

WHEREAS, by order dated October 1, 2008 Paulette J. Thabault, then Commissioner of the Department (“former Commissioner Thabault”) established an annual budget for SVMC (the “Budget Order”); and,

WHEREAS, in accordance with 18 V.S.A. § 9456(d)(1) SVMC is required to operate within the budget established by the Commissioner of the Department; and,

WHEREAS, in accordance with SVMC’s FY ’09 Budget Order, SVMC was obligated to file bi-monthly actual operating results with the Department during FY ’09 forty-five (45) days following the close of the bi-monthly period; and,

WHEREAS, SVMC filed a bi-monthly report for October-November, 2008 and for December 2008-January-2009; no other bi-monthly operating result reports were filed by SVMC with the Department for FY ’09; and,

WHEREAS, on March 24, 2009 subsequent to the resignation of SVHC’s then Chief Executive Officer the SVHC Board of Trustees engaged an accounting firm (the “accounting firm”) to conduct an independent audit of SVHC and its subsidiaries, including SVMC; and,

WHEREAS, the accounting firm issued a written report dated May 29, 2009 on internal control matters for the six months ending March 31, 2009 which revealed significant, negative adjustments to the financial statements of SVHC and SVMC; and,

WHEREAS, on June 15, 2009 the accounting firm reported to the SVHC Board of Trustees the results of its audit of SVHC and SVMC for the six months ending March 31, 2009; and,

WHEREAS, on June 24, 2009 management and the Chair of the Board of Trustees of SVHC together with members of the accounting firm met with Former Commissioner Thabault to review the financial statements and management letter prepared by the accounting firm and to

discuss the financial circumstances of SVMC, at which time SVHC and SVMC acknowledged that the hospital was in serious financial difficulty, that the budget information filed with the Department for FY '09 contained substantial errors, that serious errors in management judgment had been made, and that prior management was responsible for these errors and for the serious financial circumstances facing the hospital and the community which it serves; and,

WHEREAS, during the June 24, 2009 meeting with Former Commissioner Thabault, the accounting firm identified certain “material weaknesses” and “significant deficiencies” in SVHC and SVMC’s financial accounting and reporting; and,

WHEREAS, on July 2, 2009 Former Commissioner Thabault issued Findings of Fact, Conclusions of Law and a Preliminary Order which was subsequently amended on August 28, 2009; this Preliminary Order as amended concluded that SVHC and SVMC failed to file a bi-monthly financial report for the period ending March 31, 2009 as required by SVMC’s FY '09 Budget Order, ¶ D and that based on the information submitted by or on behalf of SVHC and SVMC, SVMC violated 18 V.S.A. § 9456 by failing to operate within the budget established by the Commissioner; and,

WHEREAS, senior management responsible for the preparation and submission of SVMC’s FY '09 budget are no longer employed by SVHC or its present and former subsidiaries, divisions, departments, affiliated entities, partners, joint ventures, licensors, licensees, trustees, directors, officers, agents, employees, attorneys, successors and assigns.

WHEREAS, the Preliminary Order as amended has remained in effect during the pendency of the Department’s investigation into SVMC’s Fiscal Year 2009 Budget Performance; and,

WHEREAS, SVHC and SVMC wish to resolve this matter by entering into this Stipulation and Consent Order with the Department on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Department, SVHC and SVMC stipulate and agree as follows:

1. SVHC shall provide the Department with a written narrative within sixty (60) days of the execution of this Stipulation and Consent Order for the purpose of:
 - a. Stating how it has responded to each recommendation contained in the accounting firm's report dated May 29, 2009 for the purpose of addressing the "material weaknesses" and significant deficiencies" identified by the accounting firm; and,
 - b. If any recommendation contained in the accounting firm's May 29, 2009 report has not been implemented, stating the reason(s) therefore; and,
 - c. To the extent written policies or procedures have been adopted to address recommendations made in the auditor's May 29, 2009 report, SVHC and SVMC shall produce copies of said policies or procedures and identify the date such policy or procedure went into effect.
2. SVHC shall continue to file with the Department the complete monthly financial report submitted to the SVHC Board of Trustees, as reviewed by the Board's Finance Committee, and the supporting documentation described therein for a period of twelve (12) months from the date of full execution of this Stipulation and Consent Order. The supporting documentation shall include statistical "run rates" for SVMC operations, productivity reports describing patient census and staff FTEs, payer mix

reports, utilization reports, cost per unit analyses, and such additional supporting data or documentation as the Department reasonably requests. The monthly financial reports shall be filed with the Department at the same time that the financial reports are submitted to the SVHC Board or Trustees, or on the 25th of each month for the prior month, whichever occurs first;

3. SVMC will in the future submit bi-monthly financial reports to BISHCA as requested;
4. In the event the hospital budgetary process is suspended or modified, SVMC shall nonetheless continue to submit a proposed budget annually for the Department's approval for a period of two (2) years.
5. SVHC and SVMC shall in the future manage to the budget approved by the Department in the absence of exceptional or unforeseen circumstances, which exceptional or unforeseen circumstances shall be reported by SVHC and SVMC to the Department immediately upon becoming known to SVHC and SVMC;
6. SVHC and SVMC shall develop a uniform method for collecting and reporting financial information to the senior financial team;
7. Until such time as the SVHC Board of Trustees shall approve the budget, SVHC and SVMC shall maintain drafts of the budget so that there is an understanding and documentation of the changes and developments that occur throughout the budget process;
8. SVMC shall provide the SVHC Board of Trustees by and through its Finance Committee with the initial working drafts and the final draft of the budget in order to allow the Board committee to see how the budget evolved through the development

process and to provide the Board committee an opportunity to question changes that were made during the budget process before furnishing its recommendation on the budget to the entire Board of Trustees;

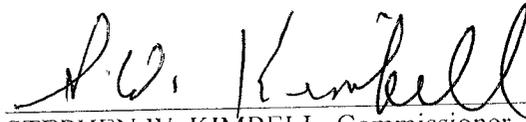
9. SVMC shall provide the SVHC Board of Trustees with a comparison of the current year budget and the budget and actual results from at least the two prior fiscal years, which will provide the Board with a basis for questioning the budget prepared by management;
10. SVMC shall provide the SVHC Board of Trustees with a comparison of the current year's budget with available benchmarks from similar hospitals to use as a measure of reasonableness, as recommended by the Report referenced herein;
11. SVHC and SVMC agree that at no time in the future will the CEO and CFO responsible for the preparation and submission of the FY '09 budget to BISHCA be employed, contracted or in any way associated with the business of SVHC and SVMC. This provision in no way impedes the ability of SVMC to provide medical services to either of these individuals for any illness or injury sustained by them for which treatment at SVMC may subsequently be sought.
12. SVHC and SVMC hereby waive their statutory right to notice and a hearing before the Commissioner of the Department, or his designated appointee, and to any appeal from or collateral to or other challenge to this Stipulation and Consent Order.
13. SVHC and SVMC acknowledge and agree that this stipulation is entered into freely and voluntarily and that except as set forth herein, no promise was made to induce SVHC and SVMC to enter into it. SVHC and SVMC acknowledge that each understand all the terms and obligations contained herein. SVHC and SVMC

acknowledge that each has consulted with its attorney in this matter and that they have reviewed this Stipulation and Consent Order and understand all terms and obligations contained herein.

14. This Stipulation and Consent Order supersedes all prior Preliminary Orders in this docket.

15. The undersigned representatives of SVHC and SVMC each affirm that they have taken all necessary steps to obtain the authority to bind the entity on whose behalf they have signed this agreement to the obligations stated herein and that each signatory to this agreement has the authority to bind the entity on whose behalf s/he has signed this agreement to the obligations stated herein.

Dated at Montpelier, Vermont this 21 day of March, 2011.



STEPHEN W. KIMBELL, Commissioner
Vermont Department of Banking, Insurance, Securities and
Health Care Administration

Dated at Bennington, Vermont this 15th day of March, 2011.

SOUTHWESTERN VERMONT HEALTH CARE



By: _____
Name: THOMAS A. DEE
Title: PRESIDENT & CEO

Dated at Bennington, Vermont this 15th day of March, 2011.

SOUTHWESTERN VERMONT MEDICAL CENTER

By: 
Name: THOMAS A. DEF
Title: PRESIDENT & CEO