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**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

SCOTT J. KIPPER, COMMISSIONER OF
INSURANCE, STATE OF NEVADA,

Petitioner,

vs.

FRIDAY HEALTH PLANS OF NEVADA, INC.,

Defendant.

CASE NO. A-23-871639-C
DEPARTMENT 18

[\[HEARING REQUESTED\]](#)

MOTION FOR APPROVAL OF COMMUTATION AGREEMENT

Petitioner, SCOTT J. KIPPER, COMMISSIONER OF INSURANCE, STATE OF NEVADA as Receiver (“Commissioner” or “Receiver”) for FRIDAY HEALTH PLANS OF NEVADA, INC. (“Friday Health” or the “Company”), by and through its undersigned counsel of record, submits this Motion for Approval of Commutation Agreement.

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1 This Motion is based upon the following Memorandum of Points and Authorities, the
2 papers and pleadings on file, and any oral arguments this Court may entertain.

3 DATED this 17th day of June, 2025

GREENBERG TRAURIG, LLP

4 */s/ Jerrell Berríos*

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Counsel for Petitioner

13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14 **I. INTRODUCTION**

15 This Motion seeks Court approval of a proposed commutation agreement between the
16 Receiver on behalf of Friday Health and Odyssey Reinsurance Company, a reinsurance company
17 domiciled in Connecticut (“Odyssey” or the “Reinsurer”). As detailed below, the proposed
18 Commutation Agreement (“Commutation Agreement”) attached hereto as **Exhibit A**, which the
19 Receiver believes is in the best interest of the receivership estate, would result in a payment of
20 \$190,255.00 to the Receiver, for the benefit of claimants.

21 Due to commonality of fact patterns, timelines, and data configurations among all six Friday
22 Health Plan estates (Friday Health Plans of Colorado, Friday Health Plans of Georgia, Friday Health
23 Plans of North Carolina, Friday Health Plans of Oklahoma, and Friday Health Insurance Company,
24 Inc. [collectively, the “SDRs”]), the Receiver endeavored to reduce administrative costs and, to that
25 end, contributed to unified efforts with the SDRs to form an equitable commutation calculation.
26 The SDRs and the Receiver engaged in negotiations with the Reinsurer and the Receiver believes
27 this culminating Commutation Agreement best represents Friday Health’s economic interests.

28 For the following reasons, the Receiver respectfully request this Court grant the instant
motion.

1 **II. RELEVANT FACTUAL BACKGROUND**

2 **A. Procedural Background.**

3 As the Court is aware, Friday Health offered life and health products and health insurance.
4 In 2022, the Nevada Division of Insurance (“Division”) required Friday Health to infuse funds to
5 increase its total capital and surplus because its finances suggested that it was approaching a
6 dangerous financial condition.¹ Despite the infusion, Friday Health’s financial filings with the
7 Division suggested that it had insufficient capital, and it was in financial distress. The Commissioner
8 of Insurance thus initiated delinquency proceedings with Friday Health’s consent based on concerns
9 about Friday Health’s financial condition. On June 12, 2023, the Court authorized the Receiver to
10 assume control over Friday Health and attempt rehabilitation (“Receivership Order”). After the
11 Commissioner was appointed as Receiver, he designated Ellingson & Associates, LLC, as the
12 Special Deputy Receiver (“SDR”) (the Receiver and SDR will be referred to jointly herein as
13 “Receiver”).

14 In furtherance of the Receivership Order, the Receiver obtained various Friday Health
15 records, including information related to policyholders, claims status, and the company’s financial
16 records. The Receiver concluded, after reviewing the records, that Friday Health could not be
17 rehabilitated as it could not meet financial obligations as they became due and continuing operations
18 would deplete the limited remaining assets at the detriment of the company, policyholders, creditors,
19 and public. As a result of the same, the Commissioner determined that the continuation of Friday
20 Health’s business would jeopardize the insurer’s solvency and notice was provided to policyholders
21 that all policies would terminate at the end of the day on August 31, 2023. Thereafter, this Court
22 found Friday Health to be insolvent and placed Friday Health into liquidation as of September 1,
23 2023, *via* the “Liquidation Order”.

24 _____
25 ¹ Friday Health is one of several related companies scattered across the United States offering health
26 insurance, all of which are also in pending receiverships due to financial inadequacy. As further detailed in
27 the Petition for Appointment of Receiver and exhibits thereto, Friday Health is a subsidiary of Friday Health
28 Plans Management Services Company, Inc. (“FHP Parent”), which is licensed as a non-resident third-party
administrator in Nevada, and as a non-resident producer firm in Nevada. FHP Parent is a subsidiary of Friday
Health Plans, Inc. (“FHP Ultimate Parent”), a Delaware company located in Colorado. FHP Parent and FHP
Ultimate Parent have other “Friday Health Plan” insurance companies in other states, including Colorado,
Texas, Georgia, Oklahoma, and North Carolina (collectively, “FHP Companies”). FHP Ultimate Parent
operated the FHP companies, which are all now subject to receivership proceedings.

1 In line with the Receiver's role and responsibilities, as outlined and defined by the Court in
2 the above-referenced orders, the Receiver has (among other things) evaluated and processed the
3 claims against the estate, and has endeavored to marshal and recover Friday Health's assets for the
4 benefit of the estate and its creditors. To that end, the Receiver has worked to resolve claims with
5 Odyssey relating to the reinsurance it issued in favor of Friday Health.

6 **B. Reinsurance Coverage and Proposed Commutation Agreement.**

7 Friday Health has two active casualty excess of loss reinsurance agreements ("treaty" or
8 "treaties") with the Reinsurer which covers claims occurring between January 1, 2022, and
9 December 31, 2023. Each treaty has substantially the same terms, with main differences being the
10 reinsurance premium rate decrease from 2022 to 2023, and the Aggregating Specific Deductible
11 (ASD) Friday Health retention amount reduced in the 2023 contract from \$24,000,000 to
12 \$6,000,000. Certain claims of the estate are subject to reinsurance coverage, depending on the date
13 of loss and whether the paid amount of the claim meets the retention point for excess of loss coverage
14 under the agreement. Both treaties cover 90% of the amounts paid by Friday Health in excess of
15 \$500,000, and 40% excess of \$1,000,000 with liability of the reinsurer not to exceed \$500,000. The
16 Receiver tracked the claims that qualify for coverage under both treaties. The Parties have agreed
17 that Odyssey's net current and future obligations to the Company under the Reinsurance
18 Agreements, as of a mutually agreed date, are \$190,255.00 (the "Commutation Amount"). The
19 Receiver specifically acknowledges and agrees that the Commutation Amount is good and adequate
20 consideration, and represents a present fair and equivalent value for the Reinsurer's net liabilities
21 and all other obligations (including profit commission) to Friday Health under the Reinsurance
22 Agreements.

23 **III. LEGAL ARGUMENT**

24 This Court has original and continuing jurisdiction over the subject matter of this Motion
25 under the provisions of NRS 696B.190. The Court would have authority to issue an order on this
26 Motion, because "the district court has original jurisdiction of delinquency proceedings under
27 NRS 696B.010 to 696B.565, inclusive, and any court with jurisdiction may make all necessary or
28 proper orders to carry out the purposes of those sections." NRS 696B.190(1).

Pursuant to paragraph six (6) of the Receivership Order, the Receiver is vested with title to all real and personal property of every kind ("Property") of Friday Health and is to take possession of Friday Health's assets including contracts. Additionally, paragraph 7 of the Receivership Order authorizes the Receiver "to take any and all actions that he deems necessary in connection with this delinquency proceedings and as provided by NRS chapter 696B and any other applicable law." Friday Health's right to enter an agreement for the commutation of liability is a contract right and is therefore within the definition of "Property" given by paragraph six (6) of the Receivership Order.

The Receiver has determined that the Commutation Agreement and the transaction related thereto are in the best interests of the receivership estate and its creditors. The Receiver is thus requesting the Court to approve the proposed Commutation Agreement and authorize the Receiver to sign the same.

IV. CONCLUSION

Based on the foregoing, the Receiver respectfully requests this Court enter an order that approves, ratifies, and confirms the Commutation Agreement and the transaction contemplated thereby.

DATED this 17th day of June, 2025

GREENBERG TRAURIG, LLP

/s/ Jerrell Berrios

MARK E. FERRARIO, ESQ.

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KARA B. HENDRICKS, ESQ.

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Counsel for Petitioner

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on **June 17, 2025**, I caused a true and correct copy of the foregoing **MOTION FOR APPROVAL OF COMMUTATION AGREEMENT** to be filed with the Clerk of Court using the Odyssey e-FileNV Electronic Service system and served on all parties with an email address on record, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

/s/ Evelyn Escobar-Gaddi

An employee of Greenberg Traurig, LLP

EXHIBIT A

EXHIBIT A

PROPOSED COMMUTATION AGREEMENT

COMMUTATION AGREEMENT

This Commutation Agreement ("Agreement"), effective as of _____, 2025 is entered into between Friday Health Plans of Nevada, Inc., a health maintenance organization domiciled in Nevada ("FHP" or the "the Company") and Odyssey Reinsurance Company, a reinsurance company domiciled in Connecticut (the "Reinsurer"). (The Reinsurer and the Company are sometimes each referred to herein as a "Party" and collectively as the "Parties").

WHEREAS, The Company entered into HMO Excess Reinsurance Agreements with the Reinsurer as described at **Exhibit A** attached hereto, which, together with any and all amendments, renewals and endorsements thereto, are referred to herein as the "Reinsurance Agreements"; and

WHEREAS, FHP was placed into liquidation ("Liquidation Order") in a receivership proceeding on _____ by order of the _____ in _____, _____ County, Nevada ("Receivership Court"), which found FHP to be insolvent and appointed the Nevada Commissioner of Insurance (the "Commissioner") as Receiver, who in turn appointed _____ as the Special Deputy Receiver ("SDR") of FHP; and

WHEREAS, the Company and the Reinsurer wish to fully and finally determine, settle, commute and discharge all liabilities and obligations between them that have arisen, arise or may arise under the Reinsurance Agreements.

NOW, THEREFORE, in consideration of the promises and covenants set forth herein and the payment of the Commutation Amount to be made hereunder, the Company and the Reinsurer agree as follows:

ARTICLE 1 **COMMUTATION AMOUNT AND PAYMENT**

(a) The Parties have agreed that the Reinsurer's net current and future obligations to the Company under the Reinsurance Agreements, as of a mutually-agreed date, are \$190,255 (the "Commutation Amount"). The Company specifically acknowledges and agrees that the Commutation Amount is good and adequate consideration, and represents a present fair and equivalent value for the Reinsurer's net liabilities and all other obligations (including profit commission) to the Company under the Reinsurance Agreements.

(b) The Reinsurer will pay and transmit the Commutation Amount to the Company (or, if the Company directs in writing, to a broker acting on behalf of the Company) within five (5) days (excluding Saturdays, Sundays and United States banking holidays) of the Reinsurer's receipt, acceptance and execution of an agreed final copy of this Agreement executed by Company.

(c) The Reinsurer shall make payment of the Commutation Amount by wire transfer in immediately available US funds using the following routing instructions:

Bank Name: _____

Bank Address: _____

ABA No.: _____

Account Name: _____

BNF: _____
Friday Health Plans of Nevada, Inc.

REF/OBI/FFC: _____

If paying by check, the Reinsurer shall make payment of the Commutation Amount by check sent via overnight mail at Reinsurers expense to the Company at the postal address specified in ARTICLE 8.

ARTICLE 2 **RELEASES**

(a) In consideration of the payment of the Commutation Amount by the Reinsurer, the Company, for itself and on behalf of its parents, subsidiaries and other affiliates, and the agents, predecessors, successors (including any liquidator or rehabilitator of the Company) and assigns of each, releases and forever discharges the Reinsurer and its parents, subsidiaries and other affiliates, and the agents, predecessors, successors and assigns of each, from any and all past, present or future liabilities and obligations arising out of, under or relating to the Reinsurance Agreements, whether such are known or unknown, reported or unreported, and whether currently existing or arising in the future, including but not limited to, all claims, debts, demands, causes of action, duties, sums of money, covenants, contracts, controversies, agreements, promises, omissions, damages, judgments, costs, expenses and losses whatsoever arising under or related to the Reinsurance Agreements; provided, however, that this release does not discharge obligations which have been undertaken by the terms of this Agreement.

(b) In consideration of the promises and agreements and the release given by the Company, the Reinsurer, for itself and on behalf of its parents, subsidiaries and other affiliates, and the agents, predecessors, successors and assigns of each, releases and forever discharges the Company, and its parents, subsidiaries and other affiliates, and the agents, predecessors, successors (including any liquidator or rehabilitator of the Company) and assigns of each, from any and all past, present or future liabilities and obligations arising out of, under or relating to the Reinsurance Agreements, whether such are known or unknown, reported or unreported, and whether currently existing or arising in the future, including but not limited to, all claims, debts, demands, causes of

action, duties, sums of money, covenants, contracts, controversies, agreements, promises, omissions, damages, judgments, costs, expenses and losses whatsoever arising under or related to the Reinsurance Agreements; provided, however, that this Release does not discharge obligations which have been undertaken by the terms of this Agreement.

ARTICLE 3

FULL AND INDEPENDENT KNOWLEDGE

The Reinsurer and the Company represent that each has had full opportunity to consult its own attorneys, accountants, and actuaries in connection with the review of this Agreement and the adequacy of the Commutation Amount, that each understands the meaning and effect of this Agreement, and that each has carefully read and understands the scope and effect of each provision contained in this Agreement.

ARTICLE 4

COMPROMISE

This Agreement sets forth a compromise and shall not at any time for any purpose be considered as an admission of liability or responsibility on the part of either Party or as evidence of any alleged rights, duties or obligations to any party in relation to the Reinsurance Agreements.

ARTICLE 5

OTHER ACTIONS

This Agreement and the negotiations and proceedings leading to this Agreement shall not form the basis for any claim by either against the other except with respect to an action for enforcement of the terms of this Agreement.

ARTICLE 6

JUDICIAL AND REGULATORY APPROVALS

(a) Regulatory Approvals

Approval of this Agreement, including all exhibits and attachments hereto, by the regulatory authorities having jurisdiction over the Company's insurance activities that are required pursuant to applicable law, regulation or court order is a condition precedent to the Parties' duty to perform their obligations under this Agreement, including the Reinsurer's obligation to make payment of the Commutation Amount.

(b) Judicial Approvals

Approval of this Agreement, including all exhibits and attachments hereto, by the Receivership Court is a condition precedent to the Parties' duty to perform their obligations under this Agreement, including the Reinsurer's obligation to make payment of the Commutation Amount.

ARTICLE 7
MISTAKE OF LAW OR FACT

This Agreement is intended to fully resolve the rights, obligations and liabilities of the Parties under the Reinsurance Agreements and no Party shall seek to re-open or set aside this Agreement on the grounds that it has become aware of any mistake of law (including any such mistake arising as a result of a subsequent change of law) or any mistake of fact relating to this Agreement or the Reinsurance Agreements.

ARTICLE 8
NOTICES AND CONTACT INFORMATION

All notices and other communications under or in connection with this Agreement (aside from any transmission of the Commutation Amount) shall be in writing and shall be deemed given if (1) delivered personally (including overnight mail services or messenger), or (2) delivered by registered or certified mail; in each case to the Parties in accordance with the following contact information:

If to the Company:

Friday Health Plans of Nevada, Inc., in receivership

ATTENTION: _____
Telephone: _____

If to the Reinsurer:

Odyssey Reinsurance Company
300 First Stamford Place
Stamford, Connecticut 06902
ATTENTION: **GENERAL COUNSEL**
Telephone: (203) 977-8000

ARTICLE 9
CONFIDENTIALITY

The terms and conditions of this Agreement, as well as its existence, shall be kept confidential between the Parties and shall not be disclosed by either Party without the express written consent of the other Party, except for disclosure to (1) those in the Party's corporate organization who have a need to know; (2) professional advisors of the Party; (3) rating agencies; (4) reinsurers of the Party in respect of the Reinsurance Agreements; (5) governing regulatory authorities and agencies, including but not limited to the Commissioner in her capacity as Liquidator of FHP, the Nevada Department of Insurance, the Receivership Court, and the SDR's

accountants, auditors, attorneys, financial advisor(s) or bankers to the extent necessary for performance of their responsibilities; and (6) those to whom the Party may be required to make disclosure by operation of law, regulation or court order.

ARTICLE 10

JURISDICTION

The exclusive jurisdiction and venue for any action to enforce any provision of this Agreement shall be the Receivership Proceeding where all Parties agree personal jurisdiction exists over them. If the Reinsurer or the Company bring an action to enforce any term of this Agreement, then the prevailing party in such litigation is entitled to receive from the non-prevailing Party any reasonable expenses, including without limitation, its reasonable attorneys' fees and costs incurred.

ARTICLE 11

GENERAL PROVISIONS

(a) This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns.

(b) This Agreement shall be governed by and construed in accordance with the laws of Nevada without giving effect to any conflict of law provisions that would cause the application of the laws of any jurisdiction other than Nevada.

(c) This Agreement, including the documents and agreements referred to herein, shall constitute the entire agreement between the Parties relating to the Commutation of the Reinsurance Agreements, and supersedes all prior or contemporaneous negotiations or agreements, whether oral or written, relating to the subject matter hereof.

(d) This Agreement may only be amended in writing executed by each Party.

(e) This Agreement may be executed in multiple counterparts (including electronic transmittals of signatures), any one of which shall be deemed an original agreement, and all such executed counterparts constituting a single agreement.

(f) The signatories warrant and represent that they have full authority to execute this Agreement on behalf of the Parties, and that all necessary corporate action relating to this Agreement and its execution by the Parties has been taken.

ARTICLE 12

NO INDEMNIFICATION

The Parties agree that they have no obligation to, and will not indemnify or hold harmless any other Party for third party claims, causes of action or demands and further waive and release

any right to indemnity or contribution arising as a matter of law, by statute, common law, judicial decree or contract. No rights to indemnity arise from this Agreement.

ARTICLE 13

REINSURER PROOF OF CLAIM WITHDRAWN WITH PREJUDICE

As of the Effective Date, Reinsurer acknowledges and agrees that any and all Proofs of Claim filed by the Reinsurer in the FHP receivership shall be and hereby are withdrawn with prejudice and no further adjudication is required. Reinsurer expressly waives all rights to object to or to appeal the withdrawal. Reinsurer agrees that it shall not file any other POCs in the FHP estate.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective duly authorized officers or representatives on the date shown below the signature of each.

FRIDAY HEALTH PLANS OF NEVADA, INC.

By: _____

Name: _____

Title: _____

Date: _____

ODYSSEY REINSURANCE COMPANY

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A
("Reinsurance Agreements")

<u>Agreement Reference No.</u>	<u>Period</u>
PID552396	January 1, 2023 – December 31, 2023
PID501244	January 1, 2022 – December 31, 2022
PID254679	January 1, 2021 – December 31, 2021

DRAFT