

DISTRICT COURT, DENVER COUNTY, COLORADO Court Address: 1437 Bannock Street, Rm 256, Denver, CO, 80202	DATE FILED: November 10, 2015 3:43 PM CASE NUMBER: 2015CV33680  <p style="text-align: center;"><b>⚠ COURT USE ONLY ⚠</b></p>
<b>Petitioner(s)</b> MARGUERITE SALAZAR INS COM v. <b>Respondent(s)</b> COLO HEALTH CO OP	
Case Number: 2015CV33680 Division: 269                      Courtroom:	
<b>Order: Proposed Order for Consented to Verified Petition of Rehabilitation of Colorado Health CO-OP          and for the Appointment of Rehabilitator</b>	

The motion/proposed order attached hereto: SO ORDERED.

Issue Date: 11/10/2015



MORRIS B HOFFMAN  
 District Court Judge

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>1437 Bannock Street Denver, CO 80202</p>	
<p><b>PETITIONER</b> MARGUERITE SALAZAR, in her official capacity as the Commissioner of Insurance of the State of Colorado,</p> <p>v.</p> <p><b>RESPONDENT</b> COLORADO HEALTH CO-OP, a Colorado Domestic Insurance Company.</p>	<p>▲ <b>COURT USE ONLY</b> ▲</p>
<p><b>BY THE COURT</b></p>	<p>Case No.: 2015CV33680</p>
<p align="center"><b>PROPOSED ORDER FOR CONSENTED TO VERIFIED PETITION OF REHABILITATION OF COLORADO HEALTH CO-OP AND FOR THE APPOINTMENT OF REHABILITATOR</b></p>	

The above matter comes before the Court upon the Petitioner's Verified Petition for a Consented to Order of Rehabilitation and Appointment of Receiver in Rehabilitation ("Petition") for Colorado Health Insurance Cooperative, Inc., ("CO-OP"), pursuant to §§ 10-3-511(1) and 10-3-512, C.R.S. The Court having considered the Petition, and being fully advised of the premises, does hereby determine and order as follows:

**I. Jurisdiction and Venue**

1. Pursuant to §§ 10-3-504(2) and (5), C.R.S.,<sup>1</sup> this Court has the sole and

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<sup>1</sup> Unless otherwise noted herein, all further statutory citations are to the current version of the Colorado Revised Statutes.

exclusive jurisdiction and venue to entertain, hear or determine the Petition.

## **II. Grounds for Entry of Order to Rehabilitate the CO-OP and for the Appointment of Commissioner as Rehabilitator**

2. On October 21, 2015, the CO-OP's Board of Directors met and waived its right to the administrative hearing set forth in § 10-3-504.5 to present facts as to its condition and to contest the Commissioner's approval for an application to appoint a receiver to rehabilitate the CO-OP.

3. On October 26, 2015, pursuant to § 10-3-504.5, the Commissioner issued a Final Agency Order approving the filing of an application to this Court for the receivership of the CO-OP.

4. For the reasons set forth in the Petition, this Court finds that the entry of an order for the rehabilitation of the CO-OP and for the appointment of the Commissioner as the rehabilitator is necessary and appropriate.

5. As detailed in the Petition, the entry of an order of rehabilitation against Respondent is appropriate pursuant to C.R.S. §§ 10-3-511(1) and 10-3-512 because:

- a. Pursuant to § 10-3-511(1)(a), Respondent is "in such condition that the further transaction of business would be hazardous financially to its policyholders or creditors or to the public;"
- b. Pursuant to § 10-3-511(1)(l), the CO-OP's Board of Directors consented to rehabilitation under Part 5 of Article 3 of Title 10; and
- c. Pursuant to § 10-3-511(1)(m), "Respondent is impaired as defined in section 10-3-212."

## **III. Order**

Wherefore, pursuant to § 10-3-501, *et seq.*, this Court grants the following relief:

6. Pursuant to § 10-3-512, Petitioner Marguerite Salazar, as Commissioner of Insurance for the State of Colorado, is hereby appointed as the Rehabilitator of Respondent.

7. Pursuant to § 10-3-513, the Commissioner is granted the authority to appoint David E. Wilson of Regulatory Services Group with all of the powers of the Rehabilitator, and the Commissioner is granted the authority to employ such counsel, clerks and assistants as deemed necessary to assist the Commissioner with conducting the affairs of the rehabilitation.

8. Pursuant to § 10-3-513, the compensation of David E. Wilson, and any necessary counsel, clerks and assistants that the Commissioner deems necessary to carry forth her duties and responsibilities as the Rehabilitator, is hereby approved at the customary and ordinary rates for such services, which shall be paid out of the funds or assets of the Respondent.

9. The Commissioner, David E. Wilson, and any necessary counsel, clerks or assistants, are granted all the powers set forth in § 10-3-501, *et seq.*, specific to a rehabilitator, including but not limited to, those described in § 10-3-513.

10. In accordance with § 10-3-512, the Rehabilitator is granted the authority to take possession of the CO-OP's assets and to administer the assets under the general supervision of this Court.

11. Pursuant to § 10-3-512(2), the Rehabilitator must make periodic accountings to this Court on a semiannual basis, until otherwise ordered by this Court, which shall include the Rehabilitator's opinion as to the likelihood that a plan under § 10-3-513(4) will be prepared by the Rehabilitator and the timetable for doing so.

12. Pursuant to § 10-3-513(2), the Rehabilitator is granted full power to direct, manage, hire, and discharge the CO-OP's employees subject to any contract rights they may have, and to deal with the property and business of the CO-OP.

13. Pursuant to § 10-3-514, a stay is hereby issued in any court in this state, before which any action or proceeding in which the CO-OP is a party, or is obligated to defend a party, for a minimum of ninety (90) days and for such additional time as is necessary for the Rehabilitator to obtain proper representation and prepare for further proceedings.

14. Pursuant to § 10-3-512, the CO-OP and any persons acting under its direction, including all directors, officers, employees, agents or representatives and any other person, upon presentation of a copy of this Court's Order, are required to deliver to the Rehabilitator or representatives, any and all properties of the CO-OP, real or personal, in its possession or under its control and such persons are hereby enjoined from in any way disturbing the possession of the Commissioner.

15. Pursuant to C.R.S. § 10-3-505, the CO-OP, its agents, representatives, shareholders, employees and all officers and directors thereof, all persons acting in concert or participation with the CO-OP and all persons and other legal entities whatsoever, are permanently restrained and enjoined, until further order of the Court, from:

- a. Unless otherwise directed by the Rehabilitator, exercising any direction, control or influence whatsoever or transacting any

further business of the CO-OP, any of its subsidiaries or their assets;

- b. Unless otherwise directed by the Rehabilitator, interfering in any shape, form or fashion, either directly or indirectly, with the Rehabilitator's operation of this Rehabilitation or the Rehabilitator's possession or control of title, right and interest to the property, books, records and all other assets of the CO-OP;
- c. Unless otherwise directed by the Rehabilitator, transferring any of the CO-OP's property;
- d. Wasting of any of the CO-OP's assets;
- e. Unless otherwise directed by the Rehabilitator, dissipating or transferring, or both, any funds maintained in any of the bank or financial accounts of the CO-OP;
- f. Unless otherwise directed by the Rehabilitator, obtaining any preferences, judgments, attachments, or other liens against any of the property, personal or real, of the CO-OP;
- g. Unless otherwise directed by the Rehabilitator, commencing, maintaining or further prosecuting any actions or proceedings, in law or equity, related to or in any way involving the CO-OP, including the commencement of or continuation of any action in the nature of an attachment, garnishment or execution against any of the property, personal or real, of the CO-OP or any of its subsidiaries or any part thereof, except in this Court;
- h. Unless otherwise directed by the Rehabilitator, levying of execution against the CO-OP, its assets or its policyholders;
- i. Unless otherwise directed by the Rehabilitator, making of any sale or deed for nonpayment of taxes or assessments that would tend to lessen the value of the assets of the CO-OP;
- j. The withholding from the Rehabilitator of any books, accounts, documents, or other records relating to the business of the CO-OP;
- k. Any other threatened or contemplated action that might tend to lessen the value of CO-OP's assets or prejudice the rights of policyholders, creditors, or shareholders or the administration of any proceeding under § 10-3-501, *et seq*; and
- l. Asserting any claim against the Rehabilitator, David E. Wilson, or their agents and employees except insofar as such claims arise in

this Receivership proceeding, in which case such claims must be presented solely to this Court in this proceeding.

16. Pursuant to § 10-3-506, to direct any officer, manager, director, trustee, owner, employee, shareholder or agent of the CO-OP, or any other person with authority over or in charge of any segment of the CO-OP's affairs, to cooperate with the Rehabilitator in this proceeding. Such cooperation shall include, but not be limited to, the following:

- a. To reply promptly in writing to any inquiry from the Rehabilitator requesting such a reply; and
- b. To make available to the Rehabilitator any books, accounts, documents, or other records or information or property of or pertaining to the CO-OP and in the person's possession, custody or control.

17. Pursuant to § 10-3-512(3), that all of the CO-OP's contracts and letters of agreement shall continue in full force and effect, that the entry of an order of rehabilitation does not constitute an anticipatory breach of any contract of the CO-OP, that the order of rehabilitation shall not be a basis for retroactive revocation or cancellation of any contract of the CO-OP, unless such cancellation or revocation is performed by the Commissioner pursuant to § 10-3-513.

18. Pursuant to § 10-3-509(3), to vacate the Order entered in case number 2015CV33680, in which the Commissioner's petition to seize the CO-OP was granted.

So Ordered this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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District Court Judge