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May 15, 2026

Via eCourts

Hon. Patrick J. Bartels, P.J. Ch.
Superior Court of New Jersey, Chancery Division
175 South Broad Street
Trenton, NJ 08650

Re: Commissioner, New Jersey Department of Banking and Insurance v. New Jersey
Physicians United Reciprocal Exchange
Docket No.
Verified Complaint and Petition for Liquidation

Dear Judge Bartels:

Please accept this letter brief on behalf of the Plaintiff, Commissioner of the New Jersey Department of Banking and Insurance, in the above-referenced action.

New Jersey Physicians United Reciprocal Exchange (“NJ PURE”) is a reciprocal insurance exchange licensed to exchange medical malpractice insurance in the State of New Jersey. As set forth in the accompanying Certification, the Commissioner has determined that NJ PURE is insolvent and is in a hazardous financial condition. The Commissioner therefore respectfully requests that the court grant this Petition and enter the Order to Show Cause and, ultimately, an Order of Liquidation.

As set forth below, due to NJ PURE’s insolvency, significant cash flow difficulties, and the fact that NJ PURE’s Risk-Based capital (“RBC”) is at a mandatory control event level, the Commissioner respectfully requests that Your Honor consider her Petition on an expedited basis.



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PRELIMINARY STATEMENT

NJ PURE is insolvent, as defined at N.J.S.A. 17:30C-1(a), and the Commissioner has found that it is in a hazardous financial condition pursuant to N.J.A.C. 11:2-27.3. The Commissioner is authorized to seek an order of liquidation with respect to an insurer regardless of whether a prior order of rehabilitation has been issued regarding that insurer. N.J.S.A. 17:30C-8. The Commissioner has determined, in light of the decline of NJ PURE’s financial condition as described herein, to proceed to place NJ PURE directly into liquidation. Liquidation is necessary for the protection of NJ PURE’s subscribers/policyholders, creditors and the public.

STATEMENT OF FACTS

NJ PURE was organized pursuant to N.J.S.A. 17:50-1 et. seq. by Reciprocal Attorney-In-Fact, Inc. (“RAF”), as Attorney-in-Fact (“AIF”), as a reciprocal insurance exchange licensed to exchange medical malpractice insurance in the State of New Jersey. On October 1, 2002, the Department granted RAF, the Attorney-in-Fact for the subscribers of NJ PURE, the preliminary authority to solicit powers of attorney and applications for medical

malpractice inter-insurance contracts in the State of New Jersey in accordance with N.J.S.A. 17:50-10. On December 23, 2002, the Commissioner issued an initial Certificate of Authority pursuant to N.J.S.A. 17:50-11 to NJ PURE to engage in the kinds of business authorized by paragraph “e” of N.J.S.A. 17:17-1 et seq., limited to medical malpractice insurance. Certification of David Wolf (“Wolf Cert.”), ¶¶2-4.

On January 1, 2003, NJ PURE commenced business and is authorized to do business in New Jersey only, with its principal office located at 13 Roszel Road, Suite C 222, Princeton, NJ 08540. On February 14, 2023, NJ PURE filed a withdrawal request with the Department to withdraw from writing medical malpractice insurance in the State. NJ PURE sent non-renewal notices 60 days in advance for policies being nonrenewed beginning effective November 30, 2023. As of December 31, 2025, NJ PURE had no policies in force. Wolf Cert., ¶¶5-6.

NJ PURE is insolvent, as defined at N.J.S.A. 17:30C-1(a), and the Commissioner has found that it is in a hazardous financial condition pursuant to N.J.A.C. 11:2-27.3. On July 1, 2024, NJ PURE notified the Department that its total adjusted capital was \$4.767 million compared to \$4.102 million of required capital, which was equal to a 116.2% risk-based capital (“RBC”) ratio, resulting in a regulatory action level event. Wolf Cert., ¶7.

On July 7, 2024, pursuant to N.J.A.C. 11:2-39.5(b)1, the Department required NJ PURE to prepare and submit a RBC Plan by August 15, 2024 as defined by N.J.A.C. 11:2-39.2 which contains all of the elements specified at N.J.A.C. 11:2-39.4(b), including, but not limited to: (1) identifying the conditions which contribute to the regulatory action level event; and (2) setting forth corrective actions which the insurer intends to take that are

reasonably expected to result in the elimination of the regulatory action level event. Wolf Cert., ¶8.

On August 15, 2024, NJ PURE submitted a plan which they stated would result in the regulatory action level event being resolved by December 31, 2024, and allow for a solvent and orderly run-off of its remaining obligations, post withdrawal of the business. Wolf Cert., ¶9.

On March 3, 2025, NJ PURE notified the Department that their total adjusted capital was \$2.177 million compared to \$2.222 million of required capital, which was equal to 98.0% RBC ratio, resulting in an authorized control level event. Further, the \$2.177 million was slightly above the minimum surplus of \$2 million required pursuant to N.J.S.A. 17:50-5. Wolf Cert., ¶10.

On April 24, 2025, pursuant to N.J.A.C. 11:2-39.6(b)1 and N.J.A.C. 11:2-39.5, the Department required NJ PURE to prepare and submit a Revised RBC Plan by June 9, 2025 as defined by N.J.A.C. 11:2-39.2 which contains all of the elements specified at N.J.A.C. 11:2-39.4(b), including, but not limited to: (1) identifying the conditions which contribute to the authorized control level event; and (2) setting forth corrective actions which the insurer intends to take that are reasonably expected to result in the elimination of the authorized control level event. The Department also requested that NJ PURE provide a status report on actions being taken to ensure the company maintained minimum surplus of \$2 million required pursuant to N.J.S.A. 17:50-5. Wolf Cert., ¶11.

On June 9, 2025, NJ PURE submitted a status report and a plan which stated the withdrawal from the New Jersey market was fully complete by the end of 2024, and the Company would remain solvent as it ran-off its remaining obligations. They projected

surplus at year end 2025 to be \$2.4 million. On November 4, 2025, NJ PURE reported its surplus as of September 30, 2025, to be \$2,038,211. Wolf Cert., ¶¶12-13.

On March 2, 2026, NJ PURE filed its 2025 annual financial statement and related filings. Without warning to the Department, NJ PURE reported a decrease in surplus of \$13 million, which immediately made them insolvent and subjected them to mandatory control level. Reported surplus as of December 31, 2025 was (\$10.834) million. Wolf Cert., ¶14.

On March 16, 2026, NJ PURE's independent actuary, SGRisk, LLC, stated the Actuarial Point Estimate of reserves to be \$18.869 million on net basis and \$23.771 million on a gross basis versus NJ PURE's management reported amounts of \$16.195 million and \$20.033 million, meaning losses could likely be even higher than reported. Wolf Cert., ¶17.

On March 27, 2026, the Department wrote to Mr. Eric Poe in his capacity of Acting President of NJ PURE and CEO of RAF. The Department requested that Mr. Poe inform the Department as to whether the subscribers, if any, and/or RAF, intend to provide any advances to the surplus of NJ PURE given that it no longer meets the surplus requirements under N.J.S.A. 17:50-5. Wolf Cert., ¶19.

On April 1, 2026, Mr. Poe stated that he "...asked our external accounting firm and they confirmed RAF currently has approximately \$88,000 in cash/money market funds without counting any pending outstanding bills. Pursuant to our obligations under the liquidity test, we will advance all such funds to the exchange." Wolf Cert., ¶20.

On April 2, 2026, the Department wrote to Mr. Poe again and stated that based on the most recent financial filings as of December 31, 2025, NJ PURE's surplus is (\$10.83 million) versus \$2 million of required surplus. After the \$88,000 payment, that still leaves a deficit of (\$12.74 million). The Department asked Mr. Poe to advise the Department whether the

subscribers and/or RAF will provide additional surplus sufficient to meet the required minimum surplus pursuant to N.J.S.A. 17:50-5, or whether the Department should proceed to next steps. Wolf Cert., ¶21.

On April 7, 2026, Mr. Poe responded and stated “We will attempt to determine if the subscribers will provide additional surplus contributions sufficient to meet the required minimum surplus required by N.J.S.A. 17:50-5. We will do this by contacting each subscriber in writing and informing them of our statutory deficiency. This letter will be sent out in the next four business days along with an FAQ and video email explaining the need for additional surplus in detail. We intend to determine if this surplus deficiency can be met within 30 days of receiving this letter. If you have any further questions, please let me know.” Wolf Cert., ¶22.

On April 9, 2026, the Department wrote to Mr. Poe again and stated that NJ PURE’s liabilities, required reserves, and required surplus exceed its assets by \$12,833,674. With regard to subscribers, the Department indicated that RAF's Power of Attorney document indicates RAF and NJ PURE would not be able to seek additional surplus contributions from subscribers (Section 3), and these policies are non-assessable (Section 2). That continued to result in NJ PURE having a deficit of \$12.74 million. The Department advised Mr. Poe, that over the next 30 days, RAF and NJPURE retain the right to initiate outreach to potential funding sources. However, please be aware that you cannot legally compel former subscribers to provide funds, nor can you represent that the Department requires it of them in any way. As a result, the Department is hereby providing notice that NJ PURE is insolvent. Pursuant to N.J.S.A. 17:50-5 and N.J.S.A. 17:30C-1 et seq., the Department will initiate liquidation proceedings within Superior Court in 30 days (May 11, 2026), unless

RAF and NJ PURE consent to liquidation of NJ PURE and we can then begin the process sooner. The Department requested that RAF and NJ PURE indicate whether they consent to the liquidation proceedings. Wolf Cert., ¶23.

After receiving the April 9, 2026 communication from the Department, and after subsequent communications between the Department and Mr. Poe, RAF and NJ PURE's efforts to meet and maintain the minimum reserves and surplus requirements pursuant to N.J.S.A. 17:50-5, and be above the mandatory control RBC level while the business continues to run off, were unsuccessful. Wolf Cert., ¶¶24-30.

ARGUMENT

BOTH AN IMMEDIATE DECLARATION THAT NJ PURE IS INSOLVENT AND ENTRY OF AN ORDER OF LIQUIDATION ARE NECESSARY TO PRESERVE NJ PURE'S ASSETS AND TO PROTECT THE PUBLIC.

N.J.S.A. 17:30C-1 et seq. authorizes the Commissioner to petition the Superior Court for an Order of Liquidation if an insurer is insolvent, regardless of whether or not an Order of Rehabilitation has been previously entered. N.J.S.A. 17:30C-8(b). Under N.J.S.A. 17:30C-8, the Commissioner may also apply for an Order of Liquidation upon any of the grounds for rehabilitation under N.J.S.A. 17:30C-6. Therefore, liquidation is appropriate if an insurer is "impaired or insolvent," N.J.S.A. 17:30C-6(a); or "is found ... to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its stockholders, or to its creditors, or to the public," N.J.S.A. 17:30C-6(f).

As discussed above, NJ PURE is insolvent, as defined at N.J.S.A. 17:30C-1(a). Wolf Cert., ¶¶14-16. Thus, liquidation is appropriate under N.J.S.A. 17:30C-8 and -6(a). As also discussed, NJ PURE is in a financial condition that is hazardous to its policyholders, or to

its stockholders, its creditors, and to the public. Wolf Cert., ¶¶14-55. Therefore, liquidation is necessary under N.J.S.A. 17:30C-8 and -6(f),

The Commissioner is authorized to seek an order of liquidation with respect to an insurer regardless of whether a prior order of rehabilitation has been issued regarding that insurer. N.J.S.A. 17:30C-8. The Commissioner has determined, in light of the decline of NJ PURE's financial condition as described above, to proceed to place NJ PURE directly into liquidation. Liquidation is necessary for the protection of NJ PURE's subscribers/policyholders, creditors and the public. An Order of Liquidation will allow NJ PURE to run off its business, enable activation of the state guaranty fund to assume payment of its claims, and prevent further accumulation of debts. Therefore, the Commissioner requests that this court immediately declare NJ PURE to be insolvent and issue an Order of Liquidation.

An immediate declaration that NJ PURE is insolvent and court approval for the liquidation of NJ PURE are consistent with the grounds set forth in N.J.S.A. 17:30C-6 and -8. Furthermore, the Commissioner's decision to liquidate an insurance carrier is entitled to substantial deference because of the specialized nature of insurance generally and specifically, as here, in light of the Commissioner's financial expertise in making this type of decision. In re Assignment of Exposures to the Aetna Cas. & Sur. Co., 248 N.J.Super. 367, 376 (App. Div.), certif. denied, 126 N.J. 385 (1991), cert. denied, 502 U.S. 1121, 112 S. Ct. 1244, 117 L. Ed. 2d 476 (1992); NJ PURE Ins. Co. v. N.J. Dept. of Ins., 195 N.J. Super. 200, 208 (App. Div.), certif. denied, 99 N.J. 218 (1984). The Appellate Division reasoned in Fortunato v. N.J. Life Ins. Co., 254 N.J. Super. 420, 426-27 (App. Div. 1991), that because an insurance company's financial solvency necessarily threatens the justifiable

interests of policyholders, creditors and the public, the Commissioner's "informed prediction" regarding the company's financial condition should be upheld if it is neither "arbitrary nor unreasonable."

The Commissioner's decision to petition this court for liquidation is reasonable for all of reasons discussed above. First, NJ PURE is insolvent. The magnitude of the deterioration of NJ PURE's financial condition supports the Commissioner's determination.

Second, the Commissioner must protect the interests of the public by petitioning to liquidate the company. Prompt liquidation of NJ PURE will allow the company to be run off in an orderly manner that will both protect claimants and maximize assets for potential creditors. Upon liquidation, the state guaranty fund can trigger and assume payment of policyholders' insurance claims pursuant to its statutory authority; thus, ensuring that policyholders are not unduly harmed by NJ PURE's insolvency.

Finally, the public interest strongly favors granting the Commissioner's Petition for Liquidation. The Commissioner is charged with protecting the interests of NJ PURE's policyholders, claimants, and creditors, as well as those of the general public. Liquidation is necessary to protect the interests of policyholders and claimants who would rely on an orderly run-off to fund outstanding claims. The public interest will not be served by allowing NJ PURE's financial condition to deteriorate further. Accordingly, the Commissioner has determined that NJ PURE must be placed into liquidation, and a declaration of insolvency issued, as soon as possible.

CONCLUSION

For all of the foregoing reasons, the Commissioner requests that the court approve the Commissioner's Petition to Liquidate NJ PURE as soon as possible.

Respectfully submitted,

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cc: Service List