

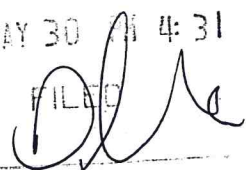
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**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

IN THE MATTER OF THE LIQUIDATION
CARE CONCEPTS INSURANCE INC., a Risk
Retention Group,

Respondent

CASE NO ADV-2016-640

**ORDER APPOINTING SPECIAL
REFEREE AND APPROVING CLAIM
DISPUTE ADJUDICATION
PROCEDURES**

The Commissioner of Securities and Insurance, Office of the Montana State Auditor, the court-appointed liquidator in this matter (Liquidator), by and through counsel, has moved this Court to appoint Ward "Mick" Taleff as Special Referee for purposes of adjudicating disputed claims. Further, the Liquidator has moved for approval of the Procedures Governing Referee's Participation in Claim Administration ("Procedures"). After reviewing the Procedures and finding good cause in this matter.

IT IS ORDERED that Ward "Mick" Taleff is appointed Special Referee for purposes of adjudicating disputed claims pursuant to § 33-2-1368(2), to be compensated at the rate of \$245 per hour.

IT IS FURTHER ORDERED that the Procedures are approved. The Special Referee shall adjudicate disputed claims pursuant to the process set forth in the Procedures.

Dated this 30th day of May, 2018


HON. MIKE McFAHAN

BRETT OLIN
Office of the Montana State Auditor,
Commissioner of Securities and Insurance (CSI)
840 Helena Ave.
Helena, MT 59601
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Attorney for the Liquidator

**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

IN THE MATTER OF THE LIQUIDATION
OF CARE CONCEPTS INSURANCE INC, a
Risk Retention Group,

Respondent.

CASE NO. ADV-2016-640

**MOTION FOR APPOINTMENT OF
SPECIAL REFEREE AND APPROVAL
OF CLAIM DISPUTE ADJUDICATION
PROCEDURES**

The Commissioner of Securities and Insurance, Office of the Montana State Auditor (Liquidator), by and through counsel Brett Olin, moves this Court to appoint Ward "Mick" Taleff as Special Referee in this matter pursuant to Mont. Code Ann. § 33-2-1368(2). Further, the Liquidator moves the Court to approve the Procedures Governing Referee's Participation in Claim Administration, attached as Exhibit A. Appointment of the Special Referee and approval of procedures for administration of disputed claims is necessary for the Commissioner to complete his duties as court-appointed Liquidator of Care Concepts Insurance Inc., a Risk Retention Group. A brief in support and a proposed order accompany this motion.

Respectfully submitted this 29th day of May, 2018

MATTHEW ROSENDALE
Commissioner of Securities and Insurance,
Montana State Auditor



BRETT OLIN
Attorney for the Liquidator

**CARE CONCEPTS INSURANCE, INC., A RISK RETENTION GROUP IN
LIQUIDATION PROCEDURES GOVERNING REFEREE'S PARTICIPATION IN
CLAIM ADMINISTRATION**

These procedures ("Procedures") shall govern the Special Referee's participation in the administration of claims against Care Concepts Insurance, Inc., a Risk Retention Group (the Company) in accordance with Montana Code Ann 33-2-1368 of the Montana Insurers Supervision, Rehabilitation, and Liquidation Act, Montana Code Ann 33-2-1301 *et seq* (the "Act")

1. Liquidator's Claim Determination; Reconsideration Upon Claim

Denial The Liquidator shall review each proof of claim (POC) and make a determination first the priority class of each POC and second, if POC is not a subordinate claim¹, the value of each POC. If the Liquidator determines that the Company's assets are insufficient to provide for a distribution, in whole or on part, for subordinate claims, the Liquidator is not required to make a determination as to the value of subordinate claims. The Liquidator shall provide written notice of the POC determination to each Claimant directly affected by the Liquidator's POC determination. The Claimant will have sixty (60) days from the date of mailing of the Liquidator's POC determination to file written objections with the Liquidator. If the Claimant does not file written objections with the Liquidator, the Claimant may not further object to the Liquidator's POC determination.

Upon receipt of the written objections, the Liquidator will consider the objections and may or may not revise the POC determination. Following reconsideration of the POC, the Liquidator shall provide written notice to the Claimant whether or not the Liquidator revised the claim determination.

2. Referral of Denied Claims to Special Referee If, upon reconsideration, the Liquidator does not revise the claim determination to the Claimant's satisfaction, the

¹ Subordinate claims are those claims subordinate to Class 2 Policyholder claims.

Liquidator shall provide written notice to the Claimant of this determination and the Claimant shall have fifteen (15) days from the date of mailing of this final determination by the Liquidator to file, in writing, with the Liquidator a request for review by the Special Referee appointed by the Court

If the Claimant does not timely request a review by the Special Referee, the Claimant may not further object to the Liquidator's determination

Upon receipt of a request from the Claimant for a review by the Special Referee the Liquidator shall refer the matter to the Special Referee by written notice. This referral shall include the Liquidator's determination of claim priority, the Liquidator's POC determination amount, the amount claimed by the Claimant, the POC number, the insured and the Claimant. The Liquidator shall provide copies of the claim referral to the Claimant and any other affected parties. The cost of the Special Referee shall be borne by both the Company and the Claimant. The Claimant must deliver to the Liquidator a non-refundable deposit of \$500.00 for each POC subject to the Special Referee's determination. The Company is responsible for the balance of the cost for the Referee referral.

The Claimant deposit must be received within ten (10) days from the date of mailing of notice of the Liquidator's referral to the Special Referee. Failure of the Claimant to deliver this deposit to the Liquidator within the ten (10) days will place that POC on hold until the Special Referee receives notice from the Liquidator that it has received said deposit. Failure of Claimant to remit this non-refundable deposit within twenty (20) days from the date of mailing of the Liquidator's referral of the claim to the Special Referee will result in the Special Referee dismissing said referral and allowing the claim in the amount as recommended by the Liquidator, if any.

3. Setting the Matter for Hearing; Exchange of Documentation Upon

notice by the Liquidator to the Special Referee of the receipt of the Claimant's deposit, the Special Referee shall set the matter for hearing and so notify the Liquidator's legal counsel in writing. The Liquidator's legal counsel shall then provide written notice of the hearing to the Claimant and any other parties directly affected not less than ten (10) nor more than thirty (30) days before the date of the hearing.

The Liquidator's legal counsel shall make available to the Claimant a copy of the Liquidator's claim file or such portions thereof as are requested by the Claimant. The Claimant, if requested by the Liquidator, shall promptly pay the Liquidator's reasonable costs (or those of its legal counsel) for copying and mailing the claim file. This claim file shall include Company's original claim file, the POC with any accompanying or clarifying material, a statement of the amount of the claim and coverage, the Liquidator's initial claim determination, Claimant's objections to the claim determination, the Liquidator's redetermination, if any, and the Liquidator's referral of the claim to the Special Referee. The Liquidator shall forward the claim file to his legal counsel, who shall make the same available to the Special Referee and the Claimant as provided herein. The Liquidator's legal counsel shall provide a copy of these Procedures to the Claimant and to all other parties directly affected, if any.

4. The Hearing The hearing shall commence on the date set by the Special Referee (Commencement Date). Unless otherwise determined by the Special Referee in his sole discretion, all hearings and any other proceedings before the Special Referee will be conducted in Great Falls, Montana, at the office of the Special Referee. The Claimant shall have thirty (30) days following the Commencement Date to provide any additional written material in support of the Claimant's position to the Special Referee with a copy to the Liquidator's attorney. The Liquidator shall have twenty-one (21) days thereafter to further supplement the record with written material by submitting the same to the Special Referee with a copy to the Claimant or Claimant's designate. Such written material shall include any arguments and legal authorities supporting the

parties' positions

5. **Special Referee's Determination** Following submission of all written information to the Special Referee, the matter will be deemed submitted to the Special Referee for determination. The Special Referee shall close the record and make a determination of the POC, *de novo*, on the record. The Special Referee may receive as evidence any written material concerning the POC in controversy which he deems to be relevant and which provides competent evidence relating to the POC in dispute. Unless determined appropriate by the Special Referee, in his sole discretion, no meeting or other session at which the parties or their legal counsel are present in person (or by telecommunications equipment) shall be held. If meetings or sessions are held, the Special Referee shall determine in his sole discretion the procedures to be followed. The Special Referee will make written findings of fact and a determination of the POC, and shall file the original with the Clerk of Lewis and Clark County First Judicial District Court, Montana, 228 Broadway, Room 104, Helena, MT 59601 while providing a copy to the District Court Judge as the Special Referee's recommendation. He shall also provide copies to the Claimant, the Liquidator and any other affected party at the time of filing.

6. **Court Approval of Special Referee's Determination; Objections** The Liquidator and the Claimant shall have twenty-one (21) days following the date of mailing of the Special Referee's determination to object to the Special Referee's determination. Any objections shall become part of the record to be submitted to the Liquidation Court along with the Special Referee's findings of fact and determination. The Liquidation Court is not required to hold a hearing of any such appeal, but may do so at its sole discretion. The Liquidation Court shall enter an order accepting or modifying the Special Referee's findings of fact and determination, and a copy shall be provided to the Special Referee, the Liquidator, the Claimant, and any other affected parties. For purposes of appeal, the Liquidation Court's order shall be a final order.

7. **Legal Counsel** In matters before the Special Referee, legal counsel

licensed to practice law and in good standing with the bar of any United States jurisdiction may represent a Claimant or any other parties directly affected to the extent allowed by Montana Law

8. Compromises At any time a POC referral is pending before the Special Referee, the Liquidator and Claimant, together with any other parties directly affected, may compromise the claim and withdraw the claim from consideration by the Special Referee, whereupon the agreed disposition of the claim will become final and binding as an approved claim in the liquidation proceedings

9. General As used in these Procedures, "Liquidation Court" shall mean the District Court Judge of the First Judicial District Court, County of Lewis and Clark, State of Montana, and/or his or her successors in that position presiding over Case No ADV-2016-640, "Liquidator" shall mean Matthew Rosendale or his successors in that position, or Michael J FitzGibbons, as Special Deputy Liquidator of Care Concepts Insurance, Inc , a Risk Retention Group or his successors in that position, "Company" shall mean Care Concepts Insurance Inc , a Risk Retention Group (in Liquidation), "Claimant" shall mean the person or entity asserting a POC against the Company, "Special Referee" shall mean Ward "Mick" Taleff, the Special Referee appointed by the Liquidation Court pursuant to Montana Code Ann 33-2-1368(2), and the Liquidator's legal counsel shall mean Brett Olin, Attorney with the Office of the Montana State Auditor, 840 Helena Ave , Helena, MT 59601 All notices and other communications provided for herein shall be in writing and shall be sent by first class mail postage prepaid If any party is represented by legal counsel, such legal counsel shall be entitled to receive copies of any notices provided for herein, and the parties shall have the right to appear by counsel Unless otherwise specifically indicated, all time periods provided for herein shall be calculated in accordance with the Montana Rules of Civil Procedure and shall be subject to extension by the Special Referee for good cause shown

BRETT OLIN
Office of the Montana State Auditor,
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406-444-2040

Attorney for the Liquidator

**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

IN THE MATTER OF THE LIQUIDATION
OF CARE CONCEPTS INSURANCE INC, a
Risk Retention Group,

Respondent

CASE NO ADV-2016-640

**BRIEF IN SUPPORT OF MOTION FOR
APPOINTMENT OF SPECIAL REFEREE
AND APPROVAL OF CLAIM DISPUTE
ADJUDICATION PROCEDURES**

The Commissioner of Securities and Insurance, Office of the Montana State Auditor
(Liquidator), by and through counsel Brett Olin, files this Brief in Support of Motion for
Appointment of Special Referee and Approval of Claim Dispute Adjudication Procedures

GROUND FOR MOTION

On August 8, 2016, the Court issued an order commencing the liquidation Care Concepts Insurance, Inc , a Risk Retention Group (CareConcepts), and appointing the Commissioner as Liquidator. In a scheduling order issued the same day, the Court directed the Commissioner in his capacity as Liquidator to notify all known creditors and potential claimants that they were entitled to submit a claim against Care Concepts Insurance Inc. The scheduling order established a claim submission bar date of March 31, 2017. Additionally, the scheduling order directed that any disputed claims shall be referred to a court-appointed referee for adjudication pursuant to Mont. Code Ann. § 33-2-1368.

The claim submission bar date has passed and the Special Deputy Liquidator has nearly

completed reviewing proofs of claim in accordance with § 33-2-1372(1). The Liquidator anticipates one or more claimants will dispute the claim determination of the Special Deputy Liquidator. Therefore, pursuant to the Notice of appointment of Special Deputy Liquidator, the Liquidator moves the Court to appoint Ward Taleff as Special Deputy Referee in this matter pursuant to § 33-2-1368. The Liquidator requests the appointment of Mr. Taleff on the basis of his qualifications and expertise with regard to the subject matter of the submitted claims. The Liquidator further requests approval of compensation of Mr. Taleff at the rate of \$245 per hour, with responsibility for payment to be allocated between the Liquidator and claimant as specified in the Procedures Governing Referee's Participation in Claim Administration ("Procedures").

The Liquidator further moves the Court to approve the Procedures, attached as Exhibit A. The Procedures set forth the process by which the Special Referee will hold hearings and adjudicate disputed claims pursuant to § 33-2-1368. The Procedures provide that the Special Referee shall submit findings of fact and determinations to this Court with respect to disputed claims, for this Court's approval or modification of the determinations in accordance with § 33-2-1368(2).

Respectfully submitted this 29th day of May, 2018.

MATTHEW ROSENDALE
Commissioner of Securities and Insurance,
Montana State Auditor



BRETT OLIN
Attorney for the Liquidator