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8 SUPERIOR COURT OF ARIZONA
9 COUNTY OF MARICOPA

10 STATE OF ARIZONA, *ex rel.*
11 LESLIE R. HESS, Interim Director
of Insurance,

12 Plaintiff,

13 vs.

14 COMPASS COOPERATIVE MUTUAL
HEALTH NETWORK, INC., dba
15 MERITUS MUTUAL HEALTH
PARTNERS, an Arizona corporation; and
16 COMPASS COOPERATIVE HEALTH
PLAN, INC., dba MERITUS HEALTH
17 PARTNERS, an Arizona corporation,

18 Defendants.

No. CV2016-011872

PETITION NO. 4

**PETITION FOR ORDER
REGARDING RECEIVERSHIP
LIQUIDATION FUND PER A.R.S.
§ 20-648**

(Assigned to The Honorable
Daniel Martin)

19
20 Leslie R. Hess, as Receiver (hereinafter “Receiver”) of Compass Cooperative
21 Mutual Health Network, Inc. doing business as Meritus Mutual Health Partners (“Meritus
22 Mutual”) and Compass Cooperative Health Plan, Inc. dba Meritus Health Partners
23 (“MHP”), appointed pursuant to A.R.S. § 20-611, *et seq.*, hereby petitions the Court for
24 entry of an Order Regarding Receivership Liquidation Fund Per A.R.S. § 20-648 in the
25 form lodged concurrently herewith for the reasons set forth herein.

26 . . .

1 1. Arizona law requires that each insurer authorized to do business in Arizona
2 establish deposits through the Director of the Arizona Department of Insurance
3 (“Director”) which are held by the Treasurer of the State of Arizona (“Treasurer”) to
4 secure certain obligations of the insurer. A.R.S. § 20-213. Pursuant to those provisions,
5 Meritus Mutual maintained a statutory deposit in the approximate amount of \$508,289.38
6 (the “Meritus Mutual Statutory Deposit”).

7 2. Arizona law requires that each health care services organization authorized
8 to do business in Arizona establish deposits through the Director which are held by the
9 Treasurer to secure certain obligations of the health care services organization. A.R.S.
10 § 20-1055. Pursuant to those provisions, MHP maintained a statutory deposit in the
11 approximate amount of \$508,289.39 (the “MHP Statutory Deposit”).

12 3. A.R.S. § 20-648 provides with respect to any insurer subject to delinquency
13 proceedings in Arizona an amount equal to ten percent of the insurer’s deposit shall be
14 deposited into the receivership liquidation fund (“RLF”). This statute further provides
15 that the RLF is to be used to pay the proportionate share of the respective insurer’s
16 common administrative expenses as established by administrative order issued by the
17 Director. The statute also provides that the RLF shall be replenished by additional
18 deposits as necessary if the initial deposit is depleted. The Deputy Receiver of the
19 Arizona Department of Insurance is required by the statute to submit quarterly financial
20 reports to the Court listing the expenditures from the RLF and the remaining allocable
21 balance.¹

22 4. On its face, A.R.S. § 20-648 specifically makes reference to deposits of
23 insurers under A.R.S. § 20-213 and does not reference health care services organization
24

25 ¹ In accordance with A.R.S. § 20-648, the common administrative costs common to every receivership in the
26 operation of the receivership office that are payable from the RLF have previously been determined after notice and a
hearing. *See, e.g.,* Exhibit A, Order Re Petition No. 4 in *In Re Rehabilitation of Premier Healthcare of Arizona*, No.
CV99-20461.

1 deposits under A.R.S. § 20-1055. However, Arizona law provides that A.R.S. § 20-648,
2 along with the entire Receivership Act is expressly applicable to health care services
3 organizations such as MHP. Specifically, A.R.S. § 20-1066 states that “Any
4 rehabilitation, liquidation, or conservation of a health care services organization shall be
5 deemed to be the rehabilitation, liquidation or conservation of an insurer and shall be
6 conducted as provided in chapter 3, article 4 of this title.”² Because the RLF established
7 under A.R.S. § 20-648 would apply to health care services organizations, the deposits of
8 such organizations would also be applicable to the RLF.

9 5. The Receiver requests that this Court authorize the transfer of an amount
10 equivalent to ten percent of the Meritus Mutual Statutory Deposit, in this case
11 \$50,828.94, and of the MHP Statutory Deposit, in this case \$50,828.94, from the general
12 assets of Meritus Mutual and MHP, respectively, without further order of the Court. At
13 such time as the RLF shall need to be replenished by additional deposits if the initial
14 deposit is depleted, the Receiver will request that this Court authorize the transfer of such
15 additional amounts as needed.

16 WHEREFORE, the Receiver requests that the Court enter, in the form lodged
17 concurrently with this Petition, an Order Regarding Receivership Liquidation Fund
18 authorizing the Receiver to deposit into the Receivership Liquidation Fund \$50,228.94
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26 ² Article 3 of Chapter 4 of Title 20 references A.R.S. §§ 20-611 through 20-650, which includes § 20-648.

1 from the assets of Meritus Mutual and \$50,228.94 from the assets of MHP, which is an
2 amount equal to ten percent of the statutory deposits of Meritus Mutual and MHP,
3 respectively.

4 Dated this 7th day of October, 2016.

5 LEWIS ROCA ROTHGERBER CHRISTIE LLP

6 By: /s/ Justin J. Henderson (#026930)

7 Joel A. Glover

8 Justin J. Henderson

9 *Attorneys for Receiver*

10 COPY of the foregoing mailed this
11 7th day of October, 2016 to the
12 attached Master Service List

13 /s/ C.J. Scruggs

14 C.J. Scruggs

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1 SUPERIOR COURT OF ARIZONA

2 COUNTY OF MARICOPA

3 No. CV2016-011872 (Assigned to The Honorable Daniel Martin)

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ORDER RE: PETITION NO. 4

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20 Leslie R. Hess, as Receiver (hereinafter “Receiver”) of Compass Cooperative
21 Mutual Health Network, Inc. doing business as Meritus Mutual Health Partners (“Meritus
22 Mutual”) and Compass Cooperative Health Plan, Inc. dba Meritus Health Partners
23 (“MHP”), having filed Petition No. 4 Regarding Receivership Liquidation Fund Per
24 A.R.S. § 20-648 and good cause appearing therefor, IT IS ORDERED:

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1. The Receiver and/or the Special Deputy Receiver is authorized to deposit an amount up to \$50,828.94 into the Receivership Liquidation Fund, which amount is equal to ten percent of the amount of Meritus Mutual's deposit of \$508,289.39.

2. The Receiver and/or the Special Deputy Receiver is authorized to deposit an amount up to \$50,828.94 into the Receivership Liquidation Fund, which amount is equal to ten percent of the amount of MHP's deposit of \$508,289.39.

ENTERED this ____ day of _____, 2016.

The Honorable Daniel Martin
Judge of the Maricopa County Superior Court