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Insurance Commissioner of the State of Hawai'i

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

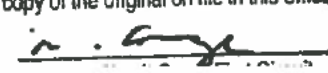
GORDON I. ITO, in his capacity as Insurance Commissioner of the State of Hawai'i,)	S.P. No 16-1-0086 KTN
)	(Special Proceedings)
)	
Petitioner,)	
)	LIQUIDATION ORDER
vs.)	
)	
FAMILY HEALTH HAWAII, MBS, A Mutual Benefit Society,)	
)	
Respondent.)	

LIQUIDATION ORDER

On April 4, 2016, Petitioner GORDON I. ITO's, in his capacity as Insurance Commissioner of the State of Hawai'i ("Commissioner"), Petition for Liquidation Order came before this Court for hearing. The Court, having considered the oral and written arguments of counsel, and the testimony presented at the hearing, finds as follows:

1. Respondent Family Health Hawai'i, MBS (Respondent FHH) is a mutual benefit society that is duly authorized to engage in the sale of insurance pursuant to the provisions of

I do hereby certify that this is a full, true, and correct copy of the original on file in this office.



Hawaii Revised Statutes (HRS) chapters 431 and 432. Respondent FHH provides comprehensive medical insurance that includes medical indemnity, prescription drugs, dental, and other benefits to its members, member dependents, or beneficiaries (collectively "Members"), which currently consists of employer and union groups in the State of Hawai'i.

2. Respondent FHH is subject to the provisions of HRS chapter 431, article 15, dealing with mutual benefit societies, and HRS chapter 432, article 1.

3. Since its inception in February 2013, Respondent FHH has only been able to maintain its minimum financial requirements through capital infusions by a single investor in the amounts of \$2,300,000, \$950,000, \$600,000, \$1,200,000, and \$250,000, totaling approximately \$5,300,000.

4. Since its inception, Respondent FHH has had an operating loss of approximately \$6,500,000.

5. The nominal income Respondent FHH has reported in 2016, the fact that Respondent FHH cannot write new business or renew existing policies, and the fact that Respondent FHH's insolvency continues to grow, only indicates a further negative financial performance if Respondent FHH is allowed to continue.

6. Respondent FHH's request for a forty-five day extension is denied, based on the history of this matter indicating that Respondent FHH has already failed to comply with the Commissioner's orders on two separate occasions and failed to infuse the previously requested capital as required by the Commissioner in the February summary order.

7. The proffer of the \$5,000,000 deal that was put forth in evidence was insufficient as to specifics and there were no assurances that the capital would actually be provided.

8. Respondent FHH is insolvent as defined in HRS § 431:15-103.

9. Respondent FHH is in such condition that any further transaction of its business

would be hazardous to its policyholders, creditors, and the public.

10. Rehabilitation efforts would be futile and would substantially increase the risk of loss to Respondent FHH's creditors, policyholders, or the public, and would serve no useful purpose. The Court's finding in this regard is based on the history of Respondent FHH as laid out by the record of the Commissioner, testimony presented in court, and the Commissioner's concerted effort since March 2015 to allow Respondent FHH to rehabilitate its operations and financial position which has failed.

11. The Commissioner, having satisfied the requirements of HRS §§ 431:15-301(a) and 431:15-306, for the entry forthwith of a Liquidation Order,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I. **Appointment and Liquidation Order**. The Commissioner is hereby appointed Liquidator of Respondent FHH with all the authority as provided in HRS § 431:15-310. The Liquidator, including his authorized agents and representatives, is hereby authorized and directed to liquidate Respondent FHH. The Liquidator is further directed to forthwith take possession of the assets of Respondent FHH and to administer them under the general supervision of the Court. The Court further vests by operation of law the Liquidator title to all property, contracts and rights of action, and all of the books and records of Respondent FHH, wherever located, as of the entry of the Liquidation Order. The Liquidator shall also fix the rights and liabilities of Respondent FHH and Respondent FHH's creditors, policyholders, shareholders, members, and all other person interested in Respondent FHH's estate as of the date of Liquidation Order except as provided by HRS § 431:15-327. The Liquidator shall establish a claims bar date that is not less than 60 days from the date that the notice of the Liquidation Order is mailed or published pursuant to HRS § 431:15-311. The Liquidator is permitted to mail notices as required pursuant to HRS § 431:15-311 which shall include a summary of the liquidation proceeding against

Respondent FHH, and instructions for individuals to find additional information on the Commissioner's internet website. Finally, all policies insured by Respondent FHH shall be cancelled 30 days from the entry of this Liquidation Order pursuant to HRS § 431:15-308, and Respondent FHH is prohibited from issuing further policies of insurance.

II. **Confidentiality.** Upon execution of this Liquidation Order, the Liquidation Order shall become public record.

III. **Immediate effect.** This Liquidation Order shall be effective immediately and shall expire if it is vacated by a subsequent order.

DATED: Honolulu, Hawai'i, _____

APR 07 2016

APPROVED AND SO ORDERED:

KAREN T. NAKASONE



JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

BRUCE D. VOSS
Attorney for Respondent
Family Health Hawaii, MBS

Gordon I. Ito, in his capacity as Insurance Commissioner of the State of Hawai'i vs. Family Health Hawaii, a MBS, S.P. No. 16-1-0086 KTN; LIQUIDATION ORDER