

DISTRICT COURT, DENVER COUNTY, COLORADO Court Address: 1437 Bannock Street, Rm 256, Denver, CO, 80202	DATE FILED: January 4, 2016 4:27 PM CASE NUMBER: 2015CV33680 <p style="text-align: center;">△ COURT USE ONLY △</p>
Petitioner(s) MARGUERITE SALAZAR INS COM v. Respondent(s) COLO HEALTH CO OP	
Case Number: 2015CV33680 Division: 269 Courtroom:	
Order of Liquidation and Finding of Insolvency	

The motion/proposed order attached hereto: APPROVED.

The Court, having conducted a hearing, notes that Defendant has no objection to entry of this Order.

Issue Date: 1/4/2016



SHELLEY ILENE GILMAN
 District Court Judge

DISTRICT COURT
 City & County of Denver, Colo.
 Certified to be full a, true and correct
 copy of the original in my custody.



JAN 05 2016

CLERK OF THE DISTRICT COURT
 By  Deputy Clerk

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>1437 Bannock Street Denver, CO 80202</p>	
<p>PETITIONER MARGUERITE SALAZAR, in her official capacity as the Commissioner of Insurance of the State of Colorado,</p> <p>v.</p> <p>RESPONDENT COLORADO HEALTH CO-OP, a Colorado Domestic Insurance Company.</p>	<p>2015CV33680</p> <p>▲ COURT USE ONLY ▲</p>
	<p>Case No. 2015CV33680</p>
<p>[PROPOSED] ORDER OF LIQUIDATION AND FINDING OF INSOLVENCY</p>	

The above matter comes before the Court upon the Petitioner's request for an Expedited Order of Liquidation and Finding of Insolvency ("Petition") for Colorado Health Insurance Cooperative, Inc., ("CO-OP"), pursuant to C.R.S. §§ 10-3-515(1) and 10-3-516(1)(a)-(c). The Court having considered the Petition, and being fully advised of the premises, does hereby determine and order as follows:

I. Jurisdiction and Venue

1. This Court has jurisdiction over this matter pursuant to §§ 10-3-504(1) and (2), C.R.S. Specifically, § 10-3-504(2), C.R.S., states that:

"The district court in and for the city and county of Denver shall have jurisdiction to entertain, hear, or determine any complaint praying for the dissolution, liquidation, rehabilitation, sequestration, conservation, or receivership of any insurer, or praying for an injunction or restraining order or other relief preliminary to, incidental to, or relating to such proceedings

other than in accordance with this part 5.”

2. Venue is proper in this Court pursuant to section 10-3-504(5), C.R.S., which states that “All actions authorized pursuant to this part 5 shall be brought in the district court in and for the city and county of Denver.”

II. Grounds for Liquidation

3. For the reasons set forth in the Petition, this Court finds that the entry of an Order of Liquidation against the CO-OP and a finding that the CO-OP is insolvent is necessary and appropriate.

4. Pursuant to § 10-3-516(1)(a), C.R.S., grounds exist for an Order liquidating the CO-OP as grounds exist for an order of rehabilitation as specified in § 10-3-511, C.R.S.

5. Pursuant to § 10-3-516(1)(b), C.R.S., grounds exist for an Order liquidating the CO-OP as the CO-OP is insolvent.

6. Pursuant to § 10-3-516(1)(c), C.R.S., grounds exist for an Order liquidating the CO-OP, as the CO-OP is in such a condition that the further transaction of business would be hazardous, financially or otherwise, to the CO-OP’s policyholders, its creditors, or the public.

7. Finally, any further attempts to rehabilitate the CO-OP would substantially increase the risk of loss to creditors, policyholders, or the public, or would be futile. As a result, pursuant to § 10-3-515(1), C.R.S., grounds exist for an order of liquidation of the CO-OP.

III. Order

WHEREFORE, pursuant to § 10-3-501, *et seq.*, this Court grants the following relief:

8. An Order liquidating the CO-OP hereby enters.
9. The CO-OP is insolvent.
10. That the Commissioner’s status of Rehabilitator of the CO-OP is terminated.

11. Pursuant to § 10-3-517(1), C.R.S., Petitioner Marguerite Salazar, as Commissioner of Insurance for the State of Colorado, is hereby appointed to serve as Liquidator of Respondent.

12. Pursuant to § 10-3-520(1)(a), C.R.S., the Commissioner is granted the authority to employ David E. Wilson of Regulatory Services Group, acting as Receivership Manager, and Joseph B. Holloway of INS Consultants, Inc., acting as

Receivership Supervisor, to assist in the Liquidation with all of the powers of the Liquidator.¹

13. Pursuant to § 10-3-520(1)(a), C.R.S., David Wilson, Regulatory Services Group, and Joseph B. Holloway shall be reimbursed for services and costs at their customary and ordinary rates, which shall constitute expenses of the administration of the Liquidation pursuant to § 10-3-541(1)(a), C.R.S.

14. The Liquidator shall proceed forthwith to assemble and take possession of all of the assets of the CO-OP, including any funds or securities held by the Division of Insurance pursuant to § 10-3-201, C.R.S., and to administer them under the general supervision of this Court.

15. The Liquidator, upon taking possession and control of the CO-OP's assets, subject to the direction of this Court, is authorized to take such steps as are necessary and authorized by the laws of Colorado to liquidate the affairs and business of Respondent, and the Liquidator is granted all the powers of the CO-OP's directors, officers, shareholders and managers, whose authority shall be suspended by this Order except insofar as they are delegated by the Liquidator.

16. The Liquidator, pursuant to § 10-3-517(5), C.R.S., shall file financial reports with this Court within one year after the date of this Order and at least annually thereafter. The financial reports shall include, at a minimum, the assets and liabilities of the CO-OP and all funds received or disbursed by the Liquidator during the reporting period.

17. Pursuant to Part 5 of Article 3 of Title 10, the Liquidator is granted the authority to institute, prosecute and defend, compromise, adjust, intervene in or become a party to such suits, actions, proceedings in law, or in equity, in state or federal courts or before any administrative agency as may in the Commissioner's opinion be necessary for the proper protection, maintenance, preservation or liquidation of the assets of the CO-OP.

18. Furthermore, pursuant to § 10-3-523, C.R.S., no action at law or equity or in arbitration shall be brought against the CO-OP or Liquidator, whether in this state or elsewhere, nor shall any such existing actions be maintained or further presented after issuance of the Court's Order.

19. The Liquidator and all persons set forth in § 10-3-514.5, C.R.S., are

¹ The term "Liquidator" is used herein to reference the Commissioner, David E. Wilson and Joseph B. Holloway, and any other future persons employed or appointed by the Commissioner pursuant to the authority set forth in § 10-3-520(1)(a).

entitled to the immunity set forth in § 10-3-514.5, C.R.S., and any other applicable laws.

20. In addition to the powers and authority set forth above, the Liquidator is granted all the powers and authority specified in § 10-3-520, C.R.S., including, but not limited to:

- a. In addition to those specifically identified herein, to appoint any other special deputies to act for the Liquidator, and to determine the reasonable compensation of such special deputies. All such special deputies shall have all powers of the Liquidator and shall serve at the pleasure of the Commissioner;
- b. The Liquidator has the authority to employ employees, agents, legal counsel, actuaries, accountants, appraisers, consultants, and such other personnel as the Liquidator may deem necessary to assist in the Liquidation;
- c. The Liquidator has the authority to appoint, at the discretion of the Commissioner and subject to the approval of this Court, an advisory committee of policyholders, claimants, or other creditors including guaranty associations should such a committee be deemed necessary; that any such committee shall serve at the pleasure of the Commissioner; and, no other committee shall be appointed by the Commissioner or the Court in the liquidation proceedings;
- d. The Liquidator has the authority to fix the reasonable compensation of employees, agents, legal counsel, actuaries, accountants, appraisers, and consultants of the CO-OP, subject to the approval of this Court;
- e. The Liquidator has the authority to pay reasonable compensation to persons appointed and defray from the funds or assets of the CO-OP all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the CO-OP.
- f. The Liquidator has the authority to hold hearings, subpoena witnesses and compel their attendance, administer oaths, examine any person under oath, and compel any person to subscribe to the person's testimony after it has been correctly reduced to writing; and, in connection therewith, may require the production of any books, papers, records, or other documents which the Liquidator deems relevant to the inquiry;

- g. The Liquidator has the authority to audit the books and records of all agents of the CO-OP insofar as those records relate to the business activities of the CO-OP;
- h. The Liquidator has the authority to collect all debts and moneys due and claims belonging to the CO-OP, wherever located, and for this purpose:
 - I. May institute timely action in other jurisdictions, in order to forestall garnishment or attachment proceedings against such debts;
 - II. May do such other acts as are necessary or expedient to collect, conserve, or protect its assets or property, including the power to sell, compound, compromise, or assign debts for purposes of collection upon such terms and conditions as the Liquidator deems best; and
 - III. May pursue any creditors' remedies available to enforce the Liquidator's claims;
- i. The Liquidator has the authority to conduct public and private sales of the property of the CO-OP;
- j. The Liquidator has the authority to use assets of the estate of the CO-OP to transfer policy obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under section 10-3-541;
- k. The Liquidator has the authority to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with any property of the CO-OP at its market value or upon such terms and conditions as are fair and reasonable. Furthermore, the Liquidator shall also have power to execute, acknowledge, and deliver any and all deeds, assignments, releases, and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the Liquidation.
- l. The Liquidator has the authority to borrow money on the security of the CO-OP's assets or without security and to execute and deliver all documents necessary to such transaction for the purpose of facilitating the Liquidation. And, any funds so borrowed may be repaid as an administrative expense and may be given priority over any other claims in class 1 under the priority of distribution pursuant to section 10-3-541.

- m. The Liquidator has the authority to enter into such contracts as are necessary to carry out this Order to liquidate, and to affirm or disavow any contracts to which the CO-OP is a party; except that the Liquidator shall not disavow, reject, or repudiate a federal home loan bank security agreement or any pledge agreement, security agreement, collateral agreement, guarantee agreement, or other similar arrangement or credit enhancement relating to a security agreement to which a federal home loan bank is a party;
- n. The Liquidator has the authority to continue to prosecute and to institute in the name of the CO-OP or in the Liquidator's own name any and all suits and other legal proceedings, in this state or elsewhere, and to abandon the prosecution of claims deemed unprofitable to pursue further.
- o. The Liquidator has the authority to prosecute any action which may exist on behalf of the creditors, members, policyholders, or shareholders of the CO-OP against any officer of the CO-OP or any other person;
- p. The Liquidator has the authority to remove any records and property of the CO-OP to the offices of the Commissioner or to such other place as may be convenient for the purposes of efficient and orderly execution of the liquidation.
- q. The Liquidator has the authority to deposit in one or more banks in this state such sums as are required to meet current administration expenses and dividend distributions;
- r. The Liquidator has the authority to invest all sums not currently needed, unless the court orders otherwise;
- s. The Liquidator has the authority to file any necessary documents for record in the office of any recorder of deeds or record office where property of the CO-OP is located, in this state or elsewhere;
- t. The Liquidator has the authority to assert all defenses available to the CO-OP as against third persons, which defenses shall include but not be limited to statutes of limitation, statutes of frauds, and the defense of usury. A waiver of any defense by the CO-OP after a petition in liquidation has been filed shall not bind the Liquidator.
- u. The Liquidator has the authority to exercise and enforce all the rights, remedies, and powers of any creditor, shareholder, policyholder, or member, including any power to avoid any transfer

or lien that may be conferred by law whether or not such power is conferred by §§ 10-3-525 to 10-3-527, C.R.S.;

- v. The Liquidator has the authority to intervene in any proceeding, wherever instituted, which could result in the appointment of a receiver or trustee, and to act as the receiver or trustee whenever such appointment is offered;
- w. The Liquidator has the authority to enter into agreements with any receiver, commissioner, or insurance department of any other state relating to the rehabilitation, liquidation, conservation, or dissolution of the CO-OP, if it is found that the CO-OP has done business in both states; and
- x. The Liquidator has the authority to exercise, in a manner consistent with the provisions of Part 5 of Article 3 of Title 10, all powers now held or hereafter conferred upon receivers by the laws of this state.

21. The enumeration, in this Order and in § 10-3-520, C.R.S., of the powers and authority of the Liquidator shall not be construed as a limitation upon the Liquidator, nor shall it exclude in any manner the Liquidator's right to do such other acts not specifically enumerated or otherwise provided for in this Order or in § 10-3-520 as may be necessary or appropriate for the accomplishment of, or in aid of the purpose of, liquidation.

22. Additionally, pursuant to § 10-3-520(4), C.R.S., the powers of the Liquidator in this Order and in § 10-3-520(1), C.R.S., do not create an obligation for the Liquidator to defend claims or to continue to defend claims subsequent to the entry of an order liquidating the CO-OP.

23. Pursuant to § 10-3-505, the CO-OP, its agents, representatives, shareholders, employees and all officers and directors thereof, all persons acting in concert or participation with the CO-OP and all persons and other legal entities whatsoever, until further order of the Court, are permanently restrained and enjoined from:

- a. Unless otherwise directed by the Liquidator, exercising any direction, control or influence whatsoever or transacting any further business of the CO-OP, any of its subsidiaries or their assets pending further order of this Court;
- b. Unless otherwise directed by the Liquidator, transferring any of the CO-OP's property;
- c. Unless otherwise directed by the Liquidator, interfering in any

shape, form or fashion, either directly or indirectly, with the Liquidator's operation of this Liquidation or their possession or control of title, right and interest to the property, books, records and all other assets of the CO-OP;

- d. Wasting of any of the CO-OP's assets;
- e. Unless otherwise directed by the Liquidator, dissipating or transferring, or both, any funds maintained in any of the bank or financial accounts of the CO-OP;
- f. Commencing, maintaining or further prosecuting any actions or proceedings, in law or equity, related to or in any way involving the CO-OP, including the commencement of or continuation of any action in the nature of an attachment, garnishment or execution against any of the property, personal or real, of the CO-OP or any of its subsidiaries or any part thereof, except in this Court;
- g. Obtaining any preferences, judgments, attachments, or other liens against any of the property, personal or real, of the CO-OP;
- h. Unless otherwise directed by the Liquidator, levying of execution against the CO-OP, its assets or its policyholders;
- i. Unless otherwise directed by the Liquidator, making of any sale or deed for nonpayment of taxes or assessments that would tend to lessen the value of the assets of the CO-OP;
- j. The withholding from the Liquidator of any books, accounts, documents, or other records relating to the business of Respondent;
- k. Any other threatened or contemplated action that might tend to lessen the value of CO-OP's assets or prejudice the rights of policyholders, creditors, or shareholders or the administration of any proceeding under C.R.S. § 10-3-501, *et seq*; and
- l. Asserting any claim against the Liquidator or their agents and employees except insofar as such claims arise in this Receivership proceeding, in which case such claims must be presented solely to this Court in this proceeding.

24. Pursuant to § 10-3-506, any officer, manager, director, trustee, owner, employee, shareholder or agent of the CO-OP, or any other person with authority over or in charge of any segment of the CO-OP's affairs, shall cooperate with the Liquidator. Such cooperation shall include, but not be limited to, the following:

- a. To reply promptly in writing to any inquiry from the Liquidator requesting such a reply; and
- b. To make available to the Liquidator any books, accounts, documents, or other records or information or property of or pertaining to the CO-OP and in the person's possession, custody or control.

25. Any reinsurer's liability and obligation to pay covered reinsured claims shall continue under the contract of reinsurance as set forth in § 10-3-531, C.R.S.

26. The rights and liabilities of the CO-OP and of its creditors, policyholders, shareholders, members, and all other persons interested in Respondent's estate shall become fixed, except as provided in §§10-3-518 and 10-3-536, C.R.S., upon the entry of this Order of Liquidation by this Court.

27. The Liquidator shall give notice or cause to be given notice, of the Order of Liquidation as soon as possible in accordance with § 10-3-521, C.R.S.

28. Pursuant to 10-3-533, C.R.S., the Liquidator shall file a proposal to distribute assets, or the Liquidator shall file a notice of a determination that there are insufficient assets to distribute, within one hundred and twenty days of the finding of insolvency by this Court.

So Ordered this _____ day of _____, 2016.

District Court Judge