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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**PACIFICARE LIFE AND HEALTH
INSURANCE COMPANY**

Respondent.

Case No. UPA 2007-00004

OAH No. 2009061395

**FIRST AMENDED ORDER TO SHOW
CAUSE; STATEMENT OF CHARGES /
ACCUSATION; NOTICE OF
MONETARY PENALTY**

(California Insurance Code §§ 790.05; 700,
subd. (c); 704; 790.035)

Judge: Hon. Ruth Astle

Hrg. Date: December 7, 2009, continuing
from day to day

1 The California Department of Insurance (“CDI” or the “Department”) submits this First
2 Amended Order to Show Cause; Statement of Charges/Accusation; Notice of Monetary Penalty
3 (“First Amended Accusation”) in order to consolidate and to supersede the allegations in the
4 Order to Show Cause; Statement of Charges/Accusation; Notice of Monetary Penalty dated
5 January 25, 2008, the First Supplemental Accusation dated January 20, 2010, the Second
6 Supplemental Accusation dated May 19, 2010, the Third Supplemental Accusation dated July 8,
7 2010, and the Fourth Supplemental Accusation dated October 24, 2011.

8 **ORDER TO SHOW CAUSE**

9 WHEREAS, the Insurance Commissioner of the State of California (the
10 “Commissioner”) has reason to believe that Respondent PacifiCare Life and Health Insurance
11 Company (“PLHIC,” “PacifiCare,” or “Respondent”) has engaged in or is engaging in this state
12 in the unfair methods of competition or unfair or deceptive acts or practices set forth herein, in
13 violation of California Insurance Code section 790 et seq., and the Fair Claims Settlement
14 Practices Regulations, California Code of Regulations, title 10, chapter 5, and has engaged in or
15 is engaging in other unlawful acts alleged herein, each in violation of the cited provisions of the
16 Insurance Code, as set forth in the Statement of Charges/Accusation contained herein; and,

17 WHEREAS, the Commissioner has reason to believe that a proceeding with respect to the
18 alleged acts of Respondent would be in the public interest.

19 NOW, THEREFORE, and pursuant to the provisions of section 790.05 of the Insurance
20 Code, Respondent is ordered to appear before the Commissioner on a date to be set at the Office
21 of Administrative Hearings in Oakland, California, and show cause, if any cause there be, why
22 the Commissioner should not issue an Order requiring Respondent to Cease and Desist from
23 engaging in the methods, acts, and practices set forth in this First Amended Accusation, and
24 imposing the penalties set forth in section 790.035 of the Insurance Code and other Insurance
25 Code sections as requested herein. Further, Respondent is hereby ordered to show why the
26 Commissioner should not exercise his authority pursuant to section 704 of the Insurance Code to
27 suspend Respondent’s Certificate of Authority for a time not exceeding one year upon finding
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1 that Respondent has engaged in and is engaged in not carrying out its contracts in good faith, in
2 violation of Insurance Code section 704, subdivision (b).

3 **STATEMENT OF CHARGES / ACCUSATION**

4 **A. Violations Arising from Individual Provider and Member Complaints**

5 1. Shortly after PacifiCare was acquired by UnitedHealth Group in late 2005, the
6 Department began receiving an increased number of complaints against Respondent from
7 providers and members. A large number of complaints continued to be filed against Respondent
8 for a number of years. As it does with all such complaints, the Department processed and
9 investigated them.

10 2. Based on CDI's investigation of the complaint of Ben Shwachman, M.D., against
11 Respondent (CSB file number 6267035), CDI has determined that PLHIC violated Insurance
12 Code section 790.03, subdivision (h), in 28 instances. PLHIC failed to process claims in full
13 within 30 working days in two instances. It failed to provide notice of rights to request an
14 Independent Medical Review from CDI in two instances. It failed to provide notice regarding
15 the Department's review function and contact information in three instances. It misrepresented
16 pertinent facts or insurance policy provisions in 18 instances. It failed to pursue a thorough
17 investigation and persisted in requesting unnecessary information or information already
18 provided in three instances. A violation letter dated August 22, 2007, was sent to Respondent.
19 Respondent did not respond to that letter to contest the violations.

20 3. Based on CDI's investigation of the complaint of Deng-Fa Fong, M.D., against
21 Respondent (CSB file number 6257988), CDI has determined that PLHIC violated Insurance
22 Code section 790.03, subdivision (h), in 32 instances. PLHIC failed to provide notice of rights to
23 request an Independent Medical Review from CDI in nine instances. It failed to process a claim
24 in full within 30 working days in seven instances. It failed to provide notice regarding the
25 Department's review function and contact information in nine instances. It failed to pursue a
26 thorough investigation and persisted in requesting unnecessary information or information
27 already provided in seven instances. A violation letter dated August 22, 2007, was sent to
28 Respondent. Respondent did not respond to that letter to contest the violations.

1 4. Based on CDI's investigation of Ms. B's complaint against Respondent (CSB file
2 number 6193958), CDI has determined that PLHIC violated Insurance Code section 790.03,
3 subdivision (h), in one instance. PLHIC misrepresented pertinent facts. A violation letter dated
4 August 9, 2006, was sent to Respondent. Respondent did not respond to that letter to contest the
5 violations.

6 5. Based on CDI's investigation of the complaint of Julie Duquette, M.D., against
7 Respondent (CSB file number 6244025), CDI has determined that PLHIC violated Insurance
8 Code section 790.03, subdivision (h), in six instances. PLHIC failed to provide a complete
9 written response to a Department inquiry within 21 days in one instance. It failed to maintain a
10 complete file in one instance. It failed to provide notice regarding the Department's review
11 function and contact information in one instance. It failed to transact business under PLHIC's
12 name in one instance. It failed to provide a complete written response to a claimant within 15
13 calendar days in two instances. A violation letter dated March 30, 2007, was sent to Respondent.
14 Respondent did not respond to that letter to contest the violations.

15 6. Based on CDI's investigation of Mr. P's complaint against Respondent (CSB file
16 number 6243115), CDI has determined that PLHIC violated Insurance Code section 790.03,
17 subdivision (h), in one instance. It misrepresented pertinent facts or insurance policy provisions
18 in one instance. A violation letter dated April 3, 2007, was sent to Respondent. Respondent did
19 not respond to that letter to contest the violations.

20 7. Based on CDI's investigation of the complaint of Len Jurkowski, M.D., against
21 Respondent (CSB file number 6241399), CDI has determined that PLHIC violated Insurance
22 Code section 790.03, subdivision (h), in two instances. PLHIC failed to pursue a thorough
23 investigation and persisted in requesting unnecessary information or information already
24 provided in one instance. It failed to provide notice regarding the Department's review function
25 and contact information in one instance. A violation letter dated April 4, 2007, was sent to
26 Respondent. Respondent did not respond to that letter to contest the violations.

27 8. Based on CDI's investigation of the complaint of Robert Anderson, M.D., against
28 Respondent (CSB file number 6242825), CDI has determined that PLHIC violated Insurance

1 Code section 790.03, subdivision (h), in eight instances. PLHIC failed to provide a complete
2 written response to a Department inquiry within 21 days in one instance. It failed to provide
3 notice regarding the Department's review function and contact information in five instances. It
4 failed to pursue a thorough investigation and persisted in requesting unnecessary information or
5 information already provided in one instance. It failed to provide a complete written response to
6 a claimant within 15 days in one instance. A violation letter dated April 5, 2007, was sent to
7 Respondent. Respondent did not respond to that letter to contest the violations.

8 9. Based on CDI's investigation of Ms. S's complaint against Respondent (CSB file
9 number 6250074), CDI has determined that PLHIC violated Insurance Code section 790.03,
10 subdivision (h), in one instance. PLHIC failed to process a claim in full within 30 working days
11 in one instance. A violation letter dated June 1, 2007, was sent to Respondent. Respondent did
12 not respond to that letter to contest the violations.

13 10. Based on CDI's investigation of Mr. G's complaint against Respondent (CSB file
14 number 6255021), CDI has determined that PLHIC violated Insurance Code section 790.03,
15 subdivision (h), in four instances. PLHIC failed to provide notice regarding the Department's
16 review function and contact information in two instances. It failed to provide notice of rights to
17 request an Independent Medical Review from CDI in two instances. A violation letter dated
18 June 12, 2007, was sent to Respondent. Respondent did not respond to that letter to contest the
19 violations.

20 11. Based on CDI's investigation of Ms. B's complaint against Respondent (CSB file
21 number 6252108), CDI has determined that PLHIC violated Insurance Code section 790.03,
22 subdivision (h), in 10 instances. It failed to pursue a thorough investigation and persisted in
23 requesting unnecessary information or information already provided in three instances. It
24 misrepresented pertinent facts or insurance policy provisions in two instances. It failed to
25 provide notice regarding the Department's review function and contact information in two
26 instances. It failed to provide notice of rights to request an Independent Medical Review from
27 CDI in three instances. A violation letter dated June 29, 2007, was sent to Respondent.
28 Respondent did not respond to that letter to contest the violations.

1 12. Based on CDI's investigation of Ms. W's complaint against Respondent (CSB file
2 number 6249553), CDI has determined that PLHIC violated Insurance Code section 790.03,
3 subdivision (h), in 17 instances. PLHIC failed to pursue a thorough investigation and persisted
4 in requesting unnecessary information or information already provided in one instance. It
5 misrepresented pertinent facts or insurance policy provisions in 14 instances. It failed to provide
6 notice regarding the Department's review function and contact information in one instance. It
7 failed to provide notice of rights to request an Independent Medical Review from CDI in one
8 instance. A violation letter dated July 11, 2007, was sent to Respondent. Respondent did not
9 respond to that letter to contest the violations.

10 13. Based on CDI's investigation of the complaint of Robert Leiker, M.D., and Ben
11 Schwachman, M.D., against Respondent (CSB file number 6265555), CDI has determined that
12 PLHIC violated Insurance Code section 790.03, subdivision (h), in nine instances. It
13 misrepresented pertinent facts or insurance policy provisions in four instances. It failed to
14 provide notice regarding the Department's review function and contact information in three
15 instances. It failed to provide notice of rights to request an Independent Medical Review from
16 CDI in two instances. A violation letter dated August 22, 2007, was sent to Respondent.
17 Respondent did not respond to that letter to contest the violations.

18 14. Based on CDI's investigation of Neuroscan's complaint against Respondent (CSB
19 file number 6268702), CDI has determined that PLHIC violated Insurance Code section 790.03,
20 subdivision (h), in 26 instances. PLHIC failed to process a claim in full within 30 working days
21 in six instances. It misrepresented pertinent facts or insurance policy provisions in 20 instances.
22 A violation letter dated September 13, 2007, was sent to Respondent. Respondent did not
23 respond to that letter to contest the violations.

24 15. Based on CDI's investigation of Ms. F's complaint against Respondent (CSB file
25 number 6272935), CDI has determined that PLHIC violated Insurance Code section 790.03,
26 subdivision (h), in 23 instances. PLHIC failed to provide notice regarding the Department's
27 review function and contact information in 11 instances. It failed to provide notice of rights to
28 request an Independent Medical Review from CDI in 12 instances. A violation letter dated

1 September 14, 2007, was sent to Respondent. Respondent did not respond to that letter to
2 contest the violations.

3 16. Based on CDI's investigation of Mr. K's complaint against Respondent (CSB file
4 number 6253866), CDI has determined that PLHIC violated Insurance Code section 790.03,
5 subdivision (h), in five instances. PLHIC misrepresented pertinent facts or insurance policy
6 provisions in five instances. A violation letter dated September 27, 2007, was sent to
7 Respondent. Respondent did not respond to that letter to contest the violations.

8 17. Based on CDI's investigation of Neuroscan's complaint against Respondent (CSB
9 file number 6268720), CDI has determined that PLHIC violated Insurance Code section 790.03,
10 subdivision (h), in three instances. It failed to provide a complete written response to a claimant
11 within 15 days in three instances. A violation letter dated October 1, 2007, was sent to
12 Respondent. Respondent did not respond to that letter to contest the violations.

13 18. Based on CDI's investigation of Ms. O's complaint against Respondent (CSB file
14 number 6293066), CDI has determined that PLHIC violated Insurance Code section 790.03,
15 subdivision (h), in 10 instances. PLHIC failed to process a claim in full within 30 working days
16 in eight instances. It failed to maintain a complete file in one instance. It failed to pursue a
17 thorough investigation and persisted in requesting unnecessary information or information
18 already provided in one instance. A violation letter dated January 1, 2008, was sent to
19 Respondent. Respondent did not respond to that letter to contest the violations.

20 19. Based on CDI's investigation of the complaint of Kent Mellerstig, M.D., against
21 Respondent (CSB file number 6251591), CDI has determined that PLHIC violated Insurance
22 Code section 790.03, subdivision (h), in three instances. It failed to provide notice regarding the
23 Department's review function and contact information in two instances. It failed to provide
24 notice of rights to request an Independent Medical Review from CDI in one instance. A
25 violation letter dated February 19, 2008, was sent to Respondent. Respondent did not respond to
26 that letter to contest the violations.

27 20. Based on CDI's investigation of Ms. W's complaint against Respondent (CSB file
28 number 6253864), CDI has determined that PLHIC violated Insurance Code section 790.03,

1 subdivision (h), in five instances. It failed to provide notice regarding the Department's review
2 function and contact information in three instances. It failed to provide notice of rights to
3 request an Independent Medical Review from CDI in two instances. A violation letter dated
4 February 20, 2008, was sent to Respondent. Respondent did not respond to that letter to contest
5 the violations.

6 21. Based on CDI's investigation of Neuroscan's complaint against Respondent (CSB
7 file number 6268712), CDI has determined that PLHIC violated Insurance Code section 790.03,
8 subdivision (h), in one instance. It misrepresented pertinent facts or insurance policy provisions
9 in one instance. A violation letter dated March 5, 2008, was sent to Respondent. Respondent
10 did not respond to that letter to contest the violations.

11 22. Based on CDI's investigation of Ms. W's complaint against Respondent (CSB file
12 number 6253499), CDI has determined that PLHIC violated Insurance Code section 790.03,
13 subdivision (h), in six instances. It failed to provide notice regarding the Department's review
14 function and contact information in three instances. It failed to provide notice of rights to
15 request an Independent Medical Review from CDI in three instances. A violation letter dated
16 March 12, 2008, was sent to Respondent. Respondent did not respond to that letter to contest the
17 violations.

18 23. Based on CDI's investigation of Mr. G's complaint against Respondent (CSB file
19 number 6275586), CDI has determined that PLHIC violated Insurance Code section 790.03,
20 subdivision (h), in three instances. PLHIC failed to provide notice regarding the Department's
21 review function and contact information in one instance. It failed to provide notice of rights to
22 request an Independent Medical Review from CDI in two instances. A violation letter dated
23 April 8, 2008, was sent to Respondent. Respondent did not respond to that letter to contest the
24 violations.

25 24. Based on CDI's investigation of the complaint of Werner Ju, M.D., against
26 Respondent (CSB file number 6259603), CDI has determined that PLHIC violated Insurance
27 Code section 790.03, subdivision (h), in nine instances. PLHIC failed to provide notice of rights
28 to request an Independent Medical Review from CDI in four instances. It failed to provide

1 notice regarding the Department's review function and contact information in four instances. It
2 failed to pursue a thorough investigation and persisted in requesting unnecessary information or
3 information already provided in one instance. A violation letter dated April 11, 2008, was sent
4 to Respondent. Respondent did not respond to that letter to contest the violations.

5 25. Based on CDI's investigation of Scripps Memorial Hospital's complaint against
6 Respondent (CSB file number 6250625), CDI has determined that PLHIC violated Insurance
7 Code section 790.03, subdivision (h), in two instances. PLHIC failed to provide notice of rights
8 to request an Independent Medical Review from CDI in one instance. It failed to provide notice
9 regarding the Department's review function and contact information in one instance. A violation
10 letter dated May 14, 2008, was sent to Respondent. Respondent did not respond to that letter to
11 contest the violations.

12 26. Based on CDI's investigation of Ms. G's complaint against Respondent (CSB file
13 number 6257974), CDI has determined that PLHIC violated Insurance Code section 790.03,
14 subdivision (h), in one instance. It failed to provide notice regarding the Department's review
15 function and contact information in one instance. A violation letter dated June 3, 2008, was sent
16 to Respondent. Respondent did not respond to that letter to contest the violations.

17 27. Based on CDI's investigation of Washington Hospital's complaint against
18 Respondent (CSB file number 6329556), CDI has determined that PLHIC violated Insurance
19 Code section 790.03, subdivision (h), in one instance. It failed to provide a complete written
20 response to a DOI inquiry within 21 days in one instance. A violation letter dated June 3, 2008,
21 was sent to Respondent. Respondent did not respond to that letter to contest the violations.

22 28. Based on CDI's investigation of Ms. T's complaint against Respondent (CSB file
23 number 6314316), CDI has determined that PLHIC violated Insurance Code section 790.03,
24 subdivision (h), in two instances. PLHIC failed to process a claim in full within 30 working days
25 in one instance. It misrepresented pertinent facts or insurance policy provisions in one instance.
26 A violation letter dated June 16, 2008, was sent to Respondent. Respondent did not respond to
27 that letter to contest the violations.

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1 29. Based on CDI's investigation of San Diego Imaging Medical Group's complaint
2 against Respondent (CSB file number 6337616), CDI has determined that PLHIC violated
3 Insurance Code section 790.03, subdivision (h), in one instance. PLHIC failed to process a claim
4 in full within 30 working days in one instance. A violation letter dated August 6, 2008, was sent
5 to Respondent. Respondent did not respond to that letter to contest the violations.

6 30. Based on CDI's investigation of Mr. M's complaint against Respondent (CSB file
7 number 6354450), CDI has determined that PLHIC violated Insurance Code section 790.03,
8 subdivision (h), in two instances. PLHIC failed to process a claim in full within 30 working days
9 in one instance. It misrepresented pertinent facts or insurance policy provisions in one instance.
10 A violation letter dated August 19, 2008, was sent to Respondent. Respondent did not respond
11 to that letter to contest the violations.

12 31. Based on CDI's investigation of Ms. D's complaint against Respondent (CSB file
13 number 6277681), CDI has determined that PLHIC violated Insurance Code section 790.03,
14 subdivision (h), in 10 instances. PLHIC failed to provide notice of rights to request an
15 Independent Medical Review from CDI in four instances. It failed to provide notice regarding
16 the Department's review function and contact information in six instances. A violation letter
17 dated August 21, 2008, was sent to Respondent. Respondent did not respond to that letter to
18 contest the violations.

19 32. Based on CDI's investigation of Ms. M's complaint against Respondent (CSB file
20 number 6272039), CDI has determined that PLHIC violated Insurance Code section 790.03,
21 subdivision (h), in one instance. PLHIC failed to process a claim in full within 30 working days
22 in one instance. A violation letter dated August 21, 2008, was sent to Respondent. Respondent
23 did not respond to that letter to contest the violations.

24 33. Based on CDI's investigation of the complaint of Robert Kolesnik, M.D., against
25 Respondent (CSB file number 6278480), CDI has determined that PLHIC violated Insurance
26 Code section 790.03, subdivision (h), in two instances. It failed to process a claim in full within
27 30 working days in one instance. It failed to pursue a thorough investigation and persisted in
28 requesting unnecessary information or information already provided in one instance. A violation

1 letter dated October 24, 2008, was sent to Respondent. Respondent did not respond to that letter
2 to contest the violations.

3 34. Based on CDI's investigation of Ms. A's complaint against Respondent (CSB file
4 number 6278580), CDI has determined that PLHIC violated Insurance Code section 790.03,
5 subdivision (h), in one instance. PLHIC misrepresented pertinent facts or insurance policy
6 provisions in one instance. A violation letter dated December 17, 2008, was sent to Respondent.
7 Respondent did not respond to that letter to contest the violation.

8 35. Based on CDI's investigation of Mr. S's complaint against Respondent (CSB file
9 number 6279328), CDI has determined that PLHIC violated Insurance Code section 790.03,
10 subdivision (h), in four instances. PLHIC failed to process a claim in full within 30 working
11 days in two instances. It failed to pursue a thorough investigation and persisted in requesting
12 unnecessary information or information already provided in one instance. It misrepresented
13 pertinent facts or insurance policy provisions in one instance. A violation letter dated January
14 16, 2009, was sent to Respondent. Respondent did not respond to that letter to contest the
15 violations.

16 36. Based on CDI's investigation of the complaint of Robert Kolesnik, M.D., against
17 Respondent (CSB file number 6278702), CDI has determined that PLHIC violated Insurance
18 Code section 790.03, subdivision (h), in three instances. It failed to process a claim in full within
19 30 working days in one instance. It failed to maintain a complete file in one instance. It failed to
20 pursue a thorough investigation and persisted in requesting unnecessary information or
21 information already provided in one instance. A violation letter dated January 16, 2009, was sent
22 to Respondent. Respondent did not respond to that letter to contest the violations.

23 37. Based on CDI's investigation of the complaint of Perry Mansfield, M.D., against
24 Respondent (CSB file number 6281364), CDI has determined that PLHIC violated Insurance
25 Code section 790.03, subdivision (h), in four instances. PLHIC failed to process a claim in full
26 within 30 working days in one instance. It failed to provide notice of rights to request an
27 Independent Medical Review from CDI in one instance. It failed to pursue a thorough
28 investigation and persisted in requesting unnecessary information or information already

1 provided in one instance. It misrepresented pertinent facts or insurance policy provisions in one
2 instance. A violation letter dated January 21, 2009, was sent to Respondent. Respondent did not
3 respond to that letter to contest the violations.

4 38. Based on CDI's investigation of Ms. F's complaint against Respondent (CSB file
5 number 6249523), CDI has determined that PLHIC violated Insurance Code section 790.03,
6 subdivision (h), in four instances. PLHIC failed to provide notice of rights to request an
7 Independent Medical Review from CDI in two instances. It failed to provide a complete written
8 response to a DOI inquiry within 21 days in two instances. A violation letter dated January 21,
9 2009, was sent to Respondent. Respondent did not respond to that letter to contest the violations.

10 39. Based on CDI's investigation of Ms. F's complaint against Respondent (CSB file
11 number 6281956), CDI has determined that PLHIC violated Insurance Code section 790.03,
12 subdivision (h), in 10 instances. PLHIC failed to provide notice of rights to request an
13 Independent Medical Review from CDI in 10 instances. A violation letter dated January 28,
14 2009, was sent to Respondent. Respondent did not respond to that letter to contest the violations.

15 40. Based on CDI's investigation of Ms. W's complaint against Respondent (CSB file
16 number 6277571), CDI has determined that PLHIC violated Insurance Code section 790.03,
17 subdivision (h), in two instances. It misrepresented pertinent facts or insurance policy provisions
18 in one instance. It failed to maintain correspondence in one instance. A violation letter dated
19 January 28, 2009, was sent to Respondent. Respondent did not respond to that letter to contest
20 the violations.

21 41. Based on CDI's investigation of Ms. H's complaint against Respondent (CSB file
22 number 6264066), CDI has determined that PLHIC violated Insurance Code section 790.03,
23 subdivision (h), in 15 instances. PLHIC failed to provide notice of rights to request an
24 Independent Medical Review from CDI in 15 instances. A violation letter dated January 29,
25 2009, was sent to Respondent. Respondent did not respond to that letter to contest the violations.

26 42. Based on CDI's investigation of the complaint of Diane Johnson, M.D., against
27 Respondent (CSB file number 6294874), CDI has determined that PLHIC violated Insurance
28 Code section 790.03, subdivision (h), in 12 instances. PLHIC failed to process a claim in full

1 within 30 working days in 11 instances. It failed to pursue a thorough investigation and persisted
2 in requesting unnecessary information or information already provided in one instance. A
3 violation letter dated January 20, 2009, was sent to Respondent. Respondent did not respond to
4 that letter to contest the violations.

5 43. Based on CDI's investigation of the complaint of Walter Wood, M.D., and Robert
6 Melnikoff, M.D., against Respondent (CSB file number 6244139), CDI has determined that
7 PLHIC violated Insurance Code section 790.03, subdivision (h), in one instance. PLHIC failed
8 to provide notice of rights to request an Independent Medical Review from CDI in one instance.
9 A violation letter dated March 13, 2009, was sent to Respondent. Respondent did not respond to
10 that letter to contest the violations.

11 44. Based on CDI's investigation of Ms. K's complaint against Respondent (CSB file
12 number 6310361), CDI has determined that PLHIC violated Insurance Code section 790.03,
13 subdivision (h), in one instance. PLHIC misrepresented pertinent facts or insurance policy
14 provisions in one instance. A violation letter dated May 21, 2009, was sent to Respondent.
15 Respondent did not respond to that letter to contest the violation.

16 45. Based on CDI's investigation of Ms. C's complaint against Respondent (CSB file
17 number 6309087), CDI has determined that PLHIC violated Insurance Code section 790.03,
18 subdivision (h), in three instances. PLHIC failed to provide notice of rights to request an
19 Independent Medical Review from CDI in one instance. It failed to process a claim in full within
20 30 working days in one instance. It failed to provide notice regarding the Department's review
21 function and contact information in one instance. A violation letter dated May 21, 2009, was
22 sent to Respondent. Respondent did not respond to that letter to contest the violations.

23 46. Based on CDI's investigation of Mr. F's complaint against Respondent (CSB file
24 number 6312246), CDI has determined that PLHIC violated Insurance Code section 790.03,
25 subdivision (h), in two instances. PLHIC failed to process a claim in full within 30 working days
26 in one instance. It failed to provide a complete written response to a DOI inquiry within 21 days
27 in one instance. A violation letter dated May 22, 2009, was sent to Respondent. Respondent did
28 not respond to that letter to contest the violations.

1 47. Based on CDI's investigation of Mr. E's complaint against Respondent (CSB file
2 number 6328389), CDI has determined that PLHIC violated Insurance Code section 790.03,
3 subdivision (h), in two instances. PLHIC failed to process a claim in full within 30 working days
4 in one instance. It failed to pursue a thorough investigation and persisted in requesting
5 unnecessary information or information already provided in one instance. A violation letter
6 dated May 26, 2009, was sent to Respondent. Respondent did not respond to that letter to
7 contest the violations.

8 48. Based on CDI's investigation of Mr. D's complaint against Respondent (CSB file
9 number 6305104), CDI has determined that PLHIC violated Insurance Code section 790.03,
10 subdivision (h), in six instances. PLHIC failed to process a claim in full within 30 working days
11 in three instances. It failed to pursue a thorough investigation and persisted in requesting
12 unnecessary information or information already provided in one instance. It misrepresented
13 pertinent facts or insurance policy provisions in two instances. A violation letter dated June 2,
14 2009, was sent to Respondent. Respondent did not respond to that letter to contest the violations.

15 49. Based on CDI's investigation of Mr. H's complaint against Respondent (CSB file
16 number 6303423), CDI has determined that PLHIC violated Insurance Code section 790.03,
17 subdivision (h), in 17 instances. PLHIC failed to process a claim in full within 30 working days
18 in eight instances. It failed to pursue a thorough investigation and persisted in requesting
19 unnecessary information or information already provided in one instance. It failed to provide
20 notice of rights to request an Independent Medical Review from CDI in four instances. It failed
21 to provide notice regarding the Department's review function and contact information in four
22 instances. A violation letter dated June 3, 2009, was sent to Respondent. Respondent did not
23 respond to that letter to contest the violations.

24 50. Based on CDI's investigation of Ms. F's complaint against Respondent (CSB file
25 number 6373504), CDI has determined that PLHIC violated Insurance Code section 790.03,
26 subdivision (h), in one instance. PLHIC failed to process a claim in full within 30 working days
27 in one instance. A violation letter dated June 3, 2009, was sent to Respondent. Respondent did
28 not respond to that letter to contest the violation.

1 51. Based on CDI's investigation of Ms. J's complaint against Respondent (CSB file
2 number 6302804), CDI has determined that PLHIC violated Insurance Code section 790.03,
3 subdivision (h), in nine instances. PLHIC failed to provide notice of rights to request an
4 Independent Medical Review from CDI in three instances. It failed to provide notice regarding
5 the Department's review function and contact information in six instances. A violation letter
6 dated June 4, 2009, was sent to Respondent. Respondent did not respond to that letter to contest
7 the violations.

8 52. Based on CDI's investigation of the complaint of Luis Portugal, M.D., against
9 Respondent (CSB file number 6303039), CDI has determined that PLHIC violated Insurance
10 Code section 790.03, subdivision (h), in one instance. PLHIC failed to process a claim in full
11 within 30 working days in one instance. A violation letter dated June 4, 2009, was sent to
12 Respondent. Respondent did not respond to that letter to contest the violation.

13 53. Based on CDI's investigation of Sharp & Children's MRI Center's complaint
14 against Respondent (CSB file number 6358249), CDI has determined that PLHIC violated
15 Insurance Code section 790.03, subdivision (h), in one instance. PLHIC failed to process a claim
16 in full within 30 working days in one instance. A violation letter dated June 5, 2009, was sent to
17 Respondent. Respondent did not respond to that letter to contest the violation.

18 54. Based on CDI's investigation of Ms. D's complaint against Respondent (CSB file
19 number 6327171), CDI has determined that PLHIC violated Insurance Code section 790.03,
20 subdivision (h), in three instances. PLHIC failed to process a claim in full within 30 working
21 days in two instances. It failed to pursue a thorough investigation and persisted in requesting
22 unnecessary information or information already provided in one instance. A violation letter
23 dated June 16, 2009, was sent to Respondent. Respondent did not respond to that letter to
24 contest the violations.

25 55. Based on CDI's investigation of Mr. W's complaint against Respondent (CSB file
26 number 6162313), CDI has determined that PLHIC violated Insurance Code section 790.03,
27 subdivision (h), in three instances. PLHIC failed to provide a complete written response to a
28 DOI inquiry within 21 days in two instances. It misrepresented pertinent facts or insurance

1 policy provisions in one instance. A violation letter dated January 26, 2007, was sent to
2 Respondent. Respondent did not respond to that letter to contest the violations.

3 56. Based on CDI's investigation of Mr. W's complaint against Respondent (CSB file
4 number 6243696), CDI has determined that PLHIC violated Insurance Code section 790.03,
5 subdivision (h), in five instances. PLHIC failed to transact business under PLHIC's name in five
6 instances. A violation letter dated March 29, 2007, was sent to Respondent. Respondent did not
7 respond to that letter to contest the violations.

8 57. Based on CDI's investigation of Mr. R's complaint against Respondent (CSB file
9 number 6232755), CDI has determined that PLHIC violated Insurance Code section 790.03,
10 subdivision (h), in two instances. It failed to maintain a complete file in one instance. It failed to
11 provide a complete written response to a CDI inquiry within 21 days in one instance. A violation
12 letter dated February 7, 2007, was sent to Respondent. Respondent did not respond to that letter
13 to contest the violations.

14 58. Based on CDI's investigation of Ms. J's complaint against Respondent (CSB file
15 number 6223157), CDI has determined that PLHIC violated Insurance Code section 790.03,
16 subdivision (h), in six instances. It failed to pursue a thorough investigation and persisted in
17 requesting unnecessary information or information already provided in four instances. It failed
18 to provide a complete written response to a CDI inquiry within 21 days in two instances. A
19 violation letter dated January 17, 2007, was sent to Respondent. Respondent did not respond to
20 that letter to contest the violations.

21 59. Based on CDI's investigation of Mr. L's complaint against Respondent (CSB file
22 number 6229988), CDI has determined that PLHIC violated Insurance Code section 790.03,
23 subdivision (h), in two instances. PLHIC failed to transact business under PLHIC's name in two
24 instances. A violation letter dated February 2, 2007, was sent to Respondent. Respondent did
25 not respond to that letter to contest the violations.

26 60. Based on CDI's investigation of Ms. H's complaint against Respondent (CSB file
27 number 6225605), CDI has determined that PLHIC violated Insurance Code section 790.03,
28 subdivision (h), in two instances. PLHIC failed to provide a complete written response to a CDI

1 inquiry within 21 days in two instances. A violation letter dated February 2, 2007, was sent to
2 Respondent. Respondent did not respond to that letter to contest the violations.

3 61. Based on CDI's investigation of Mr. A's complaint against Respondent (CSB file
4 number 6223646), CDI has determined that PLHIC violated Insurance Code section 790.03,
5 subdivision (h), in two instances. PLHIC failed to provide a complete written response to a CDI
6 inquiry within 21 days in two instances. A violation letter dated February 13, 2007, was sent to
7 Respondent. Respondent did not respond to that letter to contest the violations.

8 62. Based on CDI's investigation of Ms. S's complaint against Respondent (CSB file
9 number 6240317), CDI has determined that PLHIC violated Insurance Code section 790.03,
10 subdivision (h), in six instances. PLHIC failed to transact business under PLHIC's name in three
11 instances. It failed to provide notice regarding the Department's review function and contact
12 information in three instances. A violation letter dated March 8, 2007, was sent to Respondent.
13 Respondent did not respond to that letter to contest the violations.

14 63. Based on CDI's investigation of Ms. Z's complaint against Respondent (CSB file
15 number 6241615), CDI has determined that PLHIC violated Insurance Code section 790.03,
16 subdivision (h), in two instances. PLHIC failed to transact business under PLHIC's name in one
17 instance. It failed to provide notice regarding the Department's review function and contact
18 information in one instance. A violation letter dated March 20, 2007, was sent to Respondent.
19 Respondent did not respond to that letter to contest the violations.

20 64. Based on CDI's investigation of Mr. R's complaint against Respondent (CSB file
21 number 6291911), CDI has determined that PLHIC violated Insurance Code section 790.03,
22 subdivision (h), in 32 instances. It failed to provide notice regarding the Department's review
23 function and contact information in 32 instances. A violation letter dated January 4, 2007, was
24 sent to Respondent. Respondent did not respond to that letter to contest the violations.

25 65. Based on CDI's investigation of Ms. R's complaint against Respondent (CSB file
26 number 6223822), CDI has determined that PLHIC violated Insurance Code section 790.03,
27 subdivision (h), in six instances. PLHIC failed to transact business under PLHIC's name in one
28 instance. It failed to maintain a complete file in one instance. It failed to provide a complete

1 written response to a CDI inquiry within 21 days in three instances. It misrepresented pertinent
2 facts or insurance policy provisions in one instance. A violation letter dated January 24, 2007,
3 was sent to Respondent. Respondent did not respond to that letter to contest the violations.

4 66. Based on CDI's investigation of Mr. G's complaint against Respondent (CSB file
5 number 6229584), CDI has determined that PLHIC violated Insurance Code section 790.03,
6 subdivision (h), in two instances. It failed to provide a complete written response to a CDI
7 inquiry within 21 days in two instances. A violation letter dated February 2, 2007, was sent to
8 Respondent. Respondent did not respond to that letter to contest the violations.

9 67. Based on CDI's investigation of Mr. P's complaint against Respondent (CSB file
10 number 6229007), CDI has determined that PLHIC violated Insurance Code section 790.03,
11 subdivision (h), in seven instances. It failed to pursue a thorough investigation and persisted in
12 requesting unnecessary information or information already provided in six instances. It failed to
13 provide a complete written response to a CDI inquiry within 21 days in one instance. A violation
14 letter dated February 8, 2007, was sent to Respondent. Respondent did not respond to that letter
15 to contest the violations.

16 68. Based on CDI's investigation of Mr. E's complaint against Respondent (CSB file
17 number 6233907), CDI has determined that PLHIC violated Insurance Code section 790.03,
18 subdivision (h), in two instances. PLHIC failed to transact business under PLHIC's name in two
19 instances. A violation letter dated February 21, 2007, was sent to Respondent. Respondent did
20 not respond to that letter to contest the violations.

21 69. Based on CDI's investigation of Ms. A's complaint against Respondent (CSB file
22 number 6230092), CDI has determined that PLHIC violated Insurance Code section 790.03,
23 subdivision (h), in one instance. PLHIC failed to provide a complete written response to a CDI
24 inquiry within 21 days in one instance. A violation letter dated February 23, 2007, was sent to
25 Respondent. Respondent did not respond to that letter to contest the violation.

26 70. Based on CDI's investigation of Mr. and Mrs. S's complaint against Respondent
27 (CSB file number 6237500), CDI has determined that PLHIC violated Insurance Code section
28 790.03, subdivision (h), in one instance. It failed to provide a complete written response to a

1 CDI inquiry within 21 days in one instance. A violation letter dated February 27, 2007, was sent
2 to Respondent. Respondent did not respond to that letter to contest the violations.

3 71. Based on CDI's investigation of Mr. B's complaint against Respondent (CSB file
4 number 6233559), CDI has determined that PLHIC violated Insurance Code section 790.03,
5 subdivision (h), in one instance. It failed to provide a complete written response to a CDI
6 inquiry within 21 days in one instance. A violation letter dated March 1, 2007, was sent to
7 Respondent. Respondent did not respond to that letter to contest the violations.

8 72. Based on CDI's investigation of Ms. W's complaint against Respondent (CSB file
9 number 6223489), CDI has determined that PLHIC violated Insurance Code section 790.03,
10 subdivision (h), in one instance. It failed to provide a complete written response to a CDI
11 inquiry within 21 days in one instance. A violation letter dated March 15, 2007, was sent to
12 Respondent. Respondent did not respond to that letter to contest the violations.

13 73. Based on CDI's investigation of Mr. S's complaint against Respondent (CSB file
14 number 6234573), CDI has determined that PLHIC violated Insurance Code section 790.03,
15 subdivision (h), in one instance. It failed to provide a complete written response to a CDI
16 inquiry within 21 days in one instance. A violation letter dated March 22, 2007, was sent to
17 Respondent. Respondent did not respond to that letter to contest the violations.

18 74. Based on CDI's investigation of Ms. B's complaint against Respondent (CSB file
19 number 6236486), CDI has determined that PLHIC violated Insurance Code section 790.03,
20 subdivision (h), in five instances. It failed to provide notice regarding the Department's review
21 function and contact information in five instances. A violation letter dated March 29, 2007, was
22 sent to Respondent. Respondent did not respond to that letter to contest the violations.

23 75. Based on CDI's investigation of Ms. T's complaint against Respondent (CSB file
24 number 6211913), CDI has determined that PLHIC violated Insurance Code section 790.03,
25 subdivision (h), in one instance. PLHIC failed to transact business under PLHIC's name in one
26 instance. A violation letter dated April 3, 2007, was sent to Respondent. Respondent did not
27 respond to that letter to contest the violations.

28

1 76. Based on CDI's investigation of Mr. W's complaint against Respondent (CSB file
2 number 6242634), CDI has determined that PLHIC violated Insurance Code section 790.03,
3 subdivision (h), in one instance. It failed to provide notice regarding the Department's review
4 function and contact information in one instance. A violation letter dated April 5, 2007, was sent
5 to Respondent. Respondent did not respond to that letter to contest the violations.

6 77. Based on CDI's investigation of Ms. R's complaint against Respondent (CSB file
7 number 6245084), CDI has determined that PLHIC violated Insurance Code section 790.03,
8 subdivision (h), in seven instances. PLHIC failed to provide notice regarding the Department's
9 review function and contact information in seven instances. A violation letter dated April 5,
10 2007, was sent to Respondent. Respondent did not respond to that letter to contest the violations.

11 78. Based on CDI's investigation of the complaint of Kelly Woolsey Migoya, M.D.,
12 against Respondent (CSB file number 6245240), CDI has determined that PLHIC violated
13 Insurance Code section 790.03, subdivision (h), in three instances. PLHIC failed to transact
14 business under PLHIC's name in three instances. A violation letter dated April 10, 2007, was
15 sent to Respondent. Respondent did not respond to that letter to contest the violations.

16 79. Based on CDI's investigation of Ms. S's complaint against Respondent (CSB file
17 number 6242248), CDI has determined that PLHIC violated Insurance Code section 790.03,
18 subdivision (h), in two instances. PLHIC failed to transact business under PLHIC's name in one
19 instance. It failed to provide notice regarding the Department's review function and contact
20 information in one instance. A violation letter dated April 11, 2007, was sent to Respondent.
21 Respondent did not respond to that letter to contest the violations.

22 80. Based on CDI's investigation of Mr. V's complaint against Respondent (CSB file
23 number 6244432), CDI has determined that PLHIC violated Insurance Code section 790.03,
24 subdivision (h), in four instances. PLHIC failed to transact business under PLHIC's name in one
25 instance. It failed to provide notice regarding the Department's review function and contact
26 information in two instances. It failed to provide a complete written response to a CDI inquiry
27 within 21 days in one instance. A violation letter dated April 12, 2007, was sent to Respondent.
28 Respondent did not respond to that letter to contest the violations.

1 81. Based on CDI's investigation of Mr. M's complaint against Respondent (CSB file
2 number 6236475), CDI has determined that PLHIC violated Insurance Code section 790.03,
3 subdivision (h), in one instance. It failed to provide notice regarding the Department's review
4 function and contact information in one instance. A violation letter dated April 17, 2007, was
5 sent to Respondent. Respondent did not respond to that letter to contest the violations.

6 82. Based on CDI's investigation of Ms. C's complaint against Respondent (CSB file
7 number 6242311), CDI has determined that PLHIC violated Insurance Code section 790.03,
8 subdivision (h), in two instances. It failed to provide notice regarding the Department's review
9 function and contact information in two instances. A violation letter dated May 1, 2007, was
10 sent to Respondent. Respondent did not respond to that letter to contest the violations.

11 83. Based on CDI's investigation of Ms. A's complaint against Respondent (CSB file
12 number 6245371), CDI has determined that PLHIC violated Insurance Code section 790.03,
13 subdivision (h), in one instance. PLHIC misrepresented pertinent facts or insurance policy
14 provisions in one instance. A violation letter dated May 4, 2007, was sent to Respondent.
15 Respondent did not respond to that letter to contest the violations.

16 84. Based on CDI's investigation of Ms. P's complaint against Respondent (CSB file
17 number 6236357), CDI has determined that PLHIC violated Insurance Code section 790.03,
18 subdivision (h), in 14 instances. It failed to provide notice regarding the Department's review
19 function and contact information in 13 instances. It failed to transact business under PLHIC in
20 one instance. A violation letter dated May 15, 2007, was sent to Respondent. Respondent did
21 not respond to that letter to contest the violations.

22 85. Based on CDI's investigation of Ms. M's complaint against Respondent (CSB file
23 number 6256956), CDI has determined that PLHIC violated Insurance Code section 790.03,
24 subdivision (h), in three instances. PLHIC misrepresented pertinent facts or insurance policy
25 provisions in one instance. It failed to provide notice regarding the Department's review
26 function and contact information in one instance. It failed to transact business under PLHIC's
27 name in one instance. A violation letter dated June 5, 2007, was sent to Respondent.
28 Respondent did not respond to that letter to contest the violations.

1 86. Based on CDI's investigation of Mr. B's complaint against Respondent (CSB file
2 number 6257697), CDI has determined that PLHIC violated Insurance Code section 790.03,
3 subdivision (h), in two instances. PLHIC failed to provide notice regarding the Department's
4 review function and contact information in two instances. A violation letter dated June 5, 2007,
5 was sent to Respondent. Respondent did not respond to that letter to contest the violations.

6 87. Based on CDI's investigation of Ms. K's complaint against Respondent (CSB file
7 number 6257696), CDI has determined that PLHIC violated Insurance Code section 790.03,
8 subdivision (h), in 14 instances. It failed to provide notice regarding the Department's review
9 function and contact information in 14 instances. A violation letter dated June 12, 2007, was
10 sent to Respondent. Respondent did not respond to that letter to contest the violations.

11 88. Based on CDI's investigation of Ms. H's complaint against Respondent (CSB file
12 number 6262589), CDI has determined that PLHIC violated Insurance Code section 790.03,
13 subdivision (h), in six instances. PLHIC failed to provide notice regarding the Department's
14 review function and contact information in six instances. A violation letter dated July 6, 2007,
15 was sent to Respondent. Respondent did not respond to that letter to contest the violations.

16 89. Based on CDI's investigation of Ms. W's complaint against Respondent (CSB file
17 number 6262087), CDI has determined that PLHIC violated Insurance Code section 790.03,
18 subdivision (h), in one instance. It failed to provide notice regarding the Department's review
19 function and contact information in one instance. A violation letter dated July 11, 2007, was sent
20 to Respondent. Respondent did not respond to that letter to contest the violations.

21 90. Based on CDI's investigation of Mr. K's complaint against Respondent (CSB file
22 number 6252214), CDI has determined that PLHIC violated Insurance Code section 790.03,
23 subdivision (h), in 16 instances. It failed to provide notice regarding the Department's review
24 function and contact information in 16 instances. A violation letter dated July 13, 2007, was sent
25 to Respondent. Respondent did not respond to that letter to contest the violations.

26 91. Based on CDI's investigation of Ms. M's complaint against Respondent (CSB file
27 number 6264114), CDI has determined that PLHIC violated Insurance Code section 790.03,
28 subdivision (h), in two instances. It failed to provide notice regarding the Department's review

1 function and contact information in two instances. A violation letter dated July 18, 2007, was
2 sent to Respondent. Respondent did not respond to that letter to contest the violations.

3 92. Based on CDI's investigation of Mr. B's complaint against Respondent (CSB file
4 number 6264403), CDI has determined that PLHIC violated Insurance Code section 790.03,
5 subdivision (h), in four instances. PLHIC failed to provide notice regarding the Department's
6 review function and contact information in four instances. A violation letter dated July 20, 2007,
7 was sent to Respondent. Respondent did not respond to that letter to contest the violations.

8 93. Based on CDI's investigation of Mr. and Mrs. R's complaint against Respondent
9 (CSB file number 6271453), CDI has determined that PLHIC violated Insurance Code section
10 790.03, subdivision (h), in seven instances. PLHIC failed to provide notice regarding the
11 Department's review function and contact information in six instances. It failed to provide a
12 complete written response to a claimant within 15 days in one instance. A violation letter dated
13 August 17, 2007, was sent to Respondent. Respondent did not respond to that letter to contest
14 the violations.

15 94. Based on CDI's investigation of Ms. J's complaint against Respondent (CSB file
16 number 6270292), CDI has determined that PLHIC violated Insurance Code section 790.03,
17 subdivision (h), in three instances. It failed to provide notice regarding the Department's review
18 function and contact information in three instances. A violation letter dated August 17, 2007,
19 was sent to Respondent. Respondent did not respond to that letter to contest the violations.

20 95. Based on CDI's investigation of Mr. P's complaint against Respondent (CSB file
21 number 6293241), CDI has determined that PLHIC violated Insurance Code section 790.03,
22 subdivision (h), in three instances. It failed to provide notice regarding the Department's review
23 function and contact information in two instances. It failed to transact business under PLHIC's
24 name in one instance. A violation letter dated January 2, 2008, was sent to Respondent.
25 Respondent did not respond to that letter to contest the violations.

26 96. Based on CDI's investigation of Mr. W's complaint against Respondent (CSB file
27 number 6295402), CDI has determined that PLHIC violated Insurance Code section 790.03,
28 subdivision (h), in two instances. It failed to transact business under PLHIC's name in two

1 instances. A violation letter dated January 17, 2008, was sent to Respondent. Respondent did
2 not respond to that letter to contest the violations.

3 97. Based on CDI's investigation of Mr. L's complaint against Respondent (CSB file
4 number 6297982), CDI has determined that PLHIC violated Insurance Code section 790.03,
5 subdivision (h), in one instance. PLHIC misrepresented pertinent facts or insurance provisions
6 in one instance. A violation letter dated January 22, 2008, was sent to Respondent. Respondent
7 did not respond to that letter to contest the violations.

8 98. Based on CDI's investigation of Ms. P's complaint against Respondent (CSB file
9 number 6290330), CDI has determined that PLHIC violated Insurance Code section 790.03,
10 subdivision (h), in five instances. It failed to transact business under PLHIC's name in three
11 instances. It failed to provide a complete written response to a CDI inquiry within 21 days in
12 two instances. A violation letter dated January 2, 2008, was sent to Respondent. Respondent did
13 not respond to that letter to contest the violations.

14 **B. Violations Arising from Failing to Timely Pay Claims**

15 99. In 2007, the Department conducted a Market Conduct Examination ("MCE") of
16 Respondent. (Ins. Code, §§ 730, 733, 736; Cal. Code Regs., tit. 10, § 2695.3, subd. (a).)

17 100. PLHIC produced to CDI data for PPO claims that were paid during the MCE
18 review period, from June 23, 2006, through May 31, 2007. Based on those data, CDI determined
19 that Respondent had failed to reimburse claims as soon as practical and no later than 30 working
20 days after receipt in 42,137 instances.

21 101. In response to these findings, PLHIC initially acknowledged that it had paid
22 42,137 claims after 30 working days.

23 102. During the course of the administrative hearing, PLHIC produced to CDI
24 additional claims data. Based on those new data, CDI has determined that there were 34,934
25 claims that PLHIC failed to reimburse as soon as practical and no later than 30 working days
26 after receipt by PLHIC. Each of these failures constitutes an act in violation of Insurance Code
27 section 790.03, subdivisions (h)(2), (h)(3), (h)(4), and (h)(5), section 10123.13, subdivision (a),
28 and section 10123.147, subdivision (a).

1 **C. Violations Arising from Failing to Pay Interest on Late-Paid Claims**

2 103. Based on data PLHIC provided during the MCE, CDI cited the company for
3 failing to pay statutory interest on late-paid claims in 5,432 instances.

4 104. During the course of the administrative hearing, PLHIC produced to CDI
5 additional claims data in which PLHIC admits that it failed to pay interest on late-paid claims in
6 5,195 instances. Each of these failures to pay interest on late-paid claims constitutes an act in
7 violation of Insurance Code section 790.03, subdivisions (h)(1), (h)(3), and (h)(5), and
8 section 10123.13, subdivision (b).

9 **D. Violations Arising from Failing to Acknowledge the Receipt of Claims**

10 105. During the MCE, CDI also examined PLHIC's process for acknowledging the
11 receipt of claims. On October 16, 2007, PLHIC admitted to CDI that the company's process for
12 acknowledging the receipt of claims pursuant to Insurance Code section 10133.66,
13 subdivision (c), had been broken for about six months. PLHIC explained that its vendor,
14 Duncan, had failed to print any provider acknowledgment letters from July 2006 until January
15 2007.

16 106. On December 7, 2007, PLHIC again reported to CDI that its acknowledgment
17 letter process for providers was "not in compliance for July 2006 through December 2006." This
18 failure, PLHIC admitted, caused it to violate Insurance Code section 10133.66, subdivision (c),
19 for 81,270 claims.

20 107. The October 16, 2007, and December 7, 2007, representations PLHIC made to the
21 Department were false.

22 108. PLHIC witnesses have testified at the hearing that, in fact, PLHIC failed to send
23 provider acknowledgment letters from January 1, 2006, through at least February 29, 2008.

24 109. During the hearing, PacifiCare produced to CDI additional claims data relating to
25 the acknowledgment of claims. Based on these data, the Department has determined that during
26 the MCE review period, PacifiCare failed to send at least 55,475 acknowledgment letters for
27 provider claims that required acknowledgment of receipt. Each of these failures constitutes an
28

1 act in violation of Insurance Code section 790.03, subdivisions (h)(2) and (h)(3), and section
2 10133.66, subdivision (c), and Code of Regulations, title 10, section 2695.5, subdivision (e).

3 110. Data sufficient to determine the number of provider claims for which PLHIC
4 failed to send acknowledgment letters were not provided for the periods from January 1, 2006, to
5 June 22, 2006, or from June 1, 2007, to February 29, 2008. According to PLHIC's records,
6 PLHIC processed approximately 1,528,923 group claims during these periods.

7 111. PLHIC witnesses have further testified at the hearing that PLHIC failed to send
8 member acknowledgment letters from July 1, 2006, through at least March 12, 2007. During
9 that period, PLHIC failed to send at least 988 acknowledgment letters on member claims
10 requiring acknowledgment. Each of these failures constitutes an act in violation of Insurance
11 Code section 790.03, subdivisions (h)(2) and (h)(3), and Code of Regulations, title 10, section
12 2695.5, subdivision (e).

13 **E. Violations Arising from Failing to Timely Respond to Provider Disputes**

14 112. During the MCE, PLHIC reported that it had received 16,653 provider disputes
15 during the MCE review period. Respondent further acknowledged that it failed to resolve and
16 issue a written determination within 45 working days after receipt of the dispute in 1,510
17 instances. Each of these failures constitutes an act in violation of Insurance Code section 790.03,
18 subdivisions (h)(2) and (h)(3), and section 10123.137, subdivisions (a) and (c).

19 **F. Other Violations Arising from Market Conduct Examination**

20 113. During the examination, the Department cited Respondent for failing to respond
21 to a Department inquiry within 21 calendar days. PLHIC acknowledged that it failed to timely
22 respond to a Department inquiry in one instance. The Department alleges this failure as one act
23 in violation of Insurance Code section 790.03, subdivision (h)(2), and Code of Regulations,
24 title 10, section 2695.5, subdivision (a).

25 114. During the examination, CDI examiners cited Respondent for failing to maintain
26 in claim files all documents, notes, and work papers which reasonably pertain to each claim and
27 for failing to maintain claim data that are accessible, legible, and retrievable for examination.
28 PLHIC acknowledged that it failed to maintain all documents, notes, and work papers in its

1 claim files in eight instances. Each of these deficiencies in the claim files constitutes an act in
2 violation of Insurance Code section 790.03, subdivisions (h)(2) and (h)(3), and Code of
3 Regulations, title 10, section 2695.3, subdivisions (a) and (b).

4 115. During the examination, the Department cited Respondent for failing to record the
5 dates that relevant documents were received by Respondent, processed by Respondent, and
6 otherwise transmitted by Respondent. PLHIC acknowledged that it failed to record the date that
7 a document was received in one instance. This failure constitutes an act in violation of Insurance
8 Code section 790.03, subdivision (h)(3), and Code of Regulations, title 10, section 2695.3,
9 subdivisions (a) and (b).

10 **G. Violations Arising from Incorrectly Denying Claims Based on an Illegal Pre-**
11 **Existing Condition Exclusionary Period**

12 116. For years, PLHIC had a practice of applying a 12-month pre-existing condition
13 exclusionary period to certain claims even though the law permitted the application of only a 6-
14 month period. This caused PLHIC to incorrectly deny claims based on pre-existing conditions.

15 117. PLHIC incorrectly denied at least 4,488 claims due to the application of the illegal
16 12-month pre-existing condition exclusionary period, of which 3,645 required additional
17 monetary payment upon being reprocessed. Each of these 4,488 improper denials constitutes an
18 act in violation of Insurance Code section 790.03, subdivisions (h)(1), (h)(3), and (h)(5),
19 section 10708, subdivision (a), and section 10198.7, subdivision (a), and Code of Regulations,
20 title 10, section 2695.4, subdivision (a).

21 118. Even after PLHIC corrected the illegal 12-month period in its form policies, the
22 company incorrectly denied at least 826 claims based on illegally applying the pre-existing
23 condition exclusionary period. Each of those improper denials constitutes an act in violation of
24 Insurance Code section 790.03, subdivisions (h)(1), (h)(3), and (h)(5), section 10708,
25 subdivision (a), section 10198.7, subdivision (a), and Code of Regulations, title 10, section
26 2695.4, subdivision (a).

1 **H. Violations Arising from Incorrectly Denying Claims Due to Failing to Maintain**
2 **Certificates of Creditable Coverage**

3 119. Throughout 2006 and 2007, PLHIC incorrectly denied insurance claims because it
4 claimed that the member needed to provide the company with a certificate of creditable coverage
5 (“COCC”) form.

6 120. In many instances, PLHIC continued to incorrectly deny claims even after the
7 member had submitted to PLHIC the COCC form multiple times.

8 121. PLHIC admitted that those denials were wrongful, and agreed to reprocess claims
9 that were denied on that basis.

10 122. Based on data produced by PLHIC, there were a total of 1,799 claims that PLHIC
11 wrongfully denied on this basis and that PLHIC reprocessed. Each of these wrongful denials
12 constitutes an act in violation of Insurance Code section 790.03, subdivisions (h)(1), (h)(3), and
13 (h)(5), section 10123.13, subdivision (a), section 10123.147, subdivision (a), and Code of
14 Regulations, title 10, section 2695.7, subdivision (d).

15 **I. Violations Arising from Failing to Train Claims Personnel**

16 123. The Insurance Code and Code of Regulations require insurers to provide thorough
17 and adequate training regarding the Fair Claims Settlement Practices Regulations to all their
18 claims agents.

19 124. Before March 2007, PLHIC failed to provide this training to its Appeals &
20 Grievances unit, comprising at least 11 appeals coordinators and at least 3 appeals nurses. This
21 failure constitutes 14 acts in violation of Insurance Code section 790.03, subdivision (h)(2), and
22 Code of Regulations, title 10, section 2695.6, subdivision (b).

23 125. PLHIC did not provide or cause to be provided this training for at least nine
24 employees of Johnson & Rountree Premium who were processing appeals on PLHIC’s behalf.
25 This failure constitutes nine acts in violation of Insurance Code section 790.03,
26 subdivision (h)(2), and Code of Regulations, title 10, section 2695.6, subdivision (b).

1 **J. Violations Arising from Failing to Give Notice to Providers of Their Right to Appeal**
2 **to CDI**

3 126. For a number of years, Explanation of Payments (“EOP”) issued by PLHIC for
4 PPO claims uniformly omitted statutorily required language advising providers of their right to
5 have contested or denied claims reviewed by CDI.

6 127. PLHIC failed to include this language on its EOPs from when the statute
7 requiring this notice took effect on January 1, 2006.

8 128. CDI notified PLHIC of this deficiency on or before February 21, 2007.

9 129. Yet PLHIC did not include the required CDI-review language on its EOPs for
10 group PPO claims until June 15, 2007.

11 130. PLHIC also failed to include the required CDI-review language on its EOPs for
12 individual claims until November 4, 2007.

13 131. From February 22, 2007, through June 14, 2007, PLHIC issued 443,055 EOPs on
14 group PPO claims that failed to include this CDI-review language. Each of these deficient EOPs
15 constitutes an act in violation of Insurance Code section 790.03, subdivisions (h)(1) and (h)(3),
16 section 10123.13, subdivision (a), section 10123.147, subdivision (a), and Code of Regulations,
17 title 10, section 2695.7, subdivision (b).

18 132. From February 22, 2007, through May 31, 2007, PLHIC issued at least 19,750
19 EOPs on individual PPO claims that failed to include this CDI-review language. Each of these
20 deficient EOPs constitutes an act in violation of Insurance Code section 790.03,
21 subdivisions (h)(1) and (h)(3), section 10123.13, subdivision (a), section 10123.147,
22 subdivision (a), and Code of Regulations, title 10, section 2695.7, subdivision (b).

23 133. Data sufficient to determine the number of deficient EOPs on individual PPO
24 claims for June 1, 2007, to November 4, 2007, have not been provided to CDI.

25 **K. Violations Arising from Failing to Give Notice to Insureds of Their Right to Request**
26 **an Independent Medical Review**

27 134. At least as early as 2006, Explanation of Benefits (“EOB”) issued by PLHIC on
28 PPO claims, which purported to list PLHIC’s internal procedures for resolving grievances, failed

1 to advise members of their right to request an independent medical review (“IMR”) where the
2 insured believes that health care services have been improperly denied, modified, or delayed by
3 the insurer.

4 135. CDI informed PLHIC of this deficiency on or before March 23, 2007.

5 136. Yet PLHIC did not include the required IMR language on its EOBs for group
6 PPO claims until June 15, 2007.

7 137. PLHIC also failed to include the required IMR language on its EOBs for
8 individual PPO claims until November 4, 2007.

9 138. From March 24, 2007, through June 14, 2007, PLHIC issued 322,423 EOBs for
10 group PPO claims that failed to include this IMR language. Each of these deficient EOBs
11 constitutes an act in violation of Insurance Code section 790.03, subdivisions (h)(1) and (h)(3),
12 section 10169, subdivision (i), and Code of Regulations, title 10, section 2695.4, subdivision (a).

13 139. From March 24, 2007, through May 31, 2007, PLHIC issued at least 13,662
14 EOBs for individual PPO claims that failed to include this IMR language. Each of these
15 deficient EOBs constitutes an act in violation of Insurance Code section 790.03,
16 subdivisions (h)(1) and (h)(3), section 10169, subdivision (i), and Code of Regulations, title 10,
17 section 2695.4, subdivision (a).

18 140. Data sufficient to determine the number of deficient EOBs on individual PPO
19 claims for June 1, 2007, to November 4, 2007, have not been provided to CDI.

20 **L. Violations Arising from Improper and Untimely Overpayment Demands to**
21 **Providers**

22 141. In 2008, CDI received complaints from providers that PLHIC was incorrectly and
23 untimely issuing collection notices to providers seeking to recoup alleged overpayments on PPO
24 claims that PLHIC claimed it made to these providers in 2004, 2005, 2006, and 2007.

25 142. PLHIC issued many overpayment demand letters marked “Second Request” when
26 according to providers, no first request was ever sent. When initially asked, PLHIC could not
27 produce copies, or other evidence, of a first request of overpayment demand.

1 143. PLHIC issued many overpayment demand letters that also incorrectly identified
2 the insured's coverage as Secure Horizons when the insured was actually covered by a PLHIC
3 PPO plan.

4 144. In addition, PLHIC, through its agent Johnson & Rountree Premium, continued to
5 pursue certain overpayment demands from providers even after the company was informed
6 multiple times that the identified overpayment had already been timely returned to PLHIC.

7 145. On or around July 14, 2008, PLHIC acknowledged that it had improperly issued
8 2,912 overpayment demands to providers, and it withdrew each of those demands.

9 146. During the hearing, PLHIC produced additional data that revealed that PLHIC
10 had issued additional overpayment demand letters that were untimely. In total, PLHIC's data
11 revealed that the company had sent 4,831 untimely overpayment letters, for which no timely first
12 request letter existed or could be located. Based on those data, CDI previously alleged that
13 PLHIC issued 4,831 untimely overpayment letters in violation of the law.

14 147. PLHIC subsequently produced additional data during the hearing, including
15 purported timely overpayment letters that it had located. The company claimed that these data
16 demonstrated that it had timely requested return of overpayments in many instances.

17 148. Based on these additional data, PLHIC issued at least 1,934 untimely
18 overpayment letters. Each of these untimely overpayment demand letters constitutes an act in
19 violation of Insurance Code section 790.03, subdivisions (h)(1) and (h)(3), section 10133.66,
20 subdivision (b), and Code of Regulations, title 10, section 2695.11, subdivision (a).

21 **M. Violations Arising from Failing to Maintain Complete Claim Files**

22 149. As alleged above, during the course of the hearing, PLHIC produced letters and
23 other data that it contended demonstrated that certain of the 4,831 overpayment demand letters
24 that CDI had previously alleged were untimely issued did not constitute acts in violation of the
25 law.

26 150. Specifically, PLHIC contended at the hearing that it had located letters and other
27 data showing that a first notice overpayment letter was sent timely or the provider initiated the
28 reimbursement of the overpayment for 2,009 of the 4,831 previously alleged violations.

1 151. PLHIC also contended at the hearing that it had located data showing that the
2 company did not send second notice overpayment letters for 596 of the 4,831 previously alleged
3 violations.

4 152. These letters and the data PLHIC claims to have located reasonably pertain to
5 claims and are required to be maintained in PacifiCare's claim files.

6 153. PLHIC searched for but failed to locate these letters and data in 2008 when CDI
7 was investigating the untimely overpayment demand letters sent by PLHIC.

8 154. PacifiCare's inability for years to locate and produce these letters and data for
9 each of these 2,605 claims constitutes an act in violation of Insurance Code section 790.03,
10 subdivisions (h)(2) and (h)(3), and Code of Regulations, title 10, section 2695.3, subdivisions (a)
11 and (b).

12 **N. Violations Arising from Failing to Correctly Pay Claims Submitted by UCSF**

13 155. From at least January 1, 2006, to March 14, 2008, PLHIC failed to correctly pay
14 PPO claims to the UCSF medical group.

15 156. PLHIC ultimately admitted to representatives of UCSF that the reason for these
16 inaccurate claim payments was that the company had failed to correctly load the fee schedules
17 that UCSF and PLHIC had agreed to.

18 157. In fact, going back as far as 2004, PLHIC had failed to load the correct fee
19 schedule for the UCSF medical group, causing all UCSF claims to be processed under the wrong
20 fee schedule.

21 158. As a result of PLHIC's failure, PLHIC paid incorrect amounts to UCSF for at
22 least 3,124 PPO claims, from January 1, 2006, to March 14, 2008.

23 159. Of the 3,124 incorrect claim payments, 2,133 were underpayments, and 991 were
24 overpayments.

25 160. Each of these incorrect payments constitutes an act in violation of Insurance Code
26 section 790.03, subdivisions (h)(1), (h)(3), and (h)(5), and Code of Regulations, title 10,
27 section 2695.7, subdivision (g).

28

1 **O. Violations Arising from Failing to Correctly Pay Claims Submitted by UCLA**

2 161. Throughout 2007 and 2008, PLHIC systematically underpaid PPO claims
3 submitted by the UCLA medical group.

4 162. In total, PLHIC underpaid at least 1,333 claims submitted by UCLA.

5 163. Each of these incorrect payments constitutes an act in violation of Insurance Code
6 section 790.03, subdivisions (h)(1), (h)(3), and (h)(5), and Code of Regulations, title 10,
7 section 2695.7, subdivision (g).

8 **P. Violations Arising from Failing to Respond to Claims Submitted by UCLA**

9 164. Throughout 2008 and 2009, PLHIC failed to respond to accept, deny, or contest
10 coverage for at least 2,405 PPO claim lines submitted by the UCLA medical group.

11 165. Each of these failures to pay, deny, or otherwise respond to claims from UCLA
12 constitutes an act in violation of Insurance Code section 790.03, subdivisions (h)(2), (h)(3), and
13 (h)(4), section 10123.13, subdivision (a), section 10123.147, subdivision (a).

14 **Q. Violations Arising from Failing to Correctly Pay Claims**

15 166. PLHIC paid thousands of claims incorrectly.

16 167. PLHIC admitted that by mid-2008, at least 3,700 claims had been reworked
17 because they had been previously paid incorrectly. Each of these 3,700 incorrectly paid claims
18 constitutes an act in violation of Insurance Code section 790.03, subdivisions (h)(1), (h)(3), and
19 (h)(5), and Code of Regulations, title 10, section 2695.7, subdivision (g).

20 **R. Violations Arising from Closing or Denying Claims When Requesting Additional**
21 **Information**

22 168. From at least December 2005 to sometime in 2007, PLHIC followed an illegal
23 practice of closing or denying PPO claims on its EOBs and EOPs when the insurer was
24 requesting additional information purportedly to continue processing a received claim. PLHIC
25 used the remark codes “iq” or “px” on its EOBs or EOPs when it was closing or denying claims
26 on such grounds.

1 169. EOBs or EOPs with the remark code “iq” stated:

2 “Claim was closed due to lack of response to a prior request for
3 other insurance information. Services will be reconsidered and patient
4 responsibility will be calculated upon receipt. Please refer to your
5 Certificate, ‘Payment Responsibility, Right to Receive and Release
6 Information.’”

7 170. EOBs or EOPs with the remark code “px” stated:

8 “This claim is being denied due to lack of required information.
9 Please forward the Certificate of Creditable Coverage from your prior
10 carrier. If unavailable, please submit names and addresses of doctors who
11 have treated you in the past year. Refer to your Certificate, ‘Exclusionary
12 period for pre-existing conditions.’”

13 171. For instance, in the processing of Ms. W’s son’s claims, PLHIC issued at least
14 five EOBs with the remark code “iq” that closed claims “due to lack of response to a prior
15 request for other insurance information,” even though each of those EOBs was the first time
16 PLHIC had requested that other insurance information.

17 172. There were at least 46 additional instances in which PLHIC closed or denied
18 claims when it was requesting additional information using the remark codes “iq.” This illegal
19 practice, by itself, constitutes one act in violation of Insurance Code section 790.03,
20 subdivisions (h)(1) and (h)(3), section 10123.13, subdivision (a), section 10123.147,
21 subdivision (a), and Code of Regulations, title 10, section 2695.7, subdivision (d); and each of
22 the 51 instances alleged above in which PLHIC closed or denied a claim on this ground
23 constitutes an act in violation of those sections.

24 **S. Violations Relating to Ms. W**

25 173. PLHIC failed to maintain a complete claim file for a claim submitted by Ms. W.
26 Among other things, PLHIC failed to maintain a copy of the Certificate of Creditable Coverage
27 (“COCC”) form that Ms. W sent to PLHIC multiple times. This failure constitutes one act in
28 violation of Insurance Code section 790.03, subdivisions (h)(2) and (h)(3), and Code of
29 Regulations, title 10, section 2695.3, subdivisions (a) and (b).

30 174. In processing Ms. W’s son’s claims, PLHIC closed six claims submitted by Ms.
31 W without attempting to conduct a thorough investigation of those claims. This failure to

1 conduct a thorough investigation of each of these claims constitutes six acts in violation of
2 Insurance Code section 790.03, subdivisions (h)(1), (h)(3), (h)(4), and (h)(5), and Code of
3 Regulations, title 10, section 2695.7, subdivision (d).

4 175. In processing Ms. W's son's claims, PLHIC made requests for unnecessary
5 information or for information already provided. For instance, even after Ms. W submitted on
6 January 3, 2006, certain medical information requested by PLHIC, PLHIC requested that Ms. W
7 resubmit that same medical information two additional times in order to process her son's claim.
8 These improper requests for information already provided constitute two acts in violation of
9 Insurance Code section 790.03, subdivisions (h)(1), (h)(3), (h)(4), and (h)(5), and Code of
10 Regulations, title 10, section 2695.7, subdivision (d).

11 176. Ms. W submitted on January 13, 2006, a COCC requested by PLHIC. Yet PLHIC
12 requested that she resubmit a copy of that COCC three more times in order to process her son's
13 claim. These improper requests for information already provided constitute three acts in
14 violation of Insurance Code section 790.03, subdivisions (h)(1), (h)(3), (h)(4), and (h)(5), and
15 Code of Regulations, title 10, section 2695.7, subdivision (d).

16 177. In the summer of 2006, PLHIC made another unnecessary request for the medical
17 records of Ms. W's son, constituting one act in violation of Insurance Code section 790.03,
18 subdivisions (h)(1), (h)(3), (h)(4), and (h)(5), and Code of Regulations, title 10, section 2695.7,
19 subdivision (d).

20 178. In an EOB dated March 6, 2007, PLHIC further made a request of Ms. W for
21 medical records that were unnecessary or already provided, constituting one act in violation of
22 Insurance Code section 790.03, subdivisions (h)(1), (h)(3), (h)(4), and (h)(5), and Code of
23 Regulations, title 10, section 2695.7, subdivision (d).

24 **T. Violations Relating to Mr. R**

25 179. In processing Mr. R's claims, PLHIC requested that Mr. R resubmit his claims
26 two additional times because PLHIC could not locate the original claim. These requests for
27 information already provided constitute two acts in violation of Insurance Code section 790.03,
28

1 subdivisions (h)(1), (h)(3), (h)(4), and (h)(5), and Code of Regulations, title 10, section 2695.7,
2 subdivision (d).

3 180. In processing Mr. R's claims, PLHIC misrepresented pertinent facts or insurance
4 policy provisions relating to coverages at issue. For instance, PLHIC misrepresented to Mr. R
5 that it had not received a claim for date of service August 7, 2006, until January 5, 2007, even
6 though Mr. R had received denials for this claim prior to January 5, 2007. This
7 misrepresentation constitutes one act in violation of Insurance Code section 790.03,
8 subdivision (h)(1), and Code of Regulations, title 10, section 2695.4, subdivision (a).

9 181. PLHIC misrepresented to Mr. R that his claim was for an uncovered service under
10 his policy. This misrepresentation constitutes one act in violation of Insurance Code
11 section 790.03, subdivision (h)(1), and Code of Regulations, title 10, section 2695.4,
12 subdivision (a).

13 182. PLHIC misrepresented to Mr. R that his claim was denied based on ineligibility.
14 This misrepresentation constitutes one act in violation of Insurance Code section 790.03,
15 subdivision (h)(1), and Code of Regulations, title 10, section 2695.4, subdivision (a).

16 **U. Violations Arising from PLHIC Call Center**

17 183. PLHIC's call center made misrepresentations to members and providers. For
18 instance, in September 2007, a PLHIC customer service representative incorrectly told a PLHIC
19 PPO member that he was enrolled on a PLHIC HMO plan. That same PLHIC customer service
20 representative incorrectly told a member that Social Security numbers are not printed on PPO
21 insurance cards. These two misrepresentations constitute two acts in violation of Insurance Code
22 section 790.03, subdivision (h)(1), and Code of Regulations, title 10, section 2695.4,
23 subdivision (a).

24 **V. Violations Arising from PLHIC Member Appeals Department**

25 184. PLHIC failed to implement a policy for its member appeals department regarding
26 using the correct receipt date of a claim for purposes of calculating interest on late-paid claims.
27 For example, in at least one instance, PLHIC improperly recorded the date that a claim was
28 received. Even though the member had previously submitted a claim on October 26, 2006,

1 PLHIC could not locate any evidence of receipt of that claim on that date, and therefore recorded
2 a later date as the receipt date. This failure constitutes one act in violation of Insurance Code
3 section 790.03, subdivision (h)(3), and Code of Regulations, title 10, section 2695.3,
4 subdivisions (a) and (b).

5 185. PLHIC failed to implement an adequate appeal response process to ensure that its
6 member appeals department completely and adequately responded to member inquiries. For
7 example, in December 2008, PLHIC failed to completely and adequately respond to member
8 inquiries in two instances. Each of these failures constitutes an act in violation of Insurance
9 Code section 790.03, subdivision (h)(2) and (h)(3), and Code of Regulations, title 10,
10 section 2695.5, subdivision (b).

11 **W. Violations Arising from PLHIC Misrepresentations to CDI**

12 186. PLHIC made various misrepresentations to CDI during the course of the MCE.
13 For instance, PLHIC misrepresented to CDI the date that the acknowledgment-letter process for
14 providers was corrected. In response to a referral, PLHIC claimed that this process was not in
15 compliance from July 2006 until January 2007, and in two separate letters, it claimed that this
16 process was not in compliance from July 2006 until December 2006. In fact, the
17 acknowledgment-letter process for providers was not corrected until March 2008, at the earliest.
18 These misrepresentations constitute three acts in violation of Insurance Code section 790.03,
19 subdivisions (h) and (e), and Code of Regulations, title 10, section 2695.5, subdivision (a).

20 187. In responding to a referral dated September 10, 2007, PLHIC attempted to
21 conceal from CDI its failure to acknowledge claims by claiming that acknowledgment letters had
22 been sent out, but that PLHIC could not provide on an automated basis the dates those letters
23 were sent out. This misrepresentation constitutes one act in violation of Insurance Code
24 section 790.03, subdivisions (h) and (e), and Code of Regulations, title 10, section 2695.5,
25 subdivision (a).

26 188. In responding to a referral dated October 17, 2007, PLHIC refused to provide CDI
27 copies of acknowledgment letters, doing so in a manner intended to conceal the fact that the
28 acknowledgment letters were never sent. This misrepresentation constitutes one act in violation

1 of Insurance Code section 790.03, subdivisions (h) and (e), and Code of Regulations, title 10,
2 section 2695.5, subdivision (a).

3 189. PLHIC promised to CDI to have a weekly report generated to ensure that
4 acknowledgment letters were being sent timely and appropriately. No such weekly report was
5 ever generated. This misrepresentation constitutes one act in violation of Insurance Code
6 section 790.03, subdivisions (h) and (e), and Code of Regulations, title 10, section 2695.5,
7 subdivision (a).

8 190. In responding to a referral, PLHIC purposely omitted the role of the UnitedHealth
9 Group acquisition in the acknowledgment-letter violations. This misrepresentation constitutes
10 one act in violation of Insurance Code section 790.03, subdivisions (h) and (e), and Code of
11 Regulations, title 10, section 2695.5, subdivision (a).

12 191. In responding to a CDI questionnaire about attrition at PLHIC, PLHIC decided
13 not to disclose the “biggest reason for turnover.” This misrepresentation constitutes one act in
14 violation of Insurance Code section 790.03, subdivisions (h) and (e), and Code of Regulations,
15 title 10, section 2695.5, subdivision (a).

16 **REQUEST FOR ORDER AND MONETARY PENALTY**

17 WHEREFORE, Petitioner prays for judgment against Respondent as follows:

- 18 1. An Order to Cease and Desist from engaging in such unfair acts or practices in
19 violation of Insurance Code section 790.03, subdivision (h), and the regulations
20 promulgated pursuant to Insurance Code section 790.10 as set forth above;
- 21 2. Pursuant to Insurance Code section 790.035, for willful acts in violation of
22 Insurance Code section 790.03 and Code of Regulations, title 10, chapter 5,
23 subchapter 7.5, sections 2695.1 through 2695.17 (adopted pursuant to Insurance
24 Code section 790.034), as set forth above, a penalty in an amount to be fixed by
25 the Commissioner not to exceed ten thousand dollars (\$10,000.00) for each act
26 found to be willful; and for each unfair or deceptive act or practice not found to be
27 willful, a penalty in an amount to be fixed by the Commissioner not to exceed five
28

1 thousand dollars (\$5,000.00) for each act;

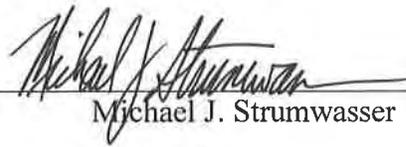
- 2 3. An Order pursuant to section 704 of the Insurance Code to suspend Respondent's
3 Certificate of Authority for a time not exceeding one year;
4 4. Full restitution and reimbursement for acts or omissions in violation of the above
5 cited provisions of law; and
6 5. The imposition of such further relief as may be just and proper.
7

8 Date: January 9, 2012

Respectfully submitted,

9 STRUMWASSER & WOOCHEER LLP

10 CALIFORNIA DEPARTMENT OF INSURANCE
11 LEGAL DIVISION

12
13 By: 
14 Michael J. Strumwasser

15 *Attorneys for the California Department of*
16 *Insurance*
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PROOF OF SERVICE

Re: *In the Matter of PacifiCare Life and Health Insurance Company*
File No. UPA 2007-00004

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 10940 Wilshire Boulevard, Suite 2000, Los Angeles, California 90024.

On, **January 9, 2012**, I served the foregoing document(s) described as **FIRST AMENDED ORDER TO SHOW CAUSE; STATEMENT OF CHARGES / ACCUSATION; NOTICE OF MONETARY PENALTY** on all appropriate parties in this action, as listed, by the method stated.

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If electronic-mail service is indicated, by causing a true copy to be sent via electronic transmission from Strumwasser & Woocher LLP's computer network in Portable Document Format (PDF) to the this date to the e-mail address(es) stated, to the attention of the person(s) named.

If U.S. Mail service is indicated, by placing this date for collection for mailing true copies in sealed envelopes, first-class postage prepaid, addressed to each person as indicated, pursuant to Code of Civil Procedure section 1013a(3). I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **January 9, 2012**, at Los Angeles, California.


LaKeitha Oliver