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BEFORE THE STATE AUDITOR AND COMMISSIONER OF INSURANCE
STATE OF MONTANA

IN THE MATTER OF THE PROPOSED DISCIPLINARY TREATMENT OF FORTIS INSURANCE CO., FORTIS BENEFITS INSURANCE CO., JOHN ALDEN LIFE INSURANCE CO., and STEVE DODDER, Respondents.	Case No. 2002-50 CONSENT AGREEMENT AND FINAL ORDER

The State Auditor and Commissioner of Insurance of the state of Montana (Commissioner), pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*, hereby makes the following allegations which justify and support disciplinary treatment:

FACT ASSERTIONS

1. Respondent Fortis Insurance Co. is a Montana licensed insurer holding certificate of authority #4132 issued by the Commissioner.

2. Respondent Fortis Benefits Co. is a Montana licensed insurer holding certificate of authority #3444 issued by the Commissioner.

3. Respondent John Alden Life Insurance Co. is a Montana licensed insurer holding certificate of authority #4687 issued by the Commissioner.

4. Respondent Fortis Insurance Co., Fortis Benefits Co., and John Alden Life Insurance Co. are affiliated companies and are known as Fortis Health and are also known as Assurant Health. In this Consent Agreement and Final Order, references to Fortis Health (a\k\a Assurant Health) shall mean all of these Respondents.

5. Fortis Health (a\k\a Assurant Health) transacts disability [health] insurance in Montana.

6. Respondent Steve Dodder is an employee of Fortis Health (a\k\a Assurant Health).

Licensing Issues

7. Steve Dodder was compensated in part by commissions on Fortis Insurance Co. insurance products sold in Montana by licensed insurance producers, however, Mr. Dodder was not licensed as a Montana insurance producer until March 21, 2003.

Certificates of Creditable Coverage

8. When Fortis Health (a\k\a Assurant Health) small employer group coverage was terminated or lapsed, Fortis Health (a\k\a Assurant Health) frequently failed to send certificates of creditable coverage to the individual insured employees. During the period of June 1, 2003 through December 8, 2003, Fortis Health (a\k\a Assurant Health) failed to send certificates of creditable coverage to at least 163 individual insured employees.

9. When Fortis Health (a\k\a Assurant Health) terminated individual policies and group association certificates, Fortis Health (a\k\a Assurant Health) frequently failed to send certificates of creditable coverage within a reasonable time to these individual insureds. During the time period of June 1, 2003 through December 8, 2003, at least 211 certificates of creditable coverage were issued by Fortis Health (a\k\a Assurant Health) more than 30 days following the termination of coverage. Further, several of these certificates of creditable coverage were issued more than 63 days following the termination of coverage and therefore these individuals may have lost portability rights under Montana law and The Health Insurance Portability and Accountability Act of 1996 (HIPAA), P.L. 104-191.

10. During the time period of June 1, 2003 through December 8, 2003, at least 290 of the certificates of creditable coverage provided by Fortis Health (a\k\a Assurant Health) failed to give notice in accordance with Montana law of: availability of COBRA continuation coverage; any conversion rights; the option to apply to the

Montana comprehensive health association for a portability plan within 63 days; and the telephone number and address of the Montana comprehensive health association.

2002 Product Withdrawal

11. In 2002, Fortis Insurance Co. withdrew all its individual market policy forms and replaced them with group coverage form #227, a certificate of insurance under a master group policy issued to the Trustee of the Health Advocates Group Insurance Trust. Approximately 935 individual market policies issued in Montana were withdrawn and replaced with this group coverage.

12. Fortis Insurance Company sent a letter to individual market policyholders approximately 90 days before the product withdrawal; however, this letter did not completely inform the policyholders of the consequences of the product withdrawal or the policyholders' options for continuing their coverage.

Student Medical Certificate

13. Since 1994, Fortis Insurance Co. has been marketing and issuing coverage under student medical certificate form #554 in Montana. However, form #554 was not filed with nor approved by the Department for use in Montana. During the time period of January 1, 1999 through December 31, 2003, Fortis Insurance Co. issued 1,076 of these student medical certificates to Montana residents.

14. Additionally, student medical certificate form #554 did not include all of the coverages mandated by Montana law including, but not limited to, coverage for complications of maternity, inborn errors of metabolism, well-child care, diabetes, mammography examinations, post-mastectomy care and reconstructive breast surgery, and mental illness, alcoholism, and drug addiction.

Small Employer Groups

15. Fortis Health (a\k\a Assurant Health) has not consistently provided firm quotes to small employer groups within 15 working days after receiving completed applications in accordance with Montana law.

Maternity Coverage

16. Fortis Health (a\k\a Assurant Health) has not consistently provided coverage for maternity and complications of maternity in accordance with the requirements of Montana law. Additionally, on certain occasions Fortis Health (a\k\a Assurant Health) has denied coverage for maternity as a pre-existing condition and/or imposed a 270 day waiting period for maternity coverage.

CONCLUSIONS OF LAW

1. The State Auditor is the Commissioner of Insurance pursuant to Mont. Code Ann. § 2-15-1903.

2. The Montana Insurance Department (Department) is under the control and supervision of the Commissioner of Insurance pursuant to Mont. Code Ann. §§ 2-15-1902 and 33-1-301.

3. The Commissioner of Insurance shall administer the Department to protect insurance consumers pursuant to Mont. Code Ann. § 33-1-311.

4. Pursuant to Mont. Code Ann. § 33-1-102, a person or entity may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of the Montana Insurance Code.

5. Pursuant to Mont. Code Ann. § 33-1-317, the Insurance Commissioner may impose an administrative fine of up to $25,000.00 per each violation of the Montana Insurance Code or any administrative rule promulgated thereunder, except insurance producers may be fined $5,000.00 per violation.

Licensing Issues

6. Pursuant to Mont. Code Ann. § 33-17-1103, insurance producer commissions may not be shared directly or indirectly with any person not also licensed as an insurance producer in the same line.

7. Pursuant to Mont. Code Ann. § 33-17-406, a nonresident insurance producer is subject to the provisions of the Montana Insurance Code as though a resident.

8. By sharing in insurance producer commissions on Fortis Insurance Company products sold in Montana, Steve Dodder has violated Mont. Code Ann. § 33-17-1103.

Certificates of Creditable Coverage

9. Pursuant to Mont. Code Ann. § 33-22-142(3), certificates of creditable coverage are the written:

> (a) certification of the period of creditable coverage of the individual under a group health plan and the coverage under the COBRA continuation provision;
> (b) certification of the waiting period, if any, and affiliation period, as defined in 33-31-102 if applicable, imposed with respect to the individual for any coverage under a group health plan; and
> (c) notification to the individual of:
>
> > (i) the individual's option to apply to the Montana comprehensive health association, provided for in 33-22-1503, for an association portability plan, as defined in 33-22-1501, within 63 days of termination of creditable coverage;
> > (ii) the individual's conversion rights;
> > (iii) the availability of COBRA continuation coverage;
> > (iv) the telephone number and address of the Montana comprehensive health association; and
> > (v) other notification as determined necessary and in the form prescribed by rule by the commissioner.

10. By providing certificates of creditable coverage that did not contain the notices required pursuant to Mont. Code Ann. § 33-22-142(3), Fortis Health (a\k\a Assurant Health) is in violation of Mont. Code Ann. § 33-22-142(3).

11. Pursuant to Mont. Code Ann. § 33-22-142(1), a health insurance issuer offering group health insurance coverage shall issue the certificates of creditable coverage described in Mont. Code Ann. § 33-22-142(3):

(a) at the time the individual ceases to be covered under the group health plan or otherwise becomes covered under a COBRA continuation provision
(b) in the case of an individual becoming covered under a COBRA continuation provision, at the time that the individual ceases to be covered under a COBRA continuation provision; and
(c) at the request on behalf of an individual made not later than 24 months after the date of termination of the coverage described in subsection (1)(a) or (1)(b), whichever is later.

12. Pursuant to Mont. Code Ann. § 33-22-142(6), "[t]his section applies to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the group market."

13. By failing to send certificates of creditable coverage to individual insureds Fortis Health (a\k\a Assurant Health) is in violation of Mont. Code Ann. § 33-22-142(1).

14. Pursuant to Mont. Admin. R. 6.6.5079G(2), certificates of creditable coverage must be mailed or hand-delivered to the individual insured within a reasonable time.

15. By failing to mail certificates of creditable coverage within 30 days following termination of coverage, Fortis Health (a\k\a Assurant Health) is in violation of Mont. Admin. R. 6.6.5079G(2).

2002 Product Withdrawal

16. By failing to clearly notify individual market policyholders 90 days before the product withdrawal that their current coverage would be withdrawn and the consequences of that withdrawal, Fortis Insurance Company is in violation of Mont. Code Ann. § 33-22-247(3)(a).

17. By discontinuing individual policies and replacing individual coverage with group coverage, Fortis Insurance Co. is in violation of Mont. Code Ann. § 33-22-247(3)(b).

Student Medical Certificate

18. Pursuant to Mont. Code Ann. § 33-1-501, all policy forms and certificates must be submitted to the Department for review and approval prior to issuing the same in Montana.

19. By failing to obtain Department approval of student medical certificate #554, Fortis Insurance Co. is in violation of Mont. Code Ann. § 33-1-501.

20. By failing to provide coverages mandated by Montana law in student medical certificate #554, Fortis Insurance Co. is in violation of Mont. Code Ann. §§ 49-2-309 (maternity, including complications of maternity – enacted in 1983), 33-22-129 (diabetes – enacted in 2001), 33-22-131 (inborn errors of metabolism – enacted in 1989, amended from "phenylketonuria" to present language in 1999), 33-22-132 (mammography examinations – enacted in 1991), 33-22-134 (post-mastectomy care – enacted in 1997), 33-22-135 (reconstructive breast surgery after mastectomy – enacted in 1997), 33-22-512 (well-child care – enacted in 1991), and 33-22-701 et seq. (mental illness, alcoholism, and drug addiction – enacted in 1979, amended to include mental illness in addition to alcoholism and drug addiction in 1981).

Small Employer Groups

21. Pursuant to Mont. Admin. R. 6.6.5078(3), insurers writing small employer group coverage must provide firm price quotes to small employer groups within 15 working days of receiving a request for a quote. If the insurer needs additional information to provide the firm price quote, the insurer must request such additional information within 5 working days of receiving the request for the price quote.

22. By failing to provide firm price quotes to small employer groups within 15 working days and by failing to request additional information that is needed to provide a firm price quote from small employer groups within 5 working days after receiving a request for a firm price quote, Fortis Health (a\k\a Assurant Health) has violated Mont. Admin. R. 6.6.5078(3).

Maternity Coverage

23. Mont. Code Ann. § 49-2-309 prohibits discrimination on the basis of sex in the issuance or operation of any type insurance policy, plan, or coverage including discrimination in regard to rates or premiums and payments or benefits. The Montana Supreme Court in *Bankers Life and Casualty Co. v. Peterson*, 263 Mont. 156, 866 P.2d 241 (1993), has held that since only women can become pregnant, any differential treatment with regard to insurance based on pregnancy constitutes sex discrimination in violation of Mont. Code Ann. § 49-2-309.

24. Pursuant to Mont. Code Ann. §§ 33-1-311 and 33-1-502, the Commissioner and Department shall enforce the prohibition against sex discrimination with regard to insurance at Mont. Code Ann. § 49-2-309.

25. By denying coverage for maternity, whether or not as a pre-existing condition, and by denying coverage for complications of maternity and by imposing a waiting period for coverage, Fortis Health (a\k\a Assurant Health) has violated Mont. Code Ann. § 49-2-309.

AGREEMENT

Each Respondent hereby stipulates and agrees to the following:

1. Respondents Fortis Insurance Co., Fortis Benefits Co., and John Alden Life Insurance Co. are insurers who each hold a certificate of authority issued by the Commissioner and Department to transact the business of insurance in Montana.

2. The Commissioner and Department have jurisdiction over the subject matter of the above-entitled proceeding.

3. Each Respondent acknowledges that its authorized representative signing this Consent Agreement has read and understands each term of this Consent Agreement and Final Order. Each Respondent acknowledges that it enters into this Consent Agreement voluntarily, and without reservation. Each Respondent acknowledges that this Consent Agreement constitutes the entire agreement between the parties and that no other promises or agreements, either express or implied, have been made by the Department or by any member, officer, agent or representative of the Department to induce Respondent to enter into this Consent Agreement.

4. The Department contends as set forth in the preceding Fact Assertions and Conclusions of Law and Respondents admit the same. The Department and Respondents have elected to resolve these matters as follows:

(a) Licensing Issues. Steve Dodder obtained a nonresident insurance producer license in Montana in March 2003;

(b) Certificates of Creditable Coverage. Fortis Health (a\k\a Assurant Health) has revised its certificates of creditable coverage to provide the notices required pursuant to Mont. Code Ann. § 33-22-142(3). Additionally, Fortis Health (a\k\a Assurant Health) will mail certificates of creditable coverage within 10 days of terminating coverage, as specified in Mont. Code Ann. § 33-22-142 and will further comply with any other requirements pertaining to certificates of creditable coverage pursuant to Mont. Code Ann. § 33-22-142 and Mont. Admin. R. 6.6.5079. Moreover, Fortis Health (a\k\a Assurant Health) will comply with Mont. Code Ann. § 33-22-530 including, but not limited to, providing at least 15 days prior notification of cancellation for nonpayment of premium for group health insurance coverage.

Fortis Health (a\k\a Assurant Health) shall perform a self-audit of the issuance of certificates of creditable coverage that are provided to Montana insureds from April 2004 through September 2004. By December 1, 2004, Fortis Health (a\k\a Assurant Health) shall provide the Department with the results of the self audit including a list of

all individuals, including individuals who were part of an employer group, whose coverage was terminated from April 2004 through September 2004, a copy of the certificate of creditable coverage, specifying the date the certificate was sent and the date of coverage termination, that was sent to these insureds, and a complete mailing list of all Montana insureds who received a certificate of creditable coverage during the time period of the self-audit.

(c) 2002 Product Withdrawal. Fortis Insurance Co. has obtained Department approval of a new individual market product, form #236. Form #236 will be the only individual market product currently offered by Fortis Insurance Co. in Montana.

By June 4, 2004, Fortis Insurance Co. will provide a draft notice to the Department for review and approval that allows insureds to elect to change their coverage from the form #227 (trustee group) to form #236 with any of the co-insurance and deductible levels currently offered by Fortis Insurance Co. for the form selected by the insured. Within 60 days after the election notice has been approved by the Department, Fortis Insurance Co. will send the election notice to all Montana insureds affected by the 2002 Product Withdrawal who previously had coverage in the individual market.

Fortis Insurance Co. will allow insureds at least 30 days, from the date of mailing of the election notice, to make the election. If any insured fails to make an election, Fortis Insurance Co. will continue that insured's coverage under form #227 at the same benefit, co-insurance, deductible and premium levels. Further, within 15 days of sending these notices, Fortis Insurance Co. will provide the Department with a copy of the election notice sent to the affected insureds along with a complete mailing list of all Montana insureds who received the notice.

(d) Student Medical Certificate. Respondent Fortis Insurance Co. will seek Department approval of its student medical certificate form #554. Further, Fortis

Insurance Company will stop marketing and/or issuing student medical certificate form #554 in Montana by June 10, 2004 and will not resume marketing and/or issuing student medical certificate form #554 until it has been approved by the Department. Final approval of this form must be obtained by July 30, 2004 or the form must be withdrawn.

By June 4, 2004, Fortis Insurance Co. will provide a draft notice to the Department for review and approval that will be sent with updated certificates of insurance to insureds who are currently covered under student medical form #554. The notice will also advise insureds that any claims for maternity, diabetes, well-child care, inborn errors of metabolism, mammography, post-mastectomy care and reconstructive breast surgery, and mental illness, alcoholism, and drug addiction incurred after January 1, 2002 may be submitted to Fortis Insurance Co. for processing or they may contact Fortis Insurance Co. and request processing of these claims. The notice will allow at least 60 days for insureds to submit claims or contact Fortis Insurance Co. regarding claims.

Within 60 days after Department approval of the notice or the student medical certificate form #554, whichever occurs last, Fortis Insurance Co. will send the notice to insureds. Within 15 days of sending these notices, Fortis Insurance Co. will provide the Department with a copy of the notice sent to the affected insureds along with a complete mailing list of all insureds who received the notice. Within 90 days following the close of the claim submission period, Fortis Insurance Co. will process these claims and pay any covered claims. Within 60 days thereafter, Fortis Insurance Co. will provide the Department with a complete accounting of all such claims.

Within 90 days following the signing of the Final Order in this matter, Fortis Insurance Co. shall perform a self-audit of claims processed for maternity, diabetes, inborn errors of metabolism, mammography, post-mastectomy care and reconstructive breast surgery, well-child care, and mental illness, alcoholism and drug addiction under

form #554 from January 2002 through May 2004. Where submitted claims have been inappropriately denied or reduced, Fortis Insurance Co. shall pay the claimants the amount of the claim, plus interest at the rate of ten percent per annum, calculated from the date of receipt of the original claim to the date of the payment. By September 1, 2004, Fortis Insurance Co. shall provide the Department with a complete accounting of all such claims that have been reprocessed.

By June 4, 2004, Fortis Insurance Co. will provide a draft notice to the Department for review and approval that advises former insureds who were covered under student medical certificate form #554 from January 1, 2002 to the present that claims for maternity, diabetes, well-child care, inborn errors of metabolism, mammography, post-mastectomy care and reconstructive breast surgery, and mental illness, alcoholism, and drug addiction incurred after January 1, 2002 may be submitted to Fortis Insurance Co. for processing or they may contact Fortis Insurance Co. and request processing of these claims. The notice will be sent to each former insured's last known address and will allow at least 60 days for insureds to submit claims or contact Fortis Insurance Co. regarding these claims. Within 60 days after approval by the Department, Fortis Insurance Co. will send the notice to former insureds. Within 15 days of sending the notices, Fortis Insurance Co. will provide the Department with a copy of the notice sent to these insureds along with a complete mailing list of all insureds who received the notice. Within 90 days following the close of the claim submission period, Fortis Insurance Co. will process these claims and pay any covered claims. Within 60 days thereafter, Fortis Insurance Co. will provide the Department with a complete accounting of all such claims.

If Fortis Insurance Co. does not obtain Department approval of student medical certificate form #554 by July 30, 2004, Fortis Insurance Co. will send a notice to all insureds who are or were covered under this form but did not receive the notice sent to former insureds as described above. The notice will be the same as the notice sent to

former insureds, as described in the preceding paragraph, and will be sent to these insureds by August 31, 2004. Fortis Insurance Co. will process these claims and provide information and documents to the Department in the same manner and within the same time frames (schedule) as set forth in the preceding paragraph pertaining to former insureds.

(e) Small Employer Groups. Fortis Health (a\k\a Assurant Health) has revised its practices to comply with Mont. Admin. R. 6.6.5078(3) by providing firm quotes to small employer groups within 15 working days of receiving a request for a quote in the form of a completed application. Applications are considered to be received by Fortis Health (a\k\a Assurant Health) when received by their agent. Further, if Fortis Health (a\k\a Assurant Health) needs additional information to provide the firm price quote, this information shall be requested from a group within 5 working days of receiving a completed application from that group;

(f) Maternity Coverage. In all insurance contracts, whether individual policies or group certificates, Fortis Health (a\k\a Assurant Health) will provide coverage for maternity, including complications of maternity, and further will not impose any pre-existing condition exclusions or waiting periods with regard to maternity coverage. Fortis Health (a\k\a Assurant Health) will provide coverage for maternity as a benefit in every individual policy or group certificate and will not charge an additional premium for such coverage.

Within 90 days of the signing of the Final Order in this matter, Fortis Health (a\k\a Assurant Health) shall perform a self-audit of all maternity-related claims processed from January 2002 through May 2004. Where submitted claims have been inappropriately denied or reduced, Fortis Health (a\k\a Assurant Health) shall pay the claimants the amount of the claim, plus interest at the rate of ten percent per annum, calculated from the date of receipt of the original claim to the date of the payment. By

September 1, 2004, Fortis Health (a\k\a Assurant Health) will provide the Department with a complete accounting of all such claims.

Additionally, Fortis Health (a\k\a Assurant Health) is committed to providing correct information to insureds and prospective insureds who reside in the State of Montana regarding the coverage for maternity, including complications of maternity, without any pre-existing condition exclusions or waiting periods. Within 90 days following the signing of the Final Order in this matter, Fortis Health (a\k\a Assurant Health) will provide the Department with a written description, and any supporting documentation, detailing the actions taken to make certain that coverage for maternity is provided in accordance with Montana law as set forth above. Such actions by Fortis Health (a\k\a Assurant Health) may include, but are not limited to, written instructions to its customer service employees, claims handling employees, and appointed insurance producers.

By June 4, 2004, Fortis Health (a\k\a Assurant Health) will provide a draft notice to the Department for review and approval that advises past and current insureds that they may submit maternity claims incurred after January 1, 2002, to Fortis Health (a\k\a Assurant Health) for processing. Within 60 days after approval by the Department, Fortis Health (a\k\a Assurant Health) will send the notice to past and current insureds since January 1, 2002. The notice will be sent to each insured's last known address and will allow at least 60 days for insureds to submit claims. Within 15 days of sending the notice, Fortis Health (a\k\a Assurant Health) will provide the Department with a copy of the notice and a complete mailing list of insureds receiving the notice. Within 90 days following the close of the claim submission period, Fortis Health (a\k\a Assurant Health) will process the claims and pay any covered claims. Within 60 days thereafter, Fortis Health (a\k\a Assurant Health) will provide the Department with a complete accounting of all such claims; and

(g) Administrative Fine.

(i) Licensing Issues. For violating Mont. Code Ann. § 33-17-1103 an unknown number of times by sharing in insurance producer commissioners without being licensed as an insurance producer in the same line, Steve Dodder will pay an administrative fine of $5,000.00 to the Department within 30 days following the signing of the Final Order in this matter;

(ii) Certificates of Creditable Coverage. For violating Mont. Code Ann. § 33-22-142(3) at least 290 times by providing certificates creditable of coverage that did not contain the statutorily required disclosures, the Department may impose a maximum fine of $25,000.00 per each violation pursuant to Mont. Code Ann. § 33-1-317. For violating Mont. Admin. R. 6.6.5079G(2) at least 211 times failing to send certificates of creditable coverage within a reasonable time after termination of coverage, the Department may impose a maximum fine of $25,000.00 per each violation pursuant to Mont. Code Ann. § 33-1-317. For violating Mont. Code Ann. § 33-22-142(1) repeatedly by failing to send certificates of creditable coverage to the individual insured employees when terminating small employer group coverage, the Department may impose a maximum fine of $25,000.00 per each violation pursuant to Mont. Code Ann. § 33-1-317. For all violations pertaining to certificates of creditable coverage, Fortis Health (a\k\a Assurant Health) will pay an administrative fine of $40,000.00 to the Department within 30 days following the signing of the Final Order in this matter;

(iii) 2002 Product Withdrawal. For violating Mont. Code Ann. § 33-22-247 approximately 935 times in the 2002 Product Withdrawal, the Department may impose a maximum fine of $25,000.00 per each violation pursuant to Mont. Code Ann. § 33-1-317. For violating Mont. Code Ann. § 33-22-247 in the 2002 Product Withdrawal, Fortis Insurance Co. will pay an administrative fine of $15,000.00 to the Department within 30 days following the signing of the Final Order in this matter;

(iv) Student Medical Certificate. For violating Mont. Code Ann. § 33-1-501 at least 1,076 times by issuing student medical certificates, Fortis Insurance Co. form #554, to Montana residents without obtaining prior approval of the Department, the Department may impose a maximum fine of $25,000.00 per violation pursuant to Mont. Code Ann. § 33-1-317. Additionally, for failing to provide coverage mandated by Montana law in student medical certificate form #554, the Department may impose a maximum fine of $25,000.00 per violation pursuant to Mont. Code Ann. § 33-1-317. For all other violations pertaining to student medical certificate #554, Fortis Insurance Co. will pay an administrative fine of $50,000.00 to the Department within 30 days following the signing of the Final Order in this matter;

(v) Small Employer Groups. For violating Mont. Admin. R. 6.6.5078(3) several times by failing to provide firm price quotes to small employer groups within 15 working days, by failing to request additional medical information from small employer groups within 5 days after receiving a request for a firm price quote, and by increasing the premium charged to small employer groups after the effective date of the coverage, the Department may impose a maximum fine of $25,000.00 per violation pursuant to Mont. Code Ann. § 33-1-317. For violating Mont. Admin. R. 6.6.5078(3), Fortis Health (a\k\a Assurant Health) will pay an administrative fine of $5,000.00 to the Department within 30 days following the signing of the Final Order in this matter; and

(vi) Maternity Coverage. By violating Mont. Code Ann. § 49-2-309 numerous times by failing to provide coverage for maternity, the Department may impose a maximum fine of $25,000.00 per violation pursuant to Mont. Code Ann. § 33-1-317. For violating Mont. Code Ann. § 49-2-309, Fortis Health (a\k\a Assurant Health) will pay an administrative fine of $25,000.00 to the Department within 30 days following the signing of the Final Order in this matter.

5. The Department and each Respondent agree that this Consent Agreement and Final Order resolves the violations set out herein for period of time from January 1, 2002 through December 31, 2003.

6. Each Respondent specifically and affirmatively waives a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, and elects to resolve this matter on the terms and conditions set forth herein.

7. Each Respondent agrees that compliance with this Consent Agreement and Final Order shall be a final compromise and settlement of the matters set forth herein.

8. Each Respondent agrees that this Consent Agreement shall be incorporated and made a part of the attached Final Order issued by the Commissioner herein.

9. Each Respondent further understands that, upon the signing of the Final Order by the Commissioner or his representative, this Consent Agreement and Final Order will be an order of the Commissioner and failure to comply with the same may constitute separate violations of the Montana Insurance Code, pursuant to Mont. Code Ann. § 33-2-119 and/or other applicable statutes or rules, and may result in subsequent legal action by the Department.

10. Each Respondent fully and forever releases and discharges the Commissioner, Department, and all Department employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the factual allegations or conclusions in this Consent Agreement.

11. Each Respondent understands that this Consent Agreement is not effective until such time as the following Final Order is signed.

12. Each Respondent understands that this Consent Agreement and Final Order are public records under Montana law and as such may not sealed or otherwise withheld from the public.

FORTIS INSURANCE COMPANY, RESPONDENT

By: _____ 6-7-04
Its: Sr. VP, General Counsel Date

Subscribed and Sworn to before me this 7th day of June, 2004.

(SEAL)

Notary Public for the State of Wisconsin
Residing at Racine, WI
My commission expires 2-6-05

FORTIS BENEFITS INSURANCE COMPANY, RESPONDENT

By: _____ 6-7-04
Its: Sr. VP General Counsel Date

Subscribed and Sworn to before me this 7th day of June, 2004.

(SEAL)

Notary Public for the State of Wisconsin
Residing at Racine, WI
My commission expires 2-6-05

JOHN ALDEN LIFE INSURANCE COMPANY, RESPONDENT

By: _____ 6-7-04
Its: Sr. VP, General Counsel Date

Subscribed and Sworn to before me this 7th day of June, 2004.

(SEAL)

Notary Public for the State of Wisconsin
Residing at Racine, WI
My commission expires 2-6-05

STEVE DODDER, RESPONDENT

Steve Dodder — Date: 6-8-2004

Subscribed and Sworn to before me this 8th day of June, 2004.

(SEAL)

Notary Public for the State of Wisconsin
Residing at Racine, WI
My commission expires 2-6-05

ACCEPTED ON BEHALF OF THE INSURANCE DEPARTMENT:

Christina L. Goe, Staff Attorney
Insurance Department — Date: 6-10-04

FINAL ORDER

Pursuant to the authority vested by the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*, and upon review of the forgoing Consent Agreement and good cause appearing therefor,

IT IS ORDERED that the foregoing Consent Agreement between the Insurance Department and Fortis Insurance Co, Fortis Benefits Insurance Co., John Alden Life Insurance Co., and Steve Dodder is hereby adopted as if set forth fully herein.

DATED this 10th day of June, 2004.

JOHN MORRISON
State Auditor and Commissioner of Insurance

Alicia Pichette

By: Alicia Pichette
Deputy Insurance Commissioner

CERTIFICATE OF SERVICE

I hereby certify that on the 11 day of JUNE, 2004, I served a true and accurate copy of the foregoing Consent Agreement and Final Order upon the Respondents, by mail, postage prepaid, at the following address:

Christina Palme-Krizak
General Counsel
Fortis Health (a\k\a Assurant Health)
P.O. Box 3050
Milwaukee, WI 53201-3050
(Legal Counsel for all Respondents)

And upon Legal Counsel for the Insurance Department:

Christina L. Goe
Staff Attorney
Insurance Department

Paula Sautter