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**Apr 23 2024**

**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

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**APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas**

**L. Casey Manning, Chief Administrative Judge, Fifth Judicial Circuit**

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2020-CP-4005802

Raymond G. Farmer, as Director of the  
South Carolina Department of Insurance,  
and the South Carolina Department of  
Insurance,

Respondent,

v.

Jessica Altman, as Rehabilitator of Senior  
Health Insurance Company of Pennsylvania,  
Patrick H. Cantilo, as Special Deputy  
Rehabilitator of Senior Health Insurance  
Company of Pennsylvania, and Senior  
Health Insurance Company of Pennsylvania  
in Rehabilitation,

Appellants

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**AGREEMENT TO DISMISS AND TERMINATE LITIGATION**

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Defendants/Appellants, Michael Humphreys, the Insurance Commissioner of Pennsylvania, in his capacity as Statutory Rehabilitator of Senior Health Insurance Company of Pennsylvania; Patrick H. Cantilo, as Special Deputy Rehabilitator of Senior Health Insurance Company of Pennsylvania; and Senior Health Insurance Company of Pennsylvania in Rehabilitation; and Plaintiffs/Respondents, Michael Wise, as Director of the South Carolina Department of Insurance, and the South Carolina Department of Insurance, having recognized the costs, uncertainty, and other burdens and potential impact on South Carolina policyholders of

imposed by further litigation, hereby agree and stipulate to the following terms dismissing, discontinuing, and ending this matter.<sup>1</sup>

1. On December 10, 2020, Plaintiffs/Respondents filed a Complaint for Declaratory and Injunctive Relief against Defendants/Appellants with respect to the receivership and rehabilitation of Senior Health Insurance Company of Pennsylvania (“SHIP”).

2. On January 20, 2022, Chief Administrative Judge L. Casey Manning issued an Order Granting Plaintiffs’ Motion for a Temporary Injunction. Defendants/Appellants timely filed a Notice of Appeal of that order on February 22, 2022.

3. Since that time, the Supreme Court of Pennsylvania affirmed the order of the Commonwealth Court of Pennsylvania approving the rehabilitation plan for SHIP (“Approved Rehabilitation Plan”) and implementation of certain parts of Phase 1. As a result, South Carolina policyholders made certain choices regarding the elections set forth in the Plan.

4. This matter will be terminated, and the appeal will be withdrawn as described below. Plaintiffs/Respondents will not pursue judicial relief related to or arising out of the election and modification process known as Phase 1 of the Approved Rehabilitation Plan for SHIP (“Phase 1 Claims”), including but not limited to judicial relief that purports to enjoin or undo the implementation of Phase 1.

5. Nothing in this Settlement Agreement shall be construed to constitute a waiver, abrogation, or concession or relinquishment of any rights to review and approve forms or to otherwise enforce the laws of the State of South Carolina for the protection of South Carolina

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<sup>1</sup> Michael Humphreys is the successor Commissioner to named Appellant/Defendant Jessica Altman, making him the successor Rehabilitator for Senior Health Insurance Company of Pennsylvania in Rehabilitation as well. Michael Wise is the successor Director of the South Carolina Department of Insurance to named Respondent/Plaintiff Raymond Farmer.

policyholders. The provisions of this Agreement do not apply if Phase 2 of the Rehabilitation Plan or any other subsequent phases of the Plan is implemented. SCDOI asserts and does not waive or release its claims and contentions that it has the right and legal authority alleged in the underlying actions to review and approve insurance rates and policy forms and changes made thereto or that insurers transacting business in this state must file and seek approval of insurance rates and policy form modifications prior to implementation.

6. This Settlement Agreement and any Order entered thereon shall have no precedential value or effect whatsoever and shall not be admissible in any other action or proceeding as evidence or for any other purpose except in an action or proceeding to enforce the terms and conditions of the Settlement Agreement.

7. This Agreement contains the entire understanding of the parties in respect of the subject matter contained in this Agreement and shall not be modified or amended except in writing signed by each party. There are no restrictions, promises, representations, warranties, covenants, or undertakings other than those expressly set forth or referred to in this Agreement. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter, whether written or oral. This Agreement shall not be construed more strictly against one party than the other party merely by virtue of the fact that it has been prepared initially by counsel for one of the parties, it being recognized that each of the parties and their counsel have had a full and fair opportunity to negotiate and review the terms and provisions of this Agreement and to contribute to its substance and form.

8. The appeal in the above-captioned action is hereby withdrawn and the underlying actions from which this appeal emanates (Civil Action 2020-CP-40-05802) are dismissed and discontinued with prejudice pursuant to Rule 41(a) of the South Carolina Rules of Civil Procedure.

9. The dismissal of the matter will be with prejudice with respect to the Phase 1 Claims, subject to any party's right to pursue enforcement of this agreement. The parties agree that any injunctive or similar order entered by the Court of Common Pleas has been or is now dissolved.

10. The dismissal of this matter will be without prejudice with respect to relief related to or arising out of Phase 2 or any other phase of the SHIP receivership. The parties reserve all rights with respect to all other phases of the SHIP receivership.

11. This Agreement does not constitute an appearance in the rehabilitation proceeding or a submission to the jurisdiction of any Pennsylvania court by Plaintiffs/Respondents, nor does it constitute consent by the Rehabilitator, the Special Deputy Rehabilitator, or SHIP with respect to the jurisdictional arguments raised in this matter.

12. This Agreement does not constitute a relinquishment, an admission or concession by either party regarding the claims, arguments or issues presented in this litigation.

13. Each party shall bear its own costs and fees arising out of this litigation at the trial court and appellate levels.

14. Any notices required or sent regarding this Agreement shall be directed to the attention of undersigned counsel.

15. Each party to this Agreement represents and warrants that: a) it has the authority to enter into, execute, and deliver this Agreement; b) that no consent of any other person or entity is required for the execution and effectiveness of this Agreement and c) the execution, delivery, and performance of this Agreement will not violate any other agreement to which the party is a party or which is binding on the party by any applicable law, rule, or regulation, and will not require any consent, approval, or filing other than those expressly identified herein, if any; and d) the party has

not transferred, assigned, released, or compromised any such rights, claims, or causes of action other than by this Agreement.

Respectfully submitted this 23rd day of April, 2024.



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