STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
Atlantic Coast Life Insurance Company and Southern Atlantic Re Inc., Plaintiffs, vs. Michael Wise, in his official capacity as Director of the South Carolina Department of Insurance, and in his individual capacity, Defendant.	Civil Action No. 2026-CP-40-______

Summons

TO: The Above-Named Defendants:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served on you, and to serve a copy of your Answer to the Complaint on the undersigned at 1320 Main Street, Meridian Building 17th Floor, Columbia, South Carolina, 29201, within 30 days after service of this Complaint, exclusive of the day of service, and if you fail to answer the Complaint within the thirty days, judgment by default will be rendered against you for the relief demanded in the Complaint.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: *s/ Matthew A. Abee*
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Columbia, South Carolina
September 17, 2026

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Complaint for Declaratory and Injunctive Relief and Damages

Plaintiffs complain of Defendant as follows:

Preliminary Statement

1. Director Michael Wise has tried three times to prove that Atlantic Coast Life Insurance Company ("Atlantic Coast") and Southern Atlantic Re, Inc. ("SAR") (together, the "Companies") are in financial distress. He has failed three times. On September 15, 2026, he took his accusations to the public instead.

2. The first failure came in the Administrative Law Court. After a full evidentiary hearing, Chief Administrative Law Judge Ralph King Anderson III found the Department's action "unsupported by the facts and contrary to the law." He declared the Department's supervision of the Companies "null and void." He found that Atlantic Coast had positive cash flow and no difficulty paying policyholders or creditors. And he found that the Department's publicity had tarnished the Companies in the market, cost them employees and business relationships, prompted policyholders to demand their premiums back, and caused "direct harm to the public." The Department sought reconsideration and lost. It appealed and then withdrew the appeal.

3. The second failure came in a forum the Department chose. The Department designated retired South Carolina Supreme Court Justice Kaye Hearn to hear the Companies' challenge to its Adjusted RBC Reports and called four of its own senior officials and examiners as witnesses. Justice Hearn rejected the Department's central legal theory. She found that the Department had improperly stripped hundreds of millions of dollars of assets and billions of dollars of reinsurance credit from the Companies' balance sheets. She found that the Companies were "paying their obligations as they come due" and that the Department had "identified no risk that the Companies might default on their policyholder obligations." Director Wise rejected his own hearing officer's recommendation by applying a 2025 statutory amendment to 2023 financial statements.

4. The third failure came on March 4, 2026. Judge Anderson reversed Director Wise, held that he had applied the amendment retroactively, adopted Justice Hearn's recommendation, and vacated the Adjusted RBC Report. The Department did not appeal.

5. Through all of it, Director Wise has kept the Companies under examination. The Department joined an examination of the Companies in January 2024. Eight days after Director Wise rejected Justice Hearn's recommendation, he served a notice continuing it. Five weeks after the Companies appealed his decision, he signed a revised warrant. The Companies have cooperated for thirty-one months. In that time the Department has never completed the examination, never issued a final report, never given the Companies the opportunity to rebut one, and never entered an order the Companies could appeal.

6. Rather than finish that examination and submit its conclusions to the process the Insurance Code requires, the Department took its accusations to the market. Without warning to the Companies, Director Wise filed a 56-page public petition asking for possession, control, and title to both Companies. The Petition does not identify a single policyholder claim Atlantic Coast failed to pay, a single surrender it failed to honor, or a

single obligation it missed. The same day, Director Wise issued a press release and sent policyholders to a restructuring website. The press release says rehabilitation will let the Department "thoroughly examine" the Companies and "identify the source of any issues." After thirty-one months of examination, Director Wise seeks control of two operating insurers so that he can begin to find out whether he should have asked for it.

7. Director Wise knew exactly what that publicity would do. Judge Anderson had already found that the Department's last public action harmed policyholders. Director Wise had testified that the purpose of that disclosure was to "stem the bleeding." His new Petition concedes that adverse information about an insurer's financial strength can cause a "run on the bank." He went public anyway, and he placed on the public record IRIS results, the substance of a confidential RBC plan, and the Department's own adjusted RBC calculations, all of which South Carolina law makes confidential.

8. This is a separate civil action that does not ask the Court to adjudicate, stay, or prejudge the merits of the rehabilitation petition. It seeks damages and declaratory and injunctive relief for Director Wise's own unlawful and tortious conduct. That conduct includes his supervision, publication, and enforcement actions in 2024 and 2025, which the Administrative Law Court found contrary to the Insurance Code and harmful to the Companies and their policyholders, and his September 2026 disclosure of statutorily confidential regulatory information to the public and contemporaneous publicity campaign. All of this conduct is separate and apart from, and independently actionable, the filing of the rehabilitation petition itself.

9. The Companies seek to enjoin the Department's continuing extra-judicial dissemination of protected information—including on the public restructuring website—and to recover the damages caused by Director Wise's 2024 and 2025 conduct and by his 2026 disclosure of confidential regulatory information and associated press campaign.

Parties

10. Plaintiff Atlantic Coast Life Insurance Company is a South Carolina domestic insurer that has been in continuous operation for nearly 100 years. Atlantic Coast maintains its principal office in Charleston, South Carolina. Atlantic Coast writes life insurance, annuity, and accident and health products and is licensed to do business in multiple states.

11. Plaintiff Southern Atlantic Re, Inc. is a South Carolina domestic reinsurer and a wholly owned subsidiary of Atlantic Coast. SAR maintains its principal office in Charleston, South Carolina. SAR provides reinsurance for a portion of Atlantic Coast's book of business.

12. Defendant Michael Wise is the Director of the South Carolina Department of Insurance. He is sued in his official capacity as the Director responsible for the acts complained of herein, and in his individual capacity for conduct undertaken outside the scope of his official duties and with actual malice and intent to harm, and for conduct that violated clearly established constitutional rights.

Jurisdiction and Venue

13. This Court has subject-matter jurisdiction over this independent civil action. The Court of Common Pleas is a court of general jurisdiction. It has jurisdiction over the Companies' claims for declaratory relief under the Uniform Declaratory Judgments Act, S.C. Code Ann. §§ 15-53-10 to -140, over their common-law claims for damages, over their claims for injunctive relief under Rule 65, SCRCP, and over their federal claims under 42 U.S.C. § 1983.

14. This action is properly brought in the Court of Common Pleas for Richland County. Venue is proper because the Department is headquartered there and the acts complained of—the Department's 2024 and 2025 supervision, publication, and enforcement actions, the public disclosure of the Companies' confidential regulatory information, the

September 15, 2026 press release, and the direction of the public to a restructuring website—occurred there. To the extent any claim in this action may be characterized as one that must be brought in accordance with the South Carolina Insurers Rehabilitation and Liquidation Act, S.C. Code Ann. § 38-27-60(f) likewise requires that it be brought in the Court of Common Pleas for Richland County, where it is filed.

15. This action is independent of, and does not seek relief "preliminary to, incidental to, or relating to," the rehabilitation proceeding within the meaning of S.C. Code Ann. § 38-27-60(b). The Companies do not seek to commence, enjoin, stay, or adjudicate the receivership or rehabilitation in this case. They seek relief for independent conduct, including extra-judicial disclosure and other conduct predating or accompanying the Petition. No order commencing rehabilitation had been entered when this action was filed; accordingly, the automatic stay in § 38-27-340(a) was not yet triggered. The Companies reserve the right to address any later stay or jurisdictional issue in the rehabilitation proceeding.

16. Director Wise is sued in his official capacity for declaratory and prospective injunctive relief, and in his individual capacity for damages. The conduct alleged below was undertaken outside the scope of his official duties and with actual malice and the intent to harm the Companies, and therefore falls outside the immunity afforded by the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-70(b). The Companies plead these grounds in the alternative to the extent the evidence may show the conduct was within or outside the scope of his official duties.

17. Director Wise's conduct fell outside the scope of his official duties. No statute or regulation authorized him to impose supervision absent a Mandatory Control Level Event, to halt the Companies' new business through a supervisor who lacked that power under S.C. Code Ann. § 38-26-60, to continue supervision without the notice and hearing § 38-26-40(D) requires, or to publish confidential supervision proceedings where publication was not in the

public interest under § 38-26-50(D). The Administrative Law Court found that each of those acts was unsupported by the evidence or contrary to the Insurance Code. No statute authorized the Department to disseminate to the public information that §§ 38-9-380 and 38-13-85(c) forbid it to disclose. Using statutorily confidential information and unsupported regulatory orders to generate market pressure on a licensed insurer served no function the General Assembly assigned to the Director.

FACTUAL ALLEGATIONS

I. Director Wise Took Unadjudicated Solvency Allegations Public, Then Used the Resulting Narrative to Justify Escalating Regulatory Action.

18. In April 2024, the Department issued Adjusted RBC Reports for Atlantic Coast and SAR and placed the Companies under administrative supervision. The Department asserted that the Companies had violated South Carolina's then-existing 3% "single person" investment limitation and used that conclusion to non-admit substantial assets and dramatically reduce the Companies' reported capital.

19. The Department's adjustments were extreme. Judge Anderson later summarized that the Department had treated hundreds of millions of dollars of the Companies' investment assets as non-admitted. The cumulative effect of the Department's adjustments was to turn Atlantic Coast's positive capital and surplus into a multibillion-dollar deficit and drive its RBC ratio deeply negative.

20. The Companies timely challenged the Adjusted RBC Reports. Under South Carolina law, the Department could not treat the challenged Adjusted RBC Reports as establishing a Mandatory Control Level Event unless and until an administrative law judge rejected the Companies' challenge. That had not happened when Director Wise nevertheless relied on the Department's negative-surplus narrative to continue supervision, stop new business, and make previously confidential regulatory information public.

21. On December 11, 2024, Director Wise issued an order requiring the Companies to remain under administrative supervision, notify producers that they could not write new business after December 31, 2024, and cancel new policies and annuities issued after that date. The Order also partially lifted the confidentiality that had protected the supervision proceedings, authorizing public disclosure of regulatory information that previously had remained confidential.

22. On December 20, 2024, Director Wise issued a further order making public the April 10, 2024 supervision order, the December 11 Order, and the supervisor's directives. He did so while the Companies' motion to stay the December 11 Order and their motion to seal were pending before the Administrative Law Court. At the January 15, 2025 hearing, Director Wise acknowledged that he believed both motions were pending when he made the orders public.

II. Judge Anderson Rejected The Department's Prior Action and Found That Its Publicity Harmed Policyholders.

23. At the same time, Atlantic Coast pursued a proposed recapture transaction with Haymarket Insurance Company ("Haymarket") involving approximately $375 million in policies. Atlantic Coast filed a Form D, which the Department received on December 27, 2024. The Companies' position is that the Department did not formally disapprove the Form D within the applicable thirty-day period. On December 30, 2024, Michael FitzGibbons, then purporting to act as the Department-appointed supervisor, sent a one-line email stating: "I have reviewed proposed recapture. Not approved." The Department later relied on that purported supervisor disapproval, while later also advancing an independent statutory theory under S.C. Code Ann. § 38-21-250(B).

24. The Companies challenged the December 2024 action before Chief Administrative Law Judge Ralph King Anderson III. The Court conducted an evidentiary

hearing on January 15, 2025, received testimony from the Companies and Director Wise, and reviewed the Department's asserted factual and legal basis for the action.

25. On February 13, 2025, Judge Anderson ruled for the Companies. He concluded that the Department's December 11 Order was "unsupported by the facts and contrary to the law."

26. The Court rejected the Department's assertion that the Companies were at mandatory-control-level RBC and had negative surplus. It found instead that Atlantic Coast maintained positive cash flow and had not experienced difficulty paying amounts owed to policyholders or creditors.

27. The Court also found that the Department's publicity had caused real-world harm. The December action "tarnished" the Companies' credibility in the market, caused employee losses, damaged distribution relationships, impeded corrective transactions, and prompted policyholders to seek return of premiums. The Court later found that publication "resulted in direct harm to the public" and that policyholders and the Companies "have both been financially harmed."

28. Judge Anderson ultimately concluded that the evidence relied upon by the Director was "unreliable, unsupported, and contrary to the law." The Court declared the Department's imposition of supervision of the Companies "null and void," held that FitzGibbons' directives were "null and void in totem," and permanently enjoined the Department and those acting with it from enforcing or giving effect to the December 11 Order unless and until a final Department decision issued. The Court also addressed FitzGibbons' rejection of the Haymarket transaction specifically, finding that his refusal to approve the recapture "directly impeded Atlantic Coast from reducing its exposure to an insolvent reinsurer."

29. The February 13 Order also found that the Department violated the Insurance Code before and during supervision. Director Wise imposed supervision based on a Mandatory Control Level Event that had not occurred under S.C. Code Ann. § 38-9-360(A)(2). The Department failed to set a hearing on the Companies' Adjusted RBC challenge within the period required by § 38-9-370(B), which the Court found curtailed the Companies' right to challenge the supervision order. The supervision order did not designate a period of supervision as § 38-26-40(C) contemplates, and the Department provided no notice or hearing before continuing supervision as § 38-26-40(D) requires. The supervisor's blanket directive to stop writing new business exceeded his authority under § 38-26-60. And the Court found that the evidence did not show that lifting the confidentiality of the supervision proceedings under § 38-26-50(D) was in the best interest of the public.

30. The potential for damages was not lost on the Court. During the January 15 hearing, Judge Anderson observed that if the Department's conduct was arbitrary and capricious, "I assume they opened themselves up for liability lawsuit," though that question was not before him. When counsel described the harm from the Department's publication, he stated: "***Well, you've got damages***." Those remarks underscored the foreseeable consequences of the Department's conduct.

31. The Department did not accept the February 13 Order. It sought reconsideration, asking Judge Anderson to stay his ruling based on the February 18 hearing before Justice Hearn concerning the separate Adjusted RBC Reports. Judge Anderson denied the motion, finding that the Department had "fail[ed] to articulate a justifiable reason to warrant altering its decision" and that "nothing ha[d] changed since issuance of this Court's February 13, 2025 Order."

32. The Department also appealed the February 13 Order to the South Carolina Court of Appeals, but later withdrew that appeal. The dismissal left intact Judge Anderson's

findings that the Department's action was unsupported by the evidence and contrary to law, that the supervision was "null and void," and that the Department's publication caused "direct harm to the public." The Court of Appeals issued remittitur on September 12, 2025. The February 13 Order therefore remained in effect.

III. Justice Hearn Separately Rejected the Department's Central Adjusted RBC Theory.

33. The Companies' challenge to the April 2024 Adjusted RBC Reports proceeded separately before retired South Carolina Supreme Court Justice Kaye Hearn, whom the Department designated as hearing officer. A full merits hearing occurred on February 18, 2025. The Department called four witnesses, including its Chief Financial Analyst, Deputy Director for Financial Regulation and Solvency, Examiner in Charge, and investment specialist.

34. Justice Hearn concluded that the threshold legal issue was dispositive. Under the statute then in effect, the 3% limitation applied to investments in a "single person" and did not permit the Department to aggregate affiliates as though they were one person.

35. She further found that the Department had not identified any acquisition that caused Atlantic Coast or SAR to exceed the 3% limit at the time of acquisition. The only direct 777 Partners investments relevant to that limit were a $14.0 million Atlantic Coast bridge loan and a $2 million SAR loan, both below the statutory threshold.

36. Justice Hearn also rejected the Department's exclusion of reinsurance reserve credit for reinsurance ceded by Atlantic Coast to SAR and Haymarket. She concluded that Atlantic Coast was entitled to that credit under the law then governing the transactions and found no basis to conclude that the reinsurance was uncollectible.

37. Her final factual finding bears directly on the Department's present public campaign: "Atlantic Coast and SAR are paying their obligations as they come due, and the Department has conceded ***that it has identified no risk that the Companies might default on***

their policyholder obligations." She recommended that the Department's decisions be reversed.

IV. The Prior Proceedings Put Director Wise on Notice That Public Allegations Can Themselves Destabilize an Insurer.

38. At the January 2025 hearing, the Companies explained why abrupt public regulatory accusations can injure policyholders. Mr. King testified that an abrupt shutoff accompanied by adverse regulatory information creates market disruption and "panic" among policyholders.

39. The evidence showed the mechanism of harm. Policyholders reacting to public regulatory accusations may surrender annuities early and incur surrender charges, while the insurer faces increased and accelerated liquidity demands. Judge Anderson credited the existence of that harm when he later found that the Department's publication had caused policyholder withdrawals and financial loss to the public.

V. The Department Ignored Judge Anderson's Order and Continued to Pursue the Same Regulatory Objective.

40. Rather than conform to the February 13 Order,Department officials continued to rely on FitzGibbons' supposed authority. In March 2025, Department personnel demanded that Atlantic Coast unwind the Haymarket recapture, citing FitzGibbons' purported disapproval. transaction, notwithstanding the Court's ruling that FitzGibbons' directives were null and void.

41. On May 8, 2025, the General Assembly amended the Investment of Insurers Act to expressly include "affiliates and subsidiaries" within the single-person investment limitation. Twenty days later, Director Wise issued his Final Agency Decision rejecting Justice Hearn's analysis, concluding that the newly enacted amendment had "fundamentally expanded the scope" of the statute and rendered Justice Hearn's interpretation of the prior law "moot."

42. On March 4, 2026, Judge Anderson reversed Director Wise. The Court held that Wise had effectively applied the May 2025 amendment retroactively to sustain an Adjusted RBC Report based on 2023 financial information. Judge Anderson held that the amendment applied prospectively, that the former statute did not permit aggregation of affiliates, and that the Department had improperly excluded substantial portions of the Companies' assets. The Court adopted Justice Hearn's Report and Recommendation and vacated the Adjusted RBC Report.

43. The episode illustrates the recurring problem. When the Court invalidated the supervisory authority on which the Department had acted, the Department did not conform its conduct to the ruling. It continued pursuing the same regulatory objective—first by relying on FitzGibbons' purported authority, and then, when that authority became untenable, by advancing a different theory to reach the same result. The Department was continuing to rely on authority the Court had invalidated to prevent Atlantic Coast from taking action the Court had found would reduce financial risk.

VI. Director Wise Has Kept the Companies Under Examination for Thirty-One Months Without a Report.

44. South Carolina law prescribes how an examination ends. The examiner in charge files a verified written report. The Department transmits the report to the insurer with a reasonable opportunity to submit a written rebuttal. The Director then enters an order, with findings and conclusions, that the insurer may appeal to the Administrative Law Court. S.C. Code Ann. § 38-13-30(B)-(D). Findings and conclusions reached through that process are prima facie evidence in a later legal or regulatory action. S.C. Code Ann. § 38-13-20(E)(1).

45. On January 25, 2024, the Department joined the Utah Insurance Department's examination of A-CAP with an examination of Atlantic Coast and SAR. In its February 13, 2025 Order, the Administrative Law Court found it "significant that the examination of A-CAP is ongoing" and that the examiner in charge "has yet to issue an examination report." It

rejected the Department's reliance on that examination because the examiner "did not issue an order or decision," so "there has been no conclusive finding to support the Department's assertions."

46. On June 5, 2025, eight days after Director Wise rejected Justice Hearn's recommendation, the Companies' representatives met with Director Wise in person. He arrived with outside counsel from Williams Mullen's Raleigh, North Carolina office and served the Companies with a Notice of Continuation of Financial Examination and an examination warrant. On August 1, 2025, five weeks after the Companies appealed the Final Decision, Director Wise signed a Revised Examination Warrant covering January 1, 2020 through December 31, 2024.

47. The Department describes that examination two different ways. Its Petition calls it "a routine periodic full-scale examination" initiated on or about August 1, 2025. The Revised Examination Warrant states that it is called "to complete the examination" of Atlantic Coast and SAR that the Department began jointly with the Utah Insurance Department. If the examination is routine and periodic, it supplies no basis for emergency action. If it completes the January 2024 examination, the Companies have been under continuous examination for thirty-one months.

48. Director Wise's August 26, 2025 letter transmitting the warrant stated that the examination would review "the impact of certain actions taken by the Insurers to determine whether those actions have addressed the Department's concerns about the Insurers being in a hazardous financial condition." The Department assigned the hazardous-condition question to its examiners. Thirteen months later, with that review unfinished and no report issued, the Department publicly asserted hazardous financial condition as its ground for rehabilitation.

49. The Companies cooperated throughout. They produced voluminous confidential documents on short deadlines and made senior executives available for in-person

interviews in Charleston on short notice. They have received no report to rebut, no findings to contest, and no order to appeal. The Petition concedes that "the examination is ongoing and a final examination report has not been issued yet," but relies on "multiple areas of concern" the examination supposedly identified. Those conclusions have never been verified, disclosed to the Companies, or tested. They are not findings under the Insurance Code.

50. Exhibit A to the Revised Examination Warrant lists the examination team. Under the heading "Counsel," it names Wes Camden and Caitlin Poe of Williams Mullen, together with the Department's General Counsel. The warrant appoints the persons listed in Exhibit A to perform the examination. Thirteen months later, Mr. Camden, Ms. Poe, and the Department's General Counsel appeared as counsel on the rehabilitation Petition and the Department's accompanying motions. On information and belief, they had access to the Companies' confidential examination materials. The Companies were billed for the examination.

VII. Director Wise Nevertheless Launched Another Public Campaign Without Advance Notice to the Companies.

51. On September 15, 2026, without advance notice that he intended to seek rehabilitation and without giving Atlantic Coast or SAR an opportunity to address the allegations before publication, Director Wise filed the Petition for Order Commencing Rehabilitation Proceedings.

52. The requested relief is extraordinary. Wise asks the Court to appoint him and his successors as receiver, transfer to him possession, control, and title to the Companies' assets, and give him the powers necessary to displace existing management and administer the Companies.

53. The public Petition uses categorical and inflammatory language. It alleges that the Companies' financial soundness has been "grievously undermined," that policyholder

funds were placed in "high-risk and inappropriate investments," and that the Companies' conduct threatens thousands of predominantly elderly policyholders.

54. Conspicuously absent from the Petition is any allegation that the Companies have failed to meet an obligation actually due. The Petition does not identify a single policyholder claim that Atlantic Coast failed to pay, a surrender request it failed to honor, or any other policyholder obligation it failed to satisfy when due. Instead, the Department's case rests on predictions shaped by a predetermined regulatory objective. It alleges that cash flows "will be insufficient," that investments "appear" to be worth less than reported, and that assets may not be converted to cash without loss. Those are unfounded and disputed predictions, not evidence that the Companies have failed to honor any policyholder obligation.

55. The Department's contemporaneous public messaging stated that rehabilitation would allow it to "identify the source of any issues" and "thoroughly examine" the Companies' finances. The Petition itself concedes that the Department's examination remains ongoing, that no final examination report has been issued, and that the Department "cannot fully assess" the extent of certain exposures it nevertheless invokes as grounds for rehabilitation.

56. In other words, the Department filed first and proposes to investigate later. It asks this Court to transfer control of two operating insurance companies based in significant part on matters the Department concedes it has not finished examining and does not yet fully understand. Rehabilitation is an extraordinary remedy. Director Wise has abused his position and used it as an investigative device to obtain the information necessary to determine whether rehabilitation was justified in the first place.

57. The problems are further compounded by how the Department proceeded. Before going public, it did not tell the Companies that it believed rehabilitation was

imminent, identify these supposed information gaps, or give the Companies an opportunity to provide the information, explain the transactions, address the Department's concerns, or pursue corrective measures through the confidential regulatory process. Instead, the Department went directly to court, issued a press release, and directed policyholders to a public restructuring website. The Companies were forced to answer in the market before they had any opportunity to answer the Department privately or the allegations in court. The public received the accusations first. The factual investigation and the Companies' response were left for later.

VIII. Wise's Own Petition Explains Why His Publicity Is Dangerous.

58. The new Petition itself explains that alarming information concerning an insurer's financial strength can cause policyholders to surrender or lapse policies, reduce liquidity when liquidity is most needed, and even cause a "run on the bank" if enough worried policyholders seek immediate payment.

59. That is precisely the dynamic the Companies warned about in 2025 and precisely the type of harm Judge Anderson found had already occurred after the Department made its earlier action public.

60. Director Wise therefore cannot claim ignorance of the foreseeable consequences of another public filing. The Department had already seen the market reaction. A South Carolina court had already found that the publicity harmed policyholders. And Wise's own new pleading acknowledges the same economic mechanism.

61. A regulator may not generate avoidable policyholder fear, increase surrender pressure, and then point to resulting liquidity demands as evidence supporting the extraordinary remedy of rehabilitation. The Department must prove financial hazardousness from the Companies' actual condition, not from a crisis amplified by the Department's own publicity.

IX. The Department Publicly Disclosed Regulatory Information That South Carolina Law Protects.

62. The Rehabilitation Petition publicly discloses the Companies' Insurance Regulatory Information System ("IRIS") results. It states the number of IRIS ratios on which each of Atlantic Coast and SAR falls outside the normal range. S.C. Code Ann. § 38-13-85(c) provides that IRIS financial-analysis ratios and examination synopses submitted to the Department are confidential and may not be disclosed by the Department.

63. The Petition also discloses the existence and substance of a plan submitted to the Department in June 2025 concerning Atlantic Coast's RBC ratio. To the extent that submission constitutes an RBC Plan or protected RBC analysis under S.C. Code Ann. § 38-9-380, the statute requires that it remain confidential notwithstanding the Department's ability to use protected material for regulatory enforcement.

64. The Petition goes further and publishes the Department's own adjusted RBC calculations. It alleges negative RBC ratios for Atlantic Coast and SAR under the Department's own adjustments. Those are not merely the Companies' reported annual-statement figures. They are the Department's own regulatory calculations and analyses.

X. The Department's Pattern of Conduct Demonstrates Bad Faith.

65. The Department's conduct follows a clear pattern. The Department advanced regulatory theories against the Companies. Those theories were rejected after adversarial proceedings. The Department then returned to many of the same theories, repackaged them with new allegations, and placed them in a public rehabilitation petition without notice or confidentiality protections.

66. The September 14, 2026 letter from Department counsel showed no urgency. The letter contemplated ongoing financial analysis. Nothing in the letter suggested that the Department believed immediate action was necessary to protect policyholders or that, the

very next day, it intended to ask a court to transfer control of the Companies to Director Wise.

67. Director Wise also knew exactly what could happen when the Department took disputed regulatory allegations public. Judge Anderson found that the Department's decision to lift confidentiality "resulted in direct harm to the public" and financially harmed both policyholders and the Companies.

68. Director Wise admitted that he deliberately lifted confidentiality to advance the Department's regulatory objective of stopping additional business. Asked what benefit was intended by his December 20, 2024 order making the confidential orders public, Wise testified that "the more policies they write, the more people that would be negatively impacted by a potential insolvency" and that "the idea is to stem the bleeding." Judge Anderson later rejected that justification, finding the Department's actions unsupported by the evidence and contrary to law. The lesson should have been obvious: public disclosure is not a neutral act. It can itself inflict the very financial harm the Department claims to fear.

69. That episode was not an aberration. It reflects the same course of conduct Director Wise has repeatedly employed against the Companies—decide on the desired regulatory outcome first, then treat the law, the Companies' rights, and the statutory safeguards enacted by the General Assembly as obstacles to be bypassed when they stand in the way. The current Petition follows the same pattern. Rather than complete the investigation, identify the alleged deficiencies, give the Companies an opportunity to respond, and allow the existing regulatory process to work before inflicting public harm, Director Wise went public first and left the factual investigation and the Companies' response for later. Once again, process and law became subordinate to outcome.

70. The Department acknowledges in its own Rehabilitation Petition that adverse signals about an insurer's financial strength can cause a "run on the bank." Yet the

Department chose to file publicly, issue a press release, and direct the public to a restructuring website. Director Wise thus chose the very course of conduct that he knew could trigger policyholder fear and liquidity pressure. Having created that risk, the Department should not be permitted to point to any resulting market reaction as evidence that rehabilitation was necessary.

71. The Companies acknowledge that the Rehabilitation Petition references certain developments that postdate the prior proceedings. However, these new developments do not justify the Department's decision to repeat previously rejected legal theories. They do not justify the violation of confidentiality statutes. They do not justify filing a public petition without notice to the Companies.

72. The Companies received an unqualified audit opinion dated June 1, 2026. This audit opinion was issued by an independent auditor after review of the Companies' financial statements and records.

XI. Director Wise Acted With Knowledge of the Prior Rulings and the Foreseeable Harm His Public Conduct Could Cause.

73. At the time Director Wise filed the Petition, the Department did not identify a policyholder claim the Companies had failed to pay, a surrender request they had failed to honor, or another policyholder obligation they had failed to satisfy when due. The Department's case instead rests substantially on disputed projections concerning future liquidity, asset values, investment performance, and reinsurance treatment.

74. Director Wise also knew that South Carolina law protects specified regulatory information from public disclosure. Section 38-13-85(c) expressly makes IRIS financial-analysis ratios and examination synopses confidential. Section 38-9-380 separately protects RBC Reports, Adjusted RBC Reports, RBC Plans, and specified related information. Yet the public Petition disclosed IRIS results and substantial RBC-related information without first seeking a sealing or protective order.

75. Director Wise knew that the Department's prior Adjusted RBC theories had been rejected. Judge Anderson had found the Department's prior action unsupported by the facts and contrary to law. Justice Hearn found that the Companies were paying their obligations as they came due and that the Department had identified no risk that they would default on policyholder obligations. On March 4, 2026, Judge Anderson adopted Justice Hearn's findings, reversed Director Wise's Final Decision, and vacated the Adjusted RBC Report. The Department did not appeal.

76. Director Wise likewise knew the foreseeable consequences of another public filing. Judge Anderson had already found that the Department's earlier publication caused direct harm to the public and financial harm to the Companies and their policyholders. Wise himself had testified that public disclosure was intended to affect market conduct by stemming additional policy issuance. His present Petition separately acknowledges that adverse public information can cause policyholder surrenders and liquidity pressure.

77. Despite that knowledge, Director Wise gave the Companies no advance notice of the Rehabilitation Petition and no opportunity to address the new allegations before they were published. The Department did not first identify the information it believed was missing, permit the Companies to provide it, or complete the examination that the Petition itself acknowledges remains unfinished. Instead, the Department made the allegations public first and proposed to continue investigating afterward.

78. To the extent Director Wise relies on the Department's vacated 2023 Adjusted RBC Report or a Mandatory Control Level Event arising from that Report, that regulatory predicate no longer exists. The Companies timely challenged the Adjusted RBC Report, and Judge Anderson ultimately vacated it. The Department may pursue genuinely new grounds authorized by Chapter 27, but it cannot revive the vacated report as though the prior proceedings never occurred.

79. The Companies allege that Director Wise's decision to disclose protected information and publicly pursue rehabilitation despite his knowledge of the prior rulings, the unfinished examination, and the foreseeable market consequences was knowing and undertaken in reckless disregard of the Companies' rights and the harm his conduct would cause.

Causes of Action

80. The Companies' claims for damages do not rest on, and are not predicated upon, Director Wise's act of filing the rehabilitation petition. The conduct on which the Companies' damages claims rest is separate and apart from that filing. It includes (a) Director Wise's 2024 and 2025 supervision, publication, and enforcement conduct described above, including the December 11, 2024 Order, the December 20, 2024 publication of the confidential supervision orders, and the Department's continued reliance on the supervisor's void directives, the May 28, 2025 Final Decision, and the Department's examination of the Companies from January 2024 to the present without a report, rebuttal opportunity, or appealable order, including the June 5, 2025 Notice of Continuation and the August 1, 2025 Revised Examination Warrant, and (b) Director Wise's disclosure of statutorily confidential regulatory information outside any sealed filing, his September 15, 2026 press release, his direction of policyholders and the public to a public restructuring website, and his continuing dissemination of that protected information. Each such act is independently wrongful and would be actionable irrespective of whether any rehabilitation petition had been filed.

FIRST CAUSE OF ACTION
(Declaratory Judgment)

81. The Companies incorporate by reference all preceding paragraphs as though fully set forth herein.

82. S.C. Code Ann. § 38-9-380(A) provides that Risk-Based Capital Reports, Adjusted RBC Reports, and information derived from them must be kept confidential and must not be made public. S.C. Code Ann. § 38-13-85(c) provides that IRIS financial-analysis ratios and examination synopses submitted to the Department "are confidential and may not be disclosed by the department."

83. The Rehabilitation Petition, filed publicly and without seal, discloses RBC ratios, information derived from RBC Reports, the Department's own adjusted RBC calculations, and IRIS ratios. Neither statute authorizes the Department to place that information in a public court filing.

84. S.C. Code Ann. § 38-13-30(F) separately provides that work papers and documents produced in an examination "must be given confidential treatment, are not subject to subpoena, and must not be made public." Director Wise's August 26, 2025 letter acknowledged that the documents requested in the examination of the Companies are examination work papers entitled to that protection. To the extent the information the Department disclosed was obtained from or derived from the examination, its public disclosure is prohibited. Section 38-13-20(E)(2) permits the Director to make examination material public only in furtherance of a legal or regulatory action. A press release and a public restructuring website are neither.

85. An actual, justiciable and ripe controversy exists over whether the Department's public disclosure of this information is prohibited by §§ 38-9-380 and 38-13-85(c). The controversy is ripe because the disclosure has already occurred and continues.

86. The Companies seek a declaratory judgment that §§ 38-9-380, 38-13-85(c), and 38-13-30(F) prohibit the Department's public disclosure of the confidential RBC, IRIS, and examination information concerning the Companies, and that the Department may not disseminate that information through any public channel, including a press release or public

website, which § 38-13-20(E)(2) does not authorize. This determination is a necessary predicate to the Companies' claims for damages and injunctive relief; the sealing of the confidential material already on the public record is the subject of the Companies' separate motion in the rehabilitation proceeding.

SECOND CAUSE OF ACTION
(Tortious Interference with Prospective Contractual Relations)

87. The Companies incorporate by reference all preceding paragraphs as though fully set forth herein.

88. This cause of action does not rest on the conduct of the Department's examination. The examination allegations are pleaded in this count only as evidence of Director Wise's knowledge, purpose, and malice.

89. The Companies had prospective contractual relations of which Director Wise and the Department knew: continuing relationships with policyholders, insurance brokers, and distribution partners including AmeriLife.

90. As to the September 2026 conduct, this claim rests on Director Wise's extra-judicial conduct — the September 15, 2026 press release and the Kroll restructuring website — not on the allegations contained within the court filing itself.

91. Director Wise intentionally interfered with these prospective relations by improper methods. He broadcast to the market, through the press release and the public website, confidential regulatory information that §§ 38-9-380 and 38-13-85(c) forbid the Department to disclose, together with disputed allegations, in a form calculated to reach the Companies' policyholders and distribution partners.

92. Director Wise also interfered with the Companies' relationships with producers, brokers, funeral homes, and policyholders through the December 11, 2024 Order and the December 20, 2024 publication of the confidential supervision proceedings. He used improper methods, including a stop-writing order the Administrative Law Court found

unsupported by the facts and contrary to law, and a publication of confidential supervision information the Court found was not shown to be in the public interest and resulted in direct harm. The Court found that this conduct tarnished the Companies' market credibility, damaged their brokerage and funeral-home relationships, caused the loss of employees, and caused policyholders to seek return of premiums.

93. The December 2024 conduct independently sustains this cause of action, without regard to any conduct in September 2026. Director Wise's interference was outside the scope of his official duties for the reasons alleged above.

94. Director Wise's improper purpose predominated over any legitimate regulatory objective, as set forth with particularity above. He could have sought the same relief through a sealed filing and the confidential regulatory process. Instead, one day after Department counsel's September 14, 2026 letter reflected only ongoing analysis and no emergency, he chose maximum publicity—a press release and the Kroll restructuring website—timed and framed to reach the Companies' policyholders and distribution partners including AmeriLife, with actual malice and the intent to harm the Companies.

95. The interference caused injury, including policyholder surrenders, return of premiums, loss of employees, loss of new business, loss of distribution relationships, and damage to goodwill.

THIRD CAUSE OF ACTION
(Violation of Due Process Under the South Carolina Constitution (Art. I, Section 3))

96. The Companies incorporate by reference all preceding paragraphs as though fully set forth herein.

97. Article I, Section 3 of the South Carolina Constitution guarantees that no person shall be deprived of life, liberty, or property without due process of law.

98. The Companies hold protected interests in their insurance licenses and their statutory right to have confidential regulatory information kept confidential under §§ 38-9-380 and 38-13-85(c).

99. This claim challenges the manner of the Department's disclosure, not its right to seek rehabilitation. Director Wise disclosed the Companies' confidential regulatory information to the public—by placing the protected information on the public record without seeking a seal, by issuing the press release, and through the Kroll website—without first giving the Companies notice or an opportunity to seek a protective order or sealing. The Companies do not ask this Court to seal or alter the rehabilitation court's record; they challenge the extra-judicial dissemination and the failure to seek protection before publication. Because the disclosure was immediate and public, no post-disclosure process can fully undo it.

100. This claim also challenges the December 11, 2024 Order and the continued supervision of the Companies without the hearings required by S.C. Code Ann. §§ 38-9-370(B) and 38-26-40(D), and the December 20, 2024 publication of the confidential supervision proceedings while the Companies' motions to stay and seal were pending.

101. The December 2024 conduct independently sustains this cause of action, without regard to any conduct in September 2026.

102. The September 14, 2026 letter from Department counsel gave no indication that the Department intended, the next day, to seek rehabilitation and publicize the Companies' confidential information, further denying the Companies any meaningful opportunity to seek protection before the disclosure occurred.

FOURTH CAUSE OF ACTION
(42 U.S.C. Section 1983: Violation of Federal Due Process)

103. The Companies incorporate by reference all preceding paragraphs as though fully set forth herein.

104. Director Wise acted under color of state law at all times relevant to this action, exercising authority granted to him as Director of the Department.

105. The Companies hold a protected interest in the confidentiality that §§ 38-9-380 and 38-13-85(c) command. By disclosing that information to the public—by placing it on the public record without seeking a seal, by the press release, and through the Kroll website—without prior notice or any opportunity to be heard, Director Wise deprived the Companies of that interest without the process the Fourteenth Amendment requires. To the extent he continues to post or distribute that information through the restructuring website or other channels he controls, each such act is a continuing violation of federal law.

106. Federal law establishes that, absent extraordinary circumstances, the government must provide notice and an opportunity to be heard before depriving a person of a protected interest, and must provide adequate process where a pre-deprivation hearing is feasible. A pre-disclosure opportunity to seek sealing was feasible here.

107. Director Wise separately deprived the Companies of protected interests in their certificates of authority and in conducting the business those certificates authorize. Through the December 11, 2024 Order, he directed the Companies to stop writing new business and to cancel and refund new policies based on a Mandatory Control Level Event that had not occurred, after the Department failed to provide the hearing required by S.C. Code Ann. § 38-9-370(B), and without the notice and hearing required by § 38-26-40(D). On December 20, 2024, while the Companies' motions to stay and seal were pending, he made the confidential supervision proceedings public, damaging the Companies' reputation in connection with that alteration of their legal status.

108. This deprivation of the Companies' certificate-of-authority interests independently sustains this cause of action, without regard to any conduct in September 2026.

109. Director Wise is sued for damages in his individual capacity; the Eleventh Amendment does not bar an individual-capacity claim for damages payable from his own resources. Qualified immunity does not shield the conduct alleged. The confidentiality commands of §§ 38-9-380 and 38-13-85(c) are clear and unqualified, and Director Wise—who personally administers those statutes and whose December 2024 publication of confidential supervision information the Administrative Law Court had already found unsupported by the evidence—had fair notice that publicly disseminating the protected RBC and IRIS information was unlawful. He acted, moreover, after two tribunals had rejected the Department's solvency theories and after Judge Anderson had found that the Department's earlier publicity caused direct harm to the public. As set forth with particularity in paragraphs above, his decision to disclose the information publicly, without notice and without seeking sealing, was objectively unreasonable in light of that clearly established law and those prior rulings, and was undertaken with actual malice and the intent to harm the Companies.

110. It was also clearly established in December 2024 that the State must provide notice and an opportunity to be heard before it effectively suspends the business a license authorizes. Director Wise halted the Companies' new business without the hearings the Insurance Code required and without any other pre-deprivation process.

111. The Companies seek compensatory damages against Director Wise in his individual capacity under 42 U.S.C. § 1983, prospective declaratory and injunctive relief against him in his official capacity limited to his continuing dissemination of the Companies' confidential regulatory information, and attorneys' fees under 42 U.S.C. § 1988.

FIFTH CAUSE OF ACTION
(42 U.S.C. Section 1983: First Amendment Retaliation)

112. The Companies incorporate by reference all preceding paragraphs as though fully set forth herein.

113. Director Wise acted under color of state law when he took each of the actions described in this cause of action.

114. The Companies petitioned for redress of grievances in activity protected by the First Amendment, as applied to the States through the Fourteenth Amendment. They challenged the Adjusted RBC Reports and the December 11 Order, and appealed the Final Decision on June 27, 2025. The Companies prevailed in each adjudicated challenge. None of their petitions was objectively baseless or a sham.

115. Director Wise answered the Companies' petitions with adverse actions that would deter a person of ordinary firmness from petitioning. After the Administrative Law Court voided supervision, the Department continued to enforce the voided supervisor's disapproval of the Haymarket recapture. On March 28, 2025, the Department's General Counsel warned that "[c]ontinued willful noncompliance with the insurance laws of the State of South Carolina will be addressed as appropriate" and raised the prospect that Atlantic Coast would "ultimately" be placed into rehabilitation. After Justice Hearn recommended reversal, Director Wise issued the retroactive Final Decision.

116. Director Wise also used the examination against the Companies. He served the June 5, 2025 continuation notice eight days after rejecting Justice Hearn's recommendation, signed the Revised Examination Warrant five weeks after the Companies appealed, appointed as examiners attorneys who later appeared as counsel on the rehabilitation Petition, and has kept the examination open for thirty-one months without a report the Companies could rebut or an order they could appeal.

117. Eleven days after the Companies' September 18, 2025 notice, the Department responded through counsel. It asserted a new theory that Atlantic Coast had violated S.C. Code Ann. § 38-21-250(B), listed available remedies including suspension of Atlantic Coast's license, stated that the asserted violation could expose Atlantic Coast's directors and

officers to civil forfeiture and criminal proceedings, and reserved the right to seek relief against Atlantic Coast if it pursued its motion.

118. Director Wise personally issued the Final Decision and the Revised Examination Warrant. On information and belief, he directed or approved the Department's other actions described in this cause of action.

119. Director Wise's September 2026 publicity was not mere speech. It announced and accompanied imminent adverse regulatory action against the Companies. This cause of action does not rest on the act of filing the rehabilitation petition.

120. The Companies' petitioning was a substantial or motivating factor in each adverse action. Director Wise knew of each petition, and each adverse action followed a ruling in the Companies' favor or the Companies' notice of further petitioning. Director Wise would not have taken these actions absent a retaliatory motive. The facts alleged above refute any regulatory justification, and on September 14, 2026, Department counsel confirmed that the Department was not directing Atlantic Coast to unwind the Haymarket recapture, which the Department had first demanded Atlantic Coast unwind in March 2025.

121. The 2025 adverse actions independently sustain this cause of action, without regard to any conduct in September 2026.

122. Qualified immunity does not shield Director Wise. The right to be free from government retaliation for petitioning the courts for redress was clearly established when he acted. No reasonable official could have believed that he could use supervision, examination, and enforcement powers to punish a regulated insurer for prevailing in court.

123. Director Wise's retaliation caused the Companies injury, including the costs of responding to retaliatory examination and enforcement demands, lost business, damage to distribution relationships, and damage to goodwill. The Companies seek compensatory

damages against Director Wise in his individual capacity under 42 U.S.C. § 1983 and attorneys' fees under 42 U.S.C. § 1988 and any other applicable statute.

SIXTH CAUSE OF ACTION
(Injunctive Relief)

124. The Companies incorporate by reference all preceding paragraphs as though fully set forth herein.

125. The Companies satisfy the requirements for injunctive relief: immediate and irreparable harm, a likelihood of success on the merits, and no adequate remedy at law.

126. The Department's continued affirmative dissemination of the Companies' confidential regulatory information, including through the restructuring website it maintains, causes immediate and irreparable harm—policyholder surrenders, damage to distribution relationships, and loss of goodwill. Judge Anderson found that the Department's earlier publication caused direct harm to the public and financial harm to policyholders and the Companies. Because these injuries cannot be measured or fully repaired by money, the Companies have no adequate remedy at law.

127. The Companies are likely to succeed on the merits. Sections 38-9-380, 38-13-85(c), and 38-13-30(F) prohibit the disclosure, and no exception authorizes the Department's public dissemination of the information. Section 38-13-20(E)(2) permits public use of examination material only in furtherance of a legal or regulatory action, and a press release and public website are neither.

128. To the extent the Department continues to post or distribute the protected information on the restructuring website or through other channels it controls, each such act is a new disclosure in violation of these statutes. Enjoining that continued disclosure serves the public interest the statutes protect. The General Assembly determined that public disclosure of RBC and IRIS information can destabilize insurers and harm policyholders, and requiring the Department to cease disseminating the information imposes no cognizable

burden on it, as the Department may pursue any legitimate regulatory objective without broadcasting the Companies' confidential regulatory data to the public.

129. The Companies seek a temporary restraining order, a preliminary injunction, and a permanent injunction prohibiting Director Wise and the Department from further extra-judicial dissemination of the Companies' confidential regulatory information and requiring removal of that information from public sources within their control, including the Kroll restructuring website. The requested relief does not require this Court to seal or alter the rehabilitation court's record or to control the Administrative Law Court.

Prayer for Relief

WHEREFORE, Plaintiffs Atlantic Coast Life Insurance Company and Southern Atlantic Re, Inc. respectfully pray that this Court grant the following relief:

A. A declaratory judgment that S.C. Code Ann. §§ 38-9-380, 38-13-85(c), and 38-13-30(F) prohibit the Department's public disclosure and dissemination of the confidential Risk-Based Capital, IRIS, and examination information concerning the Companies, and that § 38-13-20(E)(2) does not authorize its continuing extra-judicial dissemination through a press release, public website, or other extra-judicial channel;

B. A temporary restraining order, preliminary injunction, and permanent injunction prohibiting Director Wise and the Department from further public dissemination of confidential regulatory information concerning the Companies;

C. An order requiring Director Wise and the Department to remove all confidential regulatory information concerning the Companies from the Kroll restructuring website and any other public source within their control, other than the court record in the rehabilitation proceeding, within twenty-four (24) hours;

D. Compensatory damages against Director Wise in his individual capacity for the conduct alleged herein from 2024 through the present, in an amount to be proven at trial and presently estimated to exceed $162 million, including lost profits on business the Companies were prevented from writing, losses from policyholder surrenders and premium refunds, loss of distribution relationships and goodwill, loss of new business, and the costs of responding to the Department's unlawful actions;

E. Attorneys' fees and costs, including fees under 42 U.S.C. § 1988 and other applicable law; and

F. Such other and further relief as this Court deems just and proper.

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