

NANCY SWEENEY
CLERK DISTRICT COURT

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BY
DEPU **C. COLBERT**

**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

IN THE MATTER OF THE
LIQUIDATION OF CARECONCEPTS
INSURANCE, INC, A RISK RETENTION
GROUP,

Respondent.

Cause No. ADV 2016-640

**ORDER COMMENCING
LIQUIDATION AND APPOINTING
LIQUIDATOR**

The Commissioner of Securities and Insurance, Office of the Montana State Auditor (Commissioner) filed a Petition for Liquidation and Supporting Memorandum on August 2, 2016, seeking an order commencing liquidation of CARECONCEPTS INSURANCE, Inc., A Risk Retention Group (Respondent).

WHEREAS, the Petition and attached Exhibit A (Unanimous Consent of Directors of CareConcepts Insurance, Inc., a Risk Retention Group) establish a factual basis for ordering liquidation of the Respondent's assets;

WHEREAS, the Respondent has waived its right to a hearing regarding the petition and consented to the entry of an order commencing liquidation,

IT IS HEREBY ORDERED:

FIXING OF RESPONDENT AND ALL ASSETS, RIGHTS, AND LIABILITIES

1. A liquidation proceeding is ordered with regard to Respondent pursuant to the Insurers Supervision, Rehabilitation, and Liquidation Act (Mont. Code Ann. §§ 33-2-1301 et seq.).

2. Effective the date of entry of this Order, and except as provided in Mont. Code Ann. Sections 33-2-1343 and 33-2-1366, the rights and liabilities of Respondent and its creditors, policyholders, shareholders, members, and all other persons interested in Respondent's estate are fixed.

3. All actions and proceedings against Respondent are hereby enjoined and full faith and credit shall be given by the courts, whether in this state or elsewhere, to this Order. Further, no action at law or equity may be brought against Respondent, the Commissioner, or any special deputy, within this state or elsewhere, after issuance of this Order. Mont. Code Ann. § 33-2-1348.

4. All policies in effect on the date of this Order shall continue in force only for the lesser of the periods identified in Montana Code Annotated Section 33-2-1343(1).

5. The requirement under Montana Code Annotated Section 33-2-1363 for the Commissioner as Liquidator to submit a proposal to disburse assets to a guaranty association or foreign guaranty association is waived as inapplicable because no guaranty fund has any obligation based on the insolvency of Respondent.

6. Respondent, its officers, directors, stockholders, agents, servants and employees, and all other persons having notice of these proceedings are prohibited from transacting any business of Respondent or selling, transferring, destroying, wasting,

encumbering, or disposing of any property or assets of Respondent without prior written approval of the Liquidator, or any special deputy if so appointed, or until further order of this Court.

7. All officers and former officers, directors and former directors, stockholders, policyholders agents and employees of Respondent, and all other persons having notice of these proceedings, are prohibited from instituting or further prosecuting any action at law or equity or in any other proceedings against Respondent, or the Commissioner, or any special deputy in connection with their duties as Liquidator including, without limitation, any action to obtain possession and control of the property or assets of Respondent, unless such an action is brought as part of this liquidation proceeding.

8. All banks, brokerage houses, agents, reinsurers, or other companies or persons having in their possession assets or records that are or may be the property of Respondent, are enjoined from disposing of, selling, wasting, encumbering, transferring, or destroying any such assets, property, or records of Respondent. This prohibition includes, but is not limited to, property, books, or records pertaining to any transaction between Respondent and any of the said parties; provided, however, that this prohibition shall not extend to or prohibit Respondent's parent company or any upstream holding company from making and retaining a copy of such books and records for tax and financial reporting purposes at no expense to Respondent. Further, except as aforesaid, none of the said parties may take any action concerning such assets, property, or records unless brought before this Court as part of this liquidation proceeding, and then only with the express consent of this Court. Mont. Code Ann. § 33-2-1309.

DUTIES AND POWER OF COMMISSIONER AS LIQUIDATOR

1. The Commissioner, and any successor in office, is appointed as the Liquidator of Respondent. The Commissioner as Liquidator is vested with the title to all of the property, contracts, rights of action, and all of the books and records of Respondent, wherever located. The Commissioner as Liquidator shall take possession of the assets of Respondent and administer them under the general supervision of this Court.

2. The filing of the liquidation order with the clerk of the district court and the clerk and recorder of the county in which Respondent's principal office or place of business is located shall impart the same notice as a deed, bill of sale, or other evidence of title.

3. The Commissioner as Liquidator is vested with authority to appoint a special deputy or deputies, who shall serve at the pleasure of the Commissioner, to act for her in regard to the liquidation pursuant to Montana Code Annotated Section 33-2-1345(1)(a). If the Commissioner appoints a special deputy to act for her in regard to the liquidation, the Commissioner shall file a Notice of Appointment of Special Deputy Liquidator with this Court. Further, the Commissioner may employ such personnel as necessary to assist in the liquidation, fix reasonable compensation for such personnel with the approval of this Court, and defray the costs incurred by administering the liquidation through reimbursement from the estate of Respondent.

4. The Commissioner as Liquidator shall collect all debts and money due and claims belonging to the insurer pursuant to Montana Code Annotated Section 33-2-1345(1)(f). The Commissioner may take all actions necessary to this end including, but not limited to, acts necessary to collect, conserve, or protect Respondent's assets and property.

The Commissioner as Liquidator may enter into contracts necessary to carry out this Order, and affirm or disavow any contracts to which Respondent is a party.

5. The Commissioner as Liquidator may continue to prosecute and institute in the name of Respondent or in the Commissioner's own name any and all suits and other legal proceedings, in this state or elsewhere; prosecute any action that may exist on behalf of the creditors, members, policyholders, or shareholders of Respondent against any officer of Respondent or any other person; and assert all defenses available to the insurer as against third persons.

6. In addition to the foregoing, the Commissioner is vested with all other powers and duties as Liquidator under Montana law not previously referenced, and with such other powers and duties as this Court may deem necessary and proper for the liquidation of Respondent.

COOPERATION REQUIRED

Any officer, manager, director, owner, employee, insurance producer, or any other person with authority over or connection with Respondent's affairs shall cooperate with the Commissioner, or any special deputy if so appointed, in connection with this liquidation proceeding, and no person may obstruct or interfere with the Liquidator in the conduct of this liquidation proceeding. Mont. Code Ann. § 33-2-1310.

IT IS FURTHER ORDERED that, pursuant to Montana Code Annotated Section 33-2-1342(5), the Commissioner as Liquidator shall provide the Court with an initial

accounting of the estate of Respondent within 60 days following the issuance of this Order.

The Liquidator shall further provide an accounting thereafter at least annually.

ENTERED this 8 day of August, 2016.

MIKE MENAHAN

DISTRICT COURT JUDGE