

BURGLASS & TANKERSLEY, L.L.C.

ATTORNEYS AT LAW  
5213 AIRLINE DRIVE  
METAIRIE, LOUISIANA 70001-5602  
www.burglass.com

TELEPHONE  
(504) 836-2220  
FACSIMILE  
(504) 836-2221

Sue Buser  
[sbuser@burglass.com](mailto:sbuser@burglass.com)

Direct Dial:  
(504) 836-0420

June 18, 2012

Sharon Williams  
Jennifer Blackwell  
Commercial Litigation Branch  
United States Department of Justice  
1100 L Street, N. W.  
Room 10016  
Washington, D.C. 20005  
(202) 353-0530  
[Sharon.williams@usdoj.gov](mailto:Sharon.williams@usdoj.gov)

BY FEDERAL EXPRESS

RE: Caption: *J. Robert Wooley, as Acting Commissioner of Insurance for the  
State of Louisiana v. AmCare Health Plans of Louisiana, Inc.*  
Court: 19th JDC, No. 499-737 "D"  
Our File No.: 087001

**EXECUTED RELEASE AGREEMENT AND ORDER APPROVING SAME**

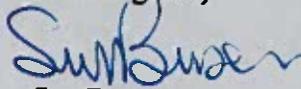
Dear Ms. Williams:

Enclosed please find the following:

- 1) an original Release Agreement executed by both yourself and the AmCare-LA Deputy Receiver; and
- 2) a copy of the order signed on June 11, 2012 authorizing execution of the release.

I appreciate your help on this and the prompt response. It has been a pleasure working with you. Thank you.

Best Regards,

  
Sue Buser

cc: AmCare Health Plans of Louisiana, Inc. In Liquidation

00162246.WPD



U.S. Department of Justice

Civil Division

JABlackwell  
DJ No. 77-32M-57

Telephone:  
202-307-1114

---

Washington, DC 20530

May 8, 2012

Ms. Sue Buser  
Burglass & Tankersley, LLC  
5213 Airline Drive  
Metairie, LA 70001

Re: AmCare Health Plans of Louisiana, Inc.

Dear Ms. Buser:

Enclosed you will find two originals of the Release Agreement which have been signed by the Department of Justice. Please have Mr. Harrison sign and date both Release Agreements and return a fully executed original to me at your earliest convenience using the enclosed Federal Express air bill.

Please call if you have any questions. Thank you for your assistance.

Very truly yours,

Jennifer Blackwell  
Paralegal Specialist  
Corporate/Financial Litigation  
Commercial Litigation Branch

Enclosures

## **RELEASE AGREEMENT**

In order to permit a distribution of the assets of the estate of AmCare Health Plans of Louisiana, Inc. ("AmCare"), pursuant to the orders of the Nineteenth Judicial District Court, Parish of East Baton Rouge, State of Louisiana ("Court"), this Release Agreement is being executed by the United States and Marion Harrison, Deputy Receiver of AmCare ("Deputy Receiver").

### **I. PARTIES**

The parties to this Release Agreement are the United States and the Deputy Receiver (collectively, the "Parties").

### **II. RECITALS**

1. The Parties do not intend this Release Agreement to release any possible claims the United States may have or may acquire against anyone for tax, fraud (including, but not limited to, securities and pension benefit fraud), criminal liabilities, or reimbursement liabilities and penalties to the United States arising under 42 U.S.C. § 1395y(b).
2. Except for the express terms of this Release Agreement, the Parties do not intend to create, enhance, diminish, defeat or otherwise affect such claims, if any, as the United States may have against the Deputy Receiver or the estate of AmCare.
3. The Parties understand that this Release Agreement may be subject to the approval of the Court, which is supervising the liquidation of AmCare.
4. The United States enters into this Release Agreement in reliance upon the representations of the Deputy Receiver contained in his affidavits dated November 29, 2011 and April 12, 2012, attached as Exhibits A and B to this Release Agreement ("Affidavits").

### **III. AGREEMENT**

1. Except only for possible federal tax, fraud, criminal claims, or liabilities and penalties to the United States arising under 42 U.S.C. § 1395y(b), the United States hereby releases and discharges the Deputy Receiver and the estate of AmCare from any and all liability under 31 U.S.C. § 3713(b) in connection with the AmCare liquidation.

2. Under the terms of this Release Agreement, the United States or its duly authorized representative shall have the right, prior to the destruction of AmCare's records in accordance with the orders of the Court, during normal business hours, on a date and at a location agreed upon by the Parties, to inspect, and if it wishes, to copy at its own expense, such documents, books, and records of the estate, and of the Deputy Receiver, as shall be reasonably necessary to determine the existence and amount of claims the United States may have against the AmCare estate, or to determine the Deputy Receiver's compliance with the terms of this Release Agreement. No documents, books, or records of the estate or Deputy Receiver may be destroyed unless notice is given to the United States of any motion filed with the Court requesting approval of the destruction. If the Deputy Receiver does not request approval from the Court, she must obtain prior written authorization from the United States before destruction of any documents, books, or records of the estate or Deputy Receiver.

3. Except for the express undertakings of the Deputy Receiver and the United States in this Release Agreement, nothing in this Release Agreement shall be construed

(a) to establish or perfect any claims, substantive rights, or procedural rights of the United States;

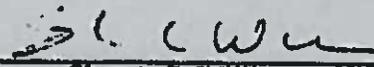
(b) to limit, restrict, diminish, or defeat any claims, substantive rights, or procedural rights of the United States;

(c) to establish or perfect any objections or defenses, substantive rights, or procedural rights of the Deputy Receiver; or

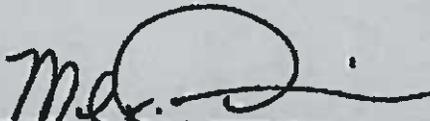
(d) to limit, restrict, diminish, or defeat any defenses, substantive rights, or procedural rights of the Deputy Receiver.

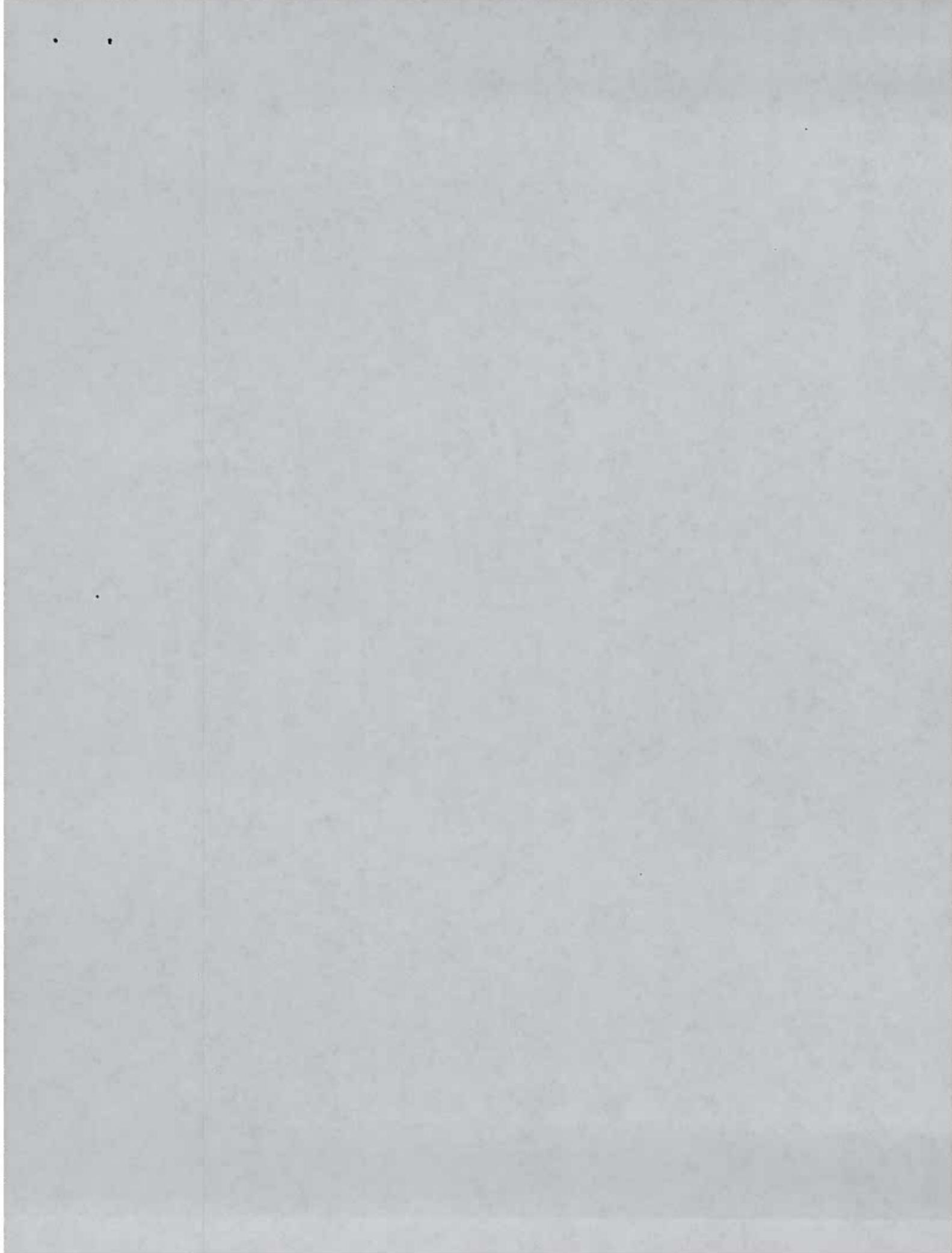
4. The Parties agree that this Release Agreement shall not be effective unless and until it is approved by the Court, if approval is required, and the time for appeals of any such approval has expired. The Parties further agree to cooperate with each other in seeking prompt approval of this Release Agreement from the Court, including but not limited to making the necessary witnesses available for testimony considered necessary or appropriate to provide the Court with an adequate record upon which to approve this Release Agreement.

Dated: 5/8/2012

  
By: Sharon C. Williams  
Trial Attorney  
Civil Division  
Department of Justice  
Attorney for the United States

Dated: 5/18/2012

  
By: Marlon Harrison  
Deputy Receiver  
AmCare Health Plans of Louisiana, Inc.,  
In Liquidation



NINETEENTH JUDICIAL DISTRICT COURT  
PARISH OF EAST BATON ROUGE  
STATE OF LOUISIANA

NUMBER: 499-737

DIVISION: D

J. ROBERT WOOLEY, AS  
ACTING COMMISSIONER OF INSURANCE  
FOR THE STATE OF LOUISIANA

VERSUS

AmCARE HEALTH PLANS OF LOUISIANA, INC.

FILED: \_\_\_\_\_

\_\_\_\_\_  
DEPUTY CLERK

AFFIDAVIT OF THE DEPUTY RECEIVER FOR  
AMCARE HEALTH PLANS OF LOUISIANA, INC. IN LIQUIDATION

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned authority, duly commissioned and qualified within and for the State and Parish aforesaid, personally came and appeared:

MARLON HARRISON

a competent major and authorized representative of James J. Donelon, Insurance Commissioner of the State of Louisiana, as Liquidator of AmCare Health Plans of Louisiana, Inc. In Liquidation, who, after being duly sworn, did depose and state:

1. He is the court-appointed Deputy Receiver for AmCare Health Plans of Louisiana, Inc. In Liquidation ("AmCare-LA").
2. He is familiar with and has personal first hand knowledge of operations of AmCare-LA.
3. He is familiar with and has personal first hand knowledge of the policies and procedures of AmCare-LA.

4. He is familiar with and has personal first hand knowledge of the records and files of AmCare-LA.
5. He has been personally involved in the rehabilitation and liquidation of AmCare-LA since suit was filed in this matter on September 23, 2002. Exhibit A.
6. The facts and information set forth below are either within my own knowledge gained through my involvement with this matter, in which case I confirm that they are true, or are based on information provided to me by others, in which case they are true to the best of my knowledge.
7. AmCare-LA was placed in liquidation by order of the Court in the above referenced matter on October 7, 2002, and Marlon Harrison was appointed Deputy Receiver, and Michael Adams has subsequently been appointed Receiver. Exhibit B.
8. By order dated October 7, 2002, the Commissioner of Insurance for the State of Louisiana (the "Commissioner") was appointed Liquidator of AmCare-La, with all of the power and authority outlined in LSA R.S. 22: 2001-2044 (formerly La. R.S. 22:732-763), and authorized to exercise and perform those duties set forth therein. Exhibit B.
9. Upon said appointment, the Liquidator and the Deputy Receiver proceeded to liquidate the property, business and affairs of AmCare-LA.
10. Prior to its being placed in rehabilitation and liquidation in 2002, AmCare-La was licensed as a health maintenance organization (HMO) in the State of Louisiana and authorized only in the State of Louisiana.
11. Prior to its being placed in rehabilitation and liquidation in 2002, AmCare-LA was a wholly owned subsidiary of AmCareco, Inc., which also owned and operated HMOs in the State of Texas (AmCare Health Plans of Texas, Inc.) and in the State of Oklahoma (AmCare Health Plans of Oklahoma, Inc.), all three of which were formerly owned by Health Net, Inc. and its predecessors, Foundation Health Corporation and Foundation Health Systems, Inc.
12. There was no guaranty fund coverage for AmCare-La.
13. The Commissioner determined that AmCare-La had liabilities exceeding its assets and was operating in a hazardous financial condition prior to liquidation. Exhibit B.
14. Pursuant to the Order of the Liquidation, attached as an Exhibit B, to the accompanying documents with this affidavit, the Receiver sent a proof of claim form to all persons, companies and entities which AmCare-La's books and records revealed have or may have claims against AmCare-La, its property or assets, or against an AmCare-La insured or policyholder, together with information about the claims process and the claims bar date, and the requirement that a proof of claim be filed with the Receiver for purposes of participating

in any distribution of AmCare-La's assets that may be made on timely-filed claims allowed in the Liquidation proceedings. Exhibit C.

15. To the best of the Receiver's knowledge, no claims were presented to the Receiver by any of federal agencies or their employees, other than those related to coverage possibly provided to a federal employee group benefit plan for which records no longer exist. Exhibit \_\_\_\_.
16. In 2005, the Liquidation Court accepted the Receiver's Report on Claims as explained in the attached report and allowed the claims of the federal government as \$-0-, since no claims were asserted. Exhibit C.
17. Due to the destruction caused by Hurricane Katrina in August, 2005, much of the database information and documents as to the claims submitted was lost and AmCare-La has only summary level electronic files as to the proof of claims filed.
18. To the best of the Receiver's knowledge, neither the United States government nor any of its agencies has a claim against AmCare-La.
19. Attached as an Exhibit D is a compact disk containing data as to the available information on all known actual or potential claims in the AmCare-La estate. The documents are in the format historically requested by the Liquidation Court handling this matter.
20. While the Receiver has identified no actual or additional potential federal claims, the Receiver has provided on the attached CD-ROM detailed information on all timely - and late - filed proof of claims filed in the AmCare-La Liquidation proceedings, as well as detailed information on all potential loss claimants that were sent a proof of claim form but did not file a proof of claim in the AmCare-La Liquidation proceedings. The Receiver has provided similar documents for all AmCare-La claimants who may have had a claim for the return of unearned premium.
21. Further, the Receiver ran a search using certain "catch-all" terms related to federal agencies, i.e., agency, bureau, environmental, etc., to identify any potential federal claims, which information is also provided on the CD ROM attached on Exhibit D.
22. To the best of the Receiver's information, no federal claims were identified.
23. Also attached to the report is a copy of the Federal Income Tax Return for the calendar years 2002, 2003, 2004, 2005, 2006, 2007, 2008, filed by AmCare-La. Returns for 2009 and 2010 have not yet been filed. Exhibit E.
24. Also attached to the report is a copy of the balance sheet and income statement for the years ending 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, and 2010, as well as the balance sheet through October 31, 2011. Exhibit F.

25. The documents attached as exhibits to this affidavit and the accompanying report are true and correct copies of the business records of AmCare-La kept in the ordinary course of the liquidation of AmCare-La.
26. Since the United States Department of Justice has asserted in other insurer liquidations that the claim filing deadline does not apply to claims by the Federal Government in light of the federal priority act, 31 U.S.C. § 3713, AmCare-La will need to obtain a waiver before making any final distributions.

The above is true and correct to the best of his knowledge.

AmCARE HEALTH PLANS OF LOUISIANA, INC. IN LIQUIDATION

By: 

MARLON HARRISON  
DEPUTY RECEIVER

AmCare Health Plans of Louisiana, Inc. In Liquidation

SWORN TO AND SUBSCRIBED before me  
Notary Public, this 29 day of November, 2011.

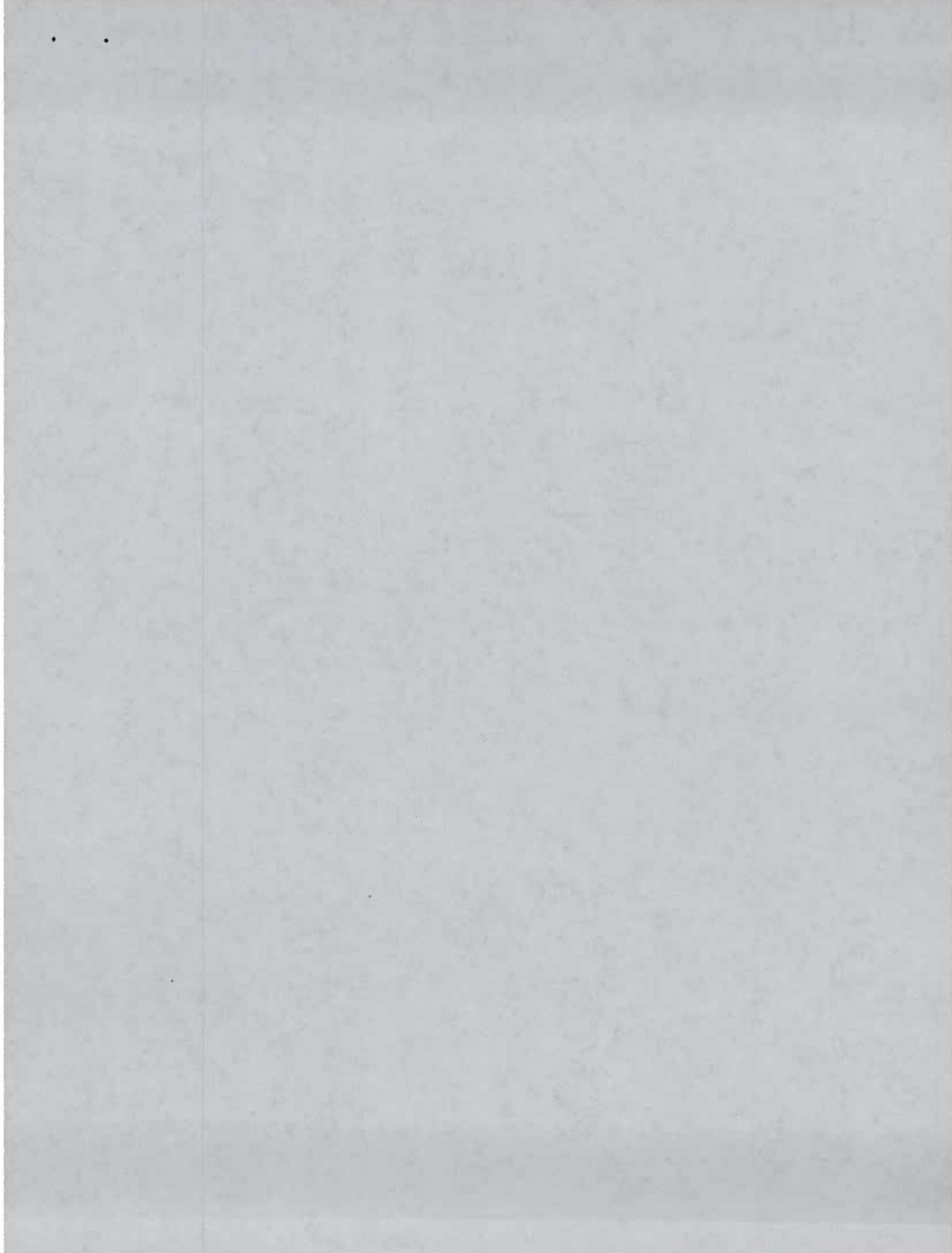
  
NOTARY PUBLIC

Sue Buser  
NOTARY PUBLIC  
State of Louisiana  
LSBA No. 18151  
My Commission is Issued for Life

**EXHIBITS TO THE AFFIDAVIT AND REPORT OF  
AmCare Health Plans of Louisiana, Inc. in Liquidation (AmCare-La)**

- Exhibit A**      **Petition and Order for Rehabilitation of September 23, 2002**
- Exhibit B**      **Petition and Order for Liquidation of October 7, 2002**
- Exhibit C**      **Petition and Rule to Consider Report of Receiver on Claims Against AmCare Health Plans of Louisiana, Inc. in Liquidation and Recommendations to the Court on the Priority and Amounts of Allowance of Claims**
- Exhibit D**      **Compact disk containing data as to the available information on all known actual or potential claims in the AmCare-La estate, proof of claims filed, proof of claims allowed, untimely proofs of claims and lack of claims by the United States or any of its agencies**
- Exhibit E**      **Federal Income Tax Return for the calendar years 2002, 2003, 2004, 2005, 2006, 2007, and 2008, filed by the Receiver. Returns for 2009 and 2010 have not yet been filed.**
- 1)      **AmCare-La federal income tax return for 2002**  
                  2)      **AmCare-La federal income tax return for 2003**  
                  3)      **AmCare-La federal income tax return for 2004**  
                  4)      **AmCare-La federal income tax return for 2005**  
                  5)      **AmCare-La federal income tax return for 2006**  
                  6)      **AmCare-La federal income tax return for 2007**  
                  7)      **AmCare-La federal income tax return for 2008**
- Exhibit F**      **AmCare-La balance sheet and income statements for the years ending 2002, 2003, 2004, 2005, 2006, 2007, 2008, are included in the tax returns attached as Exhibit E. AmCare-La balance sheet and income statements for the years ending 2009, and 2010, as well as the balance sheet and income statement through October 31, 2011.**
- 1)      **AmCare-La balance sheet and income statement for 2009**  
                  2)      **AmCare-La balance sheet and income statement for 2010**  
                  3)      **AmCare-La balance sheet and income statement as of October 31, 2011**
- Exhibit G**      **AmCare-La tax identification number**
- Exhibit H**      **AmCare-La current address**
- Exhibit I**      **Chart of AmCare-La subsidiaries, predecessors, related entities**
- Exhibit J**      **Chart of AmCare-La lines of business**

- Exhibit K**      **Order of October 3, 2011 approving partial distribution of funds to AmCare claimants**
- Exhibit L**      **Emergency Motion to Cancel All Certificates of Coverage, Subscriber Agreements, Member Agreements and/or Policies and Permitting the Transfer of AmCare Business and Notice to Groups and Individuals**
- Exhibit M**      **AmCare Health Plans of Louisiana, Inc. Health Annual Statement for the Year Ending December 31, 2001 (prior to receivership)**
- Exhibit N**      **AmCare Health Plans of Louisiana, Inc. Health Quarterly Statement for the Period Ending June 30, 2002 (prior to receivership)**



NINETEENTH JUDICIAL DISTRICT COURT  
PARISH OF EAST BATON ROUGE  
STATE OF LOUISIANA

NUMBER: 499-737

DIVISION: D

J. ROBERT WOOLEY, AS  
ACTING COMMISSIONER OF INSURANCE  
FOR THE STATE OF LOUISIANA

VERSUS

AmCARE HEALTH PLANS OF LOUISIANA, INC.

FILED: \_\_\_\_\_

\_\_\_\_\_  
DEPUTY CLERK

**SUPPLEMENTAL AFFIDAVIT OF THE DEPUTY RECEIVER FOR  
AMCARE HEALTH PLANS OF LOUISIANA, INC. IN LIQUIDATION**

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned authority, duly commissioned and qualified within and for the State and Parish aforesaid, personally came and appeared:

**MARLON HARRISON**

a competent major and authorized representative of James J. Donelon, Insurance Commissioner of the State of Louisiana, as Liquidator of AmCare Health Plans of Louisiana, Inc. in Liquidation, who, after being duly sworn, did depose and state:

1. He is the court-appointed Deputy Receiver for AmCare Health Plans of Louisiana, Inc. in Liquidation ("AmCare-LA").
2. He is familiar with and has personal first hand knowledge of operations of AmCare-LA.
3. He is familiar with and has personal first hand knowledge of the policies and procedures of AmCare-LA.

4. He is familiar with and has personal first hand knowledge of the records and files of AmCare-LA.
5. He has been personally involved in the rehabilitation and liquidation of AmCare-LA since suit was filed in this matter on September 23, 2002.
6. The facts and information set forth below are either within my own knowledge gained through my involvement with this matter, in which case I confirm that they are true, or are based on information provided to me by others, in which case they are true to the best of my knowledge.
7. The facts and material contained in the April 4, 2012 Supplement to the Request for Federal Waiver filed on November 30, 2011 by AmCare Health Plans of Louisiana, Inc. In Liquidation are all true and correct to the best of his knowledge.
8. The CD of electronic documents attached as EXHIBIT A are true and correct copies of the business records of AmCare-La kept in the ordinary course of the liquidation of AmCare-La.
9. AmCare-LA continues to pursue and request that the United States Department of Justice grant a waiver of any and all claims of the United States as to AmCare-LA.

The above is true and correct to the best of his knowledge.

**AmCARE HEALTH PLANS OF LOUISIANA, INC. IN LIQUIDATION**

By: 

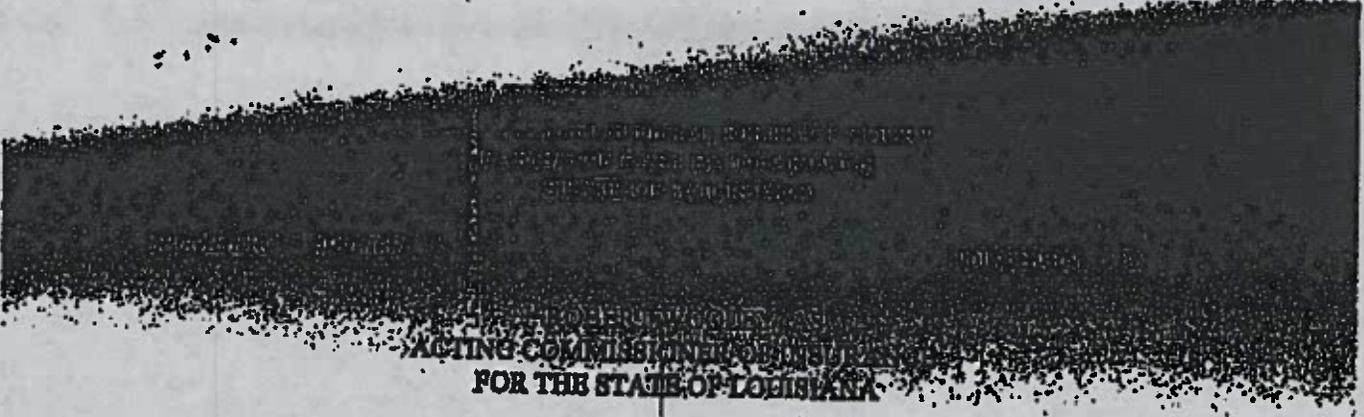
**MARLON HARRISON  
DEPUTY RECEIVER**

**AmCare Health Plans of Louisiana, Inc. In Liquidation**

SWORN TO AND SUBSCRIBED before me  
Notary Public, this 17 day of April, 2012.

  
NOTARY PUBLIC

**Sue Buser  
NOTARY PUBLIC  
State of Louisiana  
LSBA No. 18151  
My Commission is issued for Life**



ACTING COMMISSIONER OF INSURANCE  
FOR THE STATE OF LOUISIANA

VERSUS

AMCARE HEALTH PLANS OF LOUISIANA, INC.

FILED: \_\_\_\_\_

\_\_\_\_\_  
DEPUTY CLERK

**ORDER**

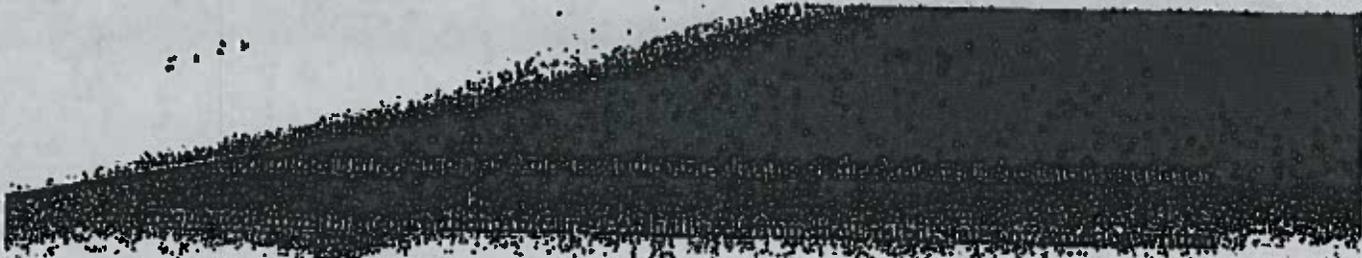
Considering the Ex Parte Motion for Authority to Enter into Release with the United States of America for Release of Certain Federal Claims and for Authority to Notify the United States of America of the Closing of the AmCare-LA Receivership for the Purpose of Providing an Opportunity for Inspection and Copying of the AmCare-LA Estate Documents, Books, and Records Prior to Their Destruction and/or to Request Written Authorization from the United States for the Destruction of AmCare-LA Estate Records, As Required in the Release, and the Court finding that the relief requested should be permitted and that the contemplated release of federal claims is in the best interests of AmCare-LA, and its policyholders, members, subscribers, creditors and the public,

**IT IS ORDERED, ADJUDGED AND DECREED** that the motion of AmCare-LA be and hereby is GRANTED.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that authority be and it hereby is GRANTED to the AmCare-LA receivership estate and the Receiver/Deputy Receiver to enter into the proposed release with the United States of America for release of certain federal claims against the AmCare-LA receivership estate and the Receiver/Deputy Receiver.

**IT IS ORDERED, ADJUDGED AND DECREED** that the AmCare-LA estates is to give notice to the United States of America when the closing of the AmCare-LA receivership estate is requested from this Court for the purpose of providing the United States of America an opportunity for inspection and copying of the AmCare-LA estate documents, books, and records, at the sole cost of the United States of America, prior to the destruction of the Amcare-LA records.

**IT IS ORDERED, ADJUDGED AND DECREED** that in the event such notice is not



authorization from the United States of America for the destruction of AmCare-LA receivership estate records.

Baton Rouge, Louisiana, this 11 day of June, 2012.

Jeanice Clark  
JUDGE, DIVISION D.

CERTIFIED TRUE COPY

020043

DEPUTY CLERK OF COURT

19th JUDICIAL DISTRICT  
EAST BATON ROUGE PARISH, LA.  
FILED

2012 MAY 15 PM 1:35

DEPUTY CLERK & REQUISITION FOR

DOUG WELBORN

CLERK OF COURT E.D.B. PARISH