

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
MONTANA STATE AUDITOR

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IN THE MATTER OF THE CONVERSION  
OF BLUE CROSS AND BLUE SHIELD  
OF MONTANA, INC. AND ALLIANCE  
WITH HEALTH CARE SERVICE  
CORPORATION,

Case No. INS-2012-238

Applicants.

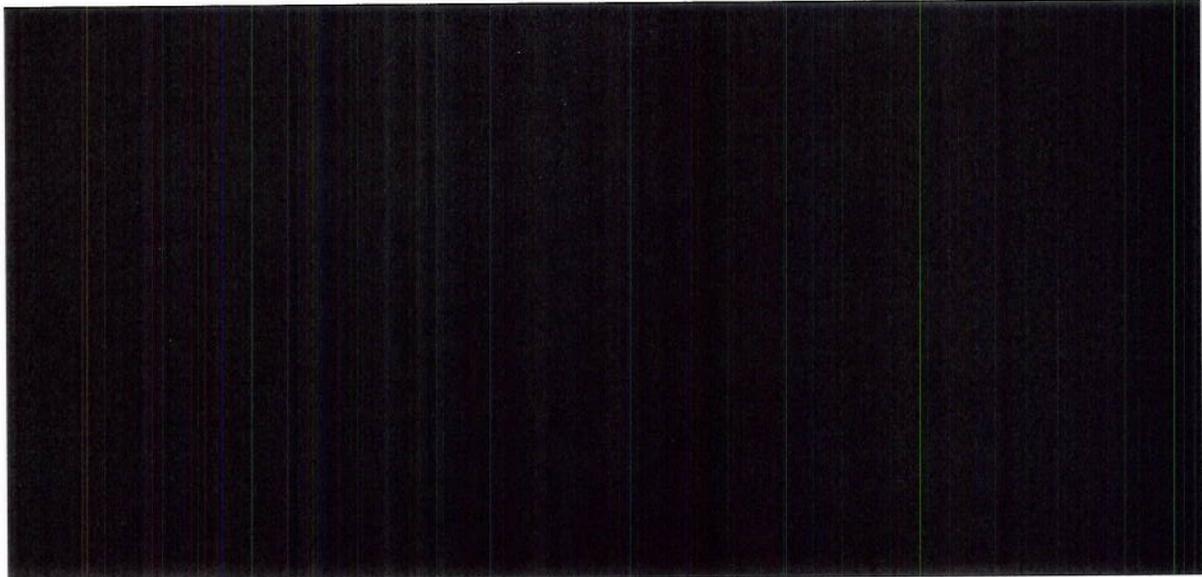
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TRANSCRIPT OF PROCEEDINGS  
(UNSEALED PER ORDER - APRIL 11, 2013)

Taken At:  
MONTANA SUPREME COURT  
215 NORTH SANDERS  
HELENA, MONTANA  
MARCH 13, 2013

W. WILLIAM LEAPHART, PRESIDING

CHRISTINE D. LIVELY  
REGISTERED PROFESSIONAL REPORTER  
WAYRYNEN & LIVELY REPORTING SERVICE  
1940 DEWEY BOULEVARD  
BUTTE, MONTANA 59701



10 MR. ANGOFF: Your Honor, may I have this  
11 marked?

12 HEARING EXAMINER LEAPHART: You may.

13 MR. LASLOVICH: Jay.

14 HEARING EXAMINER LEAPHART: Counsel.

15 MR. ANGOFF: I'm sorry, your Honor.

16 HEARING EXAMINER LEAPHART: Thank you.

17 Q. (By Mr. Angoff) Miss Reitan, I'm showing you  
18 what's been marked as Commissioner's Exhibit D for  
19 identification. Can you identify that?

20 A. It looks to be a supplemental exhibit that  
21 identifies executive compensation for 2012.

22 MR. ANGOFF: Your Honor--

23 MR. KALECZYZ: Go ahead.

24 MR. ANGOFF: The parties having stipulated to  
25 foundation and authenticity, I now move what's been

1 marked as Commissioner's Exhibit D for identification  
2 into evidence as Commissioner's Exhibit D.

3 HEARING EXAMINER LEAPHART: Any objection?

4 MR. KALECZYZ: We would object, your Honor, on  
5 the grounds of relevance. The compensation of HCSC  
6 employees or senior management staff is really not in  
7 issue, and it's not relevant to the criteria under the  
8 statute for consideration either by the Attorney General  
9 or by the Commissioner of Insurance.

10 We simply don't think this is relevant to the  
11 proceedings, to your deliberations or to the ultimate  
12 decision-makers.

13 HEARING EXAMINER LEAPHART: Your objection is  
14 noted. I will let it in on the condition that you keep  
15 it brief.

16 MR. ANGOFF: Thank you, your Honor.

17 MR. KALECZYZ: Excuse me, your Honor. And also  
18 just to make it clear, that as this portion of the  
19 proceedings are sealed so also should this exhibit be  
20 sealed.

21 HEARING EXAMINER LEAPHART: Okay.

22 Q. (By Mr. Angoff) So Miss Reitan, going back to  
23 what we were talking about before about the long-term  
24 incentive plan and criteria based on which one would  
25 qualify for that, I wonder if you could just talk us

1 through those criteria. With your own bonuses, you see  
2 there for 2012 what your salary is and then your bonus  
3 of 7.9, 7.9 million. Could you explain, roughly,  
4 obviously, how that was calculated, how you achieved the  
5 \$7.9 million bonus?

6 A. 2012 is sort of an unusual year in the sense that  
7 the -- because of the tax changes, our board moved the  
8 incentive -- some incentive payment that was earned in  
9 2012 that we normally pay in March of 2013 into 2012  
10 because of some of the tax changes that were occurring.  
11 So a portion of mine is that -- it's really the portion  
12 that would have been paid next year. And then the other  
13 portion would have been the amount that was for '11 that  
14 was paid in '12, in March of 2012.

15 Q. Okay. And so does that explanation then apply to  
16 everyone's 2012 bonus year as far as you know?

17 A. I don't know. I know for me, there's issues about  
18 how much you may have had deferred. They're some issues  
19 about your age and whether you were vested. Neither one  
20 of those apply to me, and I can't comment on whether any  
21 of those apply to any of the other people listed here.

22 Q. Okay. Does any of your 2012 bonus depend on their  
23 having been a difference in 2011 between the net income  
24 you projected and the actual net income?

25 A. One of the goals in -- I mentioned in the

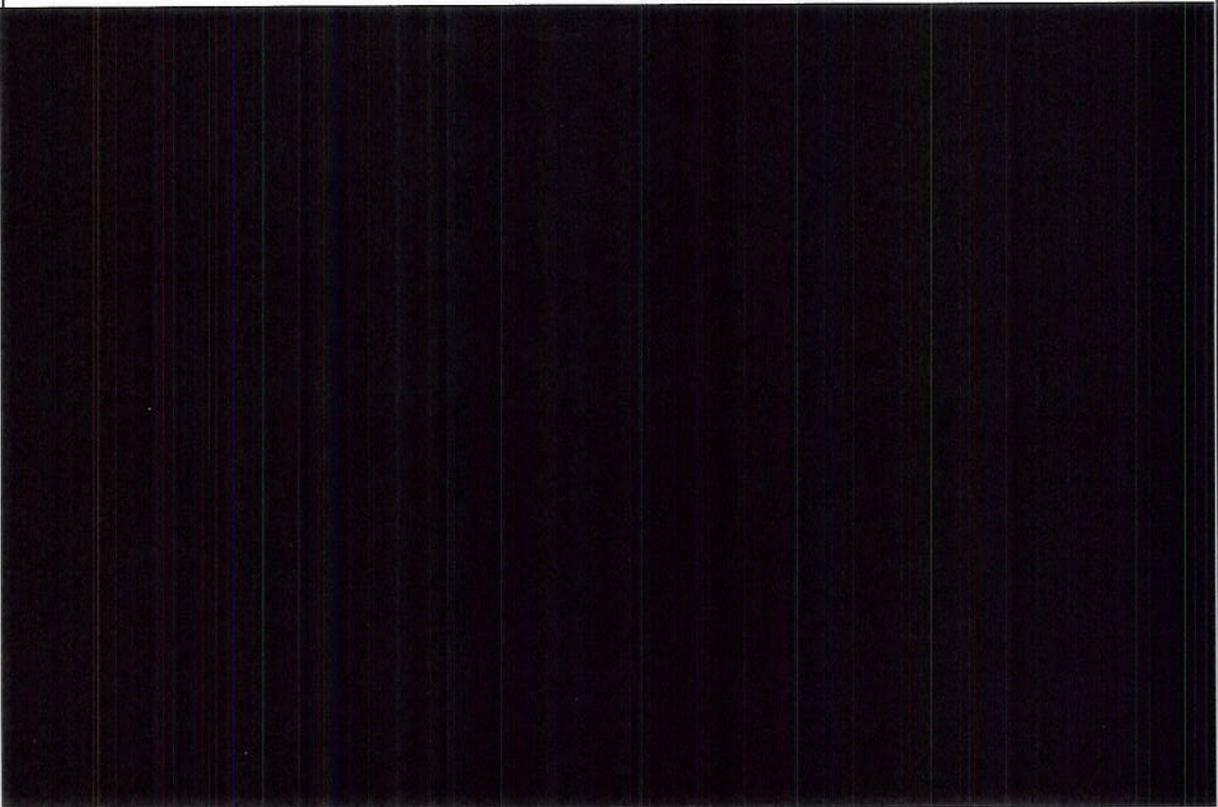
1 long-term program and in our annual, one of the goals  
2 typically include the level of earnings after tax but  
3 it's bounded so there's -- you can't -- there's some  
4 level of compensation that you get by making the plan or  
5 doing a little better than the plan, and if you don't  
6 meet the plan, you cannot get your bonus. But its  
7 bounded so if -- certainly the level of results that we  
8 had in '11 didn't accrue to people like me as extra  
9 compensation.

10 Q. Okay. Let me make sure I understand the  
11 difference between the bonus, if any, that depends on  
12 absolute results and the bonus, if any, that depends on  
13 the increment in results between projected and actual.  
14 Does any part of the bonus depend on the magnitude of  
15 the difference in results between projected and actual?

16 A. No, it's the actual result. I mean, we set the  
17 goal ranges based on the plan that was developed, which  
18 is a projection, so there's ranges set so you know what  
19 your business plan is for the year. And then you create  
20 the incentive program around it, okay, around using it.  
21 So it becomes -- it's relevant only in the sense that it  
22 sets the start point but then you actually define  
23 absolute ranges, and they're bounded, so additional  
24 compensation cannot occur if you do better than those  
25 bounded ranges.

1 Q. But can additional compensation occur if you do  
2 better but within the range?

3 A. Well, the range is by definition the way you  
4 define the incentive program from threshold to  
5 excellent.



19 Q. When you say plan, do you mean the financial plan?

20 A. Right, as one of the measures. I mean, certainly,  
21 there are other measures, but one of the measures that  
22 we keep coming back to is this net gain after tax, which  
23 I think you're referring to. That's what I'm talking  
24 about.

25 Q. In the financial plan, though, in the financial

1 plan, it contains your projected net income, correct?

2 A. Correct.

3 Q. Okay. So is the long-term incentive bonus based  
4 on the projected net income?

5 A. It's based on -- the final payment is based on the  
6 actual, but the range that's set for where a payment can  
7 occur uses the plan as a starting point. So in a year,  
8 for example -- and I don't remember the specifics, the  
9 exact specifics, but in a year where we may have had  
10 like a half a billion goal, the highest -- the excellent  
11 goal might have been 750,000. So if the company earned  
12 more than that, that doesn't provide any additional  
13 compensation to anyone.

14 Does that help you understand that?

15 Q. Yes.

16 A. Okay.

17 Q. So if the company is above the projected, to some  
18 extent up to a certain level, you will -- or you'll be  
19 eligible for a bonus, but above that level, you won't.  
20 So in your example, you said 750,000. I think you meant  
21 750 million.

22 A. Million, thank you.

2 A. Correct. And I just want to be clear. That was a  
3 hypothetical example.

4 Q. Correct.

5 And have we just been talking -- have we been  
6 talking about just now the long-term incentive bonus  
7 only or do the same rules apply for the annual incentive  
8 bonus?

9 A. The structure -- the idea behind the structure is  
10 similar, so you have a plan or a set of beliefs about  
11 kind of your planned actions, and then the goal ranges  
12 have some range around them, whether it's Star ratings  
13 or enrollment growth or the level of implementation  
14 we're doing for ACA which is one of them that we have  
15 right now. Any one of them have some range around it  
16 with boundaries. So if you do dramatically better, you  
17 can't make too much, but if you do worse, you can get  
18 zero.

19 Q. And are there various thresholds whether they're  
20 called base, target, stretch and excellent or some other  
21 similar group of thresholds, are there thresholds that  
22 must be met in order to attain a certain amount of  
23 bonus?

24 A. You know, the only real threshold is the threshold  
25 which is the bottom end. If you don't at least have

1 performance at the bottom end, then you get zero. The  
2 rest of it is essentially a linear, so there's not like  
3 cliff points along the way.

4 Am I answering your question?

5 Q. Yes.

6 A. Okay.

7 Q. So of your \$7.9 million bonus for 2012,  
8 approximately how much was a result of a long-term  
9 incentive plan and how much was a result of the annual  
10 incentive plan?

11 A. Again, for 2012 -- I would have to go back and do  
12 the math. Probably about one-and-a-half was due to the  
13 annual. One-and-a-half million would have been annual,  
14 and then the balance is really split. And I don't  
15 remember the split between what was the 2011 money that  
16 was paid for '12 and the 2012 that would have been paid  
17 in '13 if it were not for that tax change that occurred.

18 Q. And Miss Hall's \$14.8 million bonus for 2012, I  
19 assume -- do you know, is that about the same division  
20 between long-term and annual or don't you know?

21 MR. KALECZYZ: Objection, foundation.

22 THE WITNESS: I don't know.

23 Q. (By Mr. Angoff) And are there other types of  
24 bonuses besides the long-term incentive plan and the  
25 annual incentive plan that are included in your bonus

1 number?

2 MR. KALECZYZ: Object that it's a compound  
3 question, your Honor.

4 I object that it's also a compound question. First  
5 he was asking about Miss Hall and now he's asking Miss  
6 Reitan's compensation. Also, there's no foundation for  
7 what this witness knows or may not know about Miss Hall  
8 or anyone else's compensation given that she's not  
9 involved in the compensation decisions.

10 MR. ANGOFF: I withdraw the question about Miss  
11 Hall, your Honor.

12 Q. (By Mr. Angoff) With regard to your 7.9 billion  
13 -- sorry, your \$7.9 million bonus, are there other  
14 components that go into that that have produced that 7.9  
15 million besides the long-term incentive plan and the  
16 annual incentive plan?

17 A. No.

18 Q. Do you know about what percentage -- do you know  
19 about how many people in the company qualify for the  
20 annual incentive plan?

21 A. I don't know what portion of our employees are in  
22 our sales and sales program, but everyone else has some  
23 opportunity in the annual incentive program.

24 Q. And do you know how many people approximately last  
25 year that were eligible for the annual incentive program

1 qualified for some incentive bonus?

2 A. I don't know the answer to that.

3 Q. And I think you said that the number of people  
4 that qualified for the long-term program you thought was  
5 in the dozens?

6 A. Again, you offered a couple dozen. I said it  
7 could be in that range. I don't know the exact number.

8 Q. And do you have any idea of whether or not the  
9 people who were eligible for -- strike that.

10 Since you've been with the company, have you  
11 qualified for a long-term incentive plan bonus each  
12 year?

13 A. When you start with the company, the long-term is  
14 a three-year program and so typically, people have to be  
15 there for some period of time in order to have any  
16 opportunity in that program.

17 Q. You can't qualify for a long-term incentive plan  
18 if you haven't been there for a long term?

19 A. Exactly.

20 Q. But if you have been, then -- to the extent that  
21 you have had the requisite number of years necessary to  
22 qualify for that bonus, have you qualified for that  
23 bonus?

24 A. Yes.

25 MR. ANGOFF: Your Honor, I think this is all I

1 have on this line of questioning and from now on, it  
2 would be -- my questioning would involve  
3 non-confidential matters.

4 HEARING EXAMINER LEAPHART: Okay. Thank you.  
5 Any questions from the Attorney General's Office?

6 MS. HUBBARD: Yes, your Honor.

7 HEARING EXAMINER LEAPHART: Miss Hubbard.

8 CROSS-EXAMINATION

9 BY MS. HUBBARD:

10 Q. Miss Reitan, just a few questions with regard to  
11 the compensation that Mr. Angoff just asked you about.  
12 Have any representations been made to any employee of  
13 Blue Cross/Blue Shield about merger bonuses?

14 A. Absolutely not.

15 Q. How about any other types of compensation or  
16 bonuses been offered to anyone as a result of the  
17 consummation of this transaction?

18 A. No.

19 MS. HUBBARD: I think that's all my questions,  
20 your Honor.

21 HEARING EXAMINER LEAPHART: Thank you.

22 Mr. McMahon.

23 MR. MCMAHON: Point of order, your Honor. No  
24 questions. I will weight for questions when the public  
25 returns.

REDIRECT EXAMINATION

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MR. KALECZYZ:

Q. I just have one or two, and it relates to your testimony that there were tax considerations for accelerating the payment of certain bonus amounts into 2012. Do you know what -- do you recall what those tax considerations were?

A. They actually were driven by the change that was created from ACA that had to do with tax consideration for HCSC as a corporation, not based on individual issues. So that was the consideration. And I'm not a tax expert so I can't actually describe what that was.

Q. Would it have been the limitation that would allow a corporation to deduct no more than \$500,000 in executive compensation in a given year? Does that refresh your memory?

A. That could have been it.

Q. And were there any -- and these tax considerations under ACA, did they relate to any tax advantage or disadvantage to you personally in terms of your tax rate or tax liability?

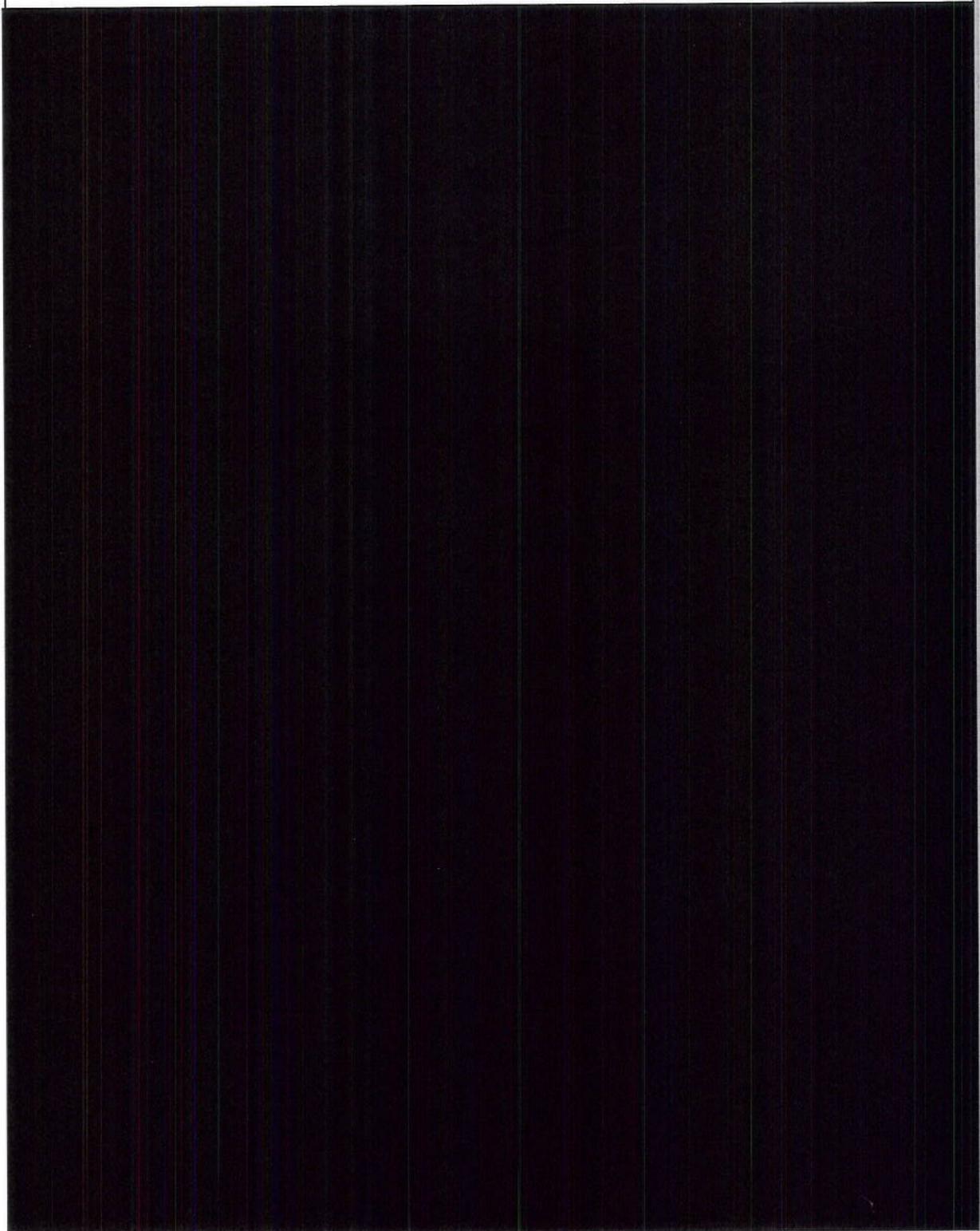
A. In ACA?

Q. Yes.

A. No.

MR. KALECZYZ: I have no other questions, your

1 Honor.



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800-451-6547