

**STATE OF SOUTH CAROLINA**

**IN THE COURT OF COMMON PLEAS**

**COUNTY OF RICHLAND**

**FOR THE FIFTH JUDICIAL CIRCUIT**

Michael Wise, as Acting Director of the South  
Carolina Department of Insurance,

C.A. No. 2016-CP-40-00034

Petitioner,

**NOTICE OF FINAL PAYMENT OF  
LIQUIDATION EXPENSES AND FINAL  
DISTRIBUTION OF THE ASSETS OF  
CONSUMERS' CHOICE HEALTH  
INSURANCE COMPANY IN  
LIQUIDATION**

vs.

Consumers' Choice Health Insurance  
Company,

Respondent.

YOU WILL PLEASE TAKE NOTICE that final payment of liquidation expenses incurred to close out the liquidation estate of Consumers' Choice Health Insurance Company (Consumers' Choice), has been made in full and that the final distribution of the assets of the liquidation estate of Consumers' Choice has been completed. The Final Closing Accounting, Actual to Pro Forma, for Consumers' Choice is attached hereto as Exhibit 1; the Statement of Cash Receipts & Disbursements, January 8, 2016 through February 28, 2023, for Consumers' Choice is attached hereto as Exhibit 2; a schedule of Actual Administrative Costs to Close for Consumers' Choice is attached hereto as Exhibit 3; and the Affidavit of the Special Deputy Liquidator of Consumers' Choice is attached hereto as Exhibit 4.

Pursuant to the Order of this Court entered on January 26, 2023, a copy of which is attached hereto as Exhibit 5, the Filing of this Notice of Final Payment of Liquidation Expenses and Final Distribution of the Assets of Consumers' Choice Health Insurance Company in Liquidation closes the Consumers' Choice liquidation estate and the Consumers' Choice liquidation proceedings in

their entirety. The Liquidator, Special Deputy Liquidator and their attorneys, accountants, assistants, representatives, contractors and agents are discharged, and all liability whatsoever on their part arising out of or in connection with this proceeding is forever terminated; and all persons shall continue to be enjoined from commencing or prosecuting, without leave of the Court, any action or proceeding against the discharged persons in connection with or arising out of their service to the Court in the liquidation proceedings, and the Court retains jurisdiction for the purpose of enforcing this injunction.

Pursuant to S.C. Code Ann. § 38-27-660 (2015), this proceeding may only be reopened by order of this Court upon a petition and showing of good cause by the Director of the South Carolina Department of Insurance or his designee or other interested party.

April 4, 2023

s/Geoffrey R. Bonham  
Associate General Counsel  
S.C. Department of Insurance  
P.O. Box 100105  
Columbia, SC 29202-3105

Capitol Center  
1201 Main Street, Suite 1000  
Columbia, SC 29201

Telephone: 803-737-6200  
Fax: 803-737-6229  
Email: [gbonham@doi.sc.gov](mailto:gbonham@doi.sc.gov)

One of the Attorneys for the Liquidator of  
Consumers' Choice Health Insurance  
Company in Liquidation

**Consumers' Choice Health Insurance Company**  
**Final Closing Accounting**  
**Actual to Pro Forma**

	<b>Pro Forma Balance Sheet</b>	<b>Actual Balance Sheet</b>	<b>Variance</b>
<b>Assets</b>			
Cash & Equivalents	54,832,389	54,832,389	-
Accrued Investment Income	166,098	166,098	-
Projected Investment Income	243,863	340,487	96,625
Other Income	-	103	103
<b>Total Assets</b>	<b>55,242,350</b>	<b>55,339,077</b>	<b>96,728</b>
<b>Liabilities - Class 1 through 8</b>			
<b>Final Fees and Expenses</b>			
Accrued Administrative Expenses	98,382	98,382	-
Projected Administrative Expenses	151,833	144,910	(6,923)
Accrued SC DOI	65,972	65,972	-
Projected SC DOI	12,193	17,302	5,109
<b>Total Final Fees and Expenses</b>	<b>328,380</b>	<b>326,566</b>	<b>(1,814)</b>
<b>Other</b>			
Unclaimed funds	117,925	117,925	-
Other Claims - POCs approved	71,491	71,491	-
Other Claims - No POCs filed	451,878	451,878	-
<b>Total Other</b>	<b>641,294</b>	<b>641,294</b>	-
<b>Total Liabilities</b>	<b>969,674</b>	<b>967,860</b>	<b>(1,814)</b>
<b>Capital</b>			
Surplus Notes/Solvency Loans	68,868,408	68,868,408	-
Retained Earnings	(14,595,733)	(14,497,191)	98,542
Unassigned Funds	<b>54,272,675</b>	<b>54,371,217</b>	<b>98,542</b>
<b>Total Liabilities, Capital and Surplus</b>	<b>55,242,350</b>	<b>55,339,077</b>	<b>96,728</b>

**Consumers' Choice Health Insurance Company**  
**Statement of Cash Receipts and Disbursements**  
**Commencing January 8, 2016 and Ending February 28, 2023**

	2016 1-8-16 to 12-31-16	2017 YTD	2018 YTD	2019 YTD	2020 YTD	2021 YTD	2022 YTD	2023 YTD	ITD
<b>Beginning Cash</b>	<b>17,833,970</b>	<b>13,605,599</b>	<b>14,550,650</b>	<b>8,493,753</b>	<b>5,629,596</b>	<b>59,481,374</b>	<b>55,467,267</b>	<b>54,832,389</b>	<b>17,833,970</b>
<b>Receipts</b>									
Investment income	3,949	64,383	139,607	140,226	28,980	(40,323)	572,203	503,820	1,412,845
Premiums	137,434	-	-	-	-	-	-	-	137,434
Provider Refunds/Subrogation	2,612,035	522,789	92,535	85,721	25,424	23,817	10,078	103	3,372,502
Reinsurance recoveries	906,652	26	-	-	-	467,190	-	-	1,373,867
OptumRx recoveries	-	2,247,651	-	-	-	-	-	-	2,247,651
Administrative Services Revenue	197,657	667,384	136,581	19,664	-	-	-	-	1,021,285
Funds held f/b/o CHA	3,208,161	(240,120)	(639,265)	(2,328,776)	-	-	-	-	(0)
CMS	-	-	-	-	91,152,846	-	-	-	91,152,846
Other	129,879	1,696	-	-	-	2,783	-	-	134,357
<b>Total receipts</b>	<b>7,195,765</b>	<b>3,263,809</b>	<b>(270,543)</b>	<b>(2,083,165)</b>	<b>91,207,250</b>	<b>453,466</b>	<b>582,281</b>	<b>503,922</b>	<b>100,852,787</b>
<b>Disbursements</b>									
Bank Fees	16,155	6,720	4,323	3,001	1,932	2,110	2,002	964	37,206
Office Supplies	1,119	1,827	4,739	4,935	5,032	6,944	10,351	5,302	40,249
Accounting Fees	107,219	63,105	1,638	5,374	5,092	2,785	3,165	7,574	195,953
TPA fees	3,058,423	393,194	128,358	21,000	13,250	6,000	15,000	-	3,635,225
Claim & Claim Adjustment Payments	(69,840)	(566)	11,520	6,235	35,835,008	150,000	-	-	35,932,357
Early Access Advances to Guaranty Association	-	-	5,000,000	-	(5,000,000)	-	-	-	-
Surplus Notes/Solvency Loans	-	-	-	-	-	-	-	54,823,095	54,823,095
Escheat	-	-	-	-	-	-	-	267,836	267,836
Special Deputy Fees	288,642	276,455	232,848	182,622	258,151	315,381	191,868	173,580	1,919,546
SC DOI	11,160	-	-	-	5,800,000	-	-	83,274	5,894,434
Legal fees	284,014	537,635	113,222	65,489	195,674	18,325	-	-	1,214,359
Federal Reinsurance Fee	2,206,996	-	-	-	-	-	-	-	2,206,996
Payroll	2,921,155	267,340	48,519	50,527	60,797	78,517	54,937	24,771	3,506,564
Member Premium Refunds	941,806	657	-	-	-	-	-	-	942,463
Guaranty Association Expenses	161,013	59,964	-	347,823	90,836	86,684	(44,909)	-	701,411
Subordinate Payments	-	-	-	-	-	3,707,788	972,685	(78,420)	4,602,053
Misc	1,496,275	712,428	241,187	93,986	89,700	93,040	12,060	28,335	2,767,011
<b>Total Disbursements</b>	<b>11,424,136</b>	<b>2,318,758</b>	<b>5,786,354</b>	<b>780,992</b>	<b>37,355,473</b>	<b>4,467,574</b>	<b>1,217,159</b>	<b>55,336,311</b>	<b>118,686,757</b>
<b>Net Cash Flow</b>	<b>(4,228,371)</b>	<b>945,051</b>	<b>(6,056,897)</b>	<b>(2,864,157)</b>	<b>53,851,778</b>	<b>(4,014,107)</b>	<b>(634,878)</b>	<b>(54,832,389)</b>	<b>(17,833,970)</b>
<b>Ending Cash</b>	<b>13,605,599</b>	<b>14,550,650</b>	<b>8,493,753</b>	<b>5,629,596</b>	<b>59,481,374</b>	<b>55,467,267</b>	<b>54,832,389</b>	<b>-</b>	<b>-</b>

**Consumers' Choice Health Insurance Company  
Actual Administrative Costs to Close**

Description	Budget	Actual	Variance Fav(Unfav)	Vendor	Variance Reason
FitzGibbons and Company billing	173,580	173,580	-	FitzGibbons and Company	1
Overhead Allocations:					
Salary Allocations	24,771	24,771	-	FitzGibbons and Company	1
Rent and office	7,720	7,575	145	FitzGibbons and Company	1
Professional fees - Tax	7,454	7,454	-	Deloitte	1
Storage	7,790	8,441	(651)	Vital Records Control	1
Banking fees	800	964	(164)	US Bank	1
Investment Trust fees	16,400	2,765	13,635	US Bank	2
Ledger access	1,260	120	1,140	LBMC, PC	3
Web hosting	1,356	8,334	(6,978)	GoDaddy / Microsoft	4
SC DOI liquidation payable	78,165	83,274	(5,109)	SC DOI	5
Cyber Insurance	9,084	9,287	(203)	Lookout Mountain Ins. Group	1
<b>Total</b>	<b>328,380</b>	<b>326,566</b>	<b>1,814</b>		

- 1) Insignificant
- 2) Expected trust fees not incurred once securities converted to overnight securities
- 3) Information needed was retained on network rather than outsourced
- 4) Additional costs needed to maintain website and email for 5 years
- 5) Increase in payable due to enhanced investment income received.

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

FOR THE FIFTH JUDICIAL CIRCUIT

Michael Wise, as Acting Director of the South  
Carolina Department of Insurance,

C.A. No. 2016-CP-40-00034

Petitioner,

**AFFIDAVIT OF MICHAEL J.  
FITZGIBBONS AS SPECIAL DEPSUTY  
LIQUIDATOR OF CONSUMERS'  
CHOICE HEALTH INSURANCE  
COMPANY IN LIQUIDATION**

vs.

Consumers' Choice Health Insurance  
Company,

Respondent.

Michael J. FitzGibbons, being first duly sworn, deposes and says as follows:

1. I am the Special Deputy Liquidator of Consumers' Choice Health Insurance Company ("Consumers' Choice"). I was appointed to my position by the then-Liquidator, Raymond G. Farmer as Director of the South Carolina Department of Insurance and by Order of this Court.

2. I am over 21 years of age and suffer no legal disability.

3. By this Affidavit, I certify that the final payment of liquidation expenses incurred to close out the liquidation estate of Consumers' Choice has been made in full and that the final distribution of the assets of the liquidation estate of Consumers' Choice has been completed pursuant to the Order entered by the supervising Court in this proceeding entered on January 26, 2023.

FURTHER AFFIANT SAYETH NOT.

*[Handwritten signature]*

Michael J. FitzGibbons  
Special Deputy Liquidator

SWORN to before me this 4<sup>th</sup> day of April, 2023.

Sarah E. Alexander  
Notary Public for the State of AZ  
My commission expires 09-15-2026



**SARAH E. ALEXANDER**  
**Notary Public - Arizona**  
**Maricopa Co. / #633463**  
**Expires 09/15/2026**

ELECTRONICALLY FILED - 2023 Apr 04 2:29 PM - RICHLAND - COMMON PLEAS - CASE#2016CP4000034

**STATE OF SOUTH CAROLINA**  
**COUNTY OF RICHLAND**

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

Michael Wise, as Director of the South  
Carolina Department of Insurance,

Petitioner,

vs.

Consumers' Choice Health Insurance  
Company,

Respondent.

C.A. No. 2016-CP-40-00034

**ORDER APPROVING PRO-FORMA  
CLOSING FINAL ACCOUNTING,  
ADMINISTRATIVE EXPENSES, FINAL  
DISPOSITION OF CLAIMS,  
DISTRIBUTION OF ASSETS,  
DESTRUCTION OF RECORDS,  
DISCHARGE OF SPECIAL REFEREE,  
DISCHARGE OF LIQUIDATOR AND  
CLOSING OF LIQUIDATION ESTATE**

This matter comes before the Court pursuant to the South Carolina Insurers Rehabilitation and Liquidation Act, S.C. Code Ann. §§ 38-27-10 *et seq.*. Petitioner has filed an Application seeking an order approving the pro forma closing accounting, which was filed with the Application and which includes the payment of administrative expenses and the proposed distribution of the remaining assets to claimants pursuant to S.C. Code Ann. § 38-27-610 (2015). Pursuant to S.C. Code Ann. § 38-27-650(a) (2015), Petitioner also seeks his discharge as Liquidator as well as the discharge of the Special Deputy Liquidator and the Special Referee for claims appointed in this matter by previous order of this Court. Finally, Petitioner seeks an order closing the estate of Consumers' Choice Health Insurance Company (Consumers' Choice) and providing for the destruction and maintenance of records and termination of these proceedings pursuant to S.C. Code Ann. §§ 38-27-650 and -670 (2015). Based upon the pleadings, filings, orders and other submissions in the file, including the Application and exhibits thereto, I find the following:

1. Consumers' Choice was placed in liquidation by Order of the supervising court



(Liquidation Order) on March 28, 2016. On that same date, the supervising court approved the appointment by the Director of the South Carolina Department of Insurance, acting in his capacity as Liquidator for Consumers' Choice, of Michael J. FitzGibbons as Special Deputy Liquidator pursuant to S.C. Code Ann. § 38-27-400 (2015), with all the powers of the Liquidator granted by and set forth in that Code section.

2. Consistent with the Liquidation Order, the deadline for filing claims was set for December 31, 2016; and, pursuant to S.C. Code Ann. § 38-27-580(a) (2015), all claims received have been adjudicated and each claimant has been given notice by first class mail of the action taken and notice of the time period to object to the Special Deputy Liquidator's determination of the claim.

3. All claim determinations by the Special Deputy Liquidator have been accepted by the parties or adjudicated by the court-appointed Special Referee whose report and recommendation was approved by the supervising court, except that if the Special Referee's report and recommendation was subject to an objection, either the supervising court upheld the Special Referee's recommendation, with the time for appeal now expired, or the claim was subject to a subsequent settlement approved by the supervising court.

4. The priority of distribution of claims from an insolvent insurer's estate is set forth in S.C. Code Ann. § 38-27-610 (2015). This Code section requires that every claim in each class must be paid in full before members of the next class receive payment.

5. The financial statement and exhibits attached to the Application of the Liquidator reflect remaining unpaid Class I administrative expenses to the closing date of February 28, 2023 of \$328,380.

6. Estimated final Class I fees and expenses of the liquidation proceedings, including

fees and expenses to be incurred after the closing of those proceedings, are \$68,932.

7. All approved claims in priority classes 2 through 8 have now been paid in full.

8. The sole remaining unpaid claim below Class 1 is a Class 9 claim by the United States Government in the amount of \$68,868,408.

9. According to the pro forma accounting set forth in Exhibit A, after payment of all higher priority claims, including payment of final fees and expenses, there are sufficient remaining assets of the liquidation estate of Consumers' Choice to pay \$54,724,553 of the United States Government's claim representing approximately seventy-nine percent (79%) on the Class 9 claim.

10. The Liquidator is holding unclaimed funds which are property of persons or entities who are unknown or cannot be located in the amount of \$117,925 as evidenced in Exhibit A.

11. In light of the above findings and conclusions,

**IT IS THEREFORE ORDERED THAT**

1. The pro forma closing accounting and administrative expenses are approved and that all the claim determinations by the Special Deputy Liquidator, Special Referee, and the supervising court are hereby confirmed and the proposed distribution of the remaining assets by the Liquidator/Special Deputy Liquidator as set forth in the Application and exhibits attached thereto is proper and is hereby approved.

2. The Special Deputy Liquidator is hereby authorized to distribute the remaining assets as set forth in the Special Deputy Liquidator's Application and attached exhibits.

3. Michael M. Beal, as the claims Special Referee, is hereby discharged and any and all liability whatsoever that he or his agents, successors, and employees may have arising out of or in connection with this proceeding is forever terminated.

4. Following Final Distribution of Assets and filing of final tax returns, the Liquidator

shall dispose of the insurer's records, except that the insurer's member records, paid provider claims, and financial records shall be retained by the South Carolina Department of Insurance for five (5) years from the date of the closing of the estate.

5. Pursuant to S.C. Code Ann. § 38-27-640 (2015), the Liquidator shall deposit with the State Treasurer unclaimed funds which are property of persons or entities who are unknown or cannot be located for disposition pursuant to S.C. Code Ann. § 27-19-220.

6. The Court recognizes that some of the costs set forth in Exhibit B are estimates and subject to change. The Liquidator shall file with this Court a Final Accounting which sets for the actual final administrative costs and actual distributions, together with all cash receipts and disbursements from the inception of the receivership to its termination at February 28, 2023.

7. The Court approves the delivery of any additional assets received by the Liquidator, following the closing at February 28, 2023, to the South Carolina Life and Accident and Health Insurance Guaranty Association.

8. Subject to the terms and conditions set forth in paragraph 10 below and the receipt of the Final Accounting as set forth in Paragraph 6 above, the Liquidator, Special Deputy Liquidator, and their attorneys, accountants, assistants, representatives, contractors, and agents are discharged from their responsibilities pursuant to these proceedings and any and all liability whatsoever on their part arising out of or in connection with this proceeding is forever terminated.

9. All persons shall continue to be enjoined from commencing or prosecuting, without leave of this Court, any action or proceeding against the discharged persons in connection with or arising out of their service to the Court in the liquidation proceedings, and the Court shall retain jurisdiction for the purpose of enforcing this injunction.

10. These proceedings and the Liquidation Estate shall be closed as of the date of the

filing of the Final Accounting and that date shall be the date of discharge of the Liquidator, Special Deputy Liquidator, and their attorneys, accountants, assistants, representatives, contractors, and agents.

**AND IT IS SO ORDERED.**

---

DeAndrea Gist Benjamin  
Chief Administrative Judge  
Fifth Judicial Circuit

\_\_\_\_\_, 2023  
Columbia, South Carolina



Richland Common Pleas

**Case Caption:** Raymond G Farmer , plaintiff, et al vs Consumers Choice Health Insurance Company  
**Case Number:** 2016CP4000034  
**Type:** Order/Other

So Ordered

s/DeAndrea Gist Benjamin, #2161

Electronically signed on 2023-01-26 14:57:37 page 6 of 6