



HENRY McMASTER
ATTORNEY GENERAL

February 24, 2010

The Honorable Glenn G. Reese
Senator, District No 11
P. O. Box 142
Columbia, South Carolina 29202

Dear Senator Reese:

In a letter to this office you questioned whether an entity that issues a check to an individual for reimbursement of an insurance claim or as a payment can require that the signature endorsement on the back of the check also be considered as a signature for a binding contract. The copy of the check which you forwarded states on the back above the line for a signature of endorsement that "I acknowledge that this check represents insurance benefits to which I have claimed entitlement. I also certify that I have made no false claims or statements or concealed any material fact."

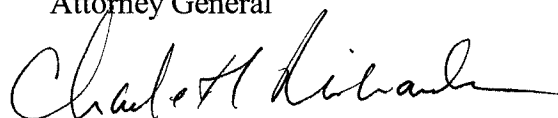
Generally, "[a] binding contract between...(individuals is)...created by...(the)...endorsement and negotiation of the check." White Truck Sales of Indianapolis, Inc. v. The Shelby National Bank of Shelbyville, 420 N.E.2d 1266 (Ct.App. Ind. 1981). As to the particular type endorsement referenced above, based upon my review, I am unaware of any State statutory provision or case law that would prohibit such a required endorsement. In the opinion of this office, such an endorsement is not void by public policy. Also, such type endorsement is recognized generally. See: Clawson v. Burrow, 250 S.W.3d 59 (Ct.App. Tenn. 2007); Lampton v. Allstate Insurance Co., 586 So.2d 205 (Ala. 1991). Moreover, there may be a requirement in the contractual relationship between the parties regarding the issuance of a check for reimbursement of a claim that would specifically authorize such a required endorsement. Such is a matter for review by a private attorney as this office has repeatedly stated that an opinion of this office cannot determine facts, noting that the determination of facts is beyond the scope of an opinion of this office. See: Ops. Atty. Gen. dated November 12, 2008; March 19, 2008; October 8, 2007. Nevertheless, as stated, this office is unaware of any general prohibition to such a required endorsement.

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With kind regards, I am,

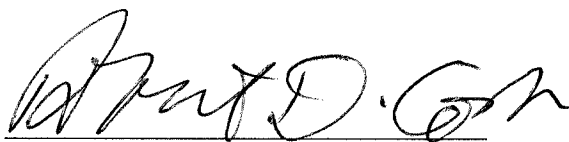
Very truly yours,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General