
	<b>GRAND TOTAL</b>	<b>667.25</b>		<b>\$127,508.75</b>

Work Date 10/01/2016:10/31/2016  
Client ID 70750

TimeKeeper		Hours	Fees	NC Hours	NC Fees
MFB MARK F. BENNETT					
70750	Nevada Health CO-OP				
70750002	Legal	16.95	6,366.25	0.00	0.00
70750003	Claims	4.75	1,781.25	0.00	0.00
70750004	Financial Matters	5.00	1,875.00	0.00	0.00
70750006	Provider Issues	0.50	187.50	0.00	0.00
70750008	Company Administration	4.90	1,837.50	0.00	0.00
70750009	Lease Issues	0.25	93.75	0.00	0.00
70750010	CMS	8.85	3,318.75	0.00	0.00
70750100	Asset Recovery	18.50	6,937.50	0.00	0.00
70750201	Partner Re	3.30	1,237.50	0.00	0.00
	Sub Total (MFB)	63.00	23,625.00	0.00	0.00*
ABS ARATI BHATTACHARYA					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	19.90	3,980.00	0.00	0.00
	Sub Total (ABS)	19.90	3,980.00	0.00	0.00*
PHC PATRICK H. CANTILO					
70750	Nevada Health CO-OP				
70750002	Legal	0.50	225.00	0.00	0.00
70750008	Company Administration	7.00	3,150.00	0.00	0.00
70750102	NHC vs. CMS Litigation	2.00	900.00	0.00	0.00
	Sub Total (PHC)	9.50	4,275.00	0.00	0.00*
JLC JEFFREY L. COLLINS					
70750	Nevada Health CO-OP				
70750000	General	9.25	1,156.25	0.00	0.00
70750102	NHC vs. CMS Litigation	1.75	218.75	0.00	0.00
	Sub Total (JLC)	11.00	1,375.00	0.00	0.00*
KWJ KRISTEN W. JOHNSON					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	145.00	25,375.00	0.00	0.00
	Sub Total (KWJ)	145.00	25,375.00	0.00	0.00*
JOL JOSHUA O. LIVELY					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	29.75	5,206.25	0.00	0.00
70750002	Legal	38.75	6,781.25	0.00	0.00
70750004	Financial Matters	21.75	3,806.25	0.00	0.00
70750005	Asset Marshaling	1.25	218.75	0.00	0.00
70750008	Company Administration	8.75	1,531.25	0.00	0.00
70750100	Asset Recovery	10.00	1,750.00	0.00	0.00
70750103	Potential claims against Milliman	20.00	3,500.00	0.00	0.00
70750200	Reinsurance General	8.00	1,400.00	0.00	0.00
70750201	Partner Re	19.00	3,325.00	0.00	0.00
	Sub Total (JOL)	157.25	27,518.75	0.00	0.00*
PJR PIERRE J. RIOU					
70750	Nevada Health CO-OP				
70750002	Legal	1.30	292.50	0.00	0.00
70750010	CMS	113.10	25,447.50	0.00	0.00
70750100	Asset Recovery	7.20	1,620.00	0.00	0.00
	Sub Total (PJR)	121.60	27,360.00	0.00	0.00*
IXS ISAAH SAMANIEGO					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	140.00	14,000.00	0.00	0.00
	Sub Total (IXS)	140.00	14,000.00	0.00	0.00*
Grand Total		667.25	127,508.75	0.00	0.00

March 23, 2017  
3:11 pm

Cantilo & Bennett, L.L.P.  
Timekeeper Costs by Work Code

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[cs1c]

Work Date 10/01/2016-10/31/2016  
Client ID 70750

Staff ID	Cost Code	Units	Amount	Write Down	Total
BM1A	BUSINESS MEALS	0.00	1,440.00	0.00	1,440.00
FD1A	FEDERAL EXPRESS	0.00	32.48	0.00	32.48
MT1A	MISCELLANEOUS	0.00	50.00	0.00	50.00
PK1A	PARKING	0.00	345.00	0.00	345.00
PO1E	POSTAGE	0.00	131.71	0.00	131.71
TA1A	TRAVEL-AIRFARE	0.00	2,500.80	0.00	2,500.80
TE1A	TRANSPORTATION EXPENSE	0.00	998.80	0.00	998.80
TH1A	TRAVEL-HOTEL	0.00	2,077.08	0.00	2,077.08
TL2E	TELEPHONE	0.00	1,530.11	0.00	1,530.11
	Sub Total ( )	0.00	9,105.98	0.00	9,105.98
	Grand Total	0.00	9,105.98	0.00	9,105.98

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March 31, 2017

## BILL SUMMARY

70750 Nevada Health Co-Op ("NHC")

November 1, 2016 - November 30, 2016

<u>Matter No. and Description</u>	<u>Invoice Number</u>	<u>Fees</u>	<u>Costs</u>	<u>Total</u>
November 2016	21805- 21816	\$114,601.25	\$ 7,162.62	\$121,763.87
<b>Totals (1)</b>		\$114,601.25	\$ 7,162.62	\$121,763.87

## **Cantilo & Bennett, L.L.P.**

**NEVADA HEALTH CO-OP  
TIMEKEEPER SUMMARY REPORT  
11/1/16 - 11/30/16**

		<b>Billable Hours</b>	<b>Billable Rate</b>	<b>November 2016 Billing</b>
1	Timekeeper - Patrick H. Cantilo	7.80	\$450.00	\$3,510.00
2	Timekeeper - Mark F. Bennett	50.70	\$375.00	\$19,012.50
3	Timekeeper - Kristen W. Johnson	131.10	\$175.00	\$22,942.50
4	Timekeeper - Josh O. Lively	153.25	\$175.00	\$26,818.75
5	Timekeeper - Nelson J. Dunlap	0.00	\$135.00	\$0.00
6	Timekeeper - Arati Bhattacharya	63.60	\$200.00	\$12,720.00
7	Timekeeper - Law Clerks	0.00	\$85.00	\$0.00
8	Timekeeper - Isaiah Samaniego	124.75	\$100.00	\$12,475.00
9	TimeKeeper -- Pierre Riou	71.10	\$225.00	\$15,997.50
9	TimeKeeper -- Jeffery L. Collins	9.00	\$125.00	\$1,125.00
	<b>GRAND TOTAL</b>	<b>611.30</b>		<b>\$114,601.25</b>



March 31, 2017  
10:21 am

Cantilo & Bennett, L.L.P.  
Timekeeper Submitted Work by Matter

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Work Date 11/01/2016:11/30/2016  
Client ID 70750

TimeKeeper		Hours	Fees	NC Hours	NC Fees
MFB MARK F. BENNETT					
70750	Nevada Health CO-OP				
70750002	Legal	5.20	1,950.00	0.00	0.00
70750003	Claims	0.30	112.50	0.00	0.00
70750004	Financial Matters	4.50	1,687.50	0.00	0.00
70750008	Company Administration	2.90	1,087.50	0.00	0.00
70750010	CMS	5.75	2,156.25	0.00	0.00
70750100	Asset Recovery	21.00	7,875.00	0.00	0.00
70750102	NHC vs. CMS Litigation	1.55	581.25	0.00	0.00
70750201	Partner Re	9.50	3,562.50	0.00	0.00
	Sub Total (MFB)	50.70	19,012.50	0.00	0.00*
ABS ARATI BHATTACHARYA					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	24.00	4,800.00	0.00	0.00
70750002	Legal	39.60	7,920.00	0.00	0.00
	Sub Total (ABS)	63.60	12,720.00	0.00	0.00*
PHC PATRICK H. CANTILO					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	1.00	450.00	0.00	0.00
70750008	Company Administration	0.30	135.00	0.00	0.00
70750010	CMS	1.50	675.00	0.00	0.00
70750102	NHC vs. CMS Litigation	3.00	1,350.00	0.00	0.00
70750201	Partner Re	2.00	900.00	0.00	0.00
	Sub Total (PHC)	7.80	3,510.00	0.00	0.00*
JLC JEFFREY L. COLLINS					
70750	Nevada Health CO-OP				
70750000	General	3.25	406.25	0.00	0.00
70750102	NHC vs. CMS Litigation	5.75	718.75	0.00	0.00
	Sub Total (JLC)	9.00	1,125.00	0.00	0.00*
KWJ KRISTEN W. JOHNSON					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	131.10	22,942.50	0.00	0.00
	Sub Total (KWJ)	131.10	22,942.50	0.00	0.00*
JOL JOSHUA O. LIVELY					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	3.75	656.25	0.00	0.00
70750002	Legal	38.50	6,737.50	0.00	0.00
70750004	Financial Matters	10.75	1,881.25	0.00	0.00
70750008	Company Administration	23.50	4,112.50	0.00	0.00
70750100	Asset Recovery	39.25	6,868.75	0.00	0.00
70750201	Partner Re	37.50	6,562.50	0.00	0.00
	Sub Total (JOL)	153.25	26,818.75	0.00	0.00*
PJR PIERRE J. RIOU					
70750	Nevada Health CO-OP				
70750010	CMS	71.10	15,997.50	0.00	0.00
	Sub Total (PJR)	71.10	15,997.50	0.00	0.00*
IXS ISAAH SAMANIEGO					
70750	Nevada Health CO-OP				
70750001	Takeover Administration	124.75	12,475.00	0.00	0.00
	Sub Total (IXS)	124.75	12,475.00	0.00	0.00*
Grand Total		611.30	114,601.25	0.00	0.00

March 31, 2017  
2:22 pm

Cantilo & Bennett, L.L.P.  
Timekeeper Costs by Work Code

Page 1  
[cs1c]

Work Date 11/01/2016:11/30/2016  
Client ID 70750

Staff ID	Cost Code	Units	Amount	Write Down	Total
BM1A	BUSINESS MEALS	0.00	1,024.00	0.00	1,024.00
FD1A	FEDERAL EXPRESS	0.00	59.37	0.00	59.37
MT1A	MISCELLANEOUS	0.00	12.80	0.00	12.80
PK1A	PARKING	0.00	115.00	0.00	115.00
PO1E	POSTAGE	0.00	498.04	0.00	498.04
TA1A	TRAVEL-AIRFARE	0.00	1,629.85	0.00	1,629.85
TE1A	TRANSPORTATION EXPENSE	0.00	896.02	0.00	896.02
TH1A	TRAVEL-HOTEL	0.00	1,552.32	0.00	1,552.32
TL2E	TELEPHONE	0.00	1,375.22	0.00	1,375.22
	Sub Total ( )	0.00	7,162.62	0.00	7,162.62
	Grand Total	0.00	7,162.62	0.00	7,162.62

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April 17, 2017

## BILL SUMMARY

70750 Nevada Health Co-Op ("NHC")

December 1, 2016 - December 31, 2016

<u>Matter No. and Description</u>	<u>Invoice Number</u>	<u>Fees</u>	<u>Costs</u>	<u>Total</u>
December 2016	21850- 21863	\$139,293.75	\$ 10,239.75	\$149,533.50
<b>Totals (1)</b>		<b>\$139,293.75</b>	<b>\$ 10,239.75</b>	<b>\$149,533.50</b>

## **Cantilo & Bennett, L.L.P.**

**NEVADA HEALTH CO-OP  
TIMEKEEPER SUMMARY REPORT  
12/1/16 - 12/31/16**

		<b>Billable Hours</b>	<b>Billable Rate</b>	<b>December 2016 Billing</b>
1	Timekeeper - Patrick H. Cantilo	17.40	\$450.00	\$7,830.00
2	Timekeeper - Mark F. Bennett	62.85	\$375.00	\$23,568.75
3	Timekeeper - Kristen W. Johnson	165.50	\$175.00	\$28,962.50
4	Timekeeper - Josh O. Lively	141.75	\$175.00	\$24,806.25
5	Timekeeper - Nelson J. Dunlap	0.00	\$135.00	\$0.00
6	Timekeeper - Arati Bhattacharya	108.40	\$200.00	\$21,680.00
7	Timekeeper - Law Clerks	0.00	\$85.00	\$0.00
8	Timekeeper - Isaiah Samaniego	66.00	\$100.00	\$6,600.00
9	TimeKeeper -- Pierre Riou	111.40	\$225.00	\$25,065.00
9	TimeKeeper -- Jeffrey L. Collins	6.25	\$125.00	\$781.25
	<b>GRAND TOTAL</b>	<b>679.55</b>		<b>\$139,293.75</b>

April 17, 2017  
10:37 am

Cantilo & Bennett, L.L.P.  
Timekeeper Submitted Work by Matter

Page 1  
[pr 3]

Work Date 12/01/2016:12/31/2016  
Client ID 70750

TimeKeeper		Hours	Fees	NC Hours	NC Fees
MFB MARK F. BENNETT					
70750 Nevada Health CO-OP					
70750002 Legal		11.50	4,312.50	0.00	0.00
70750003 Claims		1.00	375.00	0.00	0.00
70750004 Financial Matters		7.50	2,812.50	0.00	0.00
70750006 Provider Issues		0.25	93.75	0.00	0.00
70750008 Company Administration		2.05	768.75	0.00	0.00
70750010 CMS		1.50	562.50	0.00	0.00
70750100 Asset Recovery		26.75	10,031.25	0.00	0.00
70750102 NHC vs. CMS Litigation		1.30	487.50	0.00	0.00
70750200 Reinsurance General		9.50	3,562.50	0.00	0.00
70750201 Partner Re		1.50	562.50	0.00	0.00
Sub Total (MFB)		62.85	23,568.75	0.00	0.00*
ABS ARATI BHATTACHARYA					
70750 Nevada Health CO-OP					
70750001 Takeover Administration		108.40	21,680.00	0.00	0.00
Sub Total (ABS)		108.40	21,680.00	0.00	0.00*
PHC PATRICK H. CANTILO					
70750 Nevada Health CO-OP					
70750003 Claims		0.30	135.00	0.00	0.00
70750008 Company Administration		0.80	360.00	0.00	0.00
70750010 CMS		2.00	900.00	0.00	0.00
70750102 NHC vs. CMS Litigation		14.30	6,435.00	0.00	0.00
Sub Total (PHC)		17.40	7,830.00	0.00	0.00*
JLC JEFFREY L. COLLINS					
70750 Nevada Health CO-OP					
70750102 NHC vs. CMS Litigation		6.25	781.25	0.00	0.00
Sub Total (JLC)		6.25	781.25	0.00	0.00*
KWJ KRISTEN W. JOHNSON					
70750 Nevada Health CO-OP					
70750001 Takeover Administration		153.50	26,862.50	0.00	0.00
70750003 Claims		12.00	2,100.00	0.00	0.00
Sub Total (KWJ)		165.50	28,962.50	0.00	0.00*
JOL JOSHUA O. LIVELY					
70750 Nevada Health CO-OP					
70750001 Takeover Administration		11.50	2,012.50	0.00	0.00
70750002 Legal		42.50	7,437.50	0.00	0.00
70750004 Financial Matters		8.50	1,487.50	0.00	0.00
70750008 Company Administration		16.75	2,931.25	0.00	0.00
70750100 Asset Recovery		33.00	5,775.00	0.00	0.00
70750201 Partner Re		29.50	5,162.50	0.00	0.00
Sub Total (JOL)		141.75	24,806.25	0.00	0.00*
PJR PIERRE J. RIOU					
70750 Nevada Health CO-OP					
70750010 CMS		111.40	25,065.00	0.00	0.00
Sub Total (PJR)		111.40	25,065.00	0.00	0.00*
IXS ISAIAH SAMANIEGO					
70750 Nevada Health CO-OP					
70750001 Takeover Administration		66.00	6,600.00	0.00	0.00
Sub Total (IXS)		66.00	6,600.00	0.00	0.00*
Grand Total		679.55	139,293.75	0.00	0.00

April 18, 2017  
8:48 am

Cantilo & Bennett, L.L.P.  
Timekeeper Costs by Work Code

Page 1  
[cs1c]

Work Date 12/01/2016:12/31/2016  
Client ID 70750

Staff ID	Cost Code	Units	Amount	Write Down	Total
	BM1A BUSINESS MEALS	0.00	1,264.00	0.00	1,264.00
	MT1A MISCELLANEOUS	0.00	179.00	0.00	179.00
	PK1A PARKING	0.00	184.00	0.00	184.00
	PO1E POSTAGE	0.00	66.27	0.00	66.27
	TA1A TRAVEL-AIRFARE	0.00	3,996.66	0.00	3,996.66
	TE1A TRANSPORTATION EXPENSE	0.00	1,044.07	0.00	1,044.07
	TH1A TRAVEL-HOTEL	0.00	1,834.22	0.00	1,834.22
	TL2E TELEPHONE	0.00	1,671.53	0.00	1,671.53
	Sub Total ( )	0.00	10,239.75	0.00	10,239.75
	Grand Total	0.00	10,239.75	0.00	10,239.75

# CANTILO & BENNETT, L.L.P.

ATTORNEYS & COUNSELORS  
*A Texas Registered Limited Liability Partnership  
Comprised of Professional Corporations*

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Facsimile: (512) 404-6550

www.cb-firm.com

June 6, 2017

## BILL SUMMARY

70750 Nevada Health Co-Op ("NHC")

January 1, 2017 - January 31, 2017 and 2016 Corrections

<u>Matter No. and Description</u>	<u>Invoice Number</u>	<u>Fees</u>	<u>Costs</u>	<u>Total</u>
January 2017	21959-	\$156,040.00	\$8,357.55	\$164,397.55
	21969			
2016 Corrections	21947	\$7,577.50		\$7,577.50
<b>Totals (1)</b>		\$163,617.50	\$8,357.55	\$171,975.05

June 07, 2017  
3:39 pm

Cantilo & Bennett, L.L.P.  
Bill Register

Page 1

Client and Matter	Date	Inv No	Fees	Costs	Credits	Total
70750 Nevada Health CO-OP 70750001 Takeover Administration	01/31/17	21959	63,615.00	0.00	0.00	63,615.00
70750002 Legal	01/31/17	21960	10,675.00	0.00	0.00	10,675.00
70750003 Claims	01/31/17	21961	3,675.00	0.00	0.00	3,675.00
70750004 Financial Matters	01/31/17	21962	3,637.50	0.00	0.00	3,637.50
70750006 Provider Issues	01/31/17	21963	187.50	0.00	0.00	187.50
70750007 Member Issues	01/31/17	21964	300.00	0.00	0.00	300.00
70750008 Company Administration	01/31/17	21965	22,512.50	0.00	0.00	22,512.50
70750010 CMS	01/31/17	21966	31,050.00	0.00	0.00	31,050.00
70750100 Asset Recovery	01/31/17	21967	16,410.00	0.00	0.00	16,410.00
70750102 NHC vs. CMS Litigation	01/31/17	21968	9,798.75	0.00	0.00	9,798.75
70750201 Partner Re	01/31/17	21969	1,756.25	0.00	0.00	1,756.25
Totals ( 11)			163,617.50	0.00	0.00	163,617.50



June 07, 2017  
3:08 pm

Cantilo & Bennett, L.L.P.  
Bill Register

Page 1

Client and Matter	Date	Inv No	Fees	Costs	Credits	Total
70750 Nevada Health CO-OP 70750001 Takeover Administration	01/31/17	21947	0.00	8,357.55	0.00	8,357.55
Totals ( 1)			0.00	8,357.55	0.00	8,357.55

# CANTILO & BENNETT, L.L.P.

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June 19, 2017

## BILL SUMMARY

70750 Nevada Health Co-Op ("NHC")

February 1, 2017 - February 28, 2017

<u>Matter No. and Description</u>	<u>Invoice Number</u>	<u>Fees</u>	<u>Costs</u>	<u>Total</u>
February 2017	21983- 21994	\$114,376.25	\$ 7,624.98	\$122,001.23
<b>Totals (1)</b>		\$114,376.25	\$ 7,624.98	\$122,001.23

## **Cantilo & Bennett, L.L.P.**

**NEVADA HEALTH CO-OP  
TIMEKEEPER SUMMARY REPORT  
2/1/17 - 2/28/17**

		<b>Billable Hours</b>	<b>Billable Rate</b>	<b>February 2017 Billing</b>
1	Timekeeper - Patrick H. Cantilo	26.40	\$450.00	\$11,880.00
2	Timekeeper - Mark F. Bennett	63.20	\$375.00	\$23,700.00
3	Timekeeper - Kristen W. Johnson	115.60	\$175.00	\$20,230.00
4	Timekeeper - Josh O. Lively	144.75	\$175.00	\$25,331.25
5	Timekeeper - Nelson J. Dunlap	0.00	\$135.00	\$0.00
6	Timekeeper - Arati Bhattacharya	76.50	\$200.00	\$15,300.00
7	Timekeeper - Law Clerks		\$85.00	\$0.00
8	Timekeeper - Isaiah Samaniego	132.00	\$100.00	\$13,200.00
9	TimeKeeper -- Pierre Riou	16.60	\$225.00	\$3,735.00
9	TimeKeeper -- Jeffrey L. Collins	8.00	\$125.00	\$1,000.00
	<b>GRAND TOTAL</b>	<b>583.05</b>		<b>\$114,376.25</b>

June 19, 2017  
12:28 pm

Cantilo & Bennett, L.L.P.  
Timekeeper Submitted Work by Matter

Page 1  
[pr 3]

Work Date 02/01/2017:02/28/2017  
Client ID 70750

TimeKeeper		Hours	Fees	NC Hours	NC Fees
MFB MARK F. BENNETT					
70750 Nevada Health CO-OP					
70750003 Claims	2.25	843.75	0.00	0.00	
70750004 Financial Matters	6.30	2,362.50	0.00	0.00	
70750006 Provider Issues	0.25	93.75	0.00	0.00	
70750007 Member Issues	0.25	93.75	0.00	0.00	
70750008 Company Administration	6.00	2,250.00	0.00	0.00	
70750010 CMS	2.35	881.25	0.00	0.00	
70750100 Asset Recovery	41.80	15,675.00	0.00	0.00	
70750102 NHC vs. CMS Litigation	4.00	1,500.00	0.00	0.00	
Sub Total (MFB)	63.20	23,700.00	0.00	0.00*	
ABS ARATI BHATTACHARYA					
70750 Nevada Health CO-OP					
70750001 Takeover Administration	76.50	15,300.00	0.00	0.00	
Sub Total (ABS)	76.50	15,300.00	0.00	0.00*	
PHC PATRICK H. CANTILO					
70750 Nevada Health CO-OP					
70750003 Claims	2.30	1,035.00	0.00	0.00	
70750010 CMS	1.80	810.00	0.00	0.00	
70750100 Asset Recovery	15.80	7,110.00	0.00	0.00	
70750102 NHC vs. CMS Litigation	6.50	2,925.00	0.00	0.00	
Sub Total (PHC)	26.40	11,880.00	0.00	0.00*	
JLC JEFFREY L. COLLINS					
70750 Nevada Health CO-OP					
70750100 Asset Recovery	5.25	656.25	0.00	0.00	
70750102 NHC vs. CMS Litigation	2.75	343.75	0.00	0.00	
Sub Total (JLC)	8.00	1,000.00	0.00	0.00*	
KWJ KRISTEN W. JOHNSON					
70750 Nevada Health CO-OP					
70750001 Takeover Administration	115.60	20,230.00	0.00	0.00	
Sub Total (KWJ)	115.60	20,230.00	0.00	0.00*	
JOL JOSHUA O. LIVELY					
70750 Nevada Health CO-OP					
70750001 Takeover Administration	43.75	7,656.25	0.00	0.00	
70750002 Legal	25.25	4,418.75	0.00	0.00	
70750008 Company Administration	41.50	7,262.50	0.00	0.00	
70750100 Asset Recovery	34.25	5,993.75	0.00	0.00	
Sub Total (JOL)	144.75	25,331.25	0.00	0.00*	
PJR PIERRE J. RIOU					
70750 Nevada Health CO-OP					
70750002 Legal	0.60	135.00	0.00	0.00	
70750010 CMS	16.00	3,600.00	0.00	0.00	
Sub Total (PJR)	16.60	3,735.00	0.00	0.00*	
IXS ISAIAH SAMANIEGO					
70750 Nevada Health CO-OP					
70750008 Company Administration	132.00	13,200.00	0.00	0.00	
Sub Total (IXS)	132.00	13,200.00	0.00	0.00*	
Grand Total	583.05	114,376.25	0.00	0.00	

June 19, 2017  
3:03 pm

Canillo & Bennett, L.L.P.  
Timekeeper Costs by Work Code

Page 1  
[cs1c]

Work Date 02/01/2017:02/28/2017  
Client ID 70750

Staff ID	Cost Code	Units	Amount	Write Down	Total
BM1A	BUSINESS MEALS	0.00	1,200.00	0.00	1,200.00
FD1A	FEDERAL EXPRESS	0.00	145.47	0.00	145.47
PK1A	PARKING	0.00	161.00	0.00	161.00
PO1E	POSTAGE	0.00	97.05	0.00	97.05
TA1A	TRAVEL-AIRFARE	0.00	2,052.32	0.00	2,052.32
TE1A	TRANSPORTATION EXPENSE	0.00	948.43	0.00	948.43
TH1A	TRAVEL-HOTEL	0.00	1,648.19	0.00	1,648.19
TL2E	TELEPHONE	0.00	1,372.52	0.00	1,372.52
	Sub Total ( )	0.00	7,624.98	0.00	7,624.98
	Grand Total	0.00	7,624.98	0.00	7,624.98

0326

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March 14, 2017

**BILL SUMMARY**

707500 Nevada Health Co-Op ("NHC")

October 1, 2016 – October 31, 2016

<b>Matter No. and Description</b>	<b>Fees</b>	<b>Costs</b>	<b>Total</b>
October 2016	\$22,990.00	\$0.00	\$22,990.00
<b>Totals (1)</b>	<b>\$22,990.00</b>	<b>\$0.00</b>	<b>\$22,990.00</b>

## Palomar Financial, LC

NEVADA HEALTH CO-OP  
PRIVILEGED AND CONFIDENTIAL  
SUMMARY REPORT  
PERIOD OCTOBER 2016

		Billable Hours	Billable Rate	October 2016 Billing
1	TIME KEEPER - Nicole Wilkins	9.50	\$250.00	\$2,375.00
2	TIME KEEPER - Mike Loya	23.75	\$160.00	\$3,800.00
3	TIME KEEPER - Johanna Eades	4.00	\$150.00	\$600.00
4	TIME KEEPER - Neda Khalaf	20.25	\$160.00	\$3,240.00
5	TIME KEEPER - Susan Roehm	61.25	\$150.00	\$9,187.50
6	TIME KEEPER - Gayathri Sivadasan	25.25	\$150.00	\$3,787.50
7	TIME KEEPER - Angela Messina	0.00	\$80.00	\$0.00
	GRAND TOTAL	144.00		\$22,990.00

Palomar Financial, LC  
10/01/2016-10/31/2016  
Client: Nevada Health Co-Op ("NHC")

Staff ID	Name	Description	Hours	Amount
NMW	Nicole Wilkins	Accounts Payable and Receivable	7.00	\$ 1,750.00
		Investment Accounting/Support	2.50	\$ 625.00
		<b>Sub Total (NMW)</b>	<b>9.50</b>	<b>\$ 2,375.00</b>
MJL	Mike Loya	Payroll & Employee Benefits	16.75	\$ 2,680.00
		Maintenance & Retrieval of Records Information	7.00	\$ 1,120.00
		<b>Sub Total (MJL)</b>	<b>23.75</b>	<b>\$ 3,800.00</b>
JJE	Johanna Eades	Investment Accounting/Support	4.00	\$ 600.00
		<b>Sub Total (JJE)</b>	<b>4.00</b>	<b>\$ 600.00</b>
NK	Neda Khalaf	Accounts Payable and Receivable	20.25	\$ 3,240.00
		<b>Sub Total (NK)</b>	<b>20.25</b>	<b>\$ 3,240.00</b>
SER	Susan Roehm	Accounting Reports/Receivership Team Support	1.50	\$ 225.00
		PartnerRe reporting	1.50	\$ 225.00
		Claims Matter	9.50	\$ 1,425.00
		UHH/Javelina	2.00	\$ 300.00
		IT Support & Administration	46.75	\$ 7,012.50
		<b>Sub Total (SER)</b>	<b>61.25</b>	<b>\$ 9,187.50</b>
GS	Gayathri Sivadasan	Accounts Payable and Receivable	25.25	\$ 3,787.50
		<b>Sub Total (GS)</b>	<b>25.25</b>	<b>\$ 3,787.50</b>
	<b>Grand Total</b>		<b>144.00</b>	<b>\$22,990.00</b>



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March 31, 2017

**BILL SUMMARY**

707500 Nevada Health Co-Op ("NHC")

November 1, 2016 – November 30, 2016

<b>Matter No. and Description</b>	<b>Fees</b>	<b>Costs</b>	<b>Total</b>
November 2016	\$18,065.00	\$0.00	\$18,065.00
<b>Totals (1)</b>	\$18,065.00	\$0.00	\$18,065.00

## Palomar Financial, LC

NEVADA HEALTH CO-OP  
PRIVILEGED AND CONFIDENTIAL  
SUMMARY REPORT  
PERIOD NOVEMBER 2016

		Billable Hours	Billable Rate	November 2016 Billing
1	TIME KEEPER - Nicole Wilkins	11.75	\$250.00	\$2,937.50
2	TIME KEEPER - Mike Loya	22.00	\$160.00	\$3,520.00
3	TIME KEEPER - Johanna Eades	0.50	\$150.00	\$75.00
4	TIME KEEPER - Neda Khalaf	32.00	\$160.00	\$5,120.00
5	TIME KEEPER - Susan Roehm	14.00	\$150.00	\$2,100.00
6	TIME KEEPER - Gayathri Sivadasan	28.75	\$150.00	\$4,312.50
7	TIME KEEPER - Angela Messina	0.00	\$80.00	\$0.00
	GRAND TOTAL	109.00		\$18,065.00

Palomar Financial, LC  
11/01/2016-11/30/2016  
Client: Nevada Health Co-Op ("NHC")

Staff ID	Name	Description	Hours	Amount
NMW	Nicole Wilkins	General Ledger Accounting	0.40	\$ 100.00
		Payroll & Employee Benefits	2.30	\$ 575.00
		Accounts Payable and Receivable	8.50	\$ 2,125.00
		Investment Accounting/Support	0.30	\$ 75.00
		Bank Account Admionistration/Reconciliation	0.25	\$ 62.50
		<b>Sub Total (NMW)</b>	<b>11.75</b>	<b>\$ 2,937.50</b>
MJL	Mike Loya	Payroll & Employee Benefits	13.00	\$ 2,080.00
		Maintenance & Retrieval of Records Information	9.00	\$ 1,440.00
		<b>Sub Total (MJL)</b>	<b>22.00</b>	<b>\$ 3,520.00</b>
JJE	Johanna Eades	Investment Accounting/Support	0.50	\$ 75.00
		<b>Sub Total (JJE)</b>	<b>0.50</b>	<b>\$ 75.00</b>
NK	Neda Khalaf	Accounts Payable and Receivable	32.00	\$ 5,120.00
		<b>Sub Total (NK)</b>	<b>32.00</b>	<b>\$ 5,120.00</b>
SER	Susan Roehm	Accounting Reports/Receivership Team Support	0.75	\$ 112.50
		PartnerRe reporting	0.75	\$ 112.50
		Claims Matter	11.25	\$ 1,687.50
		IT Support & Administration	1.25	\$ 187.50
		<b>Sub Total (SER)</b>	<b>14.00</b>	<b>\$ 2,100.00</b>
GS	Gayathri Sivadasan	Accounts Payable and Receivable	28.75	\$ 4,312.50
		<b>Sub Total (GS)</b>	<b>28.75</b>	<b>\$ 4,312.50</b>
	<b>Grand Total</b>		<b>109.00</b>	<b>\$ 18,065.00</b>

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## PALOMAR FINANCIAL, LC

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April 18, 2017

### BILL SUMMARY

707500 Nevada Health Co-Op ("NHC")

December 1, 2016 – December 31, 2016

<u>Matter No. and Description</u>	<u>Fees</u>	<u>Costs</u>	<u>Total</u>
December 2016	\$15,870.00	\$0.00	\$15,870.00
<b>Totals (1)</b>	<b>\$15,870.00</b>	<b>\$0.00</b>	<b>\$15,870.00</b>

## Palomar Financial, LC

NEVADA HEALTH CO-OP  
PRIVILEGED AND CONFIDENTIAL  
SUMMARY REPORT  
PERIOD DECEMBER 2016

		Billable Hours	Billable Rate	December 2016 Billing
1	TIME KEEPER - Nicole Wilkins	10.90	\$250.00	\$2,725.00
2	TIME KEEPER - Mike Loya	22.25	\$160.00	\$3,560.00
3	TIME KEEPER - Johanna Eades	0.00	\$150.00	\$0.00
4	TIME KEEPER - Neda Khalaf	32.25	\$160.00	\$5,160.00
5	TIME KEEPER - Susan Roehm	5.25	\$150.00	\$787.50
6	TIME KEEPER - Gayathri Sivadasan	24.25	\$150.00	\$3,637.50
7	TIME KEEPER - Angela Messina	0.00	\$80.00	\$0.00
	GRAND TOTAL	94.90		\$15,870.00

Palomar Financial, LC  
12/01/2016-12/31/2016  
Client: Nevada Health Co-Op ("NHC")

Staff ID	Name	Description	Hours	Amount
NMW	Nicole Wilkins	Accounts Payable and Receivable	10.70	\$ 2,675.00
		Bank Account Admionistration/Reconciliation	0.20	\$ 50.00
		<b>Sub Total (NMW)</b>	<b>10.90</b>	<b>\$ 2,725.00</b>
MJL	Mike Loya	Payroll & Employee Benefits	12.50	\$ 2,000.00
		Maintenance & Retrieval of Records Information	9.75	\$ 1,560.00
		<b>Sub Total (MJL)</b>	<b>22.25</b>	<b>\$ 3,560.00</b>
NK	Neda Khalaf	Accounts Payable and Receivable	32.25	\$ 5,160.00
		<b>Sub Total (NK)</b>	<b>32.25</b>	<b>\$ 5,160.00</b>
SER	Susan Roehm	Accounts Payable and Receivable	0.75	\$ 112.50
		IT Support & Administration	4.50	\$ 675.00
		<b>Sub Total (SER)</b>	<b>5.25</b>	<b>\$ 787.50</b>
GS	Gayathri Sivadasan	Accounts Payable and Receivable	24.25	\$ 3,637.50
		<b>Sub Total (GS)</b>	<b>24.25</b>	<b>\$ 3,637.50</b>
	<b>Grand Total</b>		<b>94.90</b>	<b>\$ 15,870.00</b>

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June 8, 2017

**BILL SUMMARY**

707500 Nevada Health Co-Op ("NHC")

January 1, 2017 – January 31, 2017

<b>Matter No. and Description</b>	<b>Fees</b>	<b>Costs</b>	<b>Total</b>
January 2017	\$23,895.00	\$0.00	\$23,895.00
<b>Totals (1)</b>	<b>\$23,895.00</b>	<b>\$0.00</b>	<b>\$23,895.00</b>

## Palomar Financial, LC

NEVADA HEALTH CO-OP  
PRIVILEGED AND CONFIDENTIAL  
SUMMARY REPORT  
PERIOD JANUARY 2017

		Billable Hours	Billable Rate	January 2017 Billing
1	TIME KEEPER - Nicole Wilkins	13.70	\$250.00	\$3,425.00
2	TIME KEEPER - Mike Loya	27.75	\$160.00	\$4,440.00
3	TIME KEEPER - Johanna Eades	1.00	\$150.00	\$150.00
4	TIME KEEPER - Neda Khalaf	43.00	\$160.00	\$6,880.00
5	TIME KEEPER - Susan Roehm	24.50	\$150.00	\$3,675.00
6	TIME KEEPER - Gayathri Sivadasan	35.50	\$150.00	\$5,325.00
7	TIME KEEPER - Angela Messina	0.00	\$80.00	\$0.00
	GRAND TOTAL	145.45		\$23,895.00



Palomar Financial, LC  
01/01/2017-01/31/2017  
Client: Nevada Health Co-Op ("NHC")

Staff ID	Name	Description	Hours	Amount
NMW	Nicole Wilkins	Payroll & Employee Benefits	3.95	\$ 987.50
		Accounts Payable and Receivable	9.55	\$ 2,387.50
		Taxes and Tax Planning	0.20	\$ 50.00
		<b>Sub Total (NMW)</b>	<b>13.70</b>	<b>\$ 3,425.00</b>
MJL	Mike Loya	Payroll & Employee Benefits	10.50	\$ 1,680.00
		Maintenance & Retrieval of Records Information	17.25	\$ 2,760.00
		<b>Sub Total (MJL)</b>	<b>27.75</b>	<b>\$ 4,440.00</b>
JJE	Johanna Eades	Payroll & Employee Benefits	1.00	\$ 150.00
		<b>Sub Total (JJE)</b>	<b>1.00</b>	<b>\$ 150.00</b>
NK	Neda Khalaf	Accounts Payable and Receivable	43.00	\$ 6,880.00
		<b>Sub Total (NK)</b>	<b>43.00</b>	<b>\$ 6,880.00</b>
SER	Susan Roehm	Accounting Reports/Receivership Team Support	0.25	\$ 37.50
		Claims Matter	8.50	\$ 1,275.00
		IT Support & Administration	15.75	\$ 2,362.50
		<b>Sub Total (SER)</b>	<b>24.50</b>	<b>\$ 3,675.00</b>
GS	Gayathri Sivadasan	Accounts Payable and Receivable	35.5	\$ 5,325.00
		<b>Sub Total (GS)</b>	<b>35.5</b>	<b>\$ 5,325.00</b>
	<b>Grand Total</b>		<b>145.45</b>	<b>\$ 23,895.00</b>

# EXHIBIT “2”

# SANTORO WHITMIRE

10100 W. Charleston Blvd.

Ste. 250

Las Vegas, NV 89135

Telephone (702) 948-8771

Attn: Mark Bennett  
Nevada Health CO-OP

Statement Date: April 30, 2017  
Statement No. 13000  
Account No. 871.01  
Page: 1

Report Date: May 10, 2017

Nevada Health CO-OP

Fees	Expenses	Advances	Balance
70.00	0.00	0.00	<u>\$70.00</u>

Please make checks payable to Santoro Whitmire.

We accept Visa, Master Card, Discover Card and American Express.

Payment may be made telephone 702-948-8771.

Tax ID 45-4396259

Billing inquiries may be emailed to [billing@santoronevada.com](mailto:billing@santoronevada.com)

Please include this page with your remittance.

**0340**

Page : 3  
Date : March 9, 2017  
Client No. : 170678.010100  
Invoice No. : 4437270  
Tax ID : 13-3613083

Timekeeper Summary

<u>Timekeeper</u>	<u>Hours</u>	<u>Average Rate</u>	<u>Total</u>
Mark E. Ferrario	1.80	575.00	1,035.00
Eric W. Swanis	28.90	475.00	13,727.50
Shayna Noyce	2.30	190.00	437.00
<b>TOTAL:</b>	<b>33.00</b>	<b>460.59</b>	<b>\$15,199.50</b>

Current Services Rendered: \$ 15,199.50

**Total Current Fees and Expenses:** \$ 15,199.50

Previous Balance (see attached statement): \$ 26,440.92

**Total Amount Due:** \$ 41,640.42

MEF:TKK

Greenberg Traurig, LLP | Attorneys at Law | 3773 Howard Hughes Parkway | Suite 400 North | Las Vegas, Nevada 89169  
Tel 702.792.3773 | Fax 702.792.9002 | www.gtllaw.com

**Account Statement**

<u>Date</u>	<u>Invoice #</u>	<u>Fees Due</u>	<u>Expenses Due</u>	<u>Other Due</u>	<u>Total Due</u>
02/21/17	4422228	26,433.50	7.42	0.00	26,440.92
	Totals:	\$ 26,433.50	\$ 7.42	\$ 0.00	\$ 26,440.92

MEF:TKK

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Page : 10  
Date : April 3, 2017  
Client No. : 170678.010100  
Invoice No. : 4456697  
Tax ID : 13-3613083

**Account Statement**

<u>Date</u>	<u>Invoice #</u>	<u>Fees Due</u>	<u>Expenses Due</u>	<u>Other Due</u>	<u>Total Due</u>
03/09/17	4437270	15,199.50	0.00	0.00	15,199.50
	<b>Totals:</b>	<b>\$ 15,199.50</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 15,199.50</b>

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Tel 702.792.3773 | Fax 702.792.9002 | [www.gtlaw.com](http://www.gtlaw.com)

**0343**



Page : 7  
Date : May 9, 2017  
Client No. : 170678.010100  
Invoice No. : 4497267  
Tax ID : 13-3613083

**Total Current Fees and Expenses:     \$                    23,828.50**

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**0344**



Page : 8  
Date : June 7, 2017  
Client No. : 170678.010100  
Invoice No. : 4515240  
Tax ID : 13-3613083

<b>Total Current Fees and Expenses:</b>	<b>\$</b>	<b><u>34,333.50</u></b>
Previous Balance (see attached statement):	\$	23,828.50
<b>Total Amount Due:</b>	<b>\$</b>	<b><u>58,162.00</u></b>

MEF:TKK

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0345



**Account Statement**

<u>Date</u>	<u>Invoice #</u>	<u>Fees Due</u>	<u>Expenses Due</u>	<u>Other Due</u>	<u>Total Due</u>
05/09/17	4497267	23,579.50	249.00	0.00	23,828.50
	Totals:	\$ 23,579.50	\$ 249.00	\$ 0.00	\$ 23,828.50

**MEF:TKK**

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Page : 2  
Date : June 6, 2017  
Client No. : 170678.010200  
Invoice No. : 4511679  
Tax ID : 13-3613083

Timekeeper Summary

<u>Timekeeper</u>	<u>Hours</u>	<u>Average Rate</u>	<u>Total</u>
Eric W. Swans	0.90	475.00	427.50
Stephanie Bedker	3.20	320.00	1,024.00
<b>TOTAL:</b>	<b>4.10</b>	<b>354.02</b>	<b>\$1,451.50</b>

Current Services Rendered: \$ 1,451.50

**Total Current Fees and Expenses: \$ 1,451.50**

EWS:TKK

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# EXHIBIT “3”

**NEVADA HEALTH CO-OP**  
**Cash Flow Analysis**  
**Oct 2015 - May 2017**

**Sources & Uses**

Beginning Cash on October 1, 2015

**\$ 5,352,417**

**SOURCES:**

Premium Revenue	17,755,920
CSR Recoveries	2,347,121
Rx Rebates	-
Claims Overpayment Recoveries	571,956
PartnerRe 2014 Premium Refund	374,513
Traditional Reins Recoveries	787,352
FTR Reins Recoveries	735,747
Risk Corridor 2014	1,163,872
Federal Receivables Bridge Loan	-
Other	311,524
<b>TOTAL SOURCES:</b>	<b>\$24,048,006</b>

**USES:**

Medical Claims Q4 2015 and Post 2015 Adj	(161,019)
Rx Claims Q4 2015	(7,599,195)
Risk Adjustment 2015	-
Medical PMPMs Q4	(43,967)
FTR Reinsurance Premium	(898,687)
Traditional Reins Premium Q4 2015	(547,319)
Premium Tax	(294,665)
Other Admin	(8,393,644)
9010 ACA Fee / 720 PCORI Fee	(161,242)
Professional Services	(2,661,706)

**TOTAL USES:**

**(20,761,445)**

Net cash increase for period

**\$3,286,561**

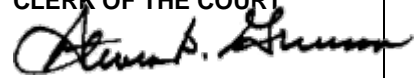
Ending Cash at end of May 31, 2017

**\$ 8,638,978 \*\*\***

\*\*\* Excl \$767,823 restricted US Bank bal May 31, 2017

**TAB 17**

**TAB 17**



**COMP**

MARK E. FERRARIO, ESQ.  
Nevada Bar No. 1625  
ERIC W. SWANIS, ESQ.  
Nevada Bar No. 6840  
DONALD L. PRUNTY, ESQ.  
Nevada Bar No. 8230  
GREENBERG TRAUERIG, LLP  
3773 Howard Hughes Pkwy., Suite 400 N  
Las Vegas, NV 89169  
Telephone: (702) 792-3773  
Facsimile: (702) 792-9002  
Email: ferrario@gtlaw.com  
swanise@gtlaw.com  
pruntyd@gtlaw.com

*Counsel for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

STATE OF NEVADA, EX REL.  
COMMISSIONER OF INSURANCE,  
BARBARA D. RICHARDSON, IN HER  
OFFICIAL CAPACITY AS RECEIVER FOR  
NEVADA HEALTH CO-OP,

Plaintiff,

v.

MILLIMAN, INC., a Washington Corporation;  
JONATHAN L. SHREVE, an Individual; MARY  
VAN DER HEIJDE, an Individual;  
MILLENNIUM CONSULTING SERVICES,  
LLC, a North Carolina Corporation; LARSON &  
COMPANY P.C., a Utah Professional  
Corporation; DENNIS T. LARSON, an  
Individual; MARTHA HAYES, an Individual;  
INSUREMONKEY, INC., a Nevada Corporation;  
ALEX RIVLIN, an Individual; NEVADA  
HEALTH SOLUTIONS, LLC, a Nevada Limited  
Liability Company; PAMELA EGAN, an  
Individual; BASIL C. DIBSIE, an Individual;  
LINDA MATTOON, an Individual; TOM  
ZUMTOBEL, an Individual; BOBBETTE  
BOND, an Individual; KATHLEEN SILVER, an  
Individual; DOES I through X inclusive; and ROE  
CORPORATIONS I-X, inclusive,

Defendants.

CASE NO. A-17-760558-C  
DEPT. NO. Department 18

**COMPLAINT**

Exempt from Arbitration:  
Amount in excess of \$50,000

**GREENBERG TRAUERIG, LLP**  
3773 Howard Hughes Parkway  
Suite 400 North  
Las Vegas, Nevada 89169  
Telephone: (702) 792-3773  
Facsimile: (702) 792-9002

COMES NOW, Plaintiff, Barbara D. Richardson, Commissioner of Insurance in the State of Nevada, in her official capacity as Permanent Receiver of Nevada Health Co-Op (“Plaintiff” or “Commissioner”), with the Commissioner appointed in that official capacity on October 14, 2015 by the Eighth Judicial District Court, Clark County Nevada,<sup>1</sup> to serve as the permanent receiver (“Receiver”) of the NEVADA HEALTH CO-OP (“NHC”), for the benefit of NHC’s members, enrolled insureds, creditors, and the Receiver, by and through her attorneys, GREENBERG TRAURIG, LLP, and for her cause of action against Defendants MILLIMAN, INC. (“Milliman”), JONATHAN L. SHREVE (“Shreve”), and MARY VAN DER HEIJDE (“Heijde”) (collectively the “Milliman Defendants”); MILLENNIUM CONSULTING SERVICES, LLC (“Millennium”); LARSON & COMPANY, P.C. (“Larson”), DENNIS T. LARSON (“D. Larson”), MARTHA HAYES (“Hayes”) (“Larson,” together with “D. Larson” and “Hayes,” collectively the “Larson Defendants”); INSUREMONKEY, INC. (“InsureMonkey”) and ALEX RIVLIN (“Rivlin,” together with InsureMonkey, collectively the “InsureMonkey Defendants”); NEVADA HEALTH SOLUTIONS, LLC (“NHS”); PAMELA EGAN (“Egan”), BASIL C. DIBSIE (“Dibsie”), LINDA MATTOON (“Mattoon”), TOM ZUMTOBEL (“Zumtobel,” together with Egan, Dibsie, and Mattoon, the “Officer Defendants”); BOBBETTE BOND (“Bond”), and KATHLEEN SILVER (“Silver,” together with “Bond, the “Director Defendants”) (the Officer Defendants and the Director Defendants collectively the “Management Defendants”) (each a “Defendant,” and collectively, all defendants are referred to as “Defendants”) alleges as follows:

### **INTRODUCTION**

1. Plaintiff, as Commissioner of the Nevada Division of Insurance (the “Nevada DOI”) and NHC’s Receiver, has brought this action on behalf of NHC, NHC’s members, insured enrollees, and creditors.

2. NHC and its predecessors-in-interest were formed to provide health insurance to individuals and small businesses under the federal Affordable Care Act (the “ACA”).

///

---

<sup>1</sup> Commissioner Barbara D Richardson has succeeded Amy L. Parks, the former Commissioner of Insurance, who was initially appointed as Receiver by the Eight Judicial District Court.

1           3.       This complaint concerns certain providers of services to, and management of, NHC,  
2 and how their conduct, including their failure to perform applicable fiduciary, contractual,  
3 professional, and statutory standards, caused substantial losses to NHC and, ultimately, the other  
4 parties represented by the Commissioner.

5           4.       InsureMonkey was contracted to provide software and related services, and to  
6 administer NHC's call center to enroll insureds, bill the insureds and the federal government for  
7 premiums, collect the premiums, confirm eligibility and, when necessary, terminate the coverage of  
8 insureds who failed to pay premiums due.

9           5.       InsureMonkey failed on each account, causing losses to NHC. Additionally, without  
10 limitation, as some of InsureMonkey's compensation was paid based on the number of insureds it  
11 calculated, InsureMonkey was overpaid for its services due to its over reporting of the number of  
12 insureds. The faulty data provided by InsureMonkey also led to inaccurate reporting to regulatory  
13 authorities. Defendant Rivlin, InsureMonkey's Chief Executive Officer, mislead NHC concerning  
14 the capabilities and efforts of InsureMonkey to obtain lucrative contracts with NHC.

15           6.       Milliman was NHC's consulting actuary, that, among other issues, produced  
16 deficient forecasts and studies for loan applications, set inadequate insurance premium levels,  
17 provided faulty actuarial guidance to NHC management, promoted and incorporated in its  
18 assumptions accounting entries that were neither proper nor authorized without appropriate  
19 disclosure, participated in financial misreporting, and improperly calculated and certified NHC's  
20 projections and reserves to regulators. Defendants Shreve and Heijde were individual actuaries of  
21 Milliman who certified actuarial data to the Nevada DOI in their individual names.

22           7.       Millennium, an expert in statutory accounting and a consultant for insurance  
23 companies, was engaged by NHC to prepare and file NHC's financial statements and supplemental  
24 reports with the Nevada DOI and the National Association of Insurance Commissioners (the  
25 "NAIC"), assist in review and preparation of responses to insurance regulators and the NAIC  
26 regarding financials, respond to auditor inquiries, and provide statutory accounting and report  
27 support as needed. Millennium failed in its responsibilities, which included, without limitation,  
28 ensuring that statutory accounting and reporting principles had been followed, and its work resulted



1 in financial misreporting to the Nevada DOI insurance regulators, and the prolongation of NHC's  
2 business at great loss beyond the point at which it would have been halted but for Defendant  
3 Millennium's acts and conduct.

4 8. Larson served as NHC's independent auditor that, among other issues, performed  
5 deficient audits, failed to adequately inspect and value reserves and receivables, failed to properly  
6 disclose related party transactions, and failed to disclose the existence of substantial doubts about  
7 NHC's inability to continue as a going concern. Defendants D. Larson and Hayes were the  
8 individual CPAs identified by contract as directly responsible for NHC's audits.

9 9. NHS is a company that was engaged by NHC to perform medical utilization  
10 management services. NHS failed in its position as a medical gatekeeper for NHC by among other  
11 concerns, failing to verify the eligibility of members for medical services during their utilization  
12 reviews, resulting in over \$1 million in overpayments to medical services providers. In addition,  
13 NHS and Management Defendant Kathleen Silver engaged in self-dealing in which NHS and/or  
14 Kathleen Silver were unjustly paid substantial amounts by NHC for so-called utilization  
15 management and member eligibility review services. Upon information and belief, little work was  
16 provided under this utilization management arrangement by NHS for NHC, and NHS compensation  
17 was unfairly based on a mechanical fee of how many total members existed at NHC each month; a  
18 fee that bore little to no relation to services being provided by NHS. NHS's president was  
19 Management Defendant Kathleen Silver, and upon information and belief, the owner of NHS was  
20 Unite Here Health ("UHH"). Upon information and belief, UHH was an entity with financial ties  
21 and/or direct or indirect business links with Management Defendants Bobbette Bond, Thomas  
22 Zumtobel, and Kathleen Silver. UHH was being paid to process and adjudicate claims of NHC, and  
23 then it was being paid again through NHS to do a quality control review check of the very claims  
24 that UHH processed. NHS also had a conflict of interest, or the appearance of a conflict of interest,  
25 by being engaged to provide a quality control review of claim services provided by its parent  
26 company, UHH. The NHS and NHC medical utilization management review arrangement was  
27 unfair, unreasonable, and just another way to siphon more money out of NHC to the detriment of its  
28 members, policyholders, and creditors.

10. This complaint also concerns the management of NHC who intentionally, fraudulently, in knowing violation of the law, and without reasonable belief that their actions were in the interests of NHC, directed, allowed, and/or concealed the internal control weaknesses of NHC, the wrongdoing of NHC's service providers, the squandering of funds to unjustly enrich themselves, the acts of self-dealing at the expense of NHC, the wrongful payment of claims and wrongful member enrollments, the loss of reinsurance recoveries, the continuation of NHC in business that led to substantial losses, and the misreporting of financial and operating results to regulators.

11. Each of the Defendants had a fundamental duty not to mislead government regulators and to perform their work in accordance with applicable fiduciary, statutory, professional, and contractual standards.

12. Defendants' acts and conduct concealed, for a time, NHC's approaching insolvency and its inability to continue as a going concern from regulators, and ultimately increased the losses suffered by NHC and the others represented by the Receiver.

13. Defendants' actions caused significant losses to NHC, its members, insured enrollees, and creditors, among others, until NHC ultimately failed, and the State of Nevada was forced to protect the public, seek appointment as a receiver, recoup losses caused by Defendants, and liquidate NHC's assets for the benefit of the public.

### PARTIES

14. Plaintiff Commissioner Barbara D. Richardson, in her capacity as Commissioner of Insurance and as Permanent Receiver of Nevada Health Co-Op, is authorized to liquidate the business of NHC and to wind up its ceased operations pursuant to NRS 696B.220.2 and an order entered on October 14, 2015 by the Eighth Judicial District Court, Clark County, Nevada. This authority includes authorization to institute and to prosecute, in the name of NHC or in the Receiver's own name, any and all suits and other legal proceedings, and to prosecute any action that may exist on behalf of the members, insured enrollees, or creditors of NHC against any person. The Nevada DOI is and was at all relevant times a Department of the State of Nevada.

///

1           15.     NHC is and was at all relevant times a non-profit Nevada corporation.

2           16.     Upon information and belief, Defendant Milliman is and was at all relevant times a  
3 Washington state corporation.

4           17.     Upon information and belief, Defendant Shreve is and was at all relevant times a  
5 Consulting Actuary and Principal of Milliman residing in Denver, Colorado. He issued the  
6 Feasibility Study described later herein.

7           18.     Upon information and belief, Defendant Heijde is and was at all relevant times a  
8 Consulting Actuary and Principal of Milliman residing in Denver, Colorado, and served as NHC's  
9 first "Appointed Actuary."

10          19.     Upon information and belief, Defendant Millennium is and was at all relevant times  
11 a North Carolina limited liability company, with its principal place of business located in Raleigh,  
12 North Carolina.

13          20.     Upon information and belief, Defendant Larson is and was at all relevant times a  
14 Utah professional corporation and Certified Public Accounting firm with its principal place of  
15 business located in Salt Lake City, Utah. Larson is registered to provide accounting services to  
16 Nevada entities with the Nevada State Board of Accountancy.

17          21.     Upon information and belief, Defendant D. Larson is a CPA. He was the engagement  
18 partner who was responsible for supervising the 2013 audit of NHC. Upon information and belief,  
19 he is an individual residing in Utah. D. Larson is registered to provide accounting services to  
20 Nevada entities with the Nevada State Board of Accountancy.

21          22.     Upon information and belief, Defendant Hayes is a CPA. She was the Larson  
22 engagement partner who was responsible for supervising the 2014 audit of NHC.

23          23.     Upon information and belief, Defendant InsureMonkey is and was at all relevant  
24 times a Nevada corporation with its headquarters located in Clark County, Nevada.

25          24.     Upon information and belief, Defendant Rivlin is and was at all relevant time an  
26 individual residing in Clark County, Nevada, and the Chief Executive Officer of InsureMonkey.

27          25.     Upon information and belief, Defendant NHS is and was at all relevant times a  
28 Nevada limited liability company, with its headquarters located in Clark County, Nevada.

26. Upon information and belief, Defendant Egan is and was at all relevant times an individual residing in Clark County, Nevada. Egan was NHC's Chief Development Officer from its inception through approximately April 2014. In or around April 2014, Egan became NHC's Chief Executive Officer, and she remained in that position through NHC's placement into receivership.

27. Upon information and belief, Defendant Dibsie is and was at all relevant times an individual residing in Clark County, Nevada. Dibsie was NHC's Chief Financial Officer from its inception through its placement into receivership.

28. Upon information and belief, Defendant Mattoon is and was at all relevant times an individual residing in Clark County, Nevada. Mattoon was NHC's Chief Operating Officer from approximately November 2014 through NHC's placement into receivership.

29. Upon information and belief, Defendant Zumtobel is and was at all relevant times an individual residing in Clark County, Nevada. Zumtobel was NHC's Chief Executive Officer from its inception through approximately April 2014. Zumtobel served on NHC's Board of Directors from May 4, 2012 through November 14, 2014. Zumtobel served on NHC's Budget and Audit and Consumer Advisory Committees.

30. Upon information and belief, Defendant Bond is and was at all relevant times an individual residing in Clark County, Nevada. Bond was a member of NHC's Board of Directors from May 4, 2012 through NHC's placement into receivership. Bond served on NHC's Budget and Audit and Consumer Advisory Committees.

31. Upon information and belief, Defendant Silver is and was at all relevant times an individual residing in Clark County, Nevada. Silver was a member of NHC's Board of Directors from May 4, 2012 through January 1, 2015, President of the Culinary Health Fund and President of Defendant NHS.

### **FACTUAL ALLEGATIONS**

#### **A. The Affordable Care Act**

32. Congress enacted the Affordable Care Act (the "ACA") in March of 2010. The ACA included a series of interlocking reforms designed to expand coverage in the individual health insurance market.

1           33.     The ACA bars insurers from taking a person’s health into account when deciding  
2 whether to sell health insurance, generally requires each person to maintain insurance coverage or  
3 make a payment to the Internal Revenue Service, and gives tax credits to certain people to make  
4 insurance more affordable.

5           34.     The ACA also established a Consumer Operated and Oriented Plan (“CO-OP”)  
6 program which was intended to foster the creation of qualified non-profit health insurance issuers to  
7 facilitate the purchase of health plans by individuals and small businesses.

8           35.     Under the CO-OP program, qualifying insurers were eligible for federal loans to  
9 establish and provide stability to insurers. Applicants were required to submit a feasibility study and  
10 a business plan as part of the loan application process.

11           36.     Recognizing risks associated with the uncertainty of the reforms initiated by the  
12 ACA, Congress also established programs known as the “Federal Transitional Reinsurance,” “Risk  
13 Corridors,” and “Risk Adjustment” (known collectively as the “3Rs”) to help mitigate some of the  
14 insurers’ risks during their first few years of operation.

15           37.     In addition to conforming to the ACA, health insurance providers, including those in  
16 Nevada, are required to adhere to state law and are regulated by state commissioners of insurance.

17           38.     Without limitation, under Nevada law, NHC is required to have its reserves valued  
18 and certified by an actuary, file statutory financial statements, enroll members and pay claims  
19 according to guidelines, file independently audited financial statements, and submit other  
20 operational and financial data as determined by statute and by the Nevada DOI.

21           **FACTUAL ALLEGATIONS RELATING TO THE MILLIMAN DEFENDANTS**

22           **B.     Milliman is Engaged by and Establishes a Fiduciary Relationship with NHC**  
23           **and its Predecessors in Interest.**

24           39.     Plaintiff realleges and incorporates all of the allegations contained in the preceding  
25 paragraphs as if fully set forth herein.

26           40.     Recognizing the possible benefits to some of its members, the Culinary Health Fund  
27 (the health insurance affiliate of the Culinary Union), considered the possibility of establishing a  
28 qualifying CO-OP under the ACA.

1           41.     Due to the need to set insurance rates, establish appropriate reserves, apply for  
2 government loans, obtain required certifications, and forecast future results, the Culinary Health  
3 Fund sought out an actuarial expert.

4           42.     The Culinary Health Fund entered into a contract with Milliman, dated October 20,  
5 2011 (the “2011 Agreement”).

6           43.     Upon information and belief, the initial compensation for Milliman was contingent  
7 on the Culinary Health Fund obtaining federal loans for the CO-OP project.

8           44.     Because the CO-OP program required separation from an established insurer, the  
9 Culinary Health Fund established Hospitality Health, Ltd., a Delaware non-profit corporation  
10 (“Hospitality Health”).

11          45.     On information and belief, the Culinary Health Fund assigned and transferred all  
12 rights, title, and interest in the 2011 Agreement to Hospitality Health.

13          46.     Milliman continued to perform work under the 2011 Agreement for Hospitality  
14 Health after the assignment.

15          47.     On or about September 10, 2012, Milliman also directly entered into a Consulting  
16 Services Agreement (the “Consulting Services Agreement”) with Hospitality Health.

17          48.     The Consulting Services Agreement provides that “Milliman will perform all  
18 services in accordance with applicable professional standards.”

19          49.     NHC was formed in October, 2012, and all assets and agreements of Hospitality  
20 Health, including the Consulting Services Agreement, were assigned to NHC.

21          50.     Milliman holds itself and its employees out as experts in providing actuarial  
22 opinions and other services to third parties.

23          51.     Milliman represented itself to the Culinary Health Fund, Hospitality Health, and  
24 NHC, as much more than a simple service provider.

25          52.     In its proposal dated April 12, 2012, Milliman described the CO-OP development as  
26 “an interactive partnership in order to ensure the viability of the CO-OP in a short timeframe.”

27          53.     As an “interactive partnership,” Milliman proclaimed joint responsibility for the  
28 success of the CO-OP.

1 54. Furthermore, Milliman committed that its work would be done in a manner “to  
2 ensure the viability of the CO-OP.”

3 55. The proposal further boasted that Milliman could provide “significant assistance” to  
4 the CO-OP in areas of standard actuarial tasks within an insurer, as well as development, strategy,  
5 and training.

6 56. Milliman, by framing itself as an interactive partner with Hospitality Health and its  
7 successor, NHC, in developing strategy, and in training its staff, Milliman did not perform a mere  
8 set of outsourced tasks, but rather served as the key partner providing budget forecasts, planning,  
9 premium pricing, opinions, and judgments that were justifiably relied on by the new CO-OP.

10 57. As newly formed non-profit companies, Hospitality Health, and later NHC, relied on  
11 the superior knowledge and expertise of its self-proclaimed “interactive partner” Milliman and  
12 Milliman’s actuaries - Shreve and Heijde - to establish and run the enterprise.

13 58. In its position as an “interactive partner,” the Milliman Defendants enjoyed a special  
14 relationship and position of trust with the Culinary Health Fund, Hospitality Health, and NHC.

15 59. Services ultimately to be provided by the Milliman Defendants included preparing a  
16 feasibility study to be included in loan applications and statutory filings, projecting future profits,  
17 valuing reserves, setting premiums, participation in financial reporting, and serving as the CO-OP’s  
18 statutorily required appointed actuary to provide certifications to the state and other entities.

19 **C. Milliman Provides a Defective Feasibility Study, \$66 Million in Federal Loans**  
20 **are Obtained, and Hospitality Health’s Assets and Loans are Assigned to and**  
21 **Assumed by NHC.**

22 60. On or about December 21, 2011, Milliman issued a document entitled “Hospitality  
23 Health Feasibility Study and Business Support for Consumer Operated and Oriented Plan (CO-OP)  
24 Application” (the “Feasibility Study”), which was to be used for the application for federal loans  
25 under the CO-OP program and for other purposes.

26 61. The Feasibility Study included financial projections of what Milliman labeled as its  
27 “Best Estimate Scenario” and “Alternative Scenarios.” Milliman also included an analysis of the  
28 CO-OP’s ability to repay loans applied for under the application.

62. The results of Milliman's analysis concluded that regardless of each scenario it tested, the CO-OP would:

- Achieve sufficient market penetration to support its expenses;
- Meet statutory minimum loss ratio requirements;
- Maintain a surplus level in excess of the minimum required to avoid Nevada DOI oversight; and
- Generate enough surplus to repay its federal loans.

63. In fact, Milliman projected that under its "Best Estimate Scenario," the CO-OP would generate an accumulated surplus in excess of \$27 million by the end of 2014, \$64 million by the end of 2017, and \$144 million by the end of 2033.

64. Indeed, under each and every scenario presented in its report, Milliman stated that the CO-OP would generate a positive accumulated surplus.

65. Based at least in part on the Milliman projections, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services ("CMS") and Hospitality Health, entered into a loan agreement with a closing date of May 17, 2012 (the "CMS Loan Agreement").

66. The CMS Loan Agreement provided for a total of \$65,925,394 in loans, including a Series A Start-up Loan with a maximum amount of \$17,105,047 (the "Start-up Loan"), and a Series B Solvency Loan in the maximum amount of \$48,820,347 (the "Solvency Loan," collectively, the "CMS Loans").

67. On or about December 21, 2012, by a Joint Resolution of the Boards of Directors of Hospitality Health and of NHC, the assets and liabilities of Hospitality Health, including the CMS Loans and the Consulting Services Agreement with Milliman, were assigned to and assumed by NHC.

68. During the transaction, the Boards of Directors of Hospitality Health and of NHC were identical and included many of the Management Defendants.

69. On December 21, 2012, CMS amended the CMS Loan Agreement to substitute NHC for Hospitality Health.

70. NHC was funded by the CMS Loans. Without the CMS Loans, NHC would not have had sufficient funds to qualify for licensing or to begin selling insurance.



71. Based on the conclusions of the Feasibility Study and on the availability of the CMS Loans obtained through its use, in 2013 the Nevada DOI licensed NHC to begin selling insurance as of January 1, 2014.

**D. Milliman’s Work Does Not Meet Applicable Professional and Statutory Standards.**

72. Throughout its relationships with the Culinary Health Fund, Hospitality Health, and NHC, the Milliman Defendants’ work failed to meet applicable professional and statutory standards.

73. Without limitation, these deficiencies manifested themselves in the work Milliman performed relating to premium rate development, financial projections and reserve calculations, and financial misreporting. Moreover, Milliman improperly utilized financial information that it knew to be incorrect and that had not been adequately disclosed.

**1. Premium Rate Development.**

74. Premium rate development is a critical process for the viability of an insurer. If rates are set too low, the insurer cannot pay the medical and administrative costs, and the company will eventually fail. Conversely, if rates are set too high, the insurer will not achieve the necessary or desired market share because its products will be more expensive than those of its competitors. As a result, revenue will be inadequate.

75. As a start-up company, NHC relied heavily on its expert, actuary, and “interactive partner” Milliman, to identify appropriate assumptions and to perform the necessary actuarial calculations to establish NHC’s premiums at a level that could support NHC’s continued existence.

76. When developing premium rates, actuaries must comply with applicable statutory and professional standards, including those published by the NAIC and the Actuarial Standards of Practice (“ASOPs”) of the U.S. Actuarial Standards Board. Such standards require the use of appropriate assumptions when developing premium rates.

77. The Milliman Defendants intentionally or negligently failed to comply with such standards.

78. In the development of NHC’s 2014 and 2015 premium rates, the Milliman Defendants made a series of unjustified and inappropriate assumptions that adversely impacted NHC’s premium rates.

1           79.     The use of these unjustified and inappropriate assumptions ultimately impacted  
2 NHC's financial viability, as mispriced premiums were unable to cover actual expenses and costs.

3           80.     Inappropriate assumptions used by the Milliman Defendants in the premium  
4 development process that NHC ultimately relied on for its financial viability included, but were not  
5 necessarily limited to:

6                 i.         Milliman's estimates of premium rates were based on Milliman's Health  
7 Cost Guidelines (HCGs). The HCGs are based on data collected from large-group, employer-based  
8 health plans, a population with characteristics that are inherently different from those present in the  
9 individual and small-group market. As such, Milliman knew or should have known that the claim  
10 costs it projected based on data underlying the HCGs were not appropriate for the individual and  
11 small group customers that plans under the Affordable Care Act were designed to serve, unless  
12 substantial adjustments were made. Milliman failed to make such appropriate adjustments.

13                ii.        Contrary to the ASOPs applicable to its work, Milliman did not adequately  
14 account for adverse selection - the concept that those with the greatest need and likely to generate  
15 the highest cost would be the most likely to seek apply for their most beneficial plans. Adverse  
16 selection was a critical, material, obvious, and foreseeable consideration from an actuarial  
17 perspective. The upper tier plans proved so unprofitable that all Platinum and most Gold plans were  
18 cancelled in NHC's second year of operations.

19                iii.       Inflation adjustments used by Milliman were too low, based on commonly  
20 known data and Milliman's own firm views. Had Milliman appropriately applied a higher inflation  
21 factor, premiums would have been higher, reducing NHC's financial losses.

22                iv.        Milliman underestimated pent-up demand for medical insurance at a lower  
23 price point. The ACA subsidized lower income insureds. Once funded, individuals with conditions  
24 that had remained untreated were suddenly able to receive the health care they needed, and  
25 understandably and predictably, these individuals tended to make use of medical services en masse.

26                v.         Milliman's projections, even in its "low enrollment" scenario did not  
27 sufficiently consider the adverse effects of low enrollment or slow enrollment. As a result, the  
28 provision for administrative expenses in Milliman's pricing analysis that the NHC relied upon was

1 also deficient. The anticipated administrative expenses of NHC were spread over a smaller  
2 enrollment population than Milliman had projected, leading to a greater loss on each insured.

3 vi. Milliman failed to account for the high administrative costs necessary for a  
4 startup company, such as NHC. Despite the fact that the Feasibility Study showed administrative  
5 cost of \$6.8 million in 2014 for far fewer enrollees, actual 2014 expenses were \$23.6 million,  
6 flagging the disastrous financial impact of improper budgeting based on Milliman's faulty  
7 projections.

8 vii. Finally, proper consideration of NHC's target market was essential to  
9 estimating appropriate premiums and understanding potential risks. Milliman intentionally or  
10 negligently failed to assess NHC's target market by attempting to position NHC as the low-cost  
11 provider and in effect, "buy" participation.

12 81. While Milliman was aware of the challenges in the market, Milliman intentionally or  
13 negligently failed to adequately explain to NHC or to its regulators the inherent risks and  
14 uncertainty in the underlying rate development, the interaction of coverage levels in product  
15 offerings, and the dangers of competitive positioning as the low-cost provider in the market. This  
16 failure contributed significantly to the mispricing of premiums, and ultimately, the demise of NHC.

## 17 **2. Financial Projections.**

18 82. In developing NHC's financial projections, such as the Feasibility Study and other  
19 pro formas or financial reports, Milliman and Shreve made a series of inappropriate and unjustified  
20 assumptions that caused the financial projections they presented to management, the Nevada DOI,  
21 and CMS to be unrealistic and unachievable in practice.

22 83. When preparing financial projections such as those prepared by Milliman, an actuary's  
23 work is subject to professional and statutory standards, including those published by the NAIC, and  
24 the American Academy of Actuaries, including but not limited to ASOP No. 7 – "Analysis of Life,  
25 Health, or Property-Casualty Insurer Cash Flows," among other professional guidance.

26 84. The Feasibility Study included a certification by Milliman Consulting Actuary and  
27 Principal, Shreve, that stated, in part, that the projections were prepared under his supervision, were  
28 "accurate and complete," and were "prepared in accordance with generally recognized and accepted

1 principles and practices which are consistent with Actuarial Standards of Practice, the Code of  
2 Professional Conduct and Qualification Standards for Public Statements of Actuarial Opinion of the  
3 American Academy of Actuaries.”

4 85. The inappropriate and unrealistic assumptions used by Milliman in its financial  
5 projections include, but are not limited to, those set forth in the Premium Rate Development section  
6 above.

7 86. The use of such inappropriate and unjustified assumptions violated applicable  
8 statutory and actuarial standards.

9 87. In the feasibility study dated December 21, 2011, prepared by Milliman and used in  
10 support of the loan application to CMS, Milliman concluded, “Our financial projections indicate  
11 [the CO-OP] will be able to repay its startup loans within five years of their specific drawdown  
12 dates. Further, we project [the CO-OP] will have sufficient capital to repay its solvency loans within  
13 fifteen years of their specific drawdown dates while meeting state reserve requirements and  
14 solvency regulations. These projections are based on best estimate assumptions but also hold true  
15 for the alternate scenarios tested.”

16 88. None of the enrollment scenarios considered the possibility that NHC would have  
17 trouble attracting an adequate level of enrollment, and every economic scenario assumed that the  
18 loss ratio in nearly every modeled year would contribute to a surplus. These assumptions  
19 completely disregarded the obvious possibility that there would be significant volatility in  
20 enrollment and/or the medical loss ratio. In fact, for example, NHC’s medical payments in 2014  
21 alone exceeded the premiums received, even before administrative costs.

22 89. With all of the uncertainty surrounding implementation of the ACA, a competent  
23 actuary should have understood that it was a very realistic possibility that NHC would fail to be  
24 viable. Some of the modeled scenarios should have identified this possibility so as to inform NHC  
25 management and regulators. Possible scenarios, such as low enrollment, very high medical costs,  
26 and high administration expense, were not presented in the Feasibility Study, while in actuality,  
27 these possibilities should have been anticipated by Milliman actuaries when they prepared the  
28 Feasibility Study.

1           90.     Milliman’s intentional or negligent failure to consider the possibility of these adverse  
2 enrollment and/or medical loss ratio scenarios resulted in every single scenario of the Feasibility  
3 Study showing that NHC would generate significant positive cash flows over the mid to long-term  
4 time period.

5           91.     Milliman had a financial incentive to paint such a rosy outlook, even if it was in  
6 contradiction to actuarial standards. Upon information and belief, Milliman conditioned payment  
7 for its preparation of NHC’s Feasibility Study upon NHC being awarded a loan by CMS. That is,  
8 Milliman would only receive payment for its services if NHC’s efforts to secure a loan from CMS  
9 were successful.

10          92.     By conditioning payment upon a successful result, Milliman compromised its  
11 independence as an actuary and thereby breached its duty to NHC.

12          93.     As the certifying actuary for the Feasibility Study, Shreve is jointly and severally  
13 responsible with Milliman, his employer, for the work performed on the Feasibility Study.

14          94.     Milliman failed to include and properly calculate actuarial reserves when preparing  
15 liability information that would later be relied upon and used by NHC in its financial reporting to  
16 Nevada DOI insurance regulators for year 2014 and the first calendar quarter of year 2015.  
17 Milliman would also certify to these improper actuarial reserves in separate reports submitted to the  
18 Nevada DOI regulators.

19                   **3.     Reporting of Reserves.**

20          95.     Milliman and Heijde intentionally or negligently underreported actuarial items used  
21 in NHC’s financial reports and which were submitted to the Nevada DOI. The under accrual of the  
22 December 31, 2014 reserves, including but not limited to premium deficiency reserves (“PDR”) and  
23 incurred but not reported (“IBNR”) reserves, caused NHC to appear financially stronger and  
24 solvent. On information and belief, they also intentionally or negligently used sources containing  
25 improper financial information that tended to artificially maintain surplus levels reported to the  
26 Nevada DOI without proper authorization or adequate disclosure.

27     ///

28     ///

1           96.     The understated PDR and IBNR reserves overstated the surplus levels and risk based  
2 capital (“RBC”) ratios that the Nevada DOI used to assess the solvency of insurers. An insufficient  
3 RBC ratio would have been a red flag to the Nevada DOI and would have required NHC to take  
4 corrective steps, limiting acceptability to consumers, creditors, and regulators.

5           97.     NHC management and the Milliman Defendants understood that the higher the  
6 IBNR reserves and PDR were, the lower the surplus and the worse the RBC ratio would be.  
7 Keeping the IBNR reserves and PDR artificially low and the surplus high masked NHC’s  
8 insolvency and allowed NHC to continue to take on risk and lose money.

9           98.     When developing and certifying reserves, actuaries must comply with statutory and  
10 professional requirements and standards.

11           99.     NRS 681B requires, in part, that the opinions of an “appointed actuary” as to  
12 whether the reserves and related actuarial items held in support of the policies and contracts of an  
13 insurer are computed appropriately, be based on conditions that satisfy contractual provisions, be  
14 consistent with prior reported amounts, and comply with applicable laws of the State of Nevada.

15           100.    NRS 681B also provides minimum statutory requirements for actuarial opinions on  
16 reserves, including compliance with the Valuation Manual adopted by the NAIC.

17           101.    Actuaries are also required to comply with relevant standards set forth by the  
18 American Academy of Actuaries and the Actuarial Standards Board when setting reserves,  
19 including but not limited to ASOP 42 – “Determining Health and Disability Liabilities Other Than  
20 Liabilities for Incurred Claims” and ASOP 5 – “Incurred Health and Disability Claims.”

21           102.    For the typical health entity offering comprehensive medical insurance coverage, the  
22 size of the PDR reported in a company’s annual financial statement should be consistent with the  
23 expected underwriting loss for the following year.

24           103.    On March 13, 2015, and subsequently on May 14, 2015, Heijde and Milliman issued  
25 their Actuarial Memorandum and Statement of Opinion for the NHC (the “2014 Opinion”). In the  
26 2014 Opinion, Heijde described that their role was to “certify that all required reserves have been  
27 established, at good and sufficient levels.”

28           104.    For the 2014 Opinion, Heijde and Milliman calculated a PDR of \$0 for NHC.

1           105. The PDR calculation produced a positive value of \$197,162, where a negative  
2 number implies a reserve is to be held.

3           106. This calculation was not credible or in accordance with professional or statutory  
4 standards, as evidenced by the substantial prior and continuing losses of NHC.

5           107. Heijde and Milliman also grossly underestimated NHC's year-end 2014 IBNR  
6 reserves, overstating NHC's surplus position.

7           108. That calculation, based on known facts concerning unprocessed claims, was  
8 inconsistent with statutory and professional standards.

9           109. Heijde served as the appointed actuary for NHC and personally executed the 2014  
10 Opinion.

11           110. The 2014 Opinion contained the opinion of Heijde and Milliman that the amounts  
12 carried on NHC's balance sheet on account of inadequately disclosed information were in  
13 accordance with accepted actuarial standards, that they were based on relevant and appropriate  
14 actuarial assumptions, that they met the requirements of the insurance laws and regulations of the  
15 State of Nevada, and that they were at least as great as the minimum amounts required to make full  
16 and sufficient provision for all unpaid claims and other actuarial liabilities of the organization.

17           111. The 2014 Opinion stated that Heijde's review indicated that the parties were in a  
18 financial position to meet all liabilities resulting from its relevant contracts, that she performed  
19 calculations to determine the need for a PDR, and that she determined that such a PDR was not  
20 necessary.

21           112. The 2014 Opinion confirmed that it was prepared for NHC's filings with the State of  
22 Nevada, NHC's auditors, the NAIC, CMS, and the Nevada DOI.

23           113. The 2014 Opinion raised concerns with the Nevada DOI when it noticed the apparent  
24 discrepancies between the report filed by Heijde and the actual results of NHC. It held telephonic  
25 conferences and issued written correspondence in an effort to investigate the issue.

26           114. On February 10, 2015, the Nevada DOI held a call to discuss the estimation of  
27 actuarial items relating to the financial statements with the Milliman team. In an e-mail dated  
28 February 14, 2015, at 8:00 p.m. on a Saturday, the Nevada DOI sent extensive and specific

1 recommendations to Milliman and NHC on the methodology to calculate the year-end PDR. The  
2 Nevada DOI expressed concerns about unrealistic expense levels and the importance of projecting  
3 PDR through the end of 2015 using reasonable and supportable assumptions.

4 115. The Nevada DOI included an excerpt of the then-current draft of applicable guidance  
5 to address the calculation and communication of the PDR, and it highlighted in bold italics detailed  
6 notes specific to NHC. In particular, the DOI questioned NHC's financial position and its elevated  
7 combined ratio stating, specifically:

8 "In particular, based on the high level of expenses, and the level of  
9 underwriting losses projected for 2015, along with the premium increase  
10 limitations built into the ACA, we do not believe that it is reasonable for  
11 NHC's PDR to reflect a projection to the end of the contract period. In  
12 other words, without providing significant evidence to support the  
adequacy of renewal premiums, NHC should be projecting all groups  
through the end of the projection period (to 12/31/2015) using reasonable  
and supportable projection assumptions."

13 116. Milliman's calculated PDR of zero is even more alarming, given the detailed  
14 instructions provided to Milliman by the Nevada DOI in an e-mail from Annette James to Colleen  
15 Norris, dated February 14, 2015:

16 "The size of the PDR reported in a company's annual financial statement  
17 should be consistent with the expected underwriting loss for the  
following year."

18 117. A week later, on February 18, 2015, the Nevada DOI followed up with a conference  
19 call with Milliman regarding the calculation of actuarial items. In a February 26, 2015 e-mail from  
20 Annette James to Basil Dibsie, the DOI stated the following:

21 "***We are concerned that the preliminary December 31, 2014 premium***  
22 ***deficiency reserve (PDR) of zero which was discussed during that call***  
23 ***appears to be understated.*** While the projected premiums and claims  
24 appear to be in line with our expectation, the level of projected expenses,  
25 combined with the expected risk corridor receipts appear to be optimistic,  
26 resulting in a PDR that appears to be understated. From a big picture  
27 perspective, it appears to be optimistic for the CO-OP to go from \$21  
28 million deficit as of 12/31/14 to a surplus position within a year. ***We***  
***therefore urge you and your actuaries to review the estimates and ensure***  
***that the appropriate level of conservatism is incorporated into the year-***  
***end estimates.*** Once the requested spreadsheets and back-up information  
are provided to us, we will review the calculations and may be in a  
position to provide specific feedback at that time." ***[emphasis added]***



118. The Nevada DOI went to extraordinary lengths to communicate clear guidelines for the calculation of PDR so as to produce “fairly stated year-end financials with information that is consistently applied.” The then acting Insurance Commissioner made herself available for multiple calls and initiated and responded to numerous e-mails, including during non-traditional business hours. Despite the Nevada DOI’s clear instructions, Milliman, Heijde, and certain members of NHC management, including but not limited to Egan and Dibsie conspired to conceal the true financial position of NHC and refused to follow the Nevada DOI’s guidance.

119. In addition, in its e-mails dated February 14, 2015 and February 26, 2015, the Nevada DOI stated it expected the PDR to be reevaluated on a quarterly basis and adjusted as necessary if the emerging experience was substantially different from the projected experience. These steps were not taken and, in fact, the PDR calculation appears to have been skipped at the end of the first quarter, contrary to the Nevada DOI’s explicit request.

120. By July 31, 2015, Milliman issued a document titled “Premium Deficiency Reserve as of June 30, 2015.” This time, Milliman calculated that NHC would be required to hold a significant PDR.

121. The July 31 PDR calculation produced a value of (\$15,928,707), where a negative number implies a reserve to be held, a roughly \$16,000,000 swing from the March 14 calculation.

122. On December 31, 2014, Milliman had first calculated an IBNR reserve of \$5.8 million, but then in May restated that number to be \$11.0 million. By June 30, 2015, Milliman calculated the balance as \$15,027,286, while still not establishing a PDR. This was a significant and unfavorable swing in NHC’s financial position from year-end.

123. Still, Milliman did not restate the 2014 financial statement information. The continuing avalanche of negative claims should have provided ample reason to revisit the 2014 reserves, but Milliman failed to do so.

124. In total, the reported reserves shifted tens of millions of dollars in a few short months.

125. As the certifying actuary for the 2014 Opinion, actuarial memorandum, and subsequent communications with the Nevada DOI, Heijde is jointly and severally responsible with her employer, Milliman, for the work performed for the 2014 Opinion, actuarial memorandum, and NHC’s reserve calculations.

**4. Use of Improper and Unauthorized Financial Information.**

126. In addition to the understatement of reserves, on information and belief, Milliman, Heijde, and NHC management intentionally or negligently used financial information, recording loan proceeds as a receivable in the year prior to that in which a formal application for the draw was made, and participated in misreporting 2014 financial information to the Nevada DOI without adequate and proper disclosures of operating results and NHC's viability. Milliman, Heijde, and NHC management knew or should have known that these practices would tend to artificially maintain surplus levels, avoid the level that would trigger Nevada DOI supervision, misreport financials, and extend the continued and unjustified existence of NHC as an operating insurance business enabling it to write more insurance risks and undertake more financial obligations.

127. The practice of prematurely booking potential CMS loan draws as receivables without adequate disclosure was used to bolster risk-based capital levels to help meet statutory requirements.

128. The outstanding balance on the Solvency Loan as of December 31, 2014, was \$42,965,683. The maximum principal available under the loan was \$48,820,349. Although a draw in the amount of \$3,152,275 was formally requested in January 2015 and obtained in February 2015, the transaction was recorded as if it had occurred as of December 2014, which Milliman knew was inaccurate and misleading without additional disclosure.

129. Milliman set IBNR reserves too low and no PDR reserves until July 31, 2015, in violation of actuarial standards and practices and without due regard to NHC's operating results and information, which was inaccurate and misleading.

130. Given the other issues noted above, had the CMS loan final draw been correctly recorded in 2015, it would have negatively impacted the critical ratio testing requirement with the Nevada DOI.

131. The clear pattern of reduced and understated actuarial items on the balance sheet for IBNR reserves and PDR, along with the use of inappropriate and inadequately disclosed financial information to meet statutory requirements, indicates that Milliman's estimates were arrived at in an effort to falsely inflate NHC's surplus levels and RBC ratio position, as well as to misreport the 2014 financial information of the company, so as to avoid or postpone inevitable Nevada DOI intervention.

**FACTUAL ALLEGATIONS RELATING TO MILLENNIUM**

**E. Millennium Represents Itself as an Accounting and Consulting Firm with Insurance Industry Expertise and is Engaged by NHC to Prepare and File Statutory Statements.**

132. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

133. Financial reporting for insurance companies is complex and involves issues not frequently encountered by those in other industries.

134. NHC was required to file statutory basis financial statements and compliance reports related to the audit of federal awards.

135. The Nevada DOI recognizes only statutory accounting practices prescribed or permitted by the State of Nevada. The NAIC's Accounting Practices and Procedures Manual ("SAP") has been adopted as a component of prescribed or permitted practices by the State of Nevada.

136. On information and belief, during late 2014, NHC sought out an accounting firm that was an expert in insurance accounting, reporting, and consulting.

137. Millennium reports on its website that it provides educational training, regulatory consulting, and administrative services to insurance companies, insurance regulators, and other insurance-related entities throughout the United States and Puerto Rico.

138. Millennium's website also states that "Millennium Consulting's portfolio of services provides a variety of solutions to meet the demanding obligations of statutory accounting and reporting regulations."

139. On information and belief, NHC identified and engaged Millennium after NHC's employee attended a statutory accounting seminar put on by Millennium and because of Millennium's self-proclaimed expertise in statutory accounting and reporting regulations for the insurance industry.

140. On or about January 7, 2015, NHC entered into a service agreement (the "Service Agreement") with Millennium to provide accounting and consulting services. Under the terms of the Service Agreement, Millennium was to:

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- Prepare and file NHC's Annual Statement, including all NAIC Supplemental Exhibits and Schedules for filing with the Nevada DOI and the NAIC;
- Prepare and file NHC's Quarterly Statement, including all NAIC Supplemental Exhibits and Schedules for filing with the Nevada DOI and the NAIC;
- Assist in the review and prepare responses to any regulatory letter from the Nevada DOI and the NAIC related to the Annual and/or Quarterly Statement filings;
- Respond to any independent auditor inquiries regarding the preparation and filing of NHC's Audited Statement Supplemental filings, as needed; and
- Acquire, on behalf of NHC, Annual and Quarterly RBC software.

141. Schedule A to the Millennium Service Agreement specified that the contracted work would include preparation of schedules "in accordance with statutory accounting and reporting rules prescribed and permitted by the State of Nevada" and "entail evaluating general ledger accounting entries, ensuring that statutory accounting and reporting principles have been followed, recommending any adjustments to adhere to statutory accounting and reporting rules prescribed by the state of [Nevada] and preparing any supporting worksheets that may be needed in arriving at appropriate allocations of financial amounts within some of the schedules."

142. By undertaking the contractual duties specified in the Service Agreement, Millennium agreed to perform the duties of an internal financial controller. In this position, NHC relied on the superior knowledge and expertise that Millennium touted to run NHC. In this position, Millennium enjoyed a special relationship and position of trust with NHC.

**F. Millennium Fails to Live Up to its Contractual Obligations to Prepare Financial Statements in Accordance with Applicable Standards.**

143. Despite the fact that Millennium was to evaluate general ledger entries, to ensure that statutory accounting and reporting principles had been followed, and to recommend any adjustments so as to adhere to statutory accounting and reporting rules prescribed by the State of Nevada, the reports prepared and filed by Millennium under the Service Agreement failed to meet applicable statutory, professional, and contractual standards.

144. NHC's 2014 Annual Statement (the "2014 Annual Statement") was not prepared in accordance with statutory accounting and reporting rules, and it had to be subsequently amended.

145. Millennium did not properly disclose the reliance on extraordinary state prescribed or permitted practices, whether such prescribed or permitted practices were approved, or whether the reporting entity's risk based capital ratios would have triggered a regulatory event had it not used a prescribed or permitted practice.

146. Inappropriate and unapproved wording was used in the notes to the 2014 Annual Statement.

147. Data presented between schedules was inconsistent.

148. The 2014 Annual Statement disclosure regarding the CMS Loans was not in conformity with applicable standards, including SSAP 15, because there was no disclosure regarding the covenants associated with these loans.

149. The 2014 Annual Statement did not disclose material related party transactions.

150. The 2014 Annual Statement did not disclose significant internal control weaknesses that materially impacted operations and the financial statement.

151. The 2014 Annual Statement reflected without adequate disclosure, a receivable amount of \$3.2 million as of December 31, 2014, with an offsetting entry to surplus in the form of the CMS Solvency Loan, despite the fact that NHC did not submit a formal loan request to CMS until the subsequent year.

152. NHC incurred significant losses for the year ending December 31, 2014 that exceeded the financial projections included in its CMS application and in NHC's licensing application with the Nevada DOI. Additionally, enrollments were substantially below target, and cash flow was a problem, with credit lines becoming rapidly exhausted.

153. Millennium failed to adequately disclose required reserves, projected future losses for 2015, the impact on NHC's RBC results, the impact on NHC's CMS loan covenant requirements, projected future shortfalls in enrollments, the exhaustion of NHC's available lines of credit, the growing concern regarding NHC's ability to continue as a going concern, and NHC's plan to mitigate these negative trends.

154. For the first quarter of 2015, many of these issues, including without limitation the understatement of reserves, remained unaddressed, and the first quarter 2015 statutory statements prepared and filed by Millennium were not in conformance with required contractual, statutory, or professional standards.

155. Millennium further participated in the drafting of NHC's Management's Discussion & Analysis (the "MD&A") report for 2014 as required under the Service Agreement.

156. Nevada has adopted NAIC reporting rules by statute and order of the Nevada DOI. Pursuant to NAIC rules, the MD&A requirements are intended to provide, in one section, material historical and prospective textual disclosure enabling regulators to assess the financial condition and results of operations of the reporting entity. Under NAIC rules, reporting entities should identify any known trends or any known demands, commitments, events or uncertainties that will result in or that are reasonably likely to result in the reporting entities' liquidity increasing or decreasing in any material way.

157. The 2014 MD&A prepared by Millennium did not explain or discuss the severity of NHC's financial position nor did it provide the MD&A's users with relevant and required information regarding extraordinary accounting practices in use, the inadequacy of reserves, liquidity and borrowing concerns, or other challenges faced by NHC. As such, Millennium failed to perform its work in accordance with the NAIC rules prescribed and permitted by the State of Nevada, as required by the Service Agreement.

#### **FACTUAL ALLEGATIONS RELATING TO THE LARSON DEFENDANTS**

##### **G. Larson Represents Itself as a CPA Firm with Insurance Industry Expertise and is Engaged by NHC to Audit the Company.**

158. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

159. The audits of insurance companies may be complex and involve issues not frequently encountered by companies not specializing in such audits.

160. On information and belief, during late 2013 and early 2014, NHC sought out a CPA firm that was an expert in auditing and advising insurance companies.

161. Larson is a Certified Public Accounting firm that asserts in its website that it “began practice in 1975 with the central purpose of serving the insurance industry. We have grown to become one of the premier insurance audit firms in the nation . . .”

162. Its website continues by saying that, “while many insurance companies prepare GAAP [Generally Accepted Accounting Practices] statements for internal use, statutory filings are required by all licensed insurance companies. These regulations are very different from GAAP regulations. Because of this, only individual with industry specific expertise can fully comprehend the impact of different transactions. And without this understanding, it is difficult for an insurance company to operate successfully long term. . . . When choosing professional advisors to help you navigate the rapidly shifting waters of the insurance industry, you need experienced, knowledgeable professionals. Our insurance group is an integrated team of audit, tax, and advisory professionals delivering sophisticated business solutions to help our clients minimize their growth potential and remain competitive.”

163. On information and belief, NHC identified and engaged Larson because of its self-proclaimed expertise in insurance company audits.

164. On or about February 19, 2014, NHC and Larson entered into an engagement letter under which Larson would provide professional services to NHC.

165. The February 19, 2014 engagement letter drafted by Larson included the following statements:

- “We will audit the statutory financial statements of Nevada Health Co-Op (the Company) which comprise the statutory statements of admitted assets, liabilities, and capital and surplus as of December 31, 2013, and the related statutory statements of income, changes in capital and surplus, and cash flows for the year then ended. Also the following supplementary information accompanying the statutory financial statements will be subjected to the auditing procedures . . . . :
  - The National Association of Insurance Commissioners’ (NIAC) required supplementary information
  - Schedule of Expenditures of Federal Awards

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- The objective of our audit is the expression of opinions as to whether your statutory financial statements are fairly presented, in all material respects, in conformity with statutory accounting principles and to report on the fairness of the supplementary information referred to in the [above] paragraph.
- Our audit will be conducted in accordance with the auditing standards generally accepted in the United States of America; the standards for financial audits contained in Government Auditing Standard, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of OMB Circular A-133, and will include test of accounting records, a determination of major programs(s) in accordance with OMB Circular A-133, and other procedures we consider necessary to enable us to express such opinions and to render the required reports.
- Dennis T. Larson, CPA, is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.”

166. A subsequent engagement letter with similar terms, dated September 30, 2014 (collectively, with the February 19, 2014 engagement letter, “Engagement Letters”), was also entered into by NHC and Larson for the year ended on December 31, 2014, with Martha Hayes as the responsible CPA.

**H. Larson Defendants Ignore Glaring Warning Signs, Perform Only a cursory Review of Material Items, and Issue Opinions on NHC’s 2013 and 2014 Financial Statements without Adequate Justification, Disclosure, or Qualifications.**

167. During 2014 and into 2015, the Larson Defendants performed an audit on the books and records of NHC and completed other work concerning supplemental information to be presented regarding NHC.

168. In early 2015, NHC and its actuary, Milliman, filed preliminary financial reports with the Nevada DOI for the year ended December 31, 2014.

169. These reports included analysis of NHC’s actuarial reserves.

170. These reports showed no PDR and only \$5.8 million in IBNR reserves as of December 31, 2014.

171. NHC’s reserve levels raised concerns.



172. As set forth above, throughout early 2015, the Nevada DOI went to extraordinary lengths to communicate clear guidance for the proper calculation of reserves.

173. Given the guidance delivered by the Nevada DOI and additional guidance given by the NAIC, the balances of the reserves should have been questioned and audited both from a year-end perspective and as part of Larson's subsequent event testing. Yet there is no evidence in the audit work papers that anything more than a cursory review took place.

174. Even without adjusting reserve balances, NHC had reported losses of over \$8 million in 2013 and over \$16 million in 2014.

175. Up until Larson issued its reports on June 1, 2015, NHC continued to hemorrhage losses.

176. NHC had all but exhausted its remaining capital by that time.

177. NHC exhausted what remained of its almost \$66 million in CMS Loans in early 2015, and had no borrowing capacity remaining, given its huge losses.

178. These should all have been "red flags" to the Larson Defendants that NHC would be unable to continue as a going concern.

179. Alarming, a receivable related to a CMS loan request was recorded in 2014, although it was not even formally applied for in that year, but rather in the following year. Adequate disclosure of this transaction was not included in the 2014 audited financial statements.

180. As auditors specializing in insurance companies, Larson knew or should have known that recording of a receivable concerning proceeds of the loan in the year before it was formally applied for, without adequate authorization or disclosure, was misleading, could artificially inflate NHC's reported surplus levels, and could make NHC appear more solvent than it actually was.

181. NHC's officers and directors were relatively inexperienced in insurance matters and were unable to establish sufficient internal controls over its business.

182. NHC also relied on outside service providers to perform critical processes for NHC, creating another set of internal control concerns.

183. Contractors handling enrollment, claims processing, billing, receipt of premiums, premium rate setting, actuarial services, and other issues did not perform their work in accordance with industry and professional standards, resulting in significant internal control issues and losses for NHC.

1           184. Larson should have planned its audit procedures, taking into account the internal  
2 control weaknesses evident at NHC.

3           185. However, Larson did not adequately plan for, search for, identify, or disclose these  
4 internal control weaknesses.

5           186. Both the 2013 and 2014 financial reports submitted to the Nevada DOI attached  
6 supplemental information, including respective MD&A's, which were subject to Larson's auditing  
7 procedures.

8           187. The MD&A's however, were at best deficient prohibited boilerplate that did not  
9 conform to statutory, industry or NAIC requirements and neither discussed nor disclosed significant  
10 issues concerning, without limitation, NHC's extraordinary accounting practices, insufficient  
11 reserves, liquidity concerns, lack of borrowing capacity or its inability to continue as a going  
12 concern, as set forth herein.

13           188. On or about May 29, 2014, Larson issued its audit report for the year ended  
14 December 31, 2013 (the "2013 Opinion"). The 2013 Opinion contained no information concerning  
15 NHC's ability to continue as a going concern, despite the fact that by the time the report was issued,  
16 NHC was incurring substantial unanticipated losses. Neither did the 2013 audit report disclose the  
17 significant internal control weaknesses that existed or recognize adequate reserves for the contracts  
18 on which NHC was already incurring substantial losses.

19           189. On or about June 1, 2015, Larson issued its Statutory Financial Statements and  
20 Independent Auditor's Report and other Legal and Regulatory Information (the "2014 Audit  
21 Opinion") regarding NHC's 2013 and 2014 financial statements.

22           190. The 2014 Audit Opinion contained one emphasis of matter paragraph noting only  
23 issues with the Risk Adjustment, the Federal Transitional Reinsurance, and the Risk Corridor  
24 programs. Despite the materiality of receivables from the federal government, and the issues raised  
25 concerning their calculation, the 2014 Audit Opinion stated that, "[Larson's] opinion is not  
26 modified with respect to this matter."

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191. The 2014 Audit Opinion was without any qualification as to the reported reserves, the recording of loan receipts in the year prior to actual receipts, internal control weaknesses, or NHC's ability to continue as a going concern.

192. On or about June 1, 2015, Larson issued its Reports of Independent Certified Public Accountants Required by OMB Circular A-133 for the Year Ended December 31, 2014 (the "2014 OMB Report"), which included its analysis of internal controls for the purpose of expressing its opinion on the financial statements.

193. In the 2014 OMB Report, Larson stated that during its audit, it did not identify any deficiencies in internal control that it considered to be material weaknesses.

194. Additionally, in the 2014 OMB Report, Larson represented that, as part of obtaining reasonable assurance about whether NHC's financial statements were free from material misstatements, it performed tests of NHC's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have had a direct and material effect on the determination of financial statement amounts.

195. In the 2014 OMB Report, Larson further stated the results of its tests disclosed no instances of noncompliance or other matters that were required to be reported under government auditing standards.

196. As part of the 2014 OMB Report, Larson also included an Independent Auditor's Report on Compliance for Each Major Program; Report on Internal Control over Compliance; and Report on Schedule of Expenditures of Federal Awards Required by OMB Circular A-133 ("the 2014 Major Program Report").

197. In the 2014 Major Program Report, Larson reported that, in its opinion, NHC complied in all material respects with the types of compliance requirements referred to in the report that could have had a direct and material effect on each of its major federal programs for the year ended December 31, 2014; that it did not identify any deficiencies in internal control over compliance that it considered to be material weaknesses; and that, in its opinion, the schedule of expenditures of federal awards was fairly stated in all material respects in relation to the statutory financial statements taken as a whole.

**I. The Larson Defendants' Work Failed to Meet Statutory and Professional Standards Required of CPAs.**

198. In performing its audits of NHC and in providing other accounting services to NHC, Larson failed to meet statutory and professional standards, including, but not limited to those set forth herein.

199. Larson did not properly identify or disclose the reliance of NHC on extraordinary state prescribed or permitted practices, whether such prescribed or permitted practices were approved, or whether the reporting entity's risk based capital ratios would have triggered a regulatory event had it not used a prescribed or permitted practice.

200. Larson failed to identify and adequately disclose that material transactions, including the posting of a multi-million dollar receivable from a loan that had not even been formally applied for, were recorded in the year prior to formal application and receipt.

201. Larson failed to identify and disclose that as of December 31, 2013, and 2014, NHC's ability to continue as a going concern was in doubt.

202. Larson failed to adequately identify and disclose that NHC's insurance reserves including its PDR as of December 31, 2013, and 2014, and IBNR reserves as of December 31, 2014, were materially misstated.

203. Larson failed to adequately analyze and test work performed by NHC's actuary.

204. Larson failed to identify and disclose related party transactions.

205. Larson failed to identify and disclose internal control deficiencies, including but not limited to financial reporting controls, as well as internal controls relating to claims, enrollment, member termination, premium tracking, and provider arrangements.

206. Larson failed to identify and disclose violations of loan covenants and NHC's inability to repay existing debt.

207. Larson failed to identify or properly assess business risks, including but not limited to insufficient premium rates to support the policies issued, inadequate information technology systems and vendors, problems with processing and paying claims, issues with billings for premiums, issues with processing premium payments, and a lack of additional borrowing capacity.

208. Larson failed to identify, plan for, or disclose NHC management's lack of experience and competence to produce financial statements that were in conformance with applicable reporting standards and free from material misstatements.

209. Larson failed to adequately test, disclose and report the collectability and reserves for material receivables.

210. Larson failed to prepare an adequate audit plan or to even follow the inadequate audit plan that it prepared.

211. Larson failed to perform proper subsequent events testing and did not identify or disclose numerous subsequent events that should have been considered in analyzing year-end account balances and that should have been disclosed in the financial statements.

212. Larson failed to identify or disclose deficient MD&A information and disclosures contained in the supplemental information provided with NHC's 2013 and 2014 financial statements.

213. Larson also failed to properly document and maintain appropriate audit evidence in support of any audit work it performed.

#### **FACTUAL ALLEGATIONS RELATING TO THE INSUREMONKEY DEFENDANTS**

##### **J. InsureMonkey is Engaged by NHC Based on its Claimed Expertise.**

214. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

215. In 2013, NHC sought a qualified contractor to provide software and services, including a customer portal to enroll and to service NHC's customers. The software and services would also collect and provide to NHC data necessary for making operational decisions and reporting to regulators.

216. Defendants Rivlin and InsureMonkey represented to NHC that InsureMonkey was qualified and capable of providing the software and services.

217. On or about April 13, 2013, NHC and InsureMonkey entered into a Memorandum of Understanding for InsureMonkey to provide the technology and software services. NHC and InsureMonkey subsequently entered into a Master Services Agreement relating to technology and

1 services, making the agreement effective as of the date of the earlier Memorandum of  
2 Understanding (the “2013 Master Services Agreement”). Rivlin largely negotiated and executed the  
3 2013 Master Services Agreement on behalf of InsureMonkey.

4 218. As part of the 2013 Master Services Agreement, InsureMonkey expressly  
5 acknowledged that it was required to “comply with [NHC’s] obligations” under NHC’s CMS Loan  
6 Agreement as part of performing InsureMonkey’s services. Similarly, InsureMonkey acknowledged  
7 that it had to maintain certain records and provide NHC, CMS, and others with access to certain  
8 information relating to InsureMonkey’s performance under the 2013 Master Services Agreement.

9 219. In a similar timeframe, NHC was also searching for a contractor to perform  
10 additional customer service functions, including establishing a call center and providing support to  
11 consumers involved in the enrollment process.

12 220. During this April-May 2013 time period, InsureMonkey’s representatives, especially  
13 its CEO Rivlin, expressly represented that InsureMonkey was capable of providing all of the  
14 additional customer service support functions that NHC was seeking, in addition to its technological  
15 and software support.

16 221. From June through August 2013, NHC and InsureMonkey continued to negotiate  
17 terms of a customer services contract to handle both on-exchange and off-exchange support  
18 services. Again, during this time, InsureMonkey’s representatives, including Rivlin, repeatedly  
19 touted InsureMonkey’s capabilities in the customer service space relating to the insurance business.

20 222. On or about August 1, 2013, NHC and InsureMonkey entered into another  
21 Memorandum of Understanding governing InsureMonkey’s provision of customer service functions  
22 to NHC (the “August 2013 Customer Service MOU”). Rivlin negotiated and executed the August  
23 2013 Customer Service MOU on behalf of InsureMonkey.

24 223. The August 2013 Customer Service MOU required InsureMonkey to deliver  
25 “contact center service...for new and renewing member enrollments” on behalf of NHC. This  
26 included providing, staffing, and operating both a call center and a walk-in center for consumers.

27 224. The August 2013 Customer Service MOU represented that InsureMonkey would  
28 provide “professionally licensed and trained Contact Center Agents” and that InsureMonkey would

1 “train all Agents on NHC products and enrollment processes as well as enrollment processes”  
2 through the exchange, “including determining subsidy eligible populations and providing  
3 eligibility” through the exchange.

4 225. Upon information and belief, when Rivlin and other representatives of  
5 InsureMonkey made representations regarding the services they could and would perform, they  
6 either had no intention of fulfilling those obligations and/or should have reasonably understood that  
7 InsureMonkey was unable to adequately perform the critical services they were contracting to  
8 perform on behalf of NHC. As a result, InsureMonkey knew or should have known that its failure  
9 necessarily would have impacted NHC’s status with CMS and the loan proceeds NHC was to obtain  
10 under the CMS Loans Agreement.

11 226. On or about September 3, 2013, InsureMonkey and NHC entered into an additional  
12 Memorandum of Understanding further expanding InsureMonkey’s responsibilities and obligations  
13 with respect to customer and member services (the “September 2013 Customer Service MOU”).  
14 Yet again, this agreement was predicated upon the express representations of Rivlin regarding  
15 InsureMonkey’s capabilities with respect to these types of services.

16 227. Among other things, the September 2013 Customer Service MOU detailed NHC’s  
17 obligations with respect to developing “a comprehensive model of member services that addresses  
18 all aspects of stakeholder management.” In addition to providing a member services center on  
19 behalf of NHC, InsureMonkey agreed that it would track certain information regarding members,  
20 their eligibility status, and other contacts relating to information and data that needed to be reported  
21 to CMS.

22 228. InsureMonkey performed services under its agreements with NHC relating to the  
23 2013 enrollment period for 2014 coverage.

24 229. During this time, NHC relied upon InsureMonkey’s ability to perform its services  
25 and on the reporting and tracking data provided to it by InsureMonkey in submitting reports and  
26 information to CMS.

27 230. On or about August 1, 2014, NHC and InsureMonkey entered into a Master Services  
28 Agreement “to consolidate the terms of their continuing business relationship under the terms of

1 this Agreement” and to set forth the scope of the parties’ relationship moving forward (the “Master  
2 Agreement”). Rivlin again negotiated and executed the Master Agreement on behalf of  
3 InsureMonkey.

4 231. Like the prior agreements, InsureMonkey expressly represented in the Master  
5 Agreement that it would “comply with the terms of the [CMS] Loan Agreement” in performing its  
6 obligations to NHC.

7 232. InsureMonkey represented in the Master Agreement that the “[s]ervices  
8 contemplated hereunder will be performed by adequately trained, competent personnel, in a  
9 professional manner, with such personnel having the requisite skill and expertise necessary to  
10 perform and complete the Services in accordance with industry standards[.]”

11 233. InsureMonkey also represented in the Master Agreement that the “[s]ervices will  
12 substantially conform to the applicable specifications and acceptance criteria (if any) agreed to by  
13 the parties in the applicable Statement of Work[.]”

14 234. Throughout the relationship between InsureMonkey and NHC, because of the  
15 inexperience of NHC management and the representations of InsureMonkey as to its superior  
16 knowledge and expertise, NHC trusted, relied on, and depended on InsureMonkey as a key  
17 component of its operation in its business of insuring and servicing NHC’s Members.

18 235. At the time Rivlin executed the Master Agreement, he and InsureMonkey knew or  
19 reasonably should have known that that they had no intention or ability to honor the terms of the  
20 Master Agreement, that InsureMonkey would not and could not perform the services contemplated  
21 by the Master Agreement in accordance with industry standards, and that InsureMonkey did not  
22 have adequately trained and competent personnel to perform such service.

23 **K. InsureMonkey Fails to Perform Under its Agreement and Misrepresents Key**  
24 **Data that NHC Relied upon in Reporting to CMS.**

25 236. Under the parties’ agreements, NHC was largely left to the mercy of InsureMonkey.  
26 InsureMonkey was responsible for reporting current, complete, and accurate enrollment, billing, and  
27 eligibility data, upon which NHC was to rely in servicing its members and in making its reports to  
28 CMS, the Nevada DOI, and others.



1           237. InsureMonkey failed to follow industry standards relating to tracking and reporting  
2 basic enrollment, billing, and eligibility data, including without limitation the failures set forth  
3 herein.

4           238. At critical times during the open enrollment process, InsureMonkey was unable to  
5 make the broker portal it had created work properly and allow agents to sign up individuals for  
6 insurance policies. These portal issues impacted and depressed enrollment numbers in both 2014  
7 and 2015, leading to fewer members being insured under the plan and lower premium income for  
8 NHC.

9           239. InsureMonkey failed to attend regular CMS information calls on NHC's behalf,  
10 which it was contractually required to do, leading to NHC failing to receive necessary information  
11 from CMS that InsureMonkey was obligated to obtain and transmit.

12           240. InsureMonkey failed to submit monthly reconciliation files to CMS for many months  
13 as required, impacting the receipt of premium subsidies from CMS.

14           241. InsureMonkey failed to hire qualified individuals to provide the customer and  
15 member services as contemplated by the parties' agreements.

16           242. InsureMonkey failed to properly train individuals to provide the customer and  
17 member services contemplated by the parties' agreements.

18           243. InsureMonkey failed to properly supervise individuals providing the customer and  
19 member services contemplated by the parties' agreements.

20           244. InsureMonkey failed to properly log eligibility data for individuals during the  
21 enrollment process.

22           245. InsureMonkey failed to obtain premium payments from new and renewing members  
23 or to transmit that information in a timely manner.

24           246. InsureMonkey failed to timely terminate members' eligibility when they became  
25 ineligible for benefits under the plan.

26           247. InsureMonkey failed to timely transmit information regarding premiums received,  
27 causing the improper suspension of insureds' coverage and terminating or negatively affecting  
28 premium subsidies that NHC would otherwise have received from CMS.

1           248. InsureMonkey even failed at the most basic level in reporting the total number of  
2 enrollees in the plan.

3           249. When the incompetency of InsureMonkey's employees was brought to  
4 InsureMonkey's attention, InsureMonkey failed to retrain or replace those individuals, and it  
5 allowed them to continue to provide deficient customer and member services.

6           250. As a result of InsureMonkey's incompetency despite its representations to the  
7 contrary, as well as its deficient hiring, training, supervision, and retention of employees,  
8 InsureMonkey's performance under the agreements was woefully deficient.

9           251. InsureMonkey had an incentive to over report the number of members enrolled in the  
10 plan at any given time and to not terminate a member's eligibility in NHC's books and records.

11           252. Notably, several of the parties' agreements, including the Master Agreement,  
12 calculated the payment due to InsureMonkey from NHC based on a certain price per member, per  
13 month that the member was enrolled in the plan.

14           253. Upon information and belief, InsureMonkey, at the direction of its CEO Rivlin,  
15 intentionally misrepresented the membership enrollment numbers in order to procure larger  
16 payments to InsureMonkey under their agreements.

17           254. At the time, NHC had no reason to know or suspect the extent of InsureMonkey's  
18 failure to properly report enrollment, billing, and eligibility data or its deliberate misreporting of  
19 enrollment, billing, and eligibility data. NHC only learned of the extent of InsureMonkey's  
20 misreporting after the appointment of a receiver over NHC.

21           255. Despite its woefully deficient performance, InsureMonkey was paid approximately  
22 \$4.4 million for contracted services in 2014 and over \$5 million in 2015.

23           256. InsureMonkey's actions and conduct addressed herein resulted in grave  
24 consequences to NHC. Without limitation, InsureMonkey's actions led to the following: (a)  
25 underpayment to NHC for advanced premium tax credits that NHC would have been entitled to had  
26 InsureMonkey properly performed its services and provided reliable data concerning enrollment to  
27 NHC and CMS; (b) NHC paying out additional claims as a proximate result of InsureMonkey's  
28 reporting of faulty eligibility data; (c) NHC overpaying into the transitional reinsurance program as

1 the proximate result of InsureMonkey's reporting of faulty eligibility data; (d) NHC overpaying  
2 InsureMonkey and other contractors in payments calculated on faulty enrollment data provided by  
3 InsureMonkey; and (e) decreased risk corridor payments to NHC as the proximate result of  
4 InsureMonkey providing faulty and unreliable enrollment data.

5 **FACTUAL ALLEGATIONS RELATING TO NEVADA HEALTH SOLUTIONS**

6 **L. NHS Engages with Kathleen Silver in Self-Dealing, Receiving Substantial Sums**  
7 **for Deficient Utilization Management Services.**

8 257. Plaintiff realleges and incorporates all of the allegations contained in the proceeding  
9 paragraphs as is fully set forth herein.

10 258. Utilization management is the evaluation of appropriateness and medical necessity of  
11 health care services, procedures and facilities according to evidence-based criteria or guidelines,  
12 and under the provisions of an applicable health insurance plan.

13 259. NHS represented itself to be a capable utilization management services company.

14 260. Pursuant to a Utilization Management Services Agreement (the "Utilization  
15 Agreement"), NHS contracted with NHC to perform evaluations of appropriateness and medical  
16 necessity of health care services, procedures and facilities; perform precertification of hospital  
17 admissions and outpatient procedures; process information related to in-hospital observations;  
18 provide concurrent reviews for inpatient acute care, rehabilitation and long term acute care; provide  
19 discharge planning; and perform provider appeal reviews, along with other services. NHS was also  
20 engaged to perform member eligibility review services for NHC, a process through which the  
21 enrollment of NHC's members must be verified for medical benefits to be allowed by NHC.

22 261. Throughout the relationship between NHS and NHC, because of the relative  
23 inexperience of NHC management (well known to NHS) and the representations of NHS as to its  
24 superior knowledge and expertise, NHC trusted, relied on, and depended on NHS as its gatekeeper  
25 to ensure the appropriateness and medical necessity of medical services incurred by NHC's  
26 members and their eligibility for such services.

27 262. NHS breached the Utilization Agreement by failing to perform contracted work and  
28 by failing to perform to applicable contractual, professional and industry standards. Without

1 limitation, NHS failed to perform to the standards set forth in the Utilization Management Program  
2 that was incorporated into the Utilization Agreement.

3 263. Under the Utilization Agreement, NHS was to perform its services utilizing  
4 appropriate medical staff including accredited physicians. On information and belief, NHS did not  
5 employ qualified personnel to perform the contracted services, and at most subcontracted such  
6 services to others, to the extent they were performed at all.

7 264. Initial compensation was mechanically calculated based on the total persons enrolled  
8 as NHC members each month, a fee that bore little to no relation to services being provided by  
9 NHS. Upon information and belief, little work was actually performed by NHS for NHC.

10 265. Fees under the Utilization Agreement were charged by NHS on a per member per  
11 month basis, but NHS required a minimum monthly fee to be paid based on an enrolled membership  
12 of 10,000 members. NHC did not have 10,000 enrolled members for the first four months of 2014 and  
13 was substantially short of 10,000 enrolled members in those months; thus, NHC paid the minimum  
14 monthly fee to NHS in each of those first four months of 2014. Additionally, NHC was to be charged  
15 by NHS for all direct and indirect provider costs incurred by NHS for performing its services.  
16 However, since NHS provided little services to NHC in 2014, there were no other direct or indirect  
17 costs charged by NHS to NHC other than the per member per month flat monthly fee stated above.  
18 On information and belief, NHS failed to adjust for the actual cost of the limited work performed.

19 266. NHS and Management Defendant Kathleen Silver engaged in self-dealing in which  
20 NHS was unjustly paid substantial amounts by NHC for the so-called utilization management  
21 services. NHS's president was Management Defendant Kathleen Silver, and upon information and  
22 belief, the owner of NHS was UHH. Upon information and belief, UHH was an entity with financial  
23 ties and/or direct or indirect business links with Management Defendants Bobbette Bond, Thomas  
24 Zumtobel, and Kathleen Silver. UHH was being paid to process and adjudicate claims of NHC, and  
25 then it was being paid again through NHS to do a quality control review check of the very claims  
26 that UHH processed. The NHS and NHC medical utilization management review arrangement was  
27 unfair, unreasonable, and just another way to siphon more money out of NHC to the detriment of its  
28 members, policyholders, and creditors.

267. NHS's actions and conduct resulted in substantial losses to NHC. Without limitation, in excess of \$1 million in claims were paid outside of enrollment when NHS failed to properly perform eligibility checks during utilization reviews. NHS was paid fees and expenses totaling \$382,968 under this utilization management and enrollment eligibility review arrangement. Costs which should not have been incurred under the Utilization Management Program were incurred, contracted assistance to members for managing health care decisions was not received, and inappropriate financial benefits were paid from this arrangement to the detriment of NHC's members, policyholders, and creditors.

**FACTUAL ALLEGATIONS RELATING TO THE MANAGEMENT DEFENDANTS**

**M. The Management Defendants Fail to Uphold Their Fiduciary Duties to NHC.**

268. Plaintiff realleges and incorporates all of the allegations contained in the proceeding paragraphs as is fully set forth herein.

269. As officers and directors of NHC, each of the Management Defendants owed duties of good faith and loyalty to NHC and was charged with exercising his or her powers, authority, and discretion in the best interests of NHC.

270. Additionally, the Management Defendants executed employment agreements and ethics and conflicts of interest documents which contractually specified such duties.

271. The duties owed by the Management Defendants included, without limitation, not misleading regulatory authorities, instituting adequate internal controls to protect company assets and operations, adequately selecting and supervising employees and contractors, avoiding self-dealing, fully and adequately disclosing related party transactions, avoiding the squandering of NHC's assets, and reviewing and ensuring the accuracy of loan applications, financial statements, and regulatory filings submitted by NHC.

272. From NHC's inception through its being put in receivership in October 2015, as outlined below, each of the Management Defendants failed to uphold his or her duties owed to NHC when exercising his or her powers and authority with respect to the business decisions, operations, reporting and management of NHC.

///

**N. Management Defendants Unreasonably Fail to Establish Internal Controls, Exercise Oversight, Ensure Accurate Reporting, or Adequately Disclose Related Party Transactions.**

273. A primary responsibility of Management Defendants was to institute sufficient internal controls to ensure the protection of assets, to establish and enforce procedures to run NHC, and to conform with statutory requirements, including providing accurate reporting to regulators and the public.

274. The Management Defendants failed to establish sufficient internal controls over its business.

275. Initially, the Management Defendants failed to hire or train adequate personnel to run its business. As a result, NHC relied on contractors to perform critical processes for NHC, creating another set of internal control concerns, ones that were likewise overlooked and ignored by the Management Defendants.

276. Rather than prudently limiting the scope of business until such time as adequate internal controls had been established, the Management Defendants appear to have adopted an “even if we lose money on each customer we will make it up in volume” approach.

277. Contractors handling enrollment, claims processing, billing, receipt of premiums, premium rate setting, actuarial services, and other issues did not perform their work in accordance with industry and professional standards, resulting in significant internal control issues and losses for NHC, issues that should have been caught and remedied by the Management Defendants, but were not.

278. Additionally, the total breakdown in internal controls caused misleading reports to be issued in violation of applicable statutes and standards.

279. The Management Defendants knew or should have known of the dearth of internal controls to protect NHC and the public. The Management Defendants’ refusal to institute such controls involved and/or constituted negligence, intentional misconduct, fraud, and/or knowing violations of the law.

280. The Management Defendants similarly failed or refused to exercise the necessary required oversight of NHC and its contractors.

1           281. Employees without the expertise or experience to run such a large undertaking were  
2 negligently hired and retained, or were simply allowed to keep positions given to them by the  
3 Culinary Health Fund.

4           282. As discussed herein, rather than replacing or obtaining sufficient training for its  
5 employees, the Management Defendants engaged contractors whose work was not properly  
6 performed or appropriately overseen.

7           283. Even when significant problems arose, the Management Defendants failed to  
8 exercise their oversight function and remedy them.

9           284. Contractors created overly optimistic feasibility studies, on information and belief, in  
10 order to receive compensation that would only be paid if loans were received.

11           285. Early in the process, NHC's officers and directors, including each of the  
12 Management Defendants, authorized and/or ratified financial transactions and assumed financial  
13 obligations that they knew or should have known NHC could not meet or otherwise satisfy.

14           286. Customers had difficulty signing up for services, premiums went unbilled or unpaid,  
15 failures in reporting data to CMS caused government subsidies to be lost, and vendors were paid  
16 despite failing to perform under contracts. Insureds failed to receive coverage because of bad data,  
17 and costs were paid because NHC could not confirm whether coverage was or was not in effect.  
18 Still, the Management Defendants failed to exercise appropriate oversight to remedy the situation.

19           287. Despite horrendous losses, the Management Defendants authorized NHC to continue  
20 to draw down on government loans, knowing there was no reasonable way that such loans could be  
21 repaid.

22           288. As further discussed herein, the Management Defendants, including the audit  
23 committee members, the chief financial officer, and NHC's president, also failed to exercise  
24 oversight to ensure accurate, truthful, and non-misleading dissemination of financial information to  
25 regulatory authorities and the public with respect to NHC's affairs.

26           289. The Management Defendants knew or should have known that their intentional  
27 decision not to exercise appropriate oversight would cause significant damages and would involve  
28 and/or constitute negligence, intentional misconduct, fraud, and/or knowing violations of the law.

1           290. The Management Defendants' actions or inactions similarly caused misleading  
2 reporting of financial and operational results to the Nevada DOI and others.

3           291. From 2012 through 2015, the Management Defendants retained and/or approved the  
4 retention of certain third party entities to perform financial reporting and/or auditing on behalf of  
5 NHC, including, but not limited to Milliman, Millennium, and Larson.

6           292. In early 2015, a preliminary report was filed with the Nevada DOI for the year ended  
7 December 31, 2014.

8           293. As discussed above, NHC's reserve levels raised concerns with the Nevada DOI, and  
9 throughout early 2015 the Nevada DOI went to extraordinary lengths to communicate clear  
10 guidance for the proper calculation of reserves. Nevada DOI guidance went directly to NHC  
11 management.

12           294. Additionally, the NAIC pointed out deficiencies in NHC's statutory reporting  
13 directly to NHC's management.

14           295. The Nevada DOI stated they expected the PDR to be re-evaluated on a quarterly  
15 basis and adjusted as necessary if the emerging experience was substantially different from the  
16 projected experience. These steps were not taken and, in fact, the PDR calculation appears to have  
17 been skipped at the end of the first quarter, contrary to the Nevada DOI's explicit request and prior  
18 to the issuance of certain audits and financial reports adopted, ratified, and/or disseminated by the  
19 Management Defendants.

20           296. The balances of the reserves should have been questioned and audited by the  
21 Management Defendants, both from a year-end review perspective and as part of NHC's  
22 management, audit committee, and overall oversight responsibilities, yet there is no evidence that  
23 any such actions were taken, and the Management Defendants issued later reports without  
24 adjustment.

25           297. Even without adjusting reserve balances, NHC had reported losses of over \$8 million  
26 in 2013 and over \$16 million in 2014.

27           298. Up until NHC issued reports on June 1, 2015, NHC continued to hemorrhage losses  
28 under the direction, guidance, and management of the Management Defendants.



1           299.    NHC had all but exhausted its remaining capital by that time.

2           300.    NHC exhausted what remained of its almost \$66 million in CMS loans in early 2015,  
3 and had no borrowing capacity remaining given its huge losses.

4           301.    As previously mentioned, the amount of a draw on the CMS Loans, that had not been  
5 formally applied for in 2014, was recorded as a receivable in the 2014 annual financial reports  
6 without adequate disclosure.

7           302.    At a minimum, NHC's Audit Committee members, including Defendant Bond,  
8 knew, or should have known that recording of a receivable for a loan in the year before it was  
9 formally applied for, without disclosure, was misleading, could artificially inflate NHC's reported  
10 surplus levels, and could make NHC appear more solvent than it actually was.

11          303.    These issues should all have been obvious "red flags" to the Management  
12 Defendants, and they should have been disclosed, along with the fact that NHC would be unable to  
13 continue as a going concern. They should also have resulted in appropriate remedial measures.

14          304.    The Management Defendants knew or should have known that their intentional  
15 decision not to properly address red flags raised by regulators, as well as the obvious deficiencies of  
16 NHC's financial reports, would cause significant damages and involve and/or constitute negligence,  
17 intentional misconduct, fraud, and/or knowing violations of the law.

18          305.    Additionally, the Management Defendants drafted or ratified and approved of the  
19 release of the 2013 and 2014 MD&A's. These documents, which are intended to disclose and serve  
20 as management's discussion and analysis of important issues facing NHC, failed to disclose or  
21 analyze important issues, including without limitation, NHC's extraordinary accounting practices,  
22 insufficient reserves, liquidity concerns, lack of borrowing capacity or its inability to continue as a  
23 going concern. The failure of management to adequately disclose or analyze these and other issues  
24 was in violation of statutory and industry requirements, including those set forth by the NAIC, the  
25 Nevada DOI and incorporated into Nevada law.

26          306.    The Management Defendants did not ensure proper reporting of related party  
27 transactions.

28    ///

1           307. NHC management had extensive connections with the Culinary Union and its UHH  
2 administrator. Many of the Director Defendants had served on the Board of the Culinary Health  
3 Fund, and some Directors also had positions with the Culinary Union. NHC hired UHH to  
4 administer the medical side of NHC's business. As a result, UHH was paid significant fees that, on  
5 information and belief, provided a windfall for UHH.

6           308. Defendant Kathy Silver served as a director of NHC and was president of two  
7 Culinary Union related entities, NHS and the Culinary Health Fund.

8           309. As discussed above, NHC management engaged NHS to perform utilization  
9 management and member eligibility review services for NHC in 2014. NHC paid substantial fees to  
10 NHS for this service, receiving limited and deficient services in return. NHS also had a conflict of  
11 interest, or the appearance of a conflict of interest, by being engaged to provide a quality control  
12 review of claim services provided by its parent company, UHH.

13           310. Despite requirements to disclose these related party transactions in financial  
14 statements and other filings to the Nevada DOI, CMS and others, NHC management failed to  
15 adequately provide such disclosure.

16           311. NHC management also paid themselves exorbitant compensation without justification  
17 and despite the fact that NHC was losing millions of dollars each financial report period.

18           312. Due to the material amounts of funds flowing from NHC to UHH and NHS, the  
19 Management Defendants were under an obligation to report the related party transactions in NHC's  
20 financial statements, and they were under a further obligation to assure that these related party  
21 transactions were fair and reasonable to NHC. The Management Defendants, however, failed to do so.

22           313. Management Defendants, including but not limited to Egan, Dibsie and Mattoon,  
23 authorized or caused to be paid claims outside of eligibility, in violation to their fiduciary duties to  
24 NHC, resulting in substantial losses to NHC.

25           314. Such acts and omissions with respect to NHC's failure to adequately disclose related  
26 party transactions and to assure their fairness, paying claims outside of eligibility, along with paying  
27 themselves unreasonable compensation, by the Management Defendants involved and/or  
28 constituted intentional misconduct, fraud, self-dealing, and/or the knowing violation of the law.

**O. The Financial Collapse of NHC and the Resulting State Rehabilitation and Liquidation Proceedings.**

315. Ultimately, no one could deny that NHC was incapable of continuing as a going concern, and the Nevada DOI was required to step in. On August 17, 2015, NHC's board of directors voted to cease writing new business and to suspend voluntarily its certificate of authority, effectively "throwing in the towel" and ending any prospect of recovery.

316. On September 25, 2015, and with the consent of NHC's board of directors, a petition for appointment of Commissioner as Receiver and Other Permanent Relief; Request for Injunction Pursuant to NRS 696 B.270(1) was filed by the then acting Nevada Commissioner of Insurance, Amy L. Parks, in her official capacity as Temporary Receiver of the Nevada Health CO-OP.

317. An Order Appointing the Acting Commissioner of Insurance, Amy L. Parks, as Temporary Receiver Pending Further Orders of the Court, Granting Temporary Relief Pursuant to NRS 696B.270, and authorizing the Temporary Receiver to appoint a special deputy receiver was filed on October 1, 2015. The Commissioner, as Temporary Receiver, appointed the firm of Cantilo & Bennett, L.L.P. as Special Deputy Receiver on October 1, 2015.

318. On October 14, 2015, the Court issued a Permanent Injunction and Order Appointing Commissioner as Permanent Receiver of Nevada Health CO-OP. On September 21, 2016, the Court issued a Final Order Finding and Declaring Nevada CO-OP to be insolvent and placing Nevada Health CO-OP into Liquidation.

319. Under these orders the Commissioner of Insurance (as the Permanent Receiver) and Cantilo & Bennett (as the Special Deputy Receiver) are authorized to liquidate the business of NHC and wind up its ceased operations pursuant to NRS 696B.220.2. This authority includes authorization to institute and to prosecute, in the name of the CO-OP or in the receiver's own name, any and all suits and other legal proceedings, and to prosecute any action which may exist on behalf of the members, enrollees insured, or creditors, of CO-OP against any person.

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1           320. The consequences of Defendants' actions were not simply academic. Over \$65  
2 million in federal loans are in default. Medical insurance for tens of thousands of people was  
3 disrupted; doctors and hospitals went unpaid; and insured patients were left concerned about  
4 receiving needed care and whether they would be able to pay medical bills.

5           321. The Receiver is now tasked with liquidating the failed insurer to protect members,  
6 insured enrollees, and creditors of NHC and the public.

7                           **CAUSES OF ACTION RELATED TO MILLIMAN DEFENDANTS**

8   **FIRST CAUSE OF ACTION**

9   **(Negligence Per Se - Violation of NRS 681B Against Milliman and Heijde)**

10           322. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
11 paragraphs as if fully set forth herein.

12           323. NRS 681B requires, in part, the opinion of an appointed actuary as to whether the  
13 reserves and related actuarial items held in support of the policies and contracts are computed  
14 appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior  
15 reported amounts, and comply with applicable laws of the State of Nevada.

16           324. NRS 681B also prescribes minimum standards of form and substance for the  
17 opinion, including those set forth in the Valuation Manual adopted by the NAIC.

18           325. Plaintiff and those represented by Plaintiff, including the members of NHC, NHC's  
19 insured enrollees, NHC's creditors, NHC, and the State of Nevada belong to a class of persons that  
20 NRS 681B was designed to protect.

21           326. Milliman and Heijde accepted appointment as NHC's appointed actuary, and  
22 provided opinions under NRS 681B.

23           327. As a result, Milliman and Heijde were subject to the minimum standards as set forth  
24 in NRS 681B.

25           328. As set forth above, Defendants Milliman and Heijde violated NRS 681B by failing to  
26 perform their duties as the appointed actuary in accordance with the applicable minimum statutory  
27 and applicable professional standards.

28           ///



**THIRD CAUSE OF ACTION**

**(Intentional Misrepresentation (Fraud) Against Milliman Defendants)**

339. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

340. On or about December 21, 2011 Milliman and Shreve issued a document entitled “Hospitality Health Feasibility Study and Business Support for Consumer Operated and Oriented Plan (CO-OP) Application.”

341. On or about March 1, 2015 and on or about May 14, 2015, Milliman and Heijde issued the valuation and certification of NHC’s reserves pursuant to NRS 681B.

342. In each of these documents, the respective Milliman Defendants certified that the statements contained therein were, to the best of their knowledge and belief, accurate, complete, and prepared in accordance with generally recognized and accepted actuarial principles and practices consistent with ASOPs, the Code of Professional Conduct and Qualification Standards for Public Statements of Actuarial Opinion of the American Academy of Actuaries.

343. The Milliman Defendants knew or believed that these representations were false, or that they had an insufficient basis of information for making them.

344. Milliman also participated in the preparation of 2014 financial information to the Nevada DOI insurance regulators for 2014 that presented and represented NHC’s financial condition, and this information was misleading, false, without sufficient basis, and misreported the financial information of NHC.

345. Plaintiff justifiably relied upon the Milliman Defendant’s representations.

346. As a direct and proximate result of the Milliman Defendants’ conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

347. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys’ fees and costs incurred herein.

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**FOURTH CAUSE OF ACTION**

**(Constructive Fraud Against Milliman Defendants)**

348. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

349. At all relevant times, the Milliman Defendants had a fiduciary and/or confidential relationship with NHC.

350. The Milliman Defendants owed a legal or equitable duty to Plaintiff arising from a fiduciary or confidential relationship.

351. The Milliman Defendants breached that duty by misrepresenting or concealing a material fact, i.e. that the Milliman Defendants had not performed their services in accordance with applicable statutory and professional standards as set forth herein and that as a result NHC should not have relied on their conclusions, advice and opinions.

352. As a direct and proximate result of the Milliman Defendants' conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

353. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

**FIFTH CAUSE OF ACTION**

**(Negligent Misrepresentation Against Milliman Defendants)**

354. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

355. The Milliman Defendants, in a course of action in which they had a pecuniary interest, failed to exercise reasonable care or competence in obtaining or communicating information to Plaintiff as set forth above.

356. Such information included, without limitation, the information set forth in the Feasibility Study, the calculation of premiums, the calculation of financial projections, the calculation of required reserves, and the communication of financial information to the Nevada DOI insurance regulators.

**(Breach of Fiduciary Duty Against Milliman Defendants)**

9           360. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
10 paragraphs as if fully set forth herein.

361. A fiduciary duty existed between Plaintiff and the Milliman Defendants where  
Milliman was in a superior or trusted position as set forth herein.

362. The Milliman Defendants breached that duty by failing to perform to statutory and professional standards as set forth above.

363. As a direct and proximate result of the Milliman Defendants' conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

17           364. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
18 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
19 incurred herein.

**(Negligence Against Milliman Defendants)**

365. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

366. The Milliman Defendants owed a duty of care to Plaintiff, including the duty to perform its work in accordance with applicable statutory and professional standards.

367. As detailed above, by failing to perform to applicable statutory and professional standards, the Milliman Defendants breached that duty.

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1 368. The breach was the legal cause of Plaintiff's injuries.

2 369. As a direct and proximate result of the Milliman Defendants' conduct, Plaintiff has  
3 suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

4 370. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
5 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
6 incurred herein.

7 **EIGHTH CAUSE OF ACTION**

8 **(Breach of Contract Against Milliman)**

9 371. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
10 paragraphs as if fully set forth herein.

11 372. Milliman and Hospitality Health entered into a valid and enforceable contract - the  
12 Consulting Services Agreement - that required Milliman to perform professional actuarial services.

13 373. A provision of the Consulting Services Agreement states, "Milliman will perform all  
14 services in accordance with applicable professional standards."

15 374. Plaintiff was assigned all rights benefits and interests in the Consulting Services  
16 Agreement by Hospitality Health.

17 375. Milliman failed to perform under the Consulting Services Agreement by failing to  
18 perform actuarial services as required under applicable professional and statutory standards, as  
19 detailed above.

20 376. Plaintiff performed or was excused from performance under the Consulting Services  
21 Agreement.

22 377. As a direct and proximate result of Milliman's conduct, Plaintiff has suffered  
23 damages in an amount in excess of fifteen thousand dollars (\$15,000).

24 378. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
25 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
26 incurred herein.

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**NINTH CAUSE OF ACTION**

**(Tortious Breach of the Implied Covenant Against Milliman)**

379. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

380. Milliman and Hospitality Health entered into a valid and enforceable contract - the Consulting Services Agreement - that required Milliman to perform professional actuarial services.

381. Plaintiff was assigned all rights benefits and interests in the Consulting Services Agreement by Hospitality Health.

382. Milliman owed a duty of good faith to Plaintiff arising from the contract.

383. A special element of reliance or fiduciary duty existed between Plaintiff and Milliman where Milliman was in a superior or trusted position.

384. Milliman breached the duty of good faith by engaging in misconduct in a manner that was unfaithful to the purpose of the Consulting Services Agreement, by failing to perform in accordance with statutory and professional standards as set forth herein.

385. As a direct and proximate result of Milliman's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

386. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

**TENTH CAUSE OF ACTION**

**(Breach of the Implied Covenant of Good Faith and Fair Dealing Against Milliman)**

387. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

388. Milliman and Hospitality Health entered into a valid and enforceable contract - the Consulting Services Agreement - which required Milliman to perform professional actuarial services.

389. Plaintiff was assigned all rights benefits and interests in the Consulting Services Agreement by Hospitality Health.



8           400. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
9 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
10 incurred herein.

**(Unjust Enrichment Against Milliman)**

15           402. Milliman was paid over \$1 million for actuarial services that were to be performed in  
16 accordance with statutory and professional standards.

17           403. Despite failure to provide such services in accordance with statutory and professional  
18 standards, Milliman unjustly retained the fees paid to it for such services against fundamental  
19 principles of justice, equity, and good conscience.

404. As a direct and proximate result of Milliman's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

22           405. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
23 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
24 incurred herein.

**(Civil Conspiracy Against Milliman Defendants)**

27           406. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
28 paragraphs as if fully set forth herein.



1 DOI insurance regulators, which they knew to be false and not in accordance with required statutory  
2 and professional standards.

3 414. The Milliman Defendants knew that their actions were inherently dangerous or posed  
4 a substantial risk of harm to others in that their actions could affect and disrupt the medical care of  
5 NHC's members and insured enrollees.

6 415. The Milliman Defendants' actions did affect and disrupt the medical care of NHC's  
7 members and enrolled insured.

8 416. As a direct and proximate result of the Milliman Defendants' conduct, Plaintiff has  
9 suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

10 417. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
11 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
12 incurred herein.

13 **CAUSES OF ACTION RELATED TO MILLENNIUM DEFENDANTS**

14 **FIFTEENTH CAUSE OF ACTION**

15 **(Professional Malpractice Against Millennium)**

16 418. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
17 paragraphs as if fully set forth herein.

18 419. Millennium was engaged by NHC and was responsible for providing professional  
19 accounting services to NHC.

20 420. Such services included, but were not limited to, preparing and filing the NHC  
21 Annual Reports, quarterly reports, and other reports as listed herein.

22 421. Services to be performed by Millennium included the preparation of financial  
23 statements, participating in the drafting of the year 2014 Management & Discussion and Analysis  
24 that was filed with the Nevada DOI insurance regulators, evaluating general ledger entries to ensure  
25 that statutory accounting and reporting principles and rules were followed, and recommending any  
26 adjustments to adhere to statutory accounting and reporting rules prescribed by the State of Nevada.

27 422. Millennium had a duty to use such skill, prudence, and diligence as other members  
28 of the profession commonly possess and exercise.

3           424. As a direct and proximate result of Millennium's conduct, Plaintiff has suffered  
4 damages in an amount in excess of fifteen thousand dollars (\$15,000).

425. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

## SIXTEENTH CAUSE OF ACTION

### **(Intentional Misrepresentation (Fraud) Against Millennium)**

9            426. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
10 paragraphs as if fully set forth herein.

427. Throughout the time that Millennium performed services for NHC, Millennium represented that it was performing such services in accordance with applicable statutory, professional, and contractual standards.

14            428. Millennium knew or believed that its representations as stated above, were false, or  
15 Millennium had an insufficient basis of information for making such representations.

16 429. Plaintiff justifiably relied upon Millennium's representations.

430. As a direct and proximate result of Millennium's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

431. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

## SEVENTEENTH CAUSE OF ACTION

**(Negligent Misrepresentation Against Millennium)**

432. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

26            433. Millennium, in the course of action in which it had a pecuniary interest, failed to  
27 exercise reasonable care or competence in obtaining or communicating information to Plaintiff, as  
28 set forth above.

1 434. Such information included, without limitation, that the accounting services of  
2 Millennium were performed in accordance with applicable standards and that the information  
3 contained in the reports prepared by Millennium on NHC was accurate.

4 435. Plaintiff justifiably relied on the information it received.

5 436. As a direct and proximate result of Millennium's conduct, Plaintiff has suffered  
6 damages in an amount in excess of fifteen thousand dollars (\$15,000).

7 437. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
8 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
9 incurred herein.

#### 10 **EIGHTEENTH CAUSE OF ACTION**

##### 11 **(Negligence Against Millennium)**

12 438. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
13 paragraphs as if fully set forth herein.

14 439. Millennium owed a duty of care to Plaintiff, including the duty to perform its work  
15 in accordance with applicable statutory and professional and contractual standards.

16 440. As detailed above, by failing to perform to applicable statutory, professional, and  
17 contractual standards, Millennium breached that duty.

18 441. The breach was the legal cause of Plaintiff's injuries.

19 442. As a direct and proximate result of Millennium's conduct, Plaintiff has suffered  
20 damages in an amount in excess of fifteen thousand dollars (\$15,000).

21 443. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
22 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
23 incurred herein.

#### 24 **NINETEENTH CAUSE OF ACTION**

##### 25 **(Breach of Contract Against Millennium)**

26 444. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
27 paragraphs as if fully set forth herein.

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1 445. Millennium and NHC entered into a valid and enforceable contract - the January 7,  
2 2015 Service Agreement - that required Millennium to perform professional accounting and  
3 consulting services.

4 446. Provisions of the Service Agreement provided for Millennium to perform all services  
5 in accordance with applicable professional, statutory, and contractual standards.

6 447. Millennium failed to perform accounting and consulting services as required under  
7 applicable professional, statutory and contractual standards.

8 448. Plaintiff performed or was excused from performance under the Services Agreement.

9 449. As a direct and proximate result of Millennium's conduct, Plaintiff has suffered  
10 damages in an amount in excess of fifteen thousand dollars (\$15,000).

11 450. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
12 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
13 incurred herein.

#### 14 **TWENTIETH CAUSE OF ACTION**

##### 15 **(Tortious Breach of the Implied Covenant Against Millennium)**

16 451. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
17 paragraphs as if fully set forth herein.

18 452. Millennium and NHC entered into a valid and enforceable contract - the January 7,  
19 2015 Service Agreement - that required Millennium to perform professional accounting and  
20 consulting services.

21 453. Under applicable law, the Service Agreement contains an implied covenant of good  
22 faith and fair dealing among all parties.

23 454. A special element of reliance or fiduciary duty existed between Plaintiff and  
24 Millennium where Millennium was in a superior or trusted position.

25 455. In failing to perform in accordance with statutory and professional standards as set  
26 forth herein, Millennium breached the duty of good faith and engaged in misconduct in a manner  
27 that was unfaithful to the purpose of the Service Agreement.

28 ///



1           466. Such services included, but were not limited to, preparing and filing the NHC  
2 Annual Reports, quarterly reports, and other reports as listed herein, and it assisted with the  
3 preparation of the 2014 Management Discussion & Analysis that was reported to the Nevada DOI  
4 insurance regulators.

5           467. Services to be performed by Millennium also included evaluating general ledger  
6 entries to ensure that statutory accounting and reporting principles had been followed, and  
7 recommending any adjustments so as to adhere to statutory accounting and reporting rules  
8 prescribed by the State of Nevada.

9           468. Millennium knew or should have recognized these undertakings as being necessary  
10 for the protection of NHC's members, NHC's enrolled insured, NHC's creditors, and the State of  
11 Nevada.

12           469. By agreeing to perform the accounting and consulting services detailed above,  
13 Millennium undertook to perform a duty owed by NHC to its members, enrolled insureds, creditors,  
14 and regulators and to act in accordance with statutory and professional standards.

15           470. Millennium's failure to exercise reasonable care in performing its services, including  
16 Millennium's failure to perform accounting services in accordance with applicable standards as  
17 detailed herein and misreporting of financial information and reports, increased the risk of harm to  
18 NHC, NHC's customers and vendors, and the State of Nevada, and it unnecessarily prolonged, and  
19 it led to, the continued and unjustified existence of NHC.

20           471. As a direct and proximate result of Millennium's conduct, Plaintiff has suffered  
21 damages in an amount in excess of fifteen thousand dollars (\$15,000).

22           472. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
23 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
24 incurred herein.

25                                   **TWENTY-THIRD CAUSE OF ACTION**

26                                   **(Unjust Enrichment Against Millennium)**

27           473. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
28 paragraphs as if fully set forth herein.

1 474. Millennium was paid for accounting and consulting services that were to be  
2 performed in accordance with professional, statutory, and contractual standards.

3 475. Despite not providing such services in accordance with professional, statutory, and  
4 contractual standards, and against fundamental principles of justice, equity, and good conscience,  
5 Millennium unjustly retained the fees paid to it for such services.

6 476. As a direct and proximate result of Millennium's conduct, Plaintiff has suffered  
7 damages in an amount in excess of fifteen thousand dollars (\$15,000).

8 477. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
9 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
10 incurred herein.

11 **CAUSES OF ACTION RELATED TO LARSON DEFENDANTS**

12 **TWENTY-FOURTH CAUSE OF ACTION**

13 **(Negligence Per Se - Violation of NRS 628.435 Against Larson Defendants)**

14 478. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
15 paragraphs as if fully set forth herein.

16 479. NRS 628.435 requires, in part, that a CPA comply with all professional standards for  
17 accounting and documentation related to an audit applicable to a particular engagement.

18 480. Plaintiff, and those represented by Plaintiff, including the members of NHC, NHC's  
19 insured enrollees, NHC's vendors, NHC, and the State of Nevada, belong to a class of persons that  
20 NRS 628.435 was designed to protect.

21 481. The Larson Defendants undertook to perform audits of NHC.

22 482. As a result, the Larson Defendants were subject to the minimum standards as set  
23 forth in NRS 628.435.

24 483. As set forth above, the Larson Defendants violated NRS 628.435 by failing to  
25 perform their duties as CPAs in accordance with the minimum statutory and applicable professional  
26 standards required.

27 484. Plaintiff's injury was the type against which NRS 628.435 was intended to protect.

28 ///

486. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

## **TWENTY-FIFTH CAUSE OF ACTION**

**(Professional Malpractice Against Larson Defendants)**

8            487. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
9 paragraphs as if fully set forth herein.

10            488. The Larson Defendants were engaged by NHC or were responsible for providing  
11 professional accounting and auditing services to NHC.

489. Such services included but were not limited to auditing the books and records of NHC for the years ended December 31, 2013 and 2014 and its Management Discussion & Analysis for those years, and providing the audit opinions set forth in related reports, including the Audit Report Concerning NHC's December 31, 2014 and 2015 Financial Statements, The Reports of Independent Certified Public Accountants required by OMB Circular A-133, Independent Auditor's Report on Compliance for each Major Program, and Report on Internal Control Over Compliance Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards.

490. The Larson Defendants had a duty to use such skill, prudence, and diligence as other members of the profession commonly possess and exercise.

491. As detailed above, the Larson Defendants breached that duty by failing to comply with applicable statutory and professional standards.

492. As a direct and proximate result of the Larson Defendants' conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

493. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

**TWENTY-SIXTH CAUSE OF ACTION**

**(Intentional Misrepresentation (Fraud) Against Larson Defendants)**

494. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

495. On or about May 29, 2014, Larson issued its audit report concerning NHC's December 31, 2013 financial statements.

496. On or about June 1, 2015, Larson issued its audit report concerning NHC's December 31, 2014 and 2015 Financial Statements.

497. The audit reports contained the following statements:

- a) We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.
- b) We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our qualified audit opinion.
- c) In our opinion, the statutory financial statements referred to above present fairly, in all material respects, the admitted assets, liabilities, and capital and surplus of Nevada Health Co-Op as of December 31, 2014, and 2013, and the results of its operations and its cash flow for the years then ended, in accordance with the financial reporting provisions of the Nevada DOI described in Note 1.
- d) In our opinion, the [Supplementary] information is fairly stated in all material respects in relation to the financial statements taken as a whole.

498. On or about June 1, 2015, Larson issued its report entitled The Reports of Independent Certified Public Accountants required by OMB Circular A-133.

499. These reports included an "Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards," and an "Independent Auditor's Report on Compliance for each Major Program; Report on Internal Control Over Compliance; and Report on Schedule of Expenditures of Federal Awards Required by OMB Circular A-133."

1           500. The “Independent Auditor’s Report on Internal Control over Financial Reporting and  
2 on Compliance and Other Matters Based on an Audit of Financial Statements Performed in  
3 Accordance with Government Auditing Standards” contained the following statements:

- 4           a) We have audited, in accordance with the auditing standards generally  
5 accepted in the United States of America and the standards applicable  
6 to financial audits contained in Government Auditing Standards issued  
7 by the Comptroller General of the United States, the statutory financial  
8 statements of Nevada Health Co-Op (the Co-Op) (a nonprofit  
9 organization), which comprise the statement of financial position as of  
10 December 31, 2014, and the related statutory financial statements of  
11 activities, and cash flows for the year then ended, and the related notes  
12 to the statutory financial statements, and have issued our report  
13 thereon dated June 1, 2015.
- 14           b) ... during our audit we did not identify any deficiencies in internal  
15 control that we consider to be material weaknesses.
- 16           c) As part of obtaining reasonable assurance about whether the Co-Op’s  
17 financial statements are free from material misstatement, we  
18 performed tests of its compliance with certain provisions of laws,  
19 regulations, contracts, and grant agreements, noncompliance with  
20 which could have a direct and material effect on the determination of  
21 financial statement amounts.
- 22           d) The results of our tests disclosed no instances of noncompliance or  
23 other matters that are required to be reported under Government  
24 Auditing Standards.

25           501. The “Independent Auditor’s Report on Compliance for each Major Program; Report  
26 on Internal Control Over Compliance; and Report on Schedule of Expenditures of Federal Awards  
27 Required by OMB Circular A-133” contained the following statements:

- 28           a) We believe that our audit provides a reasonable basis for our opinion  
on compliance for each major federal program.
- b) In our opinion, the Co-Op complied, in all material respects, with the  
types of compliance requirements referred to above that could have a  
direct and material effect on each of its major federal programs for the  
year ended December 31, 2014.
- c) In planning and performing our audit of compliance, we considered  
the Co-Op’s internal control over compliance with the types of  
requirements that could have a direct and material effect on each major  
federal program to determine the auditing procedures that are  
appropriate in the circumstances for the purpose of expressing an

opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with OMB Circular A-133.

- d) We did not identify any deficiencies in internal control over compliance that we considered to be material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses.
- e) We have audited the statutory financial statements of the Co-Op, as of and for the year ended December 3, 2014, and the related notes to the statutory financial statements. We issued our report thereon dated June 1, 2015, which contained an unmodified opinion on those statutory financial statements.
- f) The [Schedule of Expenditures for Financial Awards] has been subjected to the auditing procedures applied in the audit of the statutory financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of expenditures of federal awards is fairly stated in all material respects in relation to the statutory financial statements as a whole.

502. The Larson Defendants knew or believed that their representations as stated above, were false, or that the Larson Defendants had an insufficient basis of information for making the representations.

503. Plaintiff justifiably relied upon the Larson Defendants' representations.

504. As a direct and proximate result of the Larson Defendants' conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

505. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

## **TWENTY-SEVENTH CAUSE OF ACTION**

### **(Negligent Misrepresentation Against Larson Defendants)**

506. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

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1            507. The Larson Defendants, in the course of action in which they had a pecuniary  
2 interest, failed to exercise reasonable care or competence in obtaining or communicating  
3 information to Plaintiff as set forth above.

4           508. Such information included, without limitation, that the accounting and auditing  
5 services of the Larson Defendants were performed in accordance with applicable standards and  
6 other information contained in the reports of the Larson Defendants on NHC, as set forth herein.

7            509. Plaintiff justifiably relied on this information it received.

510. As a direct and proximate result of the Larson Defendants' conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

511. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

**TWENTY-EIGHTH CAUSE OF ACTION**

**(Negligence Against Larson Defendants)**

512. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

513. The Larson Defendants owed a duty of care to Plaintiff, including the duty to perform their work in accordance with applicable statutory and professional standards.

514. As detailed above, by failing to perform to applicable statutory and professional standards, the Larson Defendants breached that duty.

21            515. The breach was the legal cause of Plaintiff's injuries.

516. As a direct and proximate result of the Larson Defendants' conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

517. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

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**TWENTY-NINTH CAUSE OF ACTION**

**(Breach of Contract Against Larson)**

518. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

519. Larson and NHC entered into two valid and enforceable contracts - the 2013 and the 2014 Engagement Letters - that required Larson to perform professional accounting and auditing services.

520. Provisions of the Engagement Letters provided for Larson to perform all services in accordance with applicable professional standards.

521. Larson failed to perform under the Engagement Letters by failing to perform accounting and auditing services as required under applicable professional and statutory standards, as detailed above.

522. Plaintiff performed or was excused from performance under the Engagement Letters.

523. As a direct and proximate result of Larson's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

524. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

**THIRTIETH CAUSE OF ACTION**

**(Tortious Breach of the Implied Covenant Against Larson)**

525. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

526. Larson and NHC entered into two valid and enforceable contracts - the 2013 and the 2014 Engagement Letters - that required Defendant to perform professional accounting and auditing services.

527. Under applicable law, the Engagement Letters contain an implied covenant of good faith and fair dealing among all parties.

528. A special element of reliance or fiduciary duty existed between Plaintiff and Larson where Larson was in a superior or trusted position.

530. As a direct and proximate result of Larson's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

531. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

10 **(Breach of the Implied Covenant of Good Faith and Fair Dealing Against Larson)**

532. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

533. Larson and NHC entered into two valid and enforceable contracts - the 2013 and the 2014 Engagement Letters - that required Defendant to perform professional accounting and auditing services.

534. Under applicable law, the Engagement Letters contain an implied covenant of good faith and fair dealing among all parties.

535. Larson, by failing to follow applicable professional and statutory standards as set forth herein, breached that duty by performing in a manner that was unfaithful to the purpose of the Engagement Letters.

536. As a direct and proximate result of Larson's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

537. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

26 **(Negligent Performance of an Undertaking Against Larson Defendants)**

538. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

1           539. The Larson Defendants undertook to provide accounting and auditing services,  
2 including but not limited to examining the books and records of NHC.

3           540. Such services included but were not limited to auditing the books and records of  
4 NHC for the years ended December 31, 2013 and 2014 and its Management Discussion & Analysis  
5 for those years, and providing the audit opinions set forth in related reports, including the Audit  
6 Report concerning NHC's December 31, 2014 and 2015 Financial Statements, The Reports of  
7 Independent Certified Public Accountants required by OMB Circular A-133, Independent Auditor's  
8 Report on Compliance for each Major Program, and Report on Internal Control Over Compliance  
9 Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and  
10 Other Matters Based on an Audit of Financial Statements Performed in Accordance with  
11 Government Auditing Standards.

12           541. The Larson Defendants knew or should have recognized these undertakings as  
13 necessary for the protection of NHC's members, NHC's enrolled insured, NHC's creditors, and the  
14 State of Nevada.

15           542. By performing the accounting and auditing services detailed above, the Larson  
16 Defendants undertook to perform a duty owed by NHC to its members, enrolled insureds, creditors,  
17 and regulators to act in accordance with statutory and professional standards.

18           543. The Larson Defendants' failure to exercise reasonable care in performing its  
19 services, including the Larson Defendants' failure to perform accounting and auditing services in  
20 accordance with applicable standards as detailed herein, increased the risk of harm to NHC, NHC's  
21 customers and vendors, and the State of Nevada.

22           544. As a direct and proximate result of the Larson Defendants' conduct, Plaintiff has  
23 suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

24           545. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
25 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
26 incurred herein.

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**THIRTY-THIRD CAUSE OF ACTION**

**(Unjust Enrichment Against Larson)**

546. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

547. Larson was paid for accounting and auditing services that were to be performed in accordance with statutory and professional standards.

548. Despite failing to provide such services in accordance with statutory and professional standards, Larson unjustly retained the fees paid to it for such services against fundamental principles of justice, equity, and good conscience.

549. As a direct and proximate result of Larson's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

550. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

**CAUSES OF ACTION RELATED TO INSUREMONKEY DEFENDANTS**

**THIRTY-FOURTH CAUSE OF ACTION**

**(Intentional Misrepresentation/Fraud in the Inducement Against InsureMonkey Defendants)**

551. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

552. From April through September 2013, InsureMonkey's officers, directors, and agents - including its CEO Rivlin - represented to NHC that they had the necessary skill, experience, and expertise to handle all aspects of the customer and members' services contemplated by the parties' potential agreements in a competent and professional manner.

553. Throughout the course of dealing with NHC, the InsureMonkey Defendants also misrepresented the number of customers obtained by InsureMonkey's marketing efforts and the number of insured enrollees in order to obtain additional fees and income that InsureMonkey had not earned.

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572. As a direct and proximate result of the InsureMonkey Defendants' conduct, NHC has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

5            573. In committing the acts herein above alleged, the InsureMonkey Defendants are guilty  
6 of oppression, fraud, and malice towards NHC. Therefore, NHC is entitled to recover punitive  
7 damages from the InsureMonkey Defendants for the purpose of deterring them and others similarly  
8 situated from engaging in like conduct in the future.

574. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

### THIRTY-SEVENTH CAUSE OF ACTION

**(Breach of Fiduciary Duty Against InsureMonkey)**

14            575. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
15 paragraphs as if fully set forth herein.

16           576. A fiduciary duty existed between NHC and InsureMonkey wherein InsureMonkey  
17 was in a superior or trusted position as set forth herein.

577. InsureMonkey breached that duty by failing to perform minimum professional standards and by otherwise providing misleading and inaccurate information as set forth above.

578. As a direct and proximate result of InsureMonkey's conduct, NHC has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

579. In committing the acts herein above alleged, InsureMonkey is guilty of oppression, fraud, and malice towards NHC. Therefore, NHC is entitled to recover punitive damages from InsureMonkey for the purpose of deterring it and others similarly situated from engaging in like conduct in the future.

580. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.



**THIRTY-EIGHTH CAUSE OF ACTION**

**(Negligence Against InsureMonkey)**

581. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

582. InsureMonkey owed a duty of care to NHC, including the duty to perform its work in accordance with industry standards and to not provide misleading or otherwise inaccurate information upon which it intended for and knew NHC would rely.

583. As detailed above, by failing to perform to applicable professional standards, InsureMonkey breached that duty.

584. The breach was the legal cause of NHC's injuries.

585. As a direct and proximate result of InsureMonkey's conduct, NHC has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

586. In committing the acts herein above alleged, InsureMonkey is guilty of oppression, fraud, and malice towards NHC. Therefore, NHC is entitled to recover punitive damages from InsureMonkey for the purpose of deterring it and others similarly situated from engaging in like conduct in the future.

587. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

**THIRTY-NINTH CAUSE OF ACTION**

**(Breach of Contract Against InsureMonkey)**

588. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

589. InsureMonkey and NHC entered into a series of valid and enforceable contracts as set forth herein.

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590. InsureMonkey failed to perform under the various agreements as set forth herein, including, but not limited to, the 2013 Master Services Agreement, the 2013 Customer Service MOU, and the Master Agreement, by failing to provide the services contemplated therein in a reasonable and satisfactory manner, as detailed above.

591. NHC performed or was excused from performance with respect to all of the agreements set forth and detailed above. Such performance included paying InsureMonkey in excess of \$9.4 million for services rendered.

592. As a direct and proximate result of InsureMonkey's conduct, NHC has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

593. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

#### **FORTIETH CAUSE OF ACTION**

##### **(Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing Against InsureMonkey)**

594. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

595. InsureMonkey and NHC entered into a series of valid and enforceable contracts as set forth herein.

596. InsureMonkey owed a duty of good faith to Plaintiff arising from such contracts.

597. A special element of reliance or fiduciary duty existed between Plaintiff and InsureMonkey wherein InsureMonkey was in a superior or trusted position.

598. InsureMonkey breached the duty of good faith by engaging in misconduct in a manner that was unfaithful to the purpose of the agreements described herein, by failing to perform in accordance with basic, minimum professional standards as set forth herein, including, but not limited to, providing intentionally false and/or misleading and faulty sales, enrollment, and eligibility data, upon which it intended for NHC to rely.

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3           600. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
4 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
5 incurred herein.

**FORTY-FIRST CAUSE OF ACTION**

**(Breach of the Implied Covenant of Good Faith and Fair Dealing Against InsureMonkey)**

8           601. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
9 paragraphs as if fully set forth herein.

10           602. InsureMonkey and NHC entered into a series of valid and enforceable contracts as  
11 set forth herein.

12 603. InsureMonkey owed a duty of good faith to Plaintiff arising from such contracts.

13           604. Under applicable law, these agreements contained an implied covenant of good faith  
14 and fair dealing among all parties.

605. InsureMonkey breached the duty of good faith by engaging in misconduct in a manner that was unfaithful to the purpose of the agreements described herein, by failing to perform in accordance with basic, minimum professional standards as set forth herein, including, but not limited to, providing intentionally false and/or misleading and faulty sales, enrollment, and eligibility data, upon which it intended for NHC to rely.

606. As a direct and proximate result of InsureMonkey's conduct, NHC has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

607. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

## FORTY-SECOND CAUSE OF ACTION

**(Negligent Performance of an Undertaking Against InsureMonkey)**

27           608. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
28 paragraphs as if fully set forth herein.

609. InsureMonkey undertook to provide certain services related to tracking and reporting enrollment and eligibility data on behalf of NHC, to provide that information to both NHC and CMS for purposes of calculating certain amounts owed by NHC, to be received by NHC, or for other purposes.

610. InsureMonkey knew or should have recognized that these undertakings were necessary for the protection of NHC's members, NHC's enrolled insured, NHC's creditors, and the State of Nevada.

611. By performing the services detailed above, InsureMonkey undertook to perform a duty owed by NHC to its members, enrolled insureds, creditors, and regulators to act in accordance with statutory and professional standards, and to properly track and report enrollment and eligibility data.

612. InsureMonkey's failure to exercise reasonable care in performing its services increased the risk of harm to NHC, NHC's customers and vendors, and the State of Nevada.

613. As a direct and proximate result of InsureMonkey's conduct, NHC has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

614. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

#### **FORTY-THIRD CAUSE OF ACTION**

#### **(Unjust Enrichment Against InsureMonkey)**

615. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

616. InsureMonkey was paid over \$9.4 million for services that were to be performed in accordance with certain professional and industry standards.

617. Despite its failure to provide such services and/or not providing the quality of services required, InsureMonkey unjustly retained the fees paid to it for such services against fundamental principles of justice, equity, and good conscience.

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619. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

**FORTY-FOURTH CAUSE OF ACTION**

**(Negligent Hiring, Training, Supervision, and Retention Against InsureMonkey)**

620. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

621. InsureMonkey owed a duty to exercise due care towards NHC in all of its dealings in providing the services contemplated by their various agreements, including, but not limited to, the Master Agreement.

13           622. InsureMonkey breached that duty by failing to provide services to satisfy minimum  
14 industry standards and practices.

623. InsureMonkey's failure to properly hire, train, and supervise its employees and agents to ensure that they acted in a competent and professional manner and with the requisite skill and expertise necessary to perform and complete the work was a direct and proximate cause of NHC's injuries as set forth herein.

624. InsureMonkey's decision to provide inadequate training and to hire and retain certain employees who were unsatisfactory and unable to fulfill InsureMonkey's obligations and responsibilities to NHC was the direct and proximate cause of NHC's injuries as set forth herein.

625. As detailed above, by failing to perform to applicable professional and industry standards, InsureMonkey breached that duty.

24            626.    The breach was the legal cause of Plaintiff's injuries.

627. InsureMonkey knew or should have known that the employees and agents it had hired were unfit for their positions and would likely cause harm to third parties when placed in the positions in which InsureMonkey placed them.

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628. As a direct and proximate result of InsureMonkey's conduct, NHC has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

629. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

## **CAUSES OF ACTION RELATED TO NHS**

### **FORTY-FIFTH CAUSE OF ACTION**

#### **(Professional Malpractice Against NHS)**

630. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

631. NHS was engaged by NHC and was responsible for providing professional medical utilization management and member eligibility review services to NHC.

632. Such services included, but were not limited to performing evaluations of appropriateness and medical necessity of health care services, procedures and facilities; performing precertification of hospital admissions and outpatient procedures; processing information related to in-hospital observations; providing concurrent reviews for inpatient acute care, rehabilitation and long term acute care; providing discharge planning; performing provider appeal reviews; and performing member eligibility review, along with other services, as listed herein.

633. NHS had a duty to use such skill, prudence, and diligence as other members of the profession commonly possess and exercise.

634. As detailed above, NHS breached that duty by failing to comply with applicable contractual, professional and industry standards.

635. As a direct and proximate result of NHS's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

636. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

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**FORTY-SIXTH CAUSE OF ACTION**

**(Intentional Misrepresentation (Fraud) Against NHS)**

637. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

638. Throughout the time that NHS performed services for NHC, NHS represented that it was performing such services, and that such services were being performed in accordance with applicable statutory, professional, and contractual standards.

639. NHS knew or believed that its representations as stated above, were false, or NHS had an insufficient basis of information for making such representations.

640. Plaintiff justifiably relied upon NHS's representations.

641. As a direct and proximate result of NHS's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

642. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

**FORTY-SEVENTH CAUSE OF ACTION**

**(Negligent Misrepresentation Against NHS)**

643. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

644. NHS, in the course of action in which it had a pecuniary interest, failed to exercise reasonable care or competence in obtaining or communicating information to Plaintiff, as set forth above.

645. Such information included, without limitation, that the services of NHS were performed in accordance with applicable standards and that the information contained in the reports prepared by NHS was accurate.

646. Plaintiff justifiably relied on the information it received.

647. As a direct and proximate result of NHS's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

1           648. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
2 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
3 incurred herein.

4                                   **FORTY-EIGHTH CAUSE OF ACTION**

5                                   **(Negligence Against NHS)**

6           649. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
7 paragraphs as if fully set forth herein.

8           650. NHS owed a duty of care to Plaintiff, including the duty to perform its work in  
9 accordance with applicable statutory and professional and contractual standards.

10          651. As detailed above, by failing to perform to applicable statutory, professional, and  
11 contractual standards, NHS breached that duty.

12          652. The breach was the legal cause of Plaintiff's injuries.

13          653. As a direct and proximate result of NHS's conduct, Plaintiff has suffered damages in  
14 an amount in excess of fifteen thousand dollars (\$15,000).

15          654. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
16 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
17 incurred herein.

18                                   **FORTY-NINTH CAUSE OF ACTION**

19                                   **(Breach of Contract Against NHS)**

20          655. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
21 paragraphs as if fully set forth herein.

22          656. NHS and NHC entered into a valid and enforceable contract - the July 19, 2013  
23 Utilization Management Services Agreement - that required NHS to perform professional medical  
24 utilization management and member eligibility review services.

25          657. Provisions of the Utilization Agreement provided for NHS to perform all services in  
26 accordance with applicable professional, statutory, and contractual standards.

27          658. NHS failed to perform accounting and consulting services as required under  
28 applicable professional, statutory and contractual standards.



659. Plaintiff performed or was excused from performance under the Utilization Agreement.

660. As a direct and proximate result of NHS's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

661. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

#### **FIFTIETH CAUSE OF ACTION**

##### **(Tortious Breach of the Implied Covenant Against NHS)**

662. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

663. NHS and NHC entered into a valid and enforceable contract - the July 19, 2013 Utilization Management Services Agreement - that required NHS to perform professional medical utilization management and member eligibility review services.

664. Under applicable law, the Utilization Agreement contains an implied covenant of good faith and fair dealing among all parties.

665. A special element of reliance or fiduciary duty existed between Plaintiff and NHS where NHS was in a superior or trusted position.

666. In failing to perform in accordance with contractual, statutory and professional standards as set forth herein, NHS breached the duty of good faith and engaged in misconduct in a manner that was unfaithful to the purpose of the Service Agreement.

667. As a direct and proximate result of NHS's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

668. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

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**FIFTY-FIRST CAUSE OF ACTION**

**(Breach of the Implied Covenant of Good Faith and Fair Dealing Against NHS)**

669. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

670. NHS and NHC entered into a valid and enforceable contract - the July 19, 2013 Utilization Management Services Agreement - that required NHS to perform professional medical utilization management and member eligibility review services.

671. Under applicable law, the Utilization Agreement contains an implied covenant of good faith and fair dealing among all parties.

672. NHS, by failing to follow applicable contractual, professional and statutory standards as set forth herein, breached that duty by performing in a manner that was unfaithful to the purpose of the Utilization Agreement.

673. As a direct and proximate result of NHS's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

674. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

**FIFTY-SECOND CAUSE OF ACTION**

**(Negligent Performance of an Undertaking Against NHS)**

675. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

676. NHS undertook to provide medical utilization management and member eligibility review services.

677. Such services included, but were not limited to performing evaluations of appropriateness and medical necessity of health care services, procedures and facilities; performing precertification of hospital admissions and outpatient procedures; processing information related to in-hospital observations; providing concurrent reviews for inpatient acute care, rehabilitation and long term acute care; providing discharge planning; performing provider appeal reviews; and performing member eligibility review, along with other services, as listed herein.



687. Upon information and belief, UHH was the owner of NHS. UHH was being paid to process and adjudicate claims of NHC, and then it was being paid again through NHS to do a quality control review check of the very claims that UHH processed, which also resulted in NHC being unjustly compensated. NHS also had a conflict of interest, or the appearance of a conflict of interest, by being engaged to provide a quality control review of claim services provided by its parent company, UHH, resulting in unjust compensation to NHS.

688. As a direct and proximate result of NHS's conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

689. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

## **CAUSES OF ACTION RELATED TO MANAGEMENT DEFENDANTS**

### **FIFTY-FOURTH CAUSE OF ACTION**

#### **(Breach of Fiduciary Duty Against Management Defendants)**

690. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

691. As officers and directors of NHC, the Management Defendants, and each of them, owed duties of good faith and loyalty to act in the best interests of NHC.

692. Each of the Management Defendants breached his or her duties by failing to act in the best interests of NHC and instead in their own self-serving interests as set forth above.

693. The breaches of fiduciary duties outlined herein involved intentional misconduct, fraud, and/or a knowing violation of the law.

694. As a direct and proximate result of the Management Defendants' conduct, NHC has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

695. In committing the acts herein above alleged, the Management Defendants are guilty of oppression, fraud, and malice towards NHC. Therefore, NHC is entitled to recover punitive damages from the Management Defendants for the purpose of deterring them and others similarly situated from engaging in like conduct in the future.

696. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

**FIFTY-FIFTH CAUSE OF ACTION**

**(Intentional Misrepresentation/Fraud Against Management Defendants)**

697. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

698. On February 28, 2015, and approximately mid-May 2015, the Management Defendants adopted and submitted the 2014 and March 2015 quarterly financial statements for NHC to the Nevada DOI insurance regulators. On or about April 1, 2015, the Management Defendants adopted and submitted a Management Discussion & Analysis that was submitted to the Nevada DOI insurance regulators as to the financial condition and prospective information of NHC.

699. On or about June 1, 2015, the Management Defendants adopted and authorized the release of the Audit Report prepared by Larson concerning NHC's December 31, 2014 and 2015 Financial Statements.

700. The financial statements, Management Discussion & Analysis, and Audit Report contained information that was false and misleading as set forth herein.

701. The Management Defendants knew or believed that their representations as stated above were false, or the Management Defendants had an insufficient basis of information for making the representations.

702. Plaintiff and those represented by Plaintiff justifiably relied upon the Management Defendants' representations contained in NHC's financial statements, Management Discussion & Analysis, and Audit Report.

703. As a direct and proximate result of the Management Defendants' conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

704. In committing the acts herein above alleged, the Management Defendants are guilty of oppression, fraud, and malice towards NHC. Therefore, NHC is entitled to recover punitive damages from the Management Defendants for the purpose of deterring them and others similarly situated from engaging in like conduct in the future.

1           705. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
2 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
3 incurred herein.

4                                   **FIFTY-SIXTH CAUSE OF ACTION**

5                                   **(Negligent Misrepresentation Against Management Defendants)**

6           706. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
7 paragraphs as if fully set forth herein.

8           707. The Management Defendants, in the course of action in which they had a pecuniary  
9 interest, failed to exercise reasonable care or competence in obtaining or communicating  
10 information to Plaintiff as set forth above.

11           708. Such information included, without limitation, that the financial statements and  
12 Management Discussion & Analysis prepared, approved, ratified, or otherwise adopted by the  
13 Management Defendants were truthful, accurate, prepared, and performed in accordance with  
14 applicable standards.

15           709. Such representations involved negligence, intentional misconduct, fraud, and/or a  
16 knowing violation of the law.

17           710. Plaintiff justifiably relied on this information it received.

18           711. As a direct and proximate result of the Management Defendants' conduct, Plaintiff  
19 has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

20           712. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
21 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
22 incurred herein.

23                                   **FIFTY-SEVENTH CAUSE OF ACTION**

24                                   **(Constructive Fraud Against Management Defendants)**

25           713. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
26 paragraphs as if fully set forth herein.

27           714. At all relevant times, the Management Defendants had a fiduciary and/or  
28 confidential relationship with NHC based on the facts alleged herein.

716. The Management Defendants breached that duty by misrepresenting or concealing material facts by preparing, disseminating, and authorizing unreliable and untruthful financial information and a Management Discussion & Analysis concerning NHC and its operations.

717. The Management Defendants' conduct described herein involved intentional misconduct, fraud, and/or a knowing violation of the law.

718. As a direct and proximate result of the Management Defendants' conduct, NHC has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

719. In committing the acts herein above alleged, the Management Defendants are guilty of oppression, fraud, and malice towards NHC. Therefore, NHC is entitled to recover punitive damages from the Management Defendants for the purpose of deterring them and others similarly situated from engaging in like conduct in the future.

720. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

### **FIFTY-EIGHTH CAUSE OF ACTION**

### **(Negligent Performance of an Undertaking Against Management Defendants)**

721. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

722. The Management Defendants undertook to provide certain management and operational services to NHC, knowing that information would be used by NHC and provided to CMS for purposes of calculating certain amounts owed by NHC, to be received by NHC, or for other known purposes.

723. The Management Defendants knew or should have recognized these undertakings as necessary for the protection of NHC's members, NHC's enrolled insured, NHC's creditors, and the State of Nevada.

/ / /

1           724. By performing the services detailed above, the Management Defendants undertook  
2 to perform a duty owed by NHC to its members, enrolled insureds, creditors, and regulators to act in  
3 accordance with statutory and professional standards.

4           725. The Management Defendants' failure to exercise reasonable care in performing its  
5 services increased the risk of harm to NHC, NHC's customers and vendors, and the State of  
6 Nevada.

7           726. The Management Defendants' conduct described herein involved intentional  
8 misconduct, fraud, and/or a knowing violation of the law.

9           727. As a direct and proximate result of the Management Defendants' conduct, NHC has  
10 suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

11           728. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
12 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
13 incurred herein.

#### **FIFTY-NINTH CAUSE OF ACTION**

#### **(Unjust Enrichment Against Management Defendants)**

14           729. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
15 paragraphs as if fully set forth herein.

16           730. Each of the Management Defendants was paid considerable and exorbitant amounts  
17 in compensation, including salary and bonuses without justification, and such compensation was  
18 paid despite the fact that NHC was losing millions of dollars each financial reporting period.

19           731. Management Defendants also engaged NHS to perform utilization review and  
20 management for claims and eligibility status in 2014, and NHC paid substantial fees to NHS for this  
21 service that also included NHS's overhead, out-of-pocket expenses, and taxes. Former Chief  
22 Executive Officer William Donahue claimed that he was unjustly pressured to sign the NHS  
23 engagement agreement. Upon information and belief, Management Director Defendant Kathleen  
24 Silver was President of NHS and UHH was its sole member, and Defendant Kathleen Silver  
25 engaged in self-dealing and was unjustly paid substantial amounts by NHS in this role, or she  
26 allowed UHH to be paid unjust amounts under this agreement. Upon information and belief, little  
27  
28



1 work was provided by NHS for NHC, and NHS compensation was unfairly based on a mechanical  
2 fee of how many total members existed at NHC each month; a fee that bore little to no relation to  
3 services being provided. In 2014, in excess of \$1 million in claims were paid outside of enrollment  
4 when NHS was required but failed to properly perform eligibility status for member claims, with  
5 approximately \$382,968 paid to NHS for it so called utilization management and member eligibility  
6 review services.

7 732. Some of the Management Defendants' compensation was based upon the unreliable  
8 and untruthful financial information prepared by, approved by, and/or ratified by these Management  
9 Defendants, which amounts Management Defendants are continuing to hold in violation of equity  
10 and good conscience.

11 733. In light of the actions set forth herein, such amounts should be disgorged from the  
12 Management Defendants and returned to NHC in the interests of equity.

13 734. The Management Defendants' conduct described herein involved intentional  
14 misconduct, fraud, and/or a knowing violation of the law.

15 735. As a direct and proximate result of the Management Defendants' conduct, NHC has  
16 suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

17 736. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
18 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
19 incurred herein.

## 20 **SIXTIETH CAUSE OF ACTION**

### 21 **(Negligent Hiring, Training, Supervision, and Retention Against Management Defendants)**

22 737. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
23 paragraphs as if fully set forth herein.

24 738. The Management Defendants owed a duty to exercise due care towards NHC in all  
25 of its dealings, in providing management, operational, and supervisory services to NHC.

26 739. The Management Defendants breached their duty by failing to provide services to  
27 satisfy basic, minimum industry standards and practices with respect to hiring, training, supervising  
28 and retaining employees, agents, consultants, and vendors on behalf of NHC.

1           740. The Management Defendants' failure to properly hire, train, and supervise its  
2 employees to ensure that its employees and agents acted in a competent and professional manner  
3 with the requisite skill and expertise necessary to perform and complete the work necessary to fulfill  
4 NHC's business was the direct and proximate cause of NHC's injuries, as set forth herein.

5           741. The Management Defendants' decisions to retain certain employees, agents,  
6 consultants, and vendors who were unsatisfactory and unable to fulfill the Management Defendants'  
7 obligations and responsibilities were the direct and proximate cause of NHC's injuries.

8           742. As detailed above, by failing to perform to applicable professional and industry  
9 standards, the Management Defendants breached that duty.

10          743. The Management Defendants' conduct involved intentional misconduct, fraud,  
11 and/or a knowing violation of the law.

12          744. These actions were the legal cause of Plaintiff's injuries.

13          745. The Management Defendants knew or should have known that the employees, agents,  
14 consultants, and vendors they had hired were unfit for their positions and would likely cause harm to  
15 third parties when placed in the positions in which the Management Defendants placed them.

16          746. As a direct and proximate result of the Management Defendants' conduct, NHC has  
17 suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

18          747. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute  
19 this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

20                                   **SIXTY-FIRST CAUSE OF ACTION**

21                                   **(Breach of Contract Against Management Defendants)**

22          748. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
23 paragraphs as if fully set forth herein.

24          749. Upon information and belief, each of the Management Defendants entered into  
25 enforceable agreements with NHC, including, but not limited to employment agreements and ethics  
26 and conflicts of interest agreements, which contractually provided for Management Defendants to  
27 operate in a fiduciary manner and to exercise the utmost good faith in all transactions involving  
28 their duties and to refrain from conflicts of interest, as set forth above.

1           750. The Management Defendants failed to perform under such agreements as set forth  
2 above.

3           751. Plaintiff performed or was excused from performance under such agreements.

4           752. As a direct and proximate result of the Management Defendants' conduct, Plaintiff  
5 has suffered damages in an amount in excess of fifteen thousand dollars (\$15,000).

6           753. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute  
7 this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

8                           **CAUSES OF ACTION RELATED TO ALL DEFENDANTS**

9                                   **SIXTY-SECOND CAUSE OF ACTION**

10                                   **(Civil Conspiracy Against All Defendants)**

11           754. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
12 paragraphs as if fully set forth herein.

13           755. Defendants acted in concert with each other and with certain of NHC's management  
14 and vendors, including, but not limited to, Milliman, Millennium, Larson, and InsureMonkey, to  
15 falsify operating results and reserves, to conceal internal control weaknesses and other wrongdoing,  
16 and to avoid statutory supervision by their use of untruthful and/or unreliable financial data and  
17 other information they knew to be false and not in accordance with required statutory and  
18 professional standards in order to continue the flow of money to NHC, and subsequently, to the  
19 Management Defendants and NHC's vendors for their own personal gain.

20           756. Defendants' conduct described herein involved intentional misconduct, fraud, and/or  
21 a knowing violation of the law.

22           757. Each of the Defendants are jointly and severally liable for the damages described herein.

23           758. As a direct and proximate result of Defendants' conduct, NHC has suffered damages  
24 in an amount in excess of fifteen thousand dollars (\$15,000).

25           759. In committing the acts herein above alleged, Defendants are guilty of oppression,  
26 fraud, and malice towards NHC. Therefore, NHC is entitled to recover punitive damages from  
27 Defendants for the purpose of deterring them and others similarly situated from engaging in like  
28 conduct in the future.

1           760. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute  
2 this action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

3                                   **SIXTY-THIRD CAUSE OF ACTION**

4                                   **(Concert of Action Against All Defendants)**

5           761. Plaintiff realleges and incorporates all of the allegations contained in the preceding  
6 paragraphs as if fully set forth herein.

7           762. Defendants acted in concert with each other and with certain of NHC's management  
8 and vendors, including, but not limited to, Milliman, Millennium, Larson, and InsureMonkey, to  
9 falsify operating results and reserves, to conceal internal control weaknesses and other wrongdoing,  
10 and to avoid statutory supervision by their use of untruthful and/or unreliable financial data and  
11 other information they knew to be false and not in accordance with required statutory and  
12 professional standards in order to continue the flow of money to NHC, and subsequently, to the  
13 Management Defendants and NHC's vendors for their own personal gain.

14           763. Defendants knew that their actions were inherently dangerous or posed a substantial  
15 risk of harm to others in that their actions could affect and disrupt the medical care of NHC's  
16 members and insured enrollees.

17           764. Defendants' actions did affect and disrupt the medical care of NHC's members and  
18 enrolled insureds.

19           765. The conduct described herein involved intentional misconduct, fraud, and/or a  
20 knowing violation of the law.

21           766. Each of the Defendants are jointly and severally liable for the damages described  
22 herein.

23           767. As a direct and proximate result of Defendants' conduct, NHC has suffered damages  
24 in an amount in excess of fifteen thousand dollars (\$15,000).

25           768. In committing the acts herein above alleged, Defendants are guilty of oppression,  
26 fraud, and malice towards NHC. Therefore, NHC is entitled to recover punitive damages from the  
27 Defendants for the purpose of deterring them and others similarly situated from engaging in like  
28 conduct in the future.

1           769. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to  
2 prosecute this action and is entitled to recover an award of reasonable attorneys' fees and costs  
3 incurred herein.

4                                   **PRAYER FOR RELIEF**

5           WHEREFORE, Plaintiff prays for relief in favor of Plaintiff and against each of the  
6 Defendants, as follows:

- 7           1. For damages in an amount in excess of fifteen thousand dollars (\$15,000);  
8           2. For prejudgment and post-judgment interest;  
9           3. For all attorneys' fees and costs of suit; and  
10          4. For such other and further relief as this Court may deem just and proper.

11          DATED this 25th day of August, 2017.

12                                   GREENBERG TRAURIG, LLP

13                                   /s/ Mark E. Ferrario, Esq.

14                                   MARK E. FERRARIO, ESQ.

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