



**FILED**

**MAR 25 2009**

OFFICE OF INSURANCE REGULATION

Booked by: DOM

KEVIN M. McCARTY  
COMMISSIONER

IN THE MATTER OF

CASE NO.: 97364-08-CO

MEDICAL SAVINGS INSURANCE COMPANY  
\_\_\_\_\_ /

**CONSENT ORDER**

THIS CAUSE came on as the result of an agreement between MEDICAL SAVINGS INSURANCE COMPANY (hereinafter referred to as "MSIC"), through the auspices of the Insurance Commissioner of the State of Indiana, in his capacity as the Court appointed Liquidator of MSIC, and the OFFICE OF INSURANCE REGULATION (hereinafter referred to as the "OFFICE"). Following a complete review and consideration of the entire record, and being otherwise fully advised in the premises finds as follows:

1. The OFFICE has jurisdiction over MSIC and the subject matter of this proceeding.
2. MSIC is a foreign insurer domiciled in the State of Indiana and authorized to transact life and health insurance in the State of Florida pursuant to a Certificate of Authority issued by the OFFICE.
3. On August 25, 2008, the OFFICE issued an Administrative Complaint and Cease and Desist Order alleging that the net writing ratio of MSIC was not in compliance with §

624.4095(1), Florida Statutes, and issuing an unapproved notice of non-renewal to its policyholders in the State of Florida.

4. MSIC timely filed with the OFFICE an Answer and Request for Formal Administrative Hearing and the matter was referred to the Division of Administrative Hearings (hereinafter referred to as "DOAH") on November 14, 2008. DOAH assigned this matter Case Number 08-5715.

5. Previously, the OFFICE had initiated a Target Market Conduct Examination pursuant to § 624.3161, Florida Statutes, for the period of January 1, 2001 through December 31, 2005. This file was assigned Case Number 94891-08-CO within the Legal Services Office.

6. On December 1, 2008, Indiana Insurance Commissioner Jim Atterholt filed a Verified Petition for Rehabilitation against MSIC with the Marion County Circuit Court located in Indianapolis, Indiana.

7. Following a hearing and with the consent of MSIC, the Marion County Circuit Court entered an Order of Rehabilitation dated December 1, 2008, pursuant to which Commissioner Atterholt was appointed Rehabilitator of MSIC in accordance with Ind. Code 27-9-3-2.

8. On January 23, 2009, the Rehabilitator filed a Verified Petition for Liquidation against MSIC on the grounds that MSIC is insolvent and that further attempts to rehabilitate MSIC would be futile.

9. Following notice and hearing, the Marion County Circuit Court issued an Order of Liquidation against MSIC and an Order Approving Recommendations Concerning Liquidation Procedures, Claims and Notices on February 26, 2009. The Order of Liquidation appointed Commissioner Atterholt as Liquidator of MSIC and directed that MSIC be liquidated

in accordance with Ind. Code 27-9-3.

10. MSIC agrees to process and administer claims asserted by its current policyholders and all previous policyholders with respect to covered claims in accordance with the Order of Liquidation entered in the Marion County Circuit Court.

11. Based on the foregoing, this Consent Order concludes all administrative proceedings related to DOAH Case Number 08-5715 and Target Market Conduct Examination Case Number 94891-08-CO.

12. The Certificate of Authority of MSIC is hereby SUSPENDED until such time as MSIC submits any and all requisite proof to the OFFICE that it has attained compliance with all provisions of the Florida Insurance Code in accordance with §624.421, Florida Statutes. In the event, MSIC fails to demonstrate such compliance to the satisfaction of the OFFICE or before the expiration of two years from the date of this Order, the Certificate of Authority of MSIC is revoked pursuant to Section 624.421, Florida Statutes.

13. MSIC agrees that the OFFICE shall have continuing jurisdiction to enforce the requirements and provisions of this Consent Order, as well as the Florida Insurance Code, and that in the event MSIC fails to comply with any provision of this Consent Order, the OFFICE in its sole discretion may undertake or seek all appropriate remedies as authorized by the Florida Insurance Code or other applicable law.

14. In light of the Order of Liquidation that has now been entered against MSIC and without admission or denial but to avoid the further expenditure of funds, which would be contrary to the interests of MSIC's policyholders and creditors, MSIC agrees to: (a) voluntarily withdraw its Answer and Request for Formal Administrative Hearing currently pending with DOAH and

assigned Case Number 08-5715; and (b) dismiss its request for hearing with respect to the Target Market Conduct Examination and assigned Case Number 94891-08-CO.

15. Accordingly, the OFFICE and MSIC hereby expressly waive a hearing in this matter, the making of Findings of Fact and Conclusions of Law by the OFFICE, and any and all further and other proceedings to which the parties may be entitled to by law or rules of the OFFICE. MSIC hereby knowingly and voluntarily waives all rights to challenge or contest this Consent Order, in any forum now or in the future available to it, including the right to any administrative proceeding, state or federal court action, or any appeal.

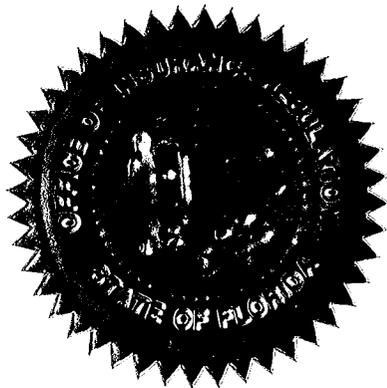
16. Each party to this action shall bear its own costs and attorney fees.

17. The parties agree that this Consent Order shall be deemed to be executed when the OFFICE has executed a copy of this Consent Order bearing the signature of MSIC and/or its authorized representative, notwithstanding the fact that the copy may have been transmitted to the OFFICE electronically or via facsimile machine. Further, MSIC agrees that its signature, as affixed to the Consent Order, shall also be under the seal of a Notary Public.

WHEREFORE, the agreement between MSIC and the OFFICE, the terms and conditions of which are set forth above, is APPROVED.

FURTHER, all terms and conditions contained herein are hereby ORDERED.

DONE and ORDERED this 25th day of MARCH, 2009.



  
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KEVIN M. McCARTY  
Commissioner  
Office of Insurance Regulation

By execution hereof, MEDICAL SAVINGS INSURANCE COMPANY consents to the entry of this Consent Order and agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions therein. The undersigned represents that he or she has the authority to bind MEDICAL SAVINGS INSURANCE COMPANY to the terms and conditions of this Consent Order.

MEDICAL SAVINGS INSURANCE COMPANY

By: Randolph Lamberjack

[Corporate Seal]

Print Name: Randolph Lamberjack

Title: Special Deputy Liquidator

Date: 3/20/09

STATE OF Indiana

COUNTY OF Marion

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of March 2009, by Randolph Lamberjack, who is personally known to me or has produced the following identification personally known.

Carol M Lamey

Signature of Notary Public

[Notarial Certificate]

Print Name

**CAROL M LAMEY  
NOTARY PUBLIC STATE OF IND.  
MARION COUNTY  
MY COMMISSION EXP. NOV. 31, 2011**

My Commission Expires:

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