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Attorneys for Petitioner
COLIN M. HAYASHIDA, in his capacity as
Liquidator of FAMILY HEALTH HAWAII MBS

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

COLIN M. HAYASHIDA, in his capacity as	)	S.P. No. 1SP161000086
Insurance Commissioner of the State of	)	(Special Proceeding)
Hawaii,)	
	)	LIQUIDATOR’S MOTION FOR APPROVAL
	)	OF FINAL DISTRIBUTION;
Petitioner,	)	MEMORANDUM IN SUPPORT OF
	)	MOTION; DECLARATION OF ANTHONY F.
Vs.	)	SUETSUGU; DECLARATION OF SPECIAL
	)	DEPUTY LIQUIDATOR; EXHIBITS “A” –
FAMILY HEALTH HAWAII, MBS, A	)	“C”; NOTICE OF HEARING AND
Mutual Benefit Society,	)	CERTIFICATE OF SERVICE
)	
Respondent.	)	HEARING:
	)	DATE: August 12, 2020
	)	TIME: 8:30 a.m.
	)	JUDGE: Honorable John M. Tonaki
)	
	)	No Trial Date Set
)	

LIQUIDATOR’S MOTION FOR APPROVAL OF FINAL DISTRIBUTION

Petitioner COLIN M. HAYASHIDA, in his capacity as Liquidator (“Liquidator”) of
FAMILY HEALTH HAWAII, MBS (“FHH”) by and through his attorneys, Kobayashi, Sugita

& Goda, LLP, hereby moves this Court pursuant to Haw. Rev. Stat. Chapter 431, Article 15 for an Order providing the Liquidator with authority to make a Final Distribution of assets in this liquidation proceeding as proposed herein.

This Motion is made pursuant to Rule 7 of the Hawaii Rules of Civil Procedure and Haw. Rev. Stat. Chapter 431, Article 15 and is supported by the Memorandum in Support of Motion, the Declarations and Exhibits attached hereto, and the records and files herein.

DATED: Honolulu, Hawaii, July 22, 2020.

/s/ Anthony F. Suetsugu
CLIFFORD K. HIGA
WENDELL H. FUJI
ANTHONY F. SUETSUGU
Attorneys for Petitioner COLIN M. HAYASHIDA,
in his capacity as Liquidator of FAMILY HEALTH
HAWAII

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

COLIN M. HAYASHIDA, in his capacity as) S.P. No. 1SP161000086
Insurance Commissioner of the State of) (Special Proceeding)
Hawaii,)
) MEMORANDUM IN SUPPORT OF MOTION;
)
Petitioner,)
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Vs.)
)
FAMILY HEALTH HAWAII, MBS, A)
Mutual Benefit Society,)
)
Respondent.)
)
)
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)
_____)

MEMORANDUM IN SUPPORT OF MOTION

I. INTRODUCTION

1. On February 6, 2013, FHH, a Hawai‘i nonprofit corporation, was licensed as a Mutual Benefit Society (“MBS”) in accordance with the provisions of Haw. Rev. Stat. Chapter 432. *See* Declaration of Martha C. Im.

2. FHH provided medical insurance that included medical indemnity, prescription drugs, dental, and other benefits to its members, member dependents, or beneficiaries (collectively “Members”). FHH sold its policies primarily to small business groups and union groups in the State of Hawai‘i. *See* Declaration of Martha C. Im.

3. On March 9, 2016, an Ex Parte Petition for a Seizure Order was filed by Petitioner Gordon I. Ito, in his capacity as the Insurance Commissioner for the State of Hawaii. A confidential Seizure Order was issued by the First Circuit Court on March 11, 2016. The Seizure Order was issued in accordance with the provisions of HRS §§ 431:15-201, 431:15-202,

and 431:15-306. *See* Declaration of Martha C. Im.

4. On March 16, 2016, a Petition for Liquidation and an Ex Parte Motion to Shorten time were filed with the First Circuit Court. *See* Declaration of Martha C. Im.

5. A hearing on the Petition for Liquidation was held on April 4, 2016, before the Honorable Karen T. Nakasone. At that hearing, testimony was received by the Court regarding a request for more time by Mr. Schmidt, former CEO for FHH. After consideration, the Court decided it could **not** approve the request due to the lack of specificity offered by FHH and the lack of assurance that any additional capital was indeed available. A Liquidation Order was signed and entered by Judge Nakasone on April 7, 2016. *See* Declaration of Martha C. Im.

6. In accordance with the provisions of Haw. Rev. Stat. Chapter 431, Article 15, notices regarding the Liquidation Order were issued by the Liquidator beginning on April 7, 2016. *See* Declaration of Martha C. Im.

7. The Liquidator has sent proof of claim forms to all claimants of the Liquidation, and the deadline for submitting such proof of claim forms has since passed. *See* Declaration of Martha C. Im.

8. The Liquidator completed his review and adjusted all of the proof of claim forms submitted by the claimants. The total amount of all class 2 claims, after adjustment of the claims by the Liquidator, is \$6,464,189. *See* Declaration of Martha C. Im.

9. The Liquidator also issued notices of determination indicating the final adjusted amount of each claim filed in the Liquidation. These notices of determination also assigned each claim to its appropriate class pursuant to Haw. Rev. Stat. §431:15-332. *See* Declaration of Martha C. Im.

10. All of the Class 2 claimants have now had an opportunity to object to the Liquidator's determination of their claims, pursuant to Haw. Rev. Stat. §431:15-329, but no objections have been received. Accordingly, the Class 2 liabilities of FHH have been finally determined pursuant to Haw. Rev. Stat. §431:15-332. *See* Declaration of Martha C. Im.

11. This Court issued the Order Granting Liquidator's Motion Regarding Report of Claims and Plan of Partial Distribution Regarding Class 2 Claims, dated April 9, 2019, which approved the Liquidator's Report of Claims and set the class and amount of each claim made against the FHH Estate. *See* Order Granting Liquidator's Motion Regarding Report of Claims and Plan of Partial Distribution Regarding Class 2 Claims, a true and correct copy of which is attached hereto as Exhibit "A".

12. In order to get a portion of their claim amount distributed to the Class 2 claimants as soon as possible, the Liquidator made an initial partial distribution to the Class 2 claimants in May of 2019. This partial distribution consisted of a total of \$2,456,012 issued to the Class 2 claimants, which satisfied 38% of the claims of each of the Class 2 claimants. *See* Declaration of Martha C. Im.

13. In the time since the initial partial distribution, the Liquidator has settled the outstanding matters related to a lawsuit filed in the Circuit Court of the First Circuit, State of Hawaii against Schmidt, entitled *Plaintiff Gordon I. Ito, in his capacity as Liquidator of Family Health Hawaii, MBS, v. Defendant J.P. Schmidt*, Civil No. 17-1-0800-05 JPC (the "Action"). *See* Declaration of Martha C. Im.

14. On July 3, 2019, the parties engaged in mediation, in which Judge Elizabeth Eden Hifo (Ret.) served as Mediator. The mediation ultimately led to a settlement, the terms of which

are set forth in the Settlement Agreement (“Settlement Agreement”), which was approved by this Court on February 26, 2020. *See* Declaration of Martha C. Im.

15. With the Action resolved, the Liquidator has made the determination that a Final Distribution of funds to claimants is appropriate. *See* Declaration of Martha C. Im.

16. Proper notice of the Liquidator’s intent to file this Motion and make a final distribution was mailed out to the claimants of FHH on June 5, 2020 using First Class Mail (the “Notice”), as approved by this Court on December 4, 2018. *See* Order Granting Liquidator's Motion For 1) Approval Of Use Of First Class Mail Regarding Notice Of Motion For Approval Of Partial Distribution And 2) Approval Of Notice Of Liquidator's Motion Regarding Report Of Claims And Plan Of Partial Distribution Regarding Class 2 Claims filed herein on December 4, 2018 attached hereto as Exhibit B”. *See* Declaration of Martha C. Im.

17. The Notice provided each claimant with the amount of their approved claim, as well as the amount to be distributed to each claimant in the second and final distribution. *See* Declaration of Martha C. Im.

18. The **total amount** to be distributed to the class 2 claimants after the initial partial distribution and the second final distribution by the Liquidator will be \$5,365,277 or 83% of the adjusted claim amount of the class 2 claimants. *See* Declaration of Martha C. Im.

19. In the initial distribution, a total of \$53,422 in checks were not cashed/negotiated by the claimants. Therefore, in the second and final distribution, those claimants that did not cash/negotiate their checks will receive the full 83% of their claim amounts instead of an additional 45% of their claim amounts. *See* Declaration of Martha C. Im.

20. The total amount to be distributed to the class 2 claimants in the second and final distribution will be \$2,962,687 (45% of the claim amount for those claimants who

cash/negotiated their initial partial distribution checks and 83% for claimants who did not cash/negotiate their initial partial distribution checks). *See* Declaration of Martha C. Im.

21. The FHH Estate has assets totaling \$3,068,786.55 as of June 30, 2020 in its bank accounts. The final distribution amount of \$2,962,687 will leave the Liquidator with approximately \$106,099 in reserve as of June 30, 2020 to cover the final costs of wrapping up and closing the Liquidation Estate. *See* Declaration of Martha C. Im.

22. Any funds left in the Liquidator's account after the estate has been closed, including the amounts of any uncashed checks issued to claimants, will be escheated to the State of Hawaii. *See* Declaration of Martha C. Im.

23. FHH does not have enough funds to fully compensate all of the Class 2 claimants, therefore subsequent classes will not be receiving distributions. *See* Declaration of Martha C. Im.

24. As such, the Liquidator now seeks an order granting the Liquidator the authority to make a final distribution to the Class 2 claimants. *See* Declaration of Martha C. Im.

II. DISCUSSION

A. This Court Should Approve the Liquidator's Final Distribution

1. The Final Distribution Is In Accordance With Haw. Rev. Stat. Chapter 431 Article 15

As this Court has already approved the Liquidator's Report of Claims, and because there are no longer any pending issues relating to FHH's finances, this Court should authorize the Liquidator to make a final distribution to the Class 2 claimants. The claimants of FHH have been waiting years to receive compensation for their claims, and the Liquidator has now reviewed each claim amount and confirmed it using the records of FHH. Therefore, in an effort to make distributions "in a manner that will assure the proper recognition of priorities and a

reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims,” the Liquidator has determined that it is in the best interest of both the Liquidation and the claimants to make a final distribution at this time. See Haw. Rev. Stat. §334(a).

Haw Rev. Stat. § 431:15-332 provides in pertinent part as follows:

§ 431:15-332. Priority of distribution.

The priority of distribution of claims from the insurer’s estate shall be in accordance with the order in which each class of claims is herein set forth. Every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims shall be:

(1) Class 1. the costs and expenses of administration, including but not limited to the following:

- (A) **The actual and necessary costs of preserving or recovering the assets of the insurer;**
- (B) **Compensation for all services rendered in the liquidation;**
- (C) Any necessary filing fees;
- (D) The fees and mileage payable to witnesses;
- (E) **Reasonable attorneys’ fees;** and
- (F) The reasonable expenses of a guaranty fund or association, or foreign guaranty association in handling claims.

(2) Class 2. All claims under policies for losses incurred[.]

* * *

- (3) Class 3. Claims of the federal government.
- (4) Class 4. Debts due to employees for services performed[.]

* * *

- (5) Class 5. Claims of general creditors.
- (6) Class 6. Claims of any state or local government.

* * *

- (7) Class 7. Claims filed late or any other claims other than claims under paragraphs 8 and 9.
- (8) Class 8. Surplus or contribution notes, or similar obligations[.]

(9) Class 9. The claims of shareholders or other owners.

Haw Rev. Stat. § 431:15-332 (emphasis added).

The Liquidator hereby proposes that the Final Distribution of assets in this Liquidation be made as follows: (a) Class 2 claimants shall receive a total of 83% of their claim (or approximately 83 cents on each Class 2 claim dollar) that had been admitted into the FHH Estate, totaling \$5,365,277, of which \$2,962,687 is to be distributed in this second and final distribution (hereinafter “Final Distribution”); and (b) keep the specified reserve amount \$106,099 for the Class 1 claims representing the remaining costs and expenses of winding up the Liquidation Proceeding.

The Final Distribution sets forth a priority of distribution of assets that is in accordance with Haw. Rev. Stat. § 431:15-332, and also allows the Liquidator to distribute the assets of FHH in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including third party claims, as required by Haw. Rev. Stat. § 431:15-334.

2. Class 2 Claimants received the proper notice required under Article 15

The Liquidator provided due and proper notice of his application for approval of this Final Distribution in accordance with this Order Granting Liquidator's Motion For 1) Approval Of Use Of First Class Mail Regarding Notice Of Motion For Approval Of Partial Distribution And 2) Approval Of Notice Of Liquidator's Motion Regarding Report Of Claims And Plan Of Partial Distribution Regarding Class 2 Claims filed herein on December 4, 2018. The Liquidator sent the approved notice form to all claimants on June 5, 2020.

Haw. Rev. Stat., § 431:15-324 requires that the Liquidator provide notice to the claimants and states:

Notice of the application shall be given to the classes affected, the guaranty fund or association in, and to the commissioners of insurance of, each of the states. Any such notice shall be deemed to have been given when deposited in the United States certified mail, first class postage prepaid, at least thirty days prior to submission of the application to the court. Action on the application may be taken by the court provided the above required notice has been given and provided further that the liquidator's proposal complies with subsections (b)(1) and (2).

Haw. Rev. Stat. § 431:15-324(e).

Therefore, Haw. Rev. Stat. §431:15-324(e) imposes the following two requirements on the Liquidator: (1) provide notice of the application to the court for approval of a proposal to disburse assets out of marshaled assets to all affected classes, the guaranty fund/association, and the insurance commissioners of each of the states; and (2) provide said notice of application with at least thirty (30) days or more prior to submitting the application to the court.

Accordingly, the notice provided to the claimants satisfies these requirements by stating that the Liquidator intended to file a Motion for Approval of Final Distribution with the Liquidation Court, and provided the website where the claimants could view the present motion. In addition to this required information, the notice also provided further information, not required by the statute, including the value of the Class 2 claim for each claimant and the amount that each claimant would receive.

3. The Amounts to be Distributed

The amounts to be distributed to the Class 2 claimants in the Final Distribution (as well as those amounts to be held in reserve to pay for anticipated wind up matters) are as described in Exhibit "C." Exhibit "C" is filed under seal due to its confidential nature. The Class 2 claimants will receive a total of 83% of their final adjusted claim amount. The funds to be distributed to each Class 2 claimant shall be paid via United States first class mail at their last known address as indicated by the records of FHH in amounts as described in Exhibit "C".

Any distribution made to a Class 2 claimant that is returned to the Liquidator because the claimant has since moved without leaving a forwarding address shall qualify such distribution as unclaimed funds pursuant to Haw. Rev. Stat. § 431:15-335. Said Class 2 claimants shall also qualify as unknown or cannot be found. *Id.* After all Class 1 Claims have been paid in full and at least 83% of Class 2 claims have been distributed, all remaining unclaimed funds in the possession of FHH will be immediately deposited with the Director of Finance, State of Hawaii, pursuant to Haw. Rev. Stat. § 431:15-335.

Unfortunately, because there are insufficient assets to fully compensate all Class 2 claimants, no other classes will receive a distribution.

III. CONCLUSION

For the reasons set forth herein, the Liquidator respectfully requests that the present Motion be granted, and that the Liquidator be authorized to make a final distribution as described above in order to distribute the remaining FHH assets to the appropriate claimants.

DATED: Honolulu, Hawaii, July 22, 2020.

/s/ Anthony F. Suetsugu
CLIFFORD K. HIGA
WENDELL H. FUJI
ANTHONY F. SUETSUGU
Attorneys for Petitioner COLIN M. HAYASHIDA,
in his capacity as Liquidator of FAMILY HEALTH
HAWAII

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

COLIN M. HAYASHIDA, in his capacity as) S.P. No. 1SP161000086
Insurance Commissioner of the State of) (Special Proceeding)
Hawaii,)
) DECLARATION OF COUNSEL
)
Petitioner,)
)
Vs.)
)
FAMILY HEALTH HAWAII, MBS, A)
Mutual Benefit Society,)
)
Respondent.)
)
)
_____)

DECLARATION OF ANTHONY F. SUETSUGU

I, ANTHONY F. SUETSUGU, declare as follows:

1. I am an attorney with the law firm of Kobayashi, Sugita & Goda, and one of the attorneys for Petitioner COLIN M. HAYASHIDA, in his capacity as Liquidator of FAMILY HEALTH HAWAII, MBS. I am licensed to practice law in all courts of the State of Hawaii and am competent to testify to matters stated herein, and make this declaration based upon facts of which I have personal knowledge.

2. Attached hereto as Exhibit "A" is a true and correct copy of the Order Granting Liquidator's Motion Regarding Report of Claims and Plan of Partial Distribution Regarding Class 2 Claims dated April 9, 2019.

3. Attached hereto as Exhibit "B" is a true and correct copy of the Order Granting Liquidator's Motion For 1) Approval Of Use Of First Class Mail Regarding Notice Of Motion For Approval Of Partial Distribution And 2) Approval Of Notice Of Liquidator's Motion Regarding

Report Of Claims And Plan Of Partial Distribution Regarding Class 2 Claims filed herein on
December 4, 2018

I declare under penalty of perjury that the foregoing is true and correct to the best of my
knowledge, belief and understanding at this time.

Executed in Honolulu, Hawaii, on July 22, 2020.

/s/ Anthony F. Suetsugu
ANTHONY F. SUETSUGU

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

COLIN M. HAYASHIDA, in his capacity as	)	S.P. No. 1SP161000086
Insurance Commissioner of the State of	)	(Special Proceeding)
Hawaii,)	
	)	DECLARATION OF SPECIAL DEPUTY
Petitioner,	)	LIQUIDATOR
)	
Vs.)	
)	
FAMILY HEALTH HAWAII, MBS, A)	
Mutual Benefit Society,)	
)	
Respondent.)	
)	
)	
)	

DECLARATION OF MARTHA C. IM

MARTHA C. IM declares as follows

1. I am the Special Deputy Liquidator of FAMILY HEALTH HAWAII, MBS (“FHH”) Estate appointed by Liquidator Gordon I. Ito, (“Liquidator”) on November 10, 2016. Pursuant to HRS § 431:15-310(a)(1), Declarant, as Special Deputy Liquidator, has the authority to act on behalf of the Liquidator and shall have all powers delineated in HRS § 431:15-310.
2. I make this declaration based upon my personal knowledge and belief.
3. On February 6, 2013, FHH, a Hawai‘i nonprofit corporation, was licensed as a Mutual Benefit Society (“MBS”) in accordance with the provisions of Haw. Rev. Stat. Chapter 432.
4. FHH provided medical insurance that included medical indemnity, prescription drugs, dental, and other benefits to its members, member dependents, or beneficiaries (collectively “Members”). FHH sold its policies primarily to small business groups and union groups in the State of Hawai‘i.

5. On March 9, 2016, an Ex Parte Petition for a Seizure Order was filed by Petitioner Gordon I. Ito, in his capacity as the Insurance Commissioner for the State of Hawaii. A confidential Seizure Order was issued by the First Circuit Court on March 11, 2016. The Seizure Order was issued in accordance with the provisions of HRS §§ 431:15-201, 431:15-202, and 431:15-306.

6. On March 16, 2016, a Petition for Liquidation and an Ex Parte Motion to Shorten time were filed with the First Circuit Court.

7. A hearing on the Petition for Liquidation was held on April 4, 2016, before the Honorable Karen T. Nakasone. At that hearing, testimony was received by the Court regarding a request for more time by Mr. Schmidt, former CEO for FHH. After consideration, the Court decided it could not approve the request due to the lack of specificity offered by FHH and the lack of assurance that any additional capital was indeed available. A Liquidation Order was signed and entered by Judge Nakasone on April 7, 2016.

8. In accordance with the provisions of Haw. Rev. Stat. Chapter 431, Article 15, notices regarding the Liquidation Order were issued by the Liquidator beginning on April 7, 2016.

9. The Liquidator has sent proof of claim forms to all claimants of the Liquidation, and the deadline for submitting such proof of claim forms has since passed.

10. The Liquidator completed his review and adjusted all of the proof of claim forms submitted by the claimants. The total amount of all class 2 claims, after adjustment of the claims by the Liquidator, is \$6,464,189.

11. The Liquidator also issued notices of determination indicating the final adjusted amount of each claim filed in the Liquidation. These notices of determination also assigned each claim to its appropriate class pursuant to Haw. Rev. Stat. §431:15-332.

12. All of the Class 2 claimants have now had an opportunity to object to the Liquidator's determination of their claims, pursuant to Haw. Rev. Stat. §431:15-329, but no objections have been received. Accordingly, the Class 2 liabilities of FHH have been finally determined pursuant to Haw. Rev. Stat. §431:15-332.

13. This Court issued the Order Granting Liquidator's Motion Regarding Report of Claims and Plan of Partial Distribution Regarding Class 2 Claims, dated April 9, 2019, which approved the Liquidator's Report of Claims and set the class and amount of each claim made against the FHH Estate. *See* Order Granting Liquidator's Motion Regarding Report of Claims and Plan of Partial Distribution Regarding Class 2 Claims, attached hereto as Exhibit "A".

14. In order to get a portion of their claim amount distributed to the Class 2 claimants as soon as possible, the Liquidator made an initial partial distribution to the Class 2 claimants in May of 2019. This partial distribution consisted of a total of \$2,456,012 issued to the Class 2 claimants, which satisfied 38% of the claims of each of the Class 2 claimants.

15. In the time since the initial partial distribution, the Liquidator has settled the outstanding matters related to a lawsuit filed in the Circuit Court of the First Circuit, State of Hawaii against Schmidt, entitled *Plaintiff Gordon I. Ito, in his capacity as Liquidator of Family Health Hawaii, MBS, v. Defendant J.P. Schmidt*, Civil No. 17-1-0800-05 JPC (the "Action").

16. On July 3, 2019, the parties engaged in mediation, in which Judge Elizabeth Eden Hifo (Ret.) served as Mediator. The mediation ultimately led to a settlement, the terms of which are set forth in the Settlement Agreement ("Settlement Agreement"), which was approved by this Court on February 26, 2020.

17. With the Action resolved, the Liquidator has made the determination that a Final Distribution of funds to claimants is appropriate.

18. Proper notice of the Liquidator's intent to file this Motion and make a final distribution was mailed out to the claimants of FHH on June 5, 2020 using First Class Mail (the "Notice"), as approved by this Court on December 4, 2018.

19. The Notice provided each claimant with the amount of their approved claim, as well as the amount to be distributed to each claimant in the second and final distribution.

21. The total amount to be distributed to the class 2 claimants after the initial partial distribution and the second final distribution by the Liquidator will be \$5,365,277 or 83% of the adjusted claim amount of the class 2 claimants.

22. In the initial distribution, a total of \$53,422 in checks were not cashed/negotiated by the claimants. Therefore, in the second and final distribution, those claimants that did not cash/negotiate their checks will receive the full 83% of their claim amounts instead of an additional 45% of their claim amounts.

23. The total amount to be distributed to the class 2 claimants in the second and final distribution will be \$2,962,687 (45% of the claim amount for those claimants who cashed/negotiated their initial partial distribution checks and 83% for claimants who did not cash/negotiate their initial partial distribution checks).

24. The FHH Estate has \$3,068,786.55 as of June 30, 2020 in its bank accounts. The final distribution amount of \$2,962,687 will leave the Liquidator with approximately \$106,099 in reserve as of June 30, 2020 to cover the final costs of wrapping up and closing the Liquidation Estate.

25. Any funds left in the Liquidator's account after the estate has been closed, including the amounts of any uncashed checks issued to claimants, will be escheated to the State of Hawaii.

26. FHH does not have enough funds to fully compensate all of the Class 2 claimants, therefore subsequent classes will not be receiving distributions.

27. As such, the Liquidator now seeks an order granting the Liquidator the authority to make a final distribution to the Class 2 claimants.

28. Exhibit "C" is a true and correct copy of the list of Class 2 Claimants, Claimants' addresses, claim amount, and distribution amount and will be filed under seal.

I declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawaii, July 22, 2020.

Martha C. Im

MARTHA C. IM

EXHIBIT A

16440889

KOBAYASHI, SUGITA & GODA
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FIRST CIRCUIT COURT
STATE OF HAWAII
FILED
2019 APR 23 AM 11:07

J. KUBO
CLERK

Attorneys for Petitioner
COLIN M. HAYASHIDA, in his capacity as
Liquidator of the FAMILY HEALTH Hawaii MBS

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

COLIN M. HAYASHIDA, in his capacity as	)	S.P. No. 16-1-0086- KTN ^{KKH} /s/ JSK
Insurance Commissioner of the State of	)	(Special Proceeding)
Hawaii,)	
	)	ORDER GRANTING LIQUIDATOR'S
Petitioner,	)	MOTION REGARDING REPORT OF
	)	CLAIMS AND PLAN OF PARTIAL
Vs.	)	DISTRIBUTION REGARDING CLASS 2
	)	CLAIMS
FAMILY HEALTH HAWAII, MBS, A)	
Mutual Benefit Society,	)	HEARING:
	)	DATE: April 9, 2019
Respondent.	)	TIME: 1:30 pm
	)	JUDGE: James S. Kawashima
)	
	)	No Trial Date Set

ORDER GRANTING LIQUIDATOR'S MOTION REGARDING REPORT OF CLAIMS AND PLAN OF PARTIAL DISTRIBUTION REGARDING CLASS 2 CLAIMS

Petitioner COLIN M. HAYASHIDA'S, in his capacity as Liquidator ("Liquidator") of FAMILY HEALTH HAWAII, MBS ("FHH"), Motion Regarding Report of Claims and Plan of Partial Distribution Regarding Class 2 Claims filed herein on March 14, 2019 came before the Honorable James S. Kawashima on April 9, 2019. Anthony F. Suetsugu appeared on behalf of the Liquidator. No other parties appeared. Upon consideration of the Motion, the files, exhibits, declaration, memoranda and pleadings herein, and good cause appearing therefor;

PLEASE NOTE CHANGES

EXHIBIT "A"

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. The Liquidator's Motion Regarding Report of Claims and Plan of Partial Distribution Regarding Class 2 Claims is GRANTED;
2. The Liquidator's recommendations in the Report of Claims are approved; and
3. The Liquidator is authorized to make a distribution of \$2,155,158.32 to satisfy 38% of all of the Class 2 claims listed in the Report of Claims.

DATED: Honolulu, Hawaii, **APR 09 2019**

JAMES S. KAWASHIMA



JUDGE OF THE ABOVE-ENTITLED COURT

EXHIBIT B

1615576
 KOBAYASHI, SUGITA & GODA
 CLIFFORD K. HIGA 2950-0
 WENDELL H. FUJI 4222-0
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FIRST CIRCUIT COURT
 STATE OF HAWAII
 FILED
 2018 DEC -4 PM 3:37

N. MIYATA
 CLERK

Attorneys for Petitioner
 GORDON I. ITO, in his capacity as
 Liquidator of the FAMILY HEALTH HAWAII MBS

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

GORDON I. ITO, in his capacity as Insurance Commissioner of the State of Hawaii, <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">Vs.</p> FAMILY HEALTH HAWAII, MBS, A Mutual Benefit Society, <p style="text-align: center;">Respondent.</p>) S.P. No. 16-1-0086 KKH) (Special Proceeding))) ORDER GRANTING LIQUIDATOR'S) MOTION FOR 1) APPROVAL OF USE OF) FIRST CLASS MAIL REGARDING NOTICE) OF MOTION FOR APPROVAL OF) PARTIAL DISTRIBUTION and 2)) APPROVAL OF NOTICE OF) LIQUIDATOR'S MOTION REGARDING) REPORT OF CLAIMS AND PLAN OF) PARTIAL DISTRIBUTION REGARDING) CLASS 2 CLAIMS)) Judge: Keith K. Hiraoka) No Trial Date Set
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**ORDER GRANTING LIQUIDATOR'S MOTION FOR 1) APPROVAL OF USE
 OF FIRST CLASS MAIL REGARDING NOTICE OF MOTION FOR APPROVAL
 OF PARTIAL DISTRIBUTION and 2) APPROVAL OF NOTICE OF
 LIQUIDATOR'S MOTION REGARDING REPORT OF CLAIMS AND PLAN
 OF PARTIAL DISTRIBUTION REGARDING CLASS 2 CLAIMS**

Petitioner GORDON I. ITO's, in his capacity as Liquidator ("Liquidator") of FAMILY
 HEALTH HAWAII, MBS ("FHH"), Motion for 1) Approval Of Use Of First Class Mail
 Regarding Notice Of Motion For Approval Of Partial Distribution and 2) Approval Of Notice Of

Liquidator's Motion Regarding Report Of Claims And Plan Of Partial Distribution Regarding Class 2 Claims filed herein on September 19, 2018, came before the Honorable Keith K. Hiraoka on October 30, 2018 at 10:00 a.m.

Anthony F. Suetsugu appeared on behalf of Petitioner Gordon I. Ito, in his capacity as Liquidator. No other parties having appeared and there being no opposition to the motion filed with the Court, and the Court having considered the motion, memorandum, declaration, argument of counsel and being fully advised in the premises;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Liquidator's Motion for 1) Approval Of Use Of First Class Mail Regarding Notice Of Motion For Approval Of Partial Distribution and 2) Approval Of Notice Of Liquidator's Motion Regarding Report Of Claims And Plan Of Partial Distribution Regarding Class 2 Claims is GRANTED.

It is further Ordered that an electronic copy of the Liquidator's Motion for Approval of Partial Distribution be made available for review on the Hawaii Insurance Division website and that the Liquidator's Notice Of Motion Regarding Report Of Claims And Plan Of Partial Distribution Regarding Class 2 Claims, attached to the Motion as Exhibit "C" (the "Notice") contain the URL for said website. With the addition of the URL, the Notice is approved and said Notice, as well as any future notices may be issued pursuant to Haw. Rev. Stat. §431:15-324 via U.S. First Class mail.

DATED: Honolulu, Hawaii, DEC 04 2018

JAMES S. KAWASHIMA
JUDGE OF THE ABOVE-ENTITLED COURT



GORDON I. ITO V. FAMILY HEALTH HAWAII, MBS.; S.P. No. 16-1-0086 (KKH); ORDER GRANTING LIQUIDATOR'S MOTION FOR 1) APPROVAL OF USE OF FIRST CLASS MAIL REGARDING NOTICE OF MOTION FOR APPROVAL OF PARTIAL DISTRIBUTION and 2) APPROVAL OF NOTICE OF LIQUIDATOR'S MOTION REGARDING REPORT OF CLAIMS AND PLAN OF PARTIAL DISTRIBUTION REGARDING CLASS 2 CLAIMS

EXHIBIT “C”

CONFIDENTIAL

FILED SEPARATELY AND UNDER SEAL PURSUANT TO THE
ORDER GRANTING LIQUIDATOR’S EX PARTE MOTION TO FILE
EXHIBIT C TO THE LIQUIDATOR’S MOTION FOR APPROVAL
OF FINAL DISTRIBUTION SEPARATELY AND UNDER SEAL

THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

COLIN M. HAYASHIDA, in his capacity as) S.P. No. 1SP161000086
Insurance Commissioner of the State of) (Special Proceeding)
Hawaii,)
)
) NOTICE OF HEARING AND CERTIFICATE
) OF SERVICE
Petitioner,)
)
Vs.)
)
)
FAMILY HEALTH HAWAII, MBS, A)
Mutual Benefit Society,)
)
)
Respondent..)
_____)

NOTICE OF HEARING

TO: BRYAN C. YEE, ESQ.
DANIEL K. JACOB, ESQ.
Deputy Attorneys General
Department of the Attorney General
State of Hawaii
425 Queen Street
Honolulu, HI 96813
Attorneys for Petitioner COLIN M. HAYASHIDA
In his capacity as Insurance Commissioner of
The State of Hawaii

NOTICE IS HEREBY GIVEN that the foregoing Motion shall come on for hearing before the Honorable John M. Tonaki, Judge of the above-entitled Court, in the Judge's courtroom, in the Kauikeaouli Hale, 1111 Alakea Street, Honolulu, Hawaii, on **August 12, 2020, at 8:30 a.m.** or as soon thereafter as counsel may be heard.

DATED: Honolulu, Hawaii, July 22, 2020.

/s/ Anthony F. Suetsugu
CLIFFORD K. HIGA
WENDELL H. FUJI
ANTHONY F. SUETSUGU
Attorneys for Petitioner
COLIN M. HAYASHIDA, in his capacity as
Liquidator of FAMILY HEALTH HAWAII, MBS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document will be duly served upon the above named party by electronic filing in the Judiciary Electronic Filing and Service System (JEFS) on the date of filing.

DATED: Honolulu, Hawaii, July 22, 2020.

/s/ Anthony F. Suetsugu
CLIFFORD K. HIGA
WENDELL H. FUJI
ANTHONY F. SUETSUGU
Attorneys for Petitioner
COLIN M. HAYASHIDA, in his capacity as
Liquidator of FAMILY HEALTH HAWAII, MBS