

SUPREME COURT OF THE STATE OF NEW YORK – NEW YORK COUNTY

PRESENT: EILEEN A. RAKOWER
J.S.C. Justice

PART 5

Eric R. Donallo

INDEX NO. 400543/08

MOTION DATE _____

MOTION SEQ. NO. 2

MOTION CAL. NO. _____

- v -
Horizon Healthcare
OF NY, Inc

The following papers, numbered 1 to _____ were read on this motion to/for _____

Notice of Motion/ Order to Show Cause – Affidavits – Exhibits ...

Answering Affidavits – Exhibits _____

Replying Affidavits _____

PAPERS NUMBERED

Cross-Motion: Yes No

Upon the foregoing papers, it is ordered that this motion

**DECIDED IN ACCORDANCE WITH
ACCOMPANYING DECISION / ORDER**

Dated: 1/13/09

EILEEN A. RAKOWER
J.S.C. J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST REFERENCE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

At IAS Part 5, Room 307 of the Supreme Court of the State of New York, County of New York at the courthouse, 80 Centre Street, in the County, City and State of New York, on the 13 of JAN, 2009.

P R E S E N T :

HON. EILEEN A. RAKOWER, J. S .C.

-----X
In the Matter of

Index No.: 400543/08

the Liquidation of

**SECOND AMENDED
ORDER OF LIQUIDATION**

HORIZON HEALTHCARE OF NEW YORK, INC.
----- X

Eric R. Dinallo, Superintendent of Insurance of the State of New York (the "Superintendent"), having moved this court for an order to take possession of the property of and liquidate the business and affairs and dissolve the corporate charter of Horizon Healthcare of New York, Inc. ("HHNY") on April 15, 2008, which order of liquidation was entered on April 17, 2008, and upon reading and filing the verified petition of Susan J. Pogoda, First Assistant Special Deputy Superintendent and Agent of Eric R. Dinallo, Superintendent of Insurance of the State of New York, as Liquidator ("Liquidator") of HHNY for a Second Amended Order of Liquidation, duly verified on the 17 day of November, 2008, and the Affirmation of Kimara Patton, dated November 11, 2008, and the exhibits annexed thereto; and it appearing to my satisfaction that:

1. HHNY is a New York corporation, with its principal office in Nassau County;

2. Pursuant to a certificate of authority issued by the New York State Department of Health (“Department of Health”) effective December 31, 1999, HHNY operated as a health maintenance organization in various counties of the State of New York pursuant to Article 44 of the New York State Public Health Law;

3. Pursuant to a revised certificate of authority issued by the Department of Health effective April 1, 2005, HHNY was precluded from marketing to or enrolling new members and effective October 1, 2005, its authority was limited to conducting close-out activities and payment of liabilities relating to claims run-out;

4. HHNY, by a unanimous vote of its board of directors, has consented to an order of liquidation being entered against it in this Court;

5. HHNY is amenable to the Insurance Law of the State of New York (“Insurance Law”) and, particularly, to Article 74 thereof;

6. HHNY should be dissolved and its corporate charter annulled and forfeited; and

7. It is in the best interest of all persons concerned that the Superintendent be authorized and directed to take possession of HHNY’s property, liquidate its business and affairs, and dissolve its corporate charter;

NOW, on the further motion of the Liquidator, it is hereby ORDERED as follows:

1. The verified petition for a second amended order of liquidation is granted;

2. The Superintendent and his successors in office are appointed liquidator of HHNY (the "Liquidator"), are authorized and directed to immediately take possession of its property, are vested with title to its property, contracts and rights of action, and are directed to liquidate its business and affairs in accordance with Article 74 of the Insurance Law. The Liquidator may deal with the property and business of HHNY in its name or in the name of the Liquidator;
3. All claims against HHNY must be presented to the Liquidator by April 17, 2009;
4. The Liquidator shall provide notice of the entry of the order of liquidation by publication in the New York Post or newspaper of similar circulation, once per week for two consecutive weeks, commencing on or before January 16, 2009, to all creditors, claimants and interested persons;
5. The Liquidator shall also provide notice by publication in one newspaper in Albany, New York, the capital city of the state in the United States wherein HHNY is or was licensed to do business, once per week for two consecutive weeks, commencing on or before January 16, 2009, the newspaper to be selected by the Liquidator at his discretion, to all creditors, claimants and interested persons;
6. The notice prescribed herein is sufficient notice to all persons interested in HHNY;
7. All contracts, policies, leases, tax sharing agreements, employment contracts and other obligations of HHNY, however described, shall terminate and all liability thereunder shall cease and be fixed as of the date of the entry of the order of liquidation in accordance with Insurance Law § 7405, unless ratified by the Liquidator;
8. The Liquidator is authorized and allowed to sell, assign or transfer any and all real or personal property, stocks, bonds or other securities of HHNY at market price or better, or if there is no market price, at the best price obtainable at private sale at such times and upon such terms and conditions as he in his discretion deems is in the best interest of the creditors of HHNY, and he is further authorized to take such steps and to make and execute such agreements and other papers as may be necessary to effect and carry out such sales, transfers and assignments;
9. HHNY, its officers, directors, depositories, trustees, agents, servants, employees and attorneys, and all other persons having any property or records belonging or relating to HHNY, are directed to assign,

transfer, set over and deliver to the Liquidator all such property or records;

10. Any persons, firms, corporations or associations having any books, papers or records relating to the business of HHNY shall preserve them and submit them to the Liquidator for examination and copying at all reasonable times;
11. The officers, directors, shareholders, trustees, agents, servants, employees, attorneys and managers of HHNY and all other persons are permanently enjoined and restrained from the transaction of HHNY's business, from the waste or disposition of its property, and from interfering with the Liquidator in the possession, control and management of HHNY or its property or in the discharge of his duties;
12. All persons are permanently enjoined and restrained from commencing or prosecuting any actions or proceedings against HHNY or against the Liquidator or the New York Liquidation Bureau or its employees, attorneys and agents, with respect to claims against HHNY;
13. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens or from making any levy against HHNY's assets or any part thereof;
14. HHNY's license and certificate of authority authorizing it to do business in various counties of the State of New York are revoked;
15. The corporate charter of HHNY is relinquished, forfeited, surrendered and annulled and HHNY is dissolved;
16. The Liquidator, his successors in office, and their agents and employees are granted judicial immunity and are relieved of liability for any cause of action of any nature against them for any action taken by any one or more of them when acting in accordance with the orders of this Court and/or in the performance of their powers and duties pursuant to Article 74 of the Insurance Law;
17. The Liquidator may at any time make further application to this Court for such further and different relief as he sees fit;

18. All further papers in this proceeding shall bear the caption:

“In the Matter of

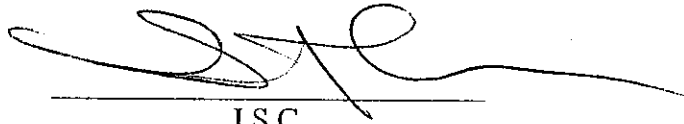
the Liquidation of

Horizon Healthcare of New York, Inc.”

19. Other than the amendments to paragraphs 3, 4 and 5 set forth above, all terms of the order of liquidation shall remain in full force and effect as of the date of its entry on April 17, 2008;

20. The Liquidator shall serve a conformed copy of this Order upon the county clerk and the clerk of the trial support office for amendment of the court and computer records.

ENTER

A handwritten signature in black ink, appearing to read 'E. Rakower', is written over a horizontal line.

J.S.C.

HON. EILEEN A. RAKOWER