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March 31, 2017

Via Electronic Filing/Serve by ECF

Hon. Carol R. Edmead
60 Centre Street, Room 532
New York, New York 10007

Re: In the Matter of the Liquidation of Health Republic Insurance of New York, Inc.
Index No. 450500/2016
Timeline and Status of Claims Against the Federal Government
March 24, 2017 Letter from Deputy Superintendent David Axinn

Dear Justice Edmead:

I write with reference to Special Deputy Superintendent David Axinn's March 24, 2017 letter to the Court and the Special Deputy's enclosed timeline with respect to the Liquidator's claims against the federal government, a matter that I raised during this Court's January 21, 2017 conference.

1. Timeline. While the "Health Republic Projected Timeline" is certainly a step forward, I note that the due date for the Liquidator's Initial Court Report is now *sometime* in September, October, November, *or* December 2017. I am aware that the Court has scheduled an *in camera* review of the estate's post-May 11, 2017 expenses for April 28, 2017.

Nevertheless, I note that it appears that the Bureau is leaving open the possibility that its *Initial* Court Report may not be filed until December 31, 2017. This would be more than two years after Health Republic's board stepped down. Shouldn't the "Initial Court Report" be filed on a date definite?

More importantly, the Projected Timeline should contain a footnote advising policyholders, for the reasons set forth below, that no policyholder will be paid until all Health Republic claims against the federal government (and all claims that the federal government may assert to offset those claims) are completely resolved.

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2. Claims Against Federal Government. The Deputy Superintendent's timeline with respect to suits against third-parties runs to 2019 and beyond. On several occasions, I have asked where the federal government stands in Health Republic's liquidation, both as a creditor and a claimant. For example, I raised this in my application to appear as a friend of the court and during argument in support of my application. November 21, 2016 Trans. pp. 23-24. See also my January 10, 2017 letter, p. 2, a copy of which is attached under Tab 1.

With my January 10, 2017 letter (Tab 1), I provided the Court with a copy of a December 13, 2016 letter from the Chairs of the New York State Senate Insurance and Health Committees. The Senators' letter is now posted on Health Republic's website, Docket Item No. 70. In their letter, Senators Hannon and Seward asked about the balance sheet posted at this Court's direction. The Senators asked if the balance sheet had been updated. The Senators also asked when Health Republic policyholders could expect to be paid.

During this Court's January 21, 2017 conference, the Court asked what the "liquidator [had done] to proceed with its federal claims." Trans., p. 41. Counsel declined to answer on the ground that "it would not be beneficial to be discussing that in an open forum." Trans., p 41.

On January 25, 2017, the Superintendent, in her role as Health Republic's liquidator, responded to the Senators' letter. Please find under Tab 2 a copy of the Superintendent's letter.

With respect to the Senators' questions in their December 13th letter as to when Health Republic policyholders claims will be paid, the Superintendent wrote that the "timing of distributions" is "tied up in the Risk Corridors de-funding by Congress." Superintendent Vullo's January 25, 2017 letter to Senators Seward and Hannon, p. 3

On February 16, 2017, Superintendent Vullo testified in Albany before the Legislative Fiscal Committees on the State Budget. In her written testimony, Superintendent Vullo addressed Health Republic and confirmed that the federal government owes Health Republic \$423 million in loss corridor payments and \$51 in reinsurance recoverables, all of which may be subject to the federal government's claims of offsets (presumably offsets based on the federal government's start-up and solvency loans). Maria T. Vullo Written Testimony Delivered to the Legislative Fiscal Committees on the State Budget – Health, February 16, 2017 (Testimony); Tab 3.

During subsequent questioning by the Legislative Fiscal Committee, Superintendent Vullo testified that she had prepared a complaint against the federal government, but had not filed the complaint in order to avoid litigation expenses. The Superintendent, however, did assure the Committee that it was only a matter of "when" and not "if" she would proceed with her suit.

In her written testimony, the Superintendent stated that "*payments to claimants cannot be made until the dueling claims with the federal government are resolved.*" Testimony, p. 15. This is important because if no policyholder can be paid until all claims with the federal government

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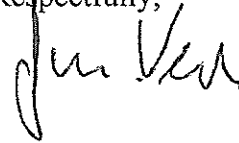
are resolved, then even if all 700,000 Health Republic policyholder claims are processed and all claim rejections or objections are dealt with, Health Republic's policyholders will still have to wait until all of Health Republic's claims against the federal government are fully determined or completely settled before Health Republic's policyholders will see any money.

For this reason, I urge that the Liquidator come prepared at the next conference to discuss the Liquidators' claims against the federal government including, at the very least, the positions that the federal government is now taking with respect to moneys owed Health Republic under the loss corridor and reinsurance programs.

Given the Superintendent's correspondence with Senators Seward and Hannon concerning Health Republic claims against the federal government and the Superintendent's testimony in Albany, both written and oral, concerning a suit against the federal government, surely advising Health Republic's policyholders about the positions the federal government has taken and how much in offset we are talking about would not waive any litigation strategies or disclose any privileged information.

Thank you for allowing me to write to the Court and address these matters.

Respectfully,



cc: David Axinn, Esq.
Timothy Butler, Esq.
David Young, Esq.
Jack Franschetti, Esq.
Lauren M. Reber, Esq.
Elliot Kirshnitz, Esq.

Senator James L. Seward (via e-mail to assistant)
Senator Kemp Hannon (via e-mail to assistant)