

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2016CP4000034

Raymond G Farmer
SC Department of Insurance
PLAINTIFF(S)

Consumers Choice Health Insurance Company
DEFENDANT(S)

Submitted by: _____ Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Non-suit);
 Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case. Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge _____ Judge Code 2161 Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 18 day of May, 2017 to attorneys of record or to parties (when appearing pro se) as follows:

Geoffrey Ross Bonham

ATTORNEY(S) FOR THE PLAINTIFF(S)

Court Reporter _____

ATTORNEY(S) FOR THE DEFENDANT(S)

Clerk of Court Janette W. H. [Signature]

**STATE OF SOUTH CAROLINA
RICHLAND COUNTY**

**IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT**

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

Petitioner,

vs.

Consumers' Choice Health Insurance
Company,

Respondent.

Civil Action No. 2016-CP-40-00034

**CONSENT ORDER APPOINTING
SPECIAL REFEREE AND
APPROVING PROCEDURES
GOVERNING REFEREE'S
PARTICIPATION IN CLAIMS
ADMINISTRATION**

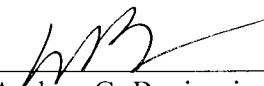
WHEREAS, the Liquidator, by and through counsel, moves and by its consent agrees to the appointment of Michael M. Beal, the Special Referee appointed by the Liquidation Court pursuant to S.C. Code Ann. § 38-27-580(B) (2015), at 1301 Gervais Street, Suite 1040, Columbia, SC 29201 and P.O. Box 11277, Columbia, SC 29211, as Special Referee to review any and all appeals of determinations by the Special Deputy Liquidator for payments of liability claims against Consumers' Choice Health Insurance Company (in Liquidation), the Respondent herein, in accordance with S.C. Code Ann. § 38-27-580 (2015) and the South Carolina Insurers Rehabilitation and Liquidation Act, S.C. Code Ann. §§ 38-27-10 *et seq.*, and also moves that the Court approve the Procedures Governing Special Referee's Participation in Claims Administration, attached hereto and incorporated by reference herein; and

WHEREAS said nominee, as indicated by his below-signed consent, has agreed to conduct all hearings in this receivership pursuant to and in accordance with Section 38-27-580 and this Order and to file his Findings of Fact and Recommendations with the Clerk of Court for Richland County, with a copy to be provided to the reviewing supervisory Judge and as otherwise provided herein;

IT IS THEREFORE ORDERED that Michael M. Beal, Esquire is appointed as Special Referee, vested with all powers as a judge to hear, determine and rule on all matters, both procedural and substantive, coming before him necessary to carry out his duties as Special Referee pursuant to Section 38-27-580 and this Order.

IT IS FURTHER ORDERED that the Special Referee's compensation and all proper and necessary expenses of the Referee be paid as Class 1 priority claims and as provided in the attached Procedures Governing Special Referee's Participation in Claims Administration, which are hereby approved and made a part of this Order.

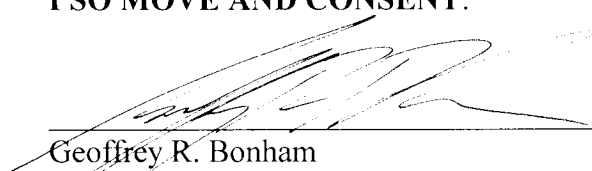
AND IT IS SO ORDERED.



DeAndrea G. Benjamin
Chief Administrative Judge
Fifth Judicial Circuit

This 16 day of May, 2017
Columbia, South Carolina

I SO MOVE AND CONSENT:



Geoffrey R. Bonham
Associate General Counsel
S.C. Department of Insurance
P.O. Box 100105
Columbia, SC 29202
803-737-6219
gbonham@doi.sc.gov

5/15/2017

Date

One of the Attorneys for Petitioner

I CONSENT to the above appointment as Special Referee this 11 day of May, 2017:

**CONSUMERS' CHOICE HEALTH INSURANCE COMPANY 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 Consumers' Choice Health Insurance Company, In Liquidation (the Company) in accordance with Section 38-27-580 of the South Carolina Insurers Supervision, Rehabilitation and Liquidation Act, S.C. Code Ann. § 38-27-10 *et seq.* (the "Act").

1. Liquidator's Claim Determination; Reconsideration Upon Claim

Denial. The Liquidator shall review each claim and make a determination first of the priority class of each claim and second, if claim is not a subordinate claim, of the amount of each claim. If the Liquidator determines that estate assets are insufficient to provide for a distribution, in whole or on part, for claims below a certain priority class, the Liquidator is not required to make a determination as to the value of any claim if he determines that the claim in question has a priority equal to or lower to the first priority class for which no funds will be available for distribution, i.e., is a "subordinate claim." The Liquidator shall provide written notice of the determination to the Claimant directly affected by the claim determination. The Claimant will have sixty (60) days from the date of mailing of the Liquidator's notice during which to file detailed written objections with the Liquidator. If the Claimant does not file detailed written objections with the Liquidator, the Claimant may not further object to the Liquidator's determination. Upon receipt of the written objections, the Liquidator will consider the objections and may or may not revise the claim determination. Following reconsideration of the claim, 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 Liquidator shall provide written notice to the Claimant of its decision and the Claimant shall have fifteen (15) days from the date of mailing of the Liquidator's notice to file 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 approved amount, the amount claimed, 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. Thereafter, the cost of the Special Referee shall be borne by the Company, except that the referral shall also instruct the Claimant to deliver to the Liquidator the applicable non-refundable deposit according to the following schedule:

Plan Member POC:	Fifty Dollars (\$50.00) for each Proof of Claim
Provider POC (POC containing up to five (5) Medical Claims):	One Thousand Dollars (\$1,000.00)
Provider POC (Each Medical Claim in excess of five (5) Medical Claims):	One Hundred Dollars (\$100.00) for each additional Medical Claim in excess of five (5)
All Other Claimants:	Five Hundred Dollars (\$500.00) for each Proof of Claim

This 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 said claim review 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 also make available to the Claimant a copy of the Liquidator's claim file or such portions thereof as are requested by the Claimant. If a copy of the claim file is requested by the Claimant the Claimant shall pay the Liquidator's reasonable costs (or those of its legal counsel) for copying and mailing the claim file within ten (10) days from the date of mailing of the claim file. The claim file shall include Company's original claim file, the Claimant's proof of claim 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 claim 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 referred to in the Act shall commence (the "Commencement Date") on the date set by the Special Referee. 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 Columbia, South Carolina 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 claim, *de novo*, on the record. The Special Referee may, in his discretion, receive as evidence any written material concerning the claim in controversy which he deems to be relevant and which provides competent material evidence relating to the claim 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 claim, and shall file the original with the Clerk of Court of Richland County, South Carolina, P.O. Box 2766, Columbia, SC 29202 while providing a copy to the Chief Administrative Judge Fifth Judicial Circuit 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

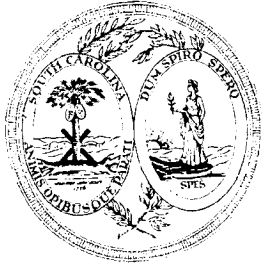
Referee's findings of fact and determination. The Liquidation Court shall accept and approve the Special Referee's determination if it is supported by competent, material and substantive evidence appearing in the record and if it was made in accordance with these Procedures and South Carolina Law. The Liquidation Court may modify the Special Referee's determination so that it complies with these standards and South Carolina Law. The Liquidation Court's order accepting or modifying the Special Referee's findings of fact and determination shall be entered and a copy 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 South Carolina Law. Such privilege will be extended to appearances before the Liquidation Court as determined by the Liquidation Court to the extent allowed by South Carolina Law.

8. **Compromises.** At any time a claim 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 Chief Administrative Judge of the Court of Common Pleas, Fifth Judicial Circuit, County of Richland, State of South Carolina, and/or his or her successors in that position, and/or the Circuit Judge appointed by the Chief Administrative Judge to preside over Case No. 2016-CP-40-00034; "Liquidator" shall mean Michael J. FitzGibbons, Special Deputy Liquidator of Consumers' Choice Health Insurance Company, at 9821 N. 95th Street, Suite 105, Scottsdale, Arizona, 85258, or his successors in that position; "Company" shall mean (in Liquidation); "Claimant" shall mean the

person or entity asserting a claim against the Liquidator; “Special Referee” shall mean Michael M. Beal, the Special Referee appointed by the Liquidation Court pursuant to S.C. Code Ann. § 38-27-580(B) (2015), at 1301 Gervais Street, Suite 1040, Columbia, SC 29201 and P.O. Box 11277, Columbia, SC 29211; and the Liquidator’s legal counsel shall mean Geoffrey R. Bonham, Associate General Counsel, P.O. Box 100105, Columbia, SC 29201-3105. 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 South Carolina Rules of Civil Procedure and shall be subject to extension by the Special Referee for good cause shown.



South Carolina Department of Insurance

NIKKI R. HALEY
Governor

Office of General Counsel
P.O. Box 100105, Columbia, S.C. 29202-3105
Telephone: (803) 737-6219
Facsimile: (803) 737-6229

RAYMOND G. FARMER
Director of Insurance

May 15, 2017

HAND-DELIVERED

The Honorable DeAndrea G. Benjamin
C/O Richland County Clerk of Court
1701 Main Street, Room 214
Columbia, SC 29202-0192

Re: *Farmer v. Consumers' Choice Health Ins. Co. (in Liquidation)*
Case No. 2016-CP-40-00034
Proposed Consent Order Appointing Special Referee, etc.

Dear Judge Benjamin:

Attached herewith for your review and signature please find a proposed Consent Order Appointing Special Referee and Approving Procedures Governing Referee's Participation in Claims Administration in the above-referenced matter.

The Procedures are virtually identical to the ones used in previous receiverships, and specifically require the Special Referee to file his original Findings of Fact and Recommendations with the Clerk of Court and to send a copy to the Chief Administrative Judge or the Supervising/Reviewing Judge designated by the Chief Administrative Judge. Filing the original directly with the Clerk's Office, as opposed to submitting the original to the reviewing Court, helps ensure that the original is filed in a timely manner and also avoids placing an unnecessary administrative burden on the Judge reviewing the submission.

Both I and Michael M. Beal, the proposed Special Referee, have indicated our consent by our signatures affixed to the enclosed proposed order. If after reviewing the enclosed Consent Order the Court finds it suitable, please sign and date it and file it with the Clerk of Court. An executed cover form and a cashier's check for the required \$25.00 filing fee are also enclosed.

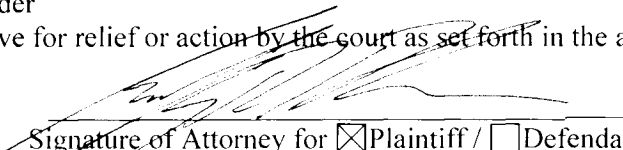
Thank you very much for your attention and consideration. If the Court has any questions regarding the enclosed or any other aspect of this receivership, please do not hesitate to contact me at gbonham@doi.sc.gov or 803-737-6219.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Raymond G. Farmer)
 Plaintiff)
)
 v.)
)
 Consumers' Choice Health Ins. Co.)
 Defendant.)

IN THE COURT OF COMMON PLEAS

CASE NO.
 2016-CP-40-00034

MOTION AND ORDER INFORMATION
 FORM AND COVER SHEET

Plaintiff's Attorney: Geoffrey R. Bonham, Bar No. 13058 Address: PO Box 100105, Columbia SC 29202-3105 phone: 803-737-6219 fax: 803-737-6229 e-mail: gbonham@doi.sc.gov other:	Defendant's Attorney: N/A, Bar No. Address: phone: fax: e-mail: other:
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Consent Order Appointing Special Referee, etc. Estimated Time Needed: NA Court Reporter Needed: <input type="checkbox"/> YES / <input checked="" type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant	May 15, 2016 Date submitted
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID – AMOUNT: \$25.00 <input type="checkbox"/> EXEMPT: <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support (check reason) <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: <input type="checkbox"/> Other:	
JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	JUDGE: _____ CODE: _____ Date: _____
CLERK'S VERIFICATION	
Collected by: <u>meth</u> Date Filed: <u>5/16/17</u>	
<input type="checkbox"/> MOTION FEE COLLECTED: _____ <input type="checkbox"/> CONTESTED – AMOUNT DUE: _____	