

At IAS Part 37 of the Supreme Court of the State of New York, at the courthouse located at 60 Centre St, in the City, County and State of New York, on the 21 day of March, 2019.

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

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In the Matter of

Index No. 450297/19

the Application of

ORDER TO SHOW CAUSE

Linda A. Lacewell, Acting Superintendent of Financial Services of the State of New York, for an order to take possession and liquidate the business and affairs of

MS # 001: OTHER

ATLANTIS HEALTH PLAN, INC.

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Based on the verified petition ("Verified Petition") of Linda A. Lacewell, Acting Superintendent of Financial Services of the State of New York ("Superintendent"), duly verified on February 27, 2019, the supporting Affidavit of Stephen J. Wiest, dated January 29, 2019 (the "Wiest Aff."), and the exhibits and schedules attached thereto, and it appearing that the relief sought should be granted;

NOW, on motion of Letitia James, Attorney General of the State of New York, attorney for the Superintendent, and after due deliberation having been had thereon;

LET Atlantis Health Plan, Inc. ("Atlantis") show cause before this Court at the Courthouse located at 60 Centre St., NY, NY ^{*A Room 418*} in the City, County and State of New York, on the 11 day of April, 2019, at 11:30 o'clock a.m., or as soon thereafter as counsel can be heard ("Return Date"), why an order substantially in the form of the order annexed as Exhibit 1 to the Verified Petition (the "Liquidation Order") should not be made, pursuant to Article 74 of the

New York Insurance Law (“Insurance Law”), *inter alia*: (1) placing Atlantis into liquidation under Insurance Law Article 74; (2) appointing the Superintendent, and her successors in office, as liquidator of Atlantis (the “Liquidator”); (3) directing the Liquidator to take possession of Atlantis’ property and to liquidate Atlantis’ business and affairs; (4) vesting title to all of Atlantis’ property, contracts, and rights of action and all of its books and records, wherever located, in the Liquidator and her successors; (5) permitting the Liquidator to deal with the property and business of Atlantis in Atlantis’ name or in the name of the Liquidator; (6) granting the injunctions provided for in Insurance Law § 7419(a), permanently enjoining and restraining all persons and entities from wasting the assets of Atlantis, and permanently enjoining and restraining all persons and entities, except as authorized by the Liquidator, from transacting Atlantis’ business (including the issuance of plans providing Medicare Advantage and Medicare Advantage Part D prescription drug coverage (“Plans”)) or disposing of Atlantis’ property; (7) granting the injunctions provided for in Insurance Law § 7419(b), permanently enjoining and restraining all persons and entities from interfering with the Liquidator or this proceeding, obtaining any preferences, judgments, attachments or other liens, or making any levy against Atlantis, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, Atlantis, the New York Liquidation Bureau, or their present or former employees, attorneys or agents, relating to this proceeding or the discharge of their duties under Insurance Law Article 74 in relation thereto; (8) vesting all rights in Atlantis’ contracts and agreements, however described, in the Liquidator and permitting the Liquidator to, in her discretion, reject any executory contracts to which Atlantis is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection; (9) requiring that any bank, savings and loan association, other financial institution, or any other entity or person, that has on deposit or in its possession, custody or control

any of Atlantis' funds, accounts (including escrow accounts) or assets shall immediately, upon the Liquidator's request and direction: (a) turn over custody and control of such funds, accounts or assets to the Liquidator; (b) transfer title of such funds, accounts or assets to the Liquidator; (c) change the name of such accounts to the name of the Liquidator; (d) transfer funds from such bank, savings and loan association or other financial institution; and (e) take any other action reasonably necessary for the proper conduct of the liquidation proceeding; (10) requiring that all persons or entities having property, papers (including attorney work product and documents held by attorneys) and/or information, including, but not limited to, Plans, underwriting data, any reinsurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to Atlantis shall preserve such property and/or information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over and deliver such property and/or information to the Liquidator; (11) authorizing, permitting and allowing the Liquidator to sell, assign or transfer any and all stocks, bonds, or other securities at the best price reasonably obtainable at such times and upon such terms and conditions as, in her discretion, she deems to be in the best interest of the creditors of Atlantis, and further authorizing the Liquidator 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, without the further approval of this Court; (12) establishing a date by which all claims against Atlantis, other than the Liquidator's claims for administrative expenses ("Administrative Claims"), and all evidence supporting such claims, must be submitted to the Liquidator ("Bar Date") that is the earlier of: (a) the contractual deadline for the submission of claims established in a Plan or an agreement between Atlantis and a hospital or other provider of healthcare services ("Provider") for the provision of such services to beneficiaries under the Plans ("Members"); or (b) the date that is six (6) months after the

issuance of the Liquidation Order, and providing that all claims submitted after the Bar Date are barred and discharged; (13) requiring that all claims against Atlantis submitted for the first time after the issuance of the Liquidation Order, and all evidence supporting such claims, be filed using the electronic portal for the submission of claims located on the website www.nylbpc.org on or before the Bar Date; (14) extending immunity to the Superintendent in her capacity as Liquidator of Atlantis, her successors in office, the New York Liquidation Bureau and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Insurance Law Article 74; (15) declaring Atlantis to be insolvent pursuant to Insurance Law § 7402(a); and (16) granting such other and further relief as the Court may deem proper and just.

AND, sufficient cause having been shown therefor, pursuant to Insurance Law § 7418(a)(1), ^{it is ordered that} service of a copy of this order to show cause and the papers upon which it is granted be made: (i) by overnight delivery within ^{three (3)} ~~five (5)~~ days after the entry of this Order to Show Cause upon (a) Atlantis Health Plan, Inc., Attention: Kiran Patel, MD, Chairman, 5600 Mariner Street, Suite 200, Tampa, Florida 33609¹ and (b) Greenberg Traurig LLP, attorneys for Atlantis Health Plan, Inc., Attention: Harold N. Iselin, 54 State Street, 6th Floor, Albany, New York 12207; and (ii) by posting on the internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> at least 15 days prior to the Return Date; and such service shall be deemed good and sufficient service; and it is hereby

ORDERED, that all answering papers and supporting documentation (“Answering Papers”) be served on the Superintendent so as to be received at least seven days prior to the Return

¹ In an e-mail dated December 17, 2018 (a copy of which is annexed to the Wiest Aff. as Exhibit “C”), Dr. Patel consented to service at Atlantis’ office in Tampa. Wiest Aff., ¶ 10; Exh. C.

Date, and that service on the Superintendent shall be made by first class mail or overnight carrier at the following addresses:

Office of the Attorney General
28 Liberty Street
New York, NY 10005
Attention: Rosalie Hronsky

and any such Answering Papers shall be filed with the Court on or before the Return Date; and it is further

ORDERED, that pursuant to New York Insurance Law § 7419(a), pending a hearing on this application, Atlantis, its officers, directors, shareholders, members, trustees, agents, servants, employees, attorneys, and managers, and all other persons are hereby restrained from obtaining preferences, judgments, attachments or other liens, or making any levy or commencing or prosecuting any actions or proceedings against Atlantis or its assets; and it is further

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ORDERED, that pursuant to New York Insurance Law § 7419(b), pending a hearing on this motion, all actions or proceedings against Atlantis are stayed; and it is further

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ORDERED, that pending a hearing on this motion:

1. All persons or entities having property, papers (including attorney work product and documents held by attorneys) and/or information, including, but not limited to, Plans, underwriting data, any reinsurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to Atlantis shall preserve such property and/or information and, upon issuance of the Liquidation Order directing turnover, shall immediately, upon the Superintendent's request and direction, assign, transfer, turn over and deliver such property and/or information to the Superintendent; and
2. Atlantis, its officers, directors, shareholders, members, trustees, agents, servants, employees, Members, attorneys, managers, and all other persons are restrained from wasting the assets of Atlantis, or, except as authorized in writing by the Superintendent, from (i) transacting Atlantis' business (including the issuance of new Plans); (ii) disposing of Atlantis' property; or (iii) disclosing (a) the name, address, or contact information of any Member or (b) any other information that is proprietary to Atlantis or not in the public domain.

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ORAL ARGUMENT
DIRECTED



J.S.C.

HON. ARTHUR F. ENGORON

ENTER:



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HON. ARTHUR F. ENGORON