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Peter R. Marksteiner, Clerk
United States Court of Appeals for the
Federal Circuit, Office of the Clerk
717 Madison Place, N.W.
Washington, DC 20439

Re: *Michael Conway v. United States*, Case No. 2020-1292

Dear Mr. Marksteiner:

Appellee Michael Conway, Liquidator of Colorado Health Insurance Cooperative, Inc., responds to Appellant's November 20, 2020 letter informing this Court of two principles cited in a recent decision by then Chief Judge Sweeney.

The two cited observations of Judge Sweeney concerning the scope of the McCarran-Ferguson Act, 15 U.S.C. 1012(b), are not matters of controversy in this case. *See* Appellees' Br. at 17 ("the ACA is assuredly a statute relating to insurance"); *id.* at 35 (discussing *United States v. Munsey Trust Co.*, 332 U.S. 234, 239 (1947), holding that the United States has the same setoff rights as any other creditor). Indeed, Judge Sweeney's decision echoes Judge Hertling's decision on these points.

Judge Sweeney was careful to observe that she "does not address" the issues that Judge Hertling found controlling in this case because they were not raised by plaintiffs in opposition to the Government's motion to amend its answer. (The issues are raised in the pending motion to dismiss.)

Respectfully submitted,

/s/Stephen J. McBrady
Counsel for Appellee

cc: all counsel of record