

7. TIC issued small employer group coverage known as the CC2K plan. The policy forms for the CC2K plan were filed with the Commissioner and approved for use in Montana on March 28, 2000.

8. Since January 1, 2003, JALIC has issued the J-3000 plan to 28 small employer groups in Montana.

9. Since January 1, 2003, JALIC has issued the J-4000 plan to 699 small employer groups in Montana.

10. Since January 1, 2003, TIC has issued the CC2K plan to 168 small employer groups in Montana.

11. The policy language in the J-3000 plan, J-4000 plan, and CC2K plan do not give notice or do not clearly give notice that the plan provides certain benefits required by Montana law including coverage for: pregnancy and prenatal care; pre-existing conditions; newborn infants within the first 31 days after birth without additional premium charges; well-child care; pre-existing conditions with regard to cosmetic treatment or related surgery; diabetes care and management; mental illness, chemical dependency, severe mental illness and self-inflicted injury claims; reconstructive breast surgery; contraceptives; and employees who are subject to medical confinement upon the coverage effective date.

12. A recent audit conducted by Assurant Health resulted in JALIC paying claims and interest of \$37,437.40 and refunding \$41,656.99 in premiums improperly collected for newborns (during the first 31 days after birth) and TIC paying claims and interest of \$2,132.36 and refunding \$17,903.39 in premiums improperly collected for newborns (during the first 31 days after birth).

13. Assurant Health self-reported that they inadvertently did not provide the required 90 day notice to 118 employer groups (or the individual insureds) with renewal dates in January, February, and March, 2010 during the JALIC plan roll and discontinuance. JALIC did provide a 60 day prior notice to these groups and the

individual insureds. Also Assurant Health had contact with agents of 85 of the groups affected. Quotes with changes were done and/or other options were sent to the groups at the request their Agent.

14. Additionally, JALIC did not provide any notice of the product withdrawal for two groups (group #557282 and group #997912) insured under the J-4000 plan and renewed them on June 1, 2009, and September 15, 2009, under the J-4000 plan. These two groups will be subject to the product withdrawal of the J-4000 plan in 2010 including the 90 day prior notice requirement.

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

6. By failing to obtain approval of the policy forms and certificates for the J-4000 plan, JALIC is in violation of Mont. Code Ann. § 33-1-501.

7. By failing to provide or failing to clearly provide benefits required by Montana law in the J-3000 plan, J-4000 plan, and the CC2K plan, JALIC and TIC are

in violation of Mont. Code Ann. 33-1-502 (policy forms that are inconsistent, ambiguous, misleading, or do not comply with Montana law) and:

(a) Mont. Code Ann. §§ 49-2-309 and 33-1-502(5) (pregnancy and prenatal care, including complications of maternity; and prescription contraceptives and related services coverage); *see also Bankers Life and Casualty Co. v. Peterson*, 263 Mont. 156, 866 P.2d 241 (1993); 51 Op. Att’y Gen. 16 (2006);

(b) Mont. Code Ann. § 33-22-129 (diabetes management and care);

(c) Mont. Code Ann. § 33-22-132 (mammography examinations);

(d) Mont. Code Ann. § 33-22-134 (post-mastectomy care);

(e) Mont. Code Ann. § 33-22-135 (reconstructive breast surgery after mastectomy);

(f) Mont. Code Ann. § 33-22-512 (well-child care);

(g) Mont. Code Ann. § 33-22-701 *et seq.* (mental illness and chemical dependency);

(h) Mont. Code Ann. § 33-22-706 (severe mental illness including self-inflicted injuries);

(i) Mont. Code Ann. § 33-22-514 (pre-existing conditions with regard to cosmetic treatment or related surgery);

(j) Mont. Code Ann. § 33-22-526 (no delay in effective date for employees subject to medical confinement on their coverage effective date); and

(k) Mont. Code Ann. § 33-22-504 (newborn infant coverage from birth for the first 31 days without additional premium charges).

8. By failing to provide 90 days prior notice to 118 employer groups and the individual insureds before withdrawing (discontinuing) the J-4000 plan, JALIC is in violation of Mont. Code Ann. § 33-22-524(3).

9. 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.

AGREEMENT

Each Respondent hereby stipulates and agrees to the following:

1. Respondents JALIC and TIC are insurers that 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) Amendatory Riders:

(1) J-3000 and J-4000 plans issued by JALIC: For the J-3000 and J-4000 plans, JALIC filed amendatory riders with the Commissioner and received approval of the same (form numbers 29763 and 29762 respectively). The amendatory riders include the required benefits that were missing or unclear in the policy forms, including, but not limited to, coverage for pregnancy and

prenatal care, pre-existing conditions, newborn infants within the first 31 days after birth, well-child care, cosmetic treatment or related surgery, diabetes care and management, mental illness, chemical dependency, severe mental illness and self-inflicted injury claims, reconstructive breast surgery, contraceptives, and employees who were subject to medical confinement upon their coverage effective date (no delayed effective date).

Between August 8 and 15, 2008, JALIC sent the amendatory riders to current and former insureds since January 1, 2003, along with a Department-approved cover letter explaining that its policy forms were not compliant with Montana law and the benefits in the rider were required in Montana. JALIC provided the Department with a complete mailing list of all insureds receiving an amendatory rider and cover letter.

(2) CC2K plan issued by TIC: For the CC2K plan, TIC filed an amendatory rider with the Commissioner and received approval of the same (form number 29764). The amendatory rider included the required benefits that were missing or unclear in the policy forms, including, but not limited to, coverage for pregnancy and prenatal care, pre-existing conditions, newborn infants within the first 31 days after birth, well-child care, cosmetic treatment or related surgery, diabetes care and management, mental illness, chemical dependency, severe mental illness and self-inflicted injury claims, reconstructive breast surgery, contraceptives, and employees who were subject to medical confinement upon their coverage effective date (no delayed effective date).

Between October 31 and November 4, 2008, TIC sent the amendatory rider to current and former insureds since January 1, 2003, along with a Department-approved cover letter explaining that its policy forms were not compliant with Montana law and the benefits in the rider were required in

Montana. TIC provided the Department with a complete mailing list of all insureds receiving an amendatory rider and cover letter.

(b) Self-Audit and Claim Submission Opportunity:

(1) J-3000 and J-4000 plans issued by JALIC: For the J-3000 and J-4000 plans, JALIC performed a self-audit of claims by current and former insureds processed since January 1, 2003, for pregnancy and prenatal care, newborn infants within the first 31 days after birth without additional premium charged, well-child care, cosmetic treatment or related surgery, pre-existing conditions (only individual insureds with aggregate pre-existing condition denials of \$500 or more), diabetes care and management, mental illness, chemical dependency, severe mental illness and self-inflicted injury claims, reconstructive breast surgery, contraceptives, and employees who were subject to medical confinement upon their coverage effective date (delayed effective date). If submitted claims had been inappropriately denied or reduced, JALIC paid the claimants the correct covered amount of the claim plus interest. If premium was charged for newborn infants from birth through the first 31 days, JALIC refunded the premium to the small employer and notified the individual insured of the premium refund to the employer. JALIC completed the self-audit on January 15, 2009, and provided the Department with a complete accounting of all such claims that had been reprocessed.

Additionally, for the J-3000 and J-4000 plans, JALIC sent a Department-approved letter to current and former insureds since January 1, 2003, advising that previously unsubmitted claims for required benefits that were missing or unclear in the policy forms (specifically, coverage for pregnancy and prenatal care, pre-existing conditions, newborn infants within the first 31 days after birth, well-child care, cosmetic treatment or related surgery, diabetes care and management, mental illness, chemical dependency, severe mental illness and

self-inflicted injury claims, reconstructive breast surgery, contraceptives, and employees who were subject to medical confinement upon their coverage effective date) may be submitted within 60 days of the letter for processing. The claim submission request letters were mailed between August 8 and 15, 2008. JALIC provided the Department with a complete mailing list of all insureds receiving the letter.

Within 60 days following the close of the claim submission period, JALIC processed the submitted claims and paid any covered claims. On December 10, 2008, JALIC provided the Department with a complete accounting of all such claims.

(2) CC2K plan issued by TIC: For the CC2K plan, TIC performed a self-audit of claims by current and former insureds processed since January 1, 2003, for pregnancy and prenatal care, newborn infants within the first 31 days after birth without additional premium charged, well-child care, cosmetic treatment or related surgery, pre-existing conditions (only individual insureds with aggregate pre-existing condition denials of \$500 or more), diabetes care and management, mental illness, chemical dependency, severe mental illness and self-inflicted injury claims, reconstructive breast surgery, contraceptives, and employees who were subject to medical confinement upon the coverage effective date (delayed effective date). If submitted claims have been inappropriately denied or reduced, TIC paid claimants the correct covered amount of the claim plus interest. If premium was charged for newborn infants from birth through the first 31 days, TIC refunded the premium to the small employer and notified the individual insured of the premium refund to the employer. TIC completed the self-audit on April 22, 2009, and provided the Department with a complete accounting of all such claims that had been reprocessed.

Additionally, for the CC2K plan, TIC sent a Department-approved letter to current and former insureds since January 1, 2003, advising that previously unsubmitted claims for required benefits that were missing or unclear in the policy forms (specifically, coverage for pregnancy and prenatal care, pre-existing conditions, newborn infants within the first 31 days after birth, well-child care, cosmetic treatment or related surgery, diabetes care and management, mental illness, chemical dependency, severe mental illness and self-inflicted injury claims, reconstructive breast surgery, contraceptives, and employees who were subject to medical confinement upon their coverage effective date) may be submitted within 60 days of the letter for processing. The claim submission request letters were mailed between October 28 and November 4, 2008. TIC provided the Department with a complete mailing list of all insureds receiving the letter.

Within 60 days following the close of the claim submission period, TIC processed the submitted claims and paid any covered claims. On February 27, 2009, TIC provided the Department with a complete accounting of all such claims.

(c) Actively at Work / Non-confinement – Delayed Effective Date:

(1) J-3000 and J-4000 plans issued by JALIC: On August 8, 2008, JALIC sent a Department-approved letter to employers currently or previously insured since January 1, 2003, under the J-3000 or J-4000 plans. The letter asked the employers to advise Assurant Health within 60 days whether any employee had a delayed effective date for coverage because of absence from work due to illness or injury or medical confinement on the date the employer group coverage became effective or the date the employee's group coverage was to become effective. JALIC provided the Department with a complete mailing list of all employers receiving the letter. On December 12, 2008, JALIC

provided the Department with a complete accounting of all such claims and advised that no claims were adjusted or paid.

(2) CC2K plan issued by TIC: On October 28, 2008 and on December 8, 2008, TIC sent a Department-approved letter to employers currently or previously insured since January 1, 2003, under the CC2K plan issued by Time Insurance Co. The letter asked the employers to advise Assurant Health within 60 days whether any employee had a delayed effective date for coverage because of absence from work due to illness or injury or medical confinement on the date the employer group coverage became effective or the date the employee's group coverage was to become effective. TIC provided the Department with a complete mailing list of all employers receiving the letter. On February 27, 2009, TIC advised the Department that no claims were made.

(d) Communication to Insurance Producers: Assurant Health sent a letter to Montana-licensed insurance producers appointed with JALIC (on August 8, 2008) and appointed with TIC (on October 22, 2009) regarding the mailings to current and former employers and insureds under the J-3000, J-4000, and CC2K plans pertaining to actively at work / delayed effective date, amendatory rider and cover letter, and the claim submission request letter along with a list of the affected groups for that producer. Producers were advised to contact their North Star Marketing representative with any questions.

(e) New Small Employer Group Policy Forms: Assurant Health filed new small employer group policy forms with the Commissioner and Department and received approval of the same. These policy forms will be issued as true group products in that each small employer will be a group policyholder and that employer's individual employees will be certificate holders under the employer's group policy. The policy forms will be used by JALIC and TIC and will be

marketed as “Real Choices I”, “Real Choices II”, and “Real Choices III” and include the following form numbers:

(1) JALIC policy forms: Form JA-1000-MT; Form JA-2000-MT; Form JA-1000-MT (Rev. 4/2008); Form JA-2000-MT (Rev. 4/2008); JGM.MPO.PHP.MT; JGM.POL.PHP.MT; JGM.BNP.PHP.MT; JGM.OCP.PHP.MT; JGM.MPO.TRD.MT; JGM.POL.TRD.MT; JGM.BNP.TRD.MT; JGM.OCP.TRD.MT; JGM.MPO.PPC.MT; JGM.POL.PPC.MT; JGM.BNP.PPC.MT; JGM.OCP.PPC.MT; JGM.MPO.PPO.MT; JGM.POL.PPO.MT; JGM.BNP.PPO.MT; JGM.OCP.PPO.MT; JGM.MPO.HSA.TRD.MT; JGM.POL.HSA.TRD.MT; JGM.BNP.HSA.TRD.MT; JGM.OCP.HSA.TRD.MT; JGM.MPO.HSA.PPO.MT; JGM.POL.HSA.PPO.MT; JGM.BNP.HSA.PPO.MT; JGM.OCP.HSA.PPO.MT; JGM.MPO.RC3.TRD.MT; JGM.POL.RC3.TRD.MT; JGM.BNP.RC3.TRD.MT; JGM.OCP.RC3.TRD.MT; JGM.MPO.RC3.PPO.MT; JGM.POL.RC3.PPO.MT; JGM.BNP.RC3.PPO.MT; JGM.OCP.RC3.PPO.MT; JGM.MPO.HSA.PHP.MT; JGM.POL.HSA.PHP.MT; JGM.BNP.HSA.PHP.MT; JGM.OCP.HSA.PHP.MT; JGM.29467.MT; JGM.29468.MT; JGM.29469.MT; JGM.29470.MT; JGM.LMP.MT; JGM.LIF.MT; JGM.SMP.MT; JGM.STD.MT; 29431.MT; JGM.DMT.PRE.TRD.MT; JGM.DNC.PRE.TRD.MT; JGM.DBT.PRE.TRD.MT; 29435.PRE.TRD.MT; JGM.29758.MT; JGM.DMT.SEL.TRD.MT; JGM.DNC.SEL.TRD.MT; JGM.DBT.SEL.TRD.MT; 29435.SEL.TRD.MT; JGM.29759.MT; JGM.29760.MT; Form JA-3000-MT and Form JA-4000-MT; and

(2) TIC policy forms: Form 50100-MT (Rev. 4/2008); Form 50200-MT (Rev. 4/2008); TGM.MPO.PHP.MT; TGM.POL.PHP.MT; TGM.BNP.PHP.MT; TGM.OCP.PHP.MT; TGM.MPO.TRD.MT; TGM.POL.TRD.MT; TGM.BNP.TRD.MT; TGM.OCP.TRD.MT;

TGM.MPO.PPC.MT; TGM.POL.PPC.MT; TGM.BNP.PPC.MT;
 TGM.OCP.PPC.MT; TGM.MPO.PPO.MT; TGM.POL.PPO.MT;
 TGM.BNP.PPO.MT; TGM.OCP.PPO.MT; TGM.MPO.HSA.TRD.MT;
 TGM.POL.HSA.TRD.MT; TGM.BNP.HSA.TRD.MT;
 TGM.OCP.HSA.TRD.MT; TGM.MPO.HSA.PPO.MT;
 TGM.POL.HSA.PPO.MT; TGM.BNP.HSA.PPO.MT; TGM.OCP.HSA.PPO.MT;
 TGM.MPO.HSA.PHP.MT; TGM.POL.HSA.PHP.MT;
 TGM.BNP.HSA.PHP.MT; TGM.OCP.HSA.PHP.MT;
 TGM.MPO.RC3.TRD.MT; TGM.POL.RC3.TRD.MT;
 TGM.BNP.RC3.TRD.MT; TGM.OCP.RC3.TRD.MT; TGM.MPO.RC3.PPO.MT;
 TGM.POL.RC3.PPO.MT; TGM.BNP.RC3.PPO.MT; TGM.OCP.RC3.PPO.MT;
 TGM.29467.MT; TGM.29468.MT; TGM.29469.MT; TGM.29470.MT;
 TGM.LMP.MT; TGM.LIF.MT; TGM.SMP.MT; TGM.STD.MT; 29430.MT;
 TGM.DMT.PRE.TRD.MT; TGM.DNC.PRE.TRD.MT;
 TGM.DBT.PRE.TRD.MT; 29434.PRE.TRD.MT; TGM.29758.MT;
 TGM.DMT.SEL.TRD.MT; TGM.DNC.SEL.TRD.MT;
 TGM.DBT.SEL.TRD.MT; 29434.SEL.TRD.MT; TGM.29759.MT;
 TGM.29760.MT; Form 50300-MT and Form 50400-MT.

After August 1, 2008, Assurant Health will not issue the J-3000, J-4000, and CC2K plans to new business; instead, only the policy forms listed above or other small employer group policy forms approved by the Commissioner will be issued to small employer groups in Montana.

(f) Product Withdrawal of JALIC J-3000 plan and J-4000 plan and Premium Rate Protection: JALIC will undertake a product withdrawal of the J-3000 plan and J-4000 plan. Beginning in December 2008, JALIC will send a Department-approved notice to the affected small employer groups and their insurance producers. The notice will advise that the products are being withdrawn and

will offer the option to purchase any small employer group product approved by the Commissioner as listed in paragraph 4(e) of this Agreement (the “Real Choices I”, “Real Choices II”, and “Real Choices III” plans) with any cost-sharing choices offered by JALIC including, but not limited to, deductible, co-pay, co-insurance, and maximum out-of-pocket. The notice will be sent to every group 90 days before its renewal date.

Employer groups that renewed prior to receiving the Department-approved 90 day product withdrawal notice from JALIC were allowed to renew their J-3000 and J-4000 plans. Further, these groups were able to select any cost-sharing choices available under the J-3000 and J-4000 plans including, but not limited to, any deductible, co-pay, co-insurance, and maximum out-of-pocket (*e.g.*, a group could have renewed its coverage under the J-4000 plan while increasing its deductible and co-pay amounts). These groups were not adversely re-underwritten at their renewal and any premium rate increase was in accordance with Mont. Code Ann. § 33-22-1809(1)(c).

Employer groups insured under the J-4000 plan and scheduled to renew in January, February, or March, 2010, that were erroneously given only a 60 day notice, instead of the 90 day product withdrawal notice, will also be sent a table comparing the J-4000 plan to the new “Real Choices” plans. These groups will be allowed to purchase any small employer group product approved by the Commissioner as listed in paragraph 4(e) of this Agreement (the “Real Choices I”, “Real Choices II”, and “Real Choices III” plans). These groups will be allowed to select any cost-sharing choices available under any small employer group product approved by the Commissioner as listed in paragraph 4(e) of this Agreement including, but not limited to, any deductible, co-pay, co-insurance, and maximum out-of-pocket.

All groups subject to the withdrawal (discontinuation) of the J-4000 plan will receive premium rate protection in that they will be treated as renewal business, not new business, and will not be adversely re-underwritten. While the rates for these groups will be compliant with Section 33-22-1809(1)(c), Mont. Code Ann., the rate increase will be no higher than the sum of: (1) the portion of the rate increase based on trend, up to 13% (a 13% rate increase is consistent with both the 2008 Tillinghast HealthMAPS manual's trend assumption and with the Segal Company's 2008 health insurance trend assumption); (2) the rate increase based on experience or duration of coverage as determined by the rate manual, up to 12% (the rate increase will not be based on health status because adverse re-underwriting will not be used); and (3) an adjustment because of a change in coverage or case characteristics as determined by the current rate manual.

For the groups identified by JALIC as previously being placed below the rating bands in error, the maximum allowable rate increase for these groups is the increase resulting from the process explained in the above paragraph, plus 5%, at the time of the product withdrawal, and in future years will be the maximum increase allowed by Section 33-22-1809(1)(c), Mont. Code Ann., plus 5%, until such time that each group's rate is within 25% of the index rate defined in Section 33-22-1803(15), Mont. Code Ann.

By April 30, 2010, JALIC will provide the Department with reports regarding the J-3000 plan and the J-4000 plan product withdrawal and the premium rate increases (or decreases) for each group upon renewal. By October 15, 2010, JALIC will provide the Department with an additional report regarding the J-4000 plan product withdrawal and including the last two groups (group #557282 and group #997912 scheduled to renew on June 1, 2010, and

September 15, 2010, respectively) subject to the product withdrawal including the premium rate increases (or decreases) for each group upon renewal.

Additionally, JALIC will promptly provide any information requested by the Department regarding the groups previously or currently covered under the J-3000 and J-4000 plans, the groups affected by the product withdrawal, and the premium rates imposed by JALIC for any of the aforementioned groups.

JALIC anticipates that by April 30, 2010, no groups will be covered under the J-3000 plan. By May 14, 2010, JALIC will send a written communication to the Department, signed by an officer of the company, attesting that no groups are covered under the J-3000 plan, listing all policy forms for the J-3000 plan and requesting withdrawal of the same, and affirmatively stating that the company mailed the new policy forms selected (from the policy forms listed in paragraph 4(e) for the "Real Choices" products) to every group and individual insured. JALIC shall also provide the Department with a complete mailing list for these groups and individual insureds.

If JALIC fails to mail the new policy forms or if any J-3000 plan is found to be in force after May 14, 2010, JALIC will be in violation of this Consent Agreement and Final Order which shall constitute separate violations of the Montana Insurance Code and may result in subsequent legal action by the Department.

JALIC anticipates that by October 1, 2010, no groups will be covered under the J-4000 plan. By October 15, 2010, JALIC will send a written communication to the Department, signed by an officer of the company, attesting that no groups are covered under the J-4000 plan, listing all policy forms for the J-4000 plan and requesting withdrawal of the same, and affirmatively stating that the company mailed the new policy forms selected (from the policy forms listed in paragraph 4(e) for the "Real Choices" products)

to every group and individual insured. JALIC shall also provide the Department with a complete mailing list for these groups and individual insureds.

If JALIC fails to mail the new policy forms or if any J-4000 plan is found to be in force after October 15, 2010, JALIC will be in violation of this Consent Agreement and Final Order which shall constitute separate violations of the Montana Insurance Code and may result in subsequent legal action by the Department.

(g) Reformation of the TIC CC2K Trust Plan and Product Replacement:

TIC will reform the in force coverage under the CC2K trust plan ("Clear Choices") to be a true group product in that each small employer will be a group policyholder and that employer's individual employees will be certificate holders under the employer's group policy. To reform the CC2K trust plan into a true group product, TIC received Commissioner approval on May 26, 2009, of the following policy forms: P99.TRD.MT; C99.TRD.MT; C99.OOC.TRD.MT; P99.PPO.MT; C99.PPO.MT; C99.OOC.PPO.MT; P99.PPC.MT; C99.PPC.MT; C99.OOC.PPC.MT; P99.HCP.MT; C99.HCP.MT; C99.OOC.HCP.MT; 29768; and 29769.

TIC provided the Department with a draft notice to affected small employer groups, individual insureds, and their insurance producers advising that the in force CC2K trust coverage has been reformed to be a true group product to be effective on the date of mailing to the small employer and individual insureds. The Department approved the notice on December 17, 2009. By January 30, 2010, TIC sent the Department-approved notice and the applicable policy forms (see the policy forms listed in the preceding paragraph) to affected small employer groups, individual insureds, and their insurance producers. These groups will not be adversely re-underwritten as a result of the reformation to a true group product.

TIC will provide the Department with an attestation, signed by an officer of the company, affirmatively stating that the company mailed the notices and policy forms for reformation to a true group product to the groups and individual insureds. TIC shall also provide the Department with a complete mailing list for these groups and individual insureds.

If TIC fails to mail the notice or new policy forms or if any CC2K trust plans are found to be in force after March 1, 2010, TIC will be in violation of this Consent Agreement and Final Order which shall constitute separate violations of the Montana Insurance Code and may result in subsequent legal action by the Department.

At renewal, small employer groups insured under the CC2K true group plan will be given the option to remain on their current plan or to purchase any TIC and JALIC small employer group products approved by the Commissioner (e.g., the "Real Choices I", "Real Choices II", and "Real Choices III" products listed in paragraph 4(e) of the Agreement) with any cost-sharing choices offered including, but not limited to, deductible, co-pay, co-insurance, and maximum out-of-pocket.

These groups will not be adversely re-underwritten at their renewal. While the rates for these groups will be compliant with Section 33-22-1809(1)(c), Mont. Code Ann., any rate increase will be no higher than the sum of: (1) the portion of the rate increase based on trend, up to 13% (a 13% rate increase is consistent with both the 2008 Tillinghast HealthMAPS manual's trend assumption and with the Segal Company's 2008 health insurance trend assumption); (2) the rate increase based on experience or duration of coverage as determined by the rate manual, up to 12% (the rate increase will not be based on health status because adverse re-underwriting will not be used); and (3) an

adjustment because of a change in coverage or case characteristics as determined by the current rate manual.

By December 31, 2010, TIC will provide the Department with a report regarding the premium rate increases (or decreases) for each group upon the product reformation and at renewal. Additionally, TIC will promptly provide any information requested by the Department regarding the groups affected by the product replacement and the premium rates imposed by TIC.

TIC may undertake a product withdrawal of the CC2K true group plan in compliance with Mont. Code Ann. § 33-22-524(3) and any other applicable statutes and rules.

When there are no groups are covered under the CC2K trust group plan, whether through a product withdrawal or otherwise, TIC will send a written notice to the Department listing all policy forms for this plan and withdrawing the same.

(k) Administrative Fine. Pursuant to Mont. Code Ann. § 33-1-317, the Commissioner and Department may impose a maximum administrative fine of \$25,000.00 per each violation of Montana law.

(1) Unapproved Policy Forms. By issuing the unapproved J-4000 plan policy forms to hundreds of small employer groups, JALIC violated Section 33-1-501, Mont. Code Ann., hundreds of times. For these violations, JALIC shall pay an administrative fine of \$100,000.00 to the Department within 30 days following the signing of the Final Order in this matter.

(2) Noncompliant Policy Forms. By issuing the J-4000, J-3000, and CC2K plans which failed to provide or failed to clearly provide certain benefits required by Montana law to hundreds of small employer groups, JALIC and TIC are in violation of Mont. Code Ann. § 33-1-502 (policy forms that are inconsistent, ambiguous, misleading, or do not comply with Montana law) and

Mont. Code Ann. §§ 49-2-309 and 33-1-502(5) (pregnancy and prenatal care, including complications of maternity; and prescription contraceptives and related services coverage; *see also Bankers Life and Casualty Co. v. Peterson*, 263 Mont. 156, 866 P.2d 241 (1993), 51 Op. Att’y Gen. 16 (2006); Mont. Code Ann. § 33-22-129 (diabetes management and care); Mont. Code Ann. § 33-22-132 (mammography examinations); Mont. Code Ann. § 33-22-134 (post-mastectomy care); Mont. Code Ann. § 33-22-135 (reconstructive breast surgery after mastectomy); Mont. Code Ann. § 33-22-512 (well-child care); Mont. Code Ann. § 33-22-701 *et seq.* (mental illness and chemical dependency); Mont. Code Ann. § 33-22-706 (severe mental illness including self-inflicted injuries); Mont. Code Ann. § 33-22-514 (pre-existing conditions with regard to cosmetic treatment or related surgery); Mont. Code Ann. § 33-22-526 (no delay in effective date for employees subject to medical confinement on their coverage effective date); and Mont. Code Ann. § 33-22-504 (newborn infant coverage from birth for the first 31 days without additional premium charges).

For these violations, JALIC shall pay an administrative fine of \$50,000.00 and TIC shall pay an administrative fine of \$50,000.00 to the Department within 30 days following the signing of the Final Order in this matter.

(3) Failure to Provide 90 Day Notice of Product Withdrawal. By failing to provide the required 90 day notice prior to withdrawing (discontinuing) the J-4000 plan for groups with renewal dates in January, February, and March, 2010, JALIC violated Mont. Code Ann. § 33-22-524(3) with regard to 118 groups. For these violations, JALIC shall 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 both Respondents agree that this Consent Agreement and Final Order resolve the violations set out herein for period of time from January 1, 2003 through July 31, 2008.

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 her 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.

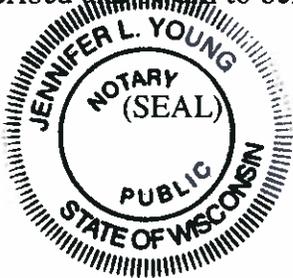
11. Each Respondent understands that this Consent Agreement is not effective until such time as the following Final Order is signed.

12. Each Respondent understands that this Consent Agreement and Final Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public. Each Respondent further understands that this Consent Agreement and Final Order will be reported to the National Association of Insurance Commissioners (NAIC) as required by the membership of the Montana State Auditor and Commissioner of Insurance in the NAIC.

JOHN ALDEN LIFE INSURANCE COMPANY, RESPONDENT

By: *John H. Ryan* 3/15/2010
Its: *Vice President Regulatory* Date
Comptroller

Subscribed and sworn to before me this 15th day of March, 2010.

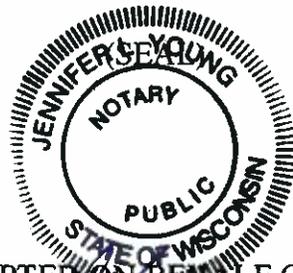


Jennifer L. Young
Notary Public for the State of Wisconsin
Residing at Milwaukee
My commission expires 09-26-2010

TIME INSURANCE COMPANY, RESPONDENT

By: *John H. Ryan* 3/15/2010
Its: *Vice President Regulatory* Date
Comptroller

Subscribed and sworn to before me this 15th day of March, 2010.



Jennifer L. Young
Notary Public for the State of Wisconsin
Residing at Milwaukee
My commission expires 09-26-2010

ACCEPTED ON BEHALF OF THE INSURANCE DEPARTMENT:

Christina L. Goe 3-16-10
Christina L. Goe, General Counsel Date
Insurance Department

FINAL ORDER

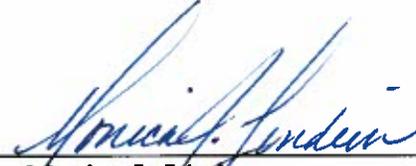
Pursuant to the authority vested by the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*, and upon review of the forgoing Consent Agreement and good cause appearing therefor,

IT IS ORDERED that the foregoing Consent Agreement between the Insurance Department and Respondents John Alden Life Insurance Co. and Time Insurance Co. is hereby adopted as if set forth fully herein.

DATED this 19th day of March, 2010.

MONICA J. LINDEEN
State Auditor and Commissioner of Insurance

By:



Monica J. Lindeen

CERTIFICATE OF SERVICE

I hereby certify that on the 22 day of March, 2010, 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:

Julie Hix Royer
Vice President and Legal Counsel
Assurant Health
P.O. Box 3050
Milwaukee, WI 53201-3050
(Legal Counsel for the Respondents)

And upon Legal Counsel for the Insurance Department:

Christina L. Goe
Jennifer Massman
Legal Counsel
Insurance Department