

At IAS Part 57 of the Supreme Court of the State of New York, County of New York, at the courthouse located at 111 Centre Street, New York, New York, on the 20<sup>th</sup> day of February, 2015.

P R E S E N T:

HON. PETER H. MOULTON, J.S.C

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In the Matter of

Index No. 452879/2014

the Application of

**ORDER OF LIQUIDATION**

Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York, for an order to take possession and liquidate the business and affairs of

ESSENCE HEALTHCARE OF NEW YORK, INC.

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Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York (“Superintendent”), having moved this Court by order to show cause (“Order to Show Cause”) for an order appointing the Superintendent and his successors in office as liquidator (“Liquidator”) of Essence Healthcare of New York, Inc. (“EHNY”) and directing the Liquidator to take possession of the property of EHNY and to liquidate its business and affairs, and upon reading and filing the petition of the Superintendent, duly verified on October 17, 2014, the affidavit of Stephen J. Wiest, sworn to on October 17, 2014, and the exhibits annexed thereto, this Court finds that:

1. EHNY was a health maintenance organization (“HMO”) originally incorporated in the State of New York on February 27, 2009. The New York State Department of Health issued EHNY a conditional certificate of authority on or about May 15, 2009;

2. EHNY was licensed to operate as an HMO under the provisions of Article 44 of the New York Public Health Law;

3. EHNY's sole remaining office is located at 13900 Riverport Drive, St. Louis, Missouri 63043;

4. EHNY's board of directors has consented to the entry of an order of liquidation pursuant to Insurance Law Article 74 in the Supreme Court of the State of New York, County of New York, by signing a Joint Action By Written Consent of the Board of Directors and the Sole Shareholder of EHNY, effective as of January 1, 2014, which was later adopted by a resolution dated March 26, 2014;

5. EHNY is subject to the Insurance Law and, in particular, to Article 74 thereof;

6. It is in the best interest of all persons concerned that, based upon Article 74 of the Insurance Law, the Superintendent should be appointed Liquidator and directed to take possession of the property of EHNY, to liquidate its business and affairs, and be vested with title to all of EHNY's property, contracts and rights of action; and

NOW, on motion of the Honorable Eric T. Schneiderman, Attorney General of the State of New York, it is hereby

ORDERED as follows:

1. The relief requested in the petition for an order of liquidation ("Order") is granted in accordance with the terms of this Order.
2. The Superintendent and his successors in office are appointed Liquidator of EHNY.
3. The Liquidator is directed to take possession of EHNY's property and liquidate EHNY's business and affairs in accordance with Insurance Law Article 74.
4. The Liquidator is vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in this

Order, and with title to EHNY's property, contracts, rights of action and all of its books and records, wherever located, as of the date of entry of this Order.

5. The Liquidator may deal with the property and business of EHNY in EHNY's name or in the name of the Liquidator.
6. All persons are permanently enjoined and restrained from wasting the assets of EHNY and all persons are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting EHNY's business (including the issuance of insurance policies) or disposing of EHNY's property.
7. Absent a written order of this Court upon motion, all parties are permanently enjoined and restrained from interfering with the Liquidator or this proceeding, obtaining preferences, judgments, attachments or other liens, making any levy against EHNY, its assets or any part thereof, or commencing or prosecuting any actions or proceedings against the Liquidator, EHNY, or 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 Article 74 in relation thereto.
8. The Liquidator is vested with all rights in EHNY's contracts and agreements, however described, and the Liquidator, is permitted, in his discretion, to reject any executory contracts to which EHNY is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection, on the condition that notice is given at least five days prior to the rejection that the contract will cease on a fixed date. Notice shall be given by mail.
9. 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 EHNY's funds, accounts (including escrow accounts) or assets shall immediately, upon the Liquidator's request and direction: (i) turn over custody and control of such funds, accounts or assets to the Liquidator; (ii) transfer title of such funds, accounts or assets to the Liquidator; (iii) change the name of such accounts to the name of the Liquidator; (iv) transfer funds from such bank, savings and loan association or other financial institution; and/or (v) take any other action reasonably necessary for the proper conduct of the liquidation proceeding.
10. All persons or entities having property, papers (including attorney work product and documents held by attorneys) and/or information, including, but not limited to, insurance policies, underwriting data, reinsurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to EHNY 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. The Liquidator is authorized, permitted and allowed 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 his discretion, he deems to be in the best interest of the creditors of EHNYS, and 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, without the further approval of this Court.
12. The Liquidator is authorized to pay, the actual and necessary expenses incurred by the Liquidator in the administration of EHNYS's liquidation as approved by the Court.
13. The date that is five (5) months after the entry of this order is established as the bar date by which all claims by any claimant against EHNYS or its insureds, other than the Liquidator's claim for administrative expenses, must actually be received by the Liquidator, including all evidence supporting the liquidation of such claims.
14. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74.
15. In accordance with Insurance Law Section 7432(b), all claims against EHNYS must be presented to the Liquidator within four months of the date of entry of this order and the failure to do so will result in the claim not sharing in the distribution of assets until all allowed claims (proof of which is timely filed) has been paid in full with interest.
16. The Liquidator may at any time make further application to this Court for such further and different relief as he sees fit.
17. The Liquidator shall serve a copy of this Order upon: David Hardy Jones, President, at the only office currently maintained by Essence Healthcare of New York, Inc., located at 13900 Riverport Drive, Maryland Heights, Missouri 63043, by overnight delivery or by certified mail.
18. The Liquidator shall provide notice of this Order to all creditors, claimants and interested persons by: (i) publication of a notice of this Order in *The New York Post*, once a week for two consecutive weeks, commencing within thirty days of entry of this Order in a form substantially similar to the one attached hereto as Exhibit A as amended herein; and (ii) posting this retyped Order on the Internet web page maintained by the Bureau at <http://www.nylb.org> within 15 days after the entry of this Order.
19. Such notice shall inform all creditors, claimants and other interested persons that this Order has been entered.

20. The notice prescribed in decretal paragraphs 17 and 18 hereof is sufficient notice to all persons interested in EHNY.

21. This Court shall retain jurisdiction over this matter for all purposes.

22. The caption for this proceeding is hereby amended as follows:

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

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In the Matter of

the Liquidation of

ESSENCE HEALTHCARE OF NEW YORK, INC.

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23. All further papers in this proceeding shall bear the above amended caption.

E N T E R

/s/ Peter H. Moulton  
J.S.C.