

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. DEBRA A. JAMES PART IAS MOTION 59EFM

Justice

-----X

LINDA LACEWELL

Petitioner,

- v -

QUALITY HEALTH PLANS OF NEW YORK, INC.,

Respondent.

-----X

INDEX NO. 451399/2020
MOTION DATE 8/18/2020
MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 6, 10, 11 were read on this motion to/for INJUNCTION/RESTRAINING ORDER

Upon the foregoing documents, it is

ORDERED that the petition is granted without opposition per the attached order.

9/08/2020

DATE

DEBRA A. JAMES, J.S.C.

CHECK ONE:

- X CASE DISPOSED
X GRANTED
DENIED
NON-FINAL DISPOSITION
GRANTED IN PART
OTHER
SUBMIT ORDER
FIDUCIARY APPOINTMENT
REFERENCE

APPLICATION:

CHECK IF APPROPRIATE:

At IAS Part ⁵⁹ of the Supreme Court of the State of New York, at the courthouse located at _____ in the City, County and State of New York, on the ____ day of _____, 2020.

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

In the Matter of

Index No. 451399/2020

the Application of

ORDER

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

QUALITY HEALTH PLANS OF NEW YORK, INC.

Linda A. Laccwell, 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 placing Quality Health Plans of New York, Inc. ("QHPNY") into liquidation, appointing the Superintendent and her successors in office as liquidator ("Liquidator") of QHPNY, and directing the Liquidator to take possession of QHPNY's property and to liquidate its business and affairs, and upon reading and filing the petition of the Superintendent, duly verified on June 15, 2020 (the "Petition"), the affidavit of Christine A. Gralton, sworn to on May 26, 2020, and the exhibits and schedules annexed thereto, this Court finds that QHPNY should be placed into liquidation under Insurance Law Article 74 because QHPNY: (i) consented to the entry of an order of liquidation; and (ii) is insolvent within the meaning of New York Insurance Law ("Insurance Law") § 7402(a); and

NOW, on motion of Letitia James, 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;
2. The Superintendent and her successors in office are appointed Liquidator of QHPNY;
3. The Liquidator is directed to take possession of QHPNY's property and liquidate QHPNY'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 QHPNY'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 QHPNY in QHPNY's name or in the name of the Liquidator;
6. All persons and entities are permanently enjoined and restrained from wasting the assets of QHPNY, and are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting QHPNY's business or disposing of QHPNY's property;
7. All persons and entities are permanently enjoined and restrained from interfering with the Liquidator or this proceeding, obtaining any preferences, judgments, attachments or other liens, making any levy against QHPNY, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, QHPNY, 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. The Liquidator is vested with all rights in QHPNY's contracts and agreements, however described, and is permitted to, in her discretion, reject any contracts to which QHPNY 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. 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 QHPNY's 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. 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 offered by QHPNY providing Medicare Advantage and Medicare Advantage Part D prescription drug coverage ("Plans"), underwriting data, any reinsurance or other insurance policies, claims files (electronic or paper), software programs, and/or bank records owned by, belonging to, or relating to QHPNY 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 her discretion, she deems to be in the best interest of the creditors of QHPNY, 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 date by which all claims against QHPNY, other than the Liquidator's claim for administrative expenses, and all evidence supporting such claims, must be submitted to the Liquidator ("Bar Date") is the earlier of: (a) the contractual time period established for the timely submission of claims in all Plans or agreements between QHPNY 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 four (4) months from the date of entry of this Order, and all claims submitted after the Bar Date are barred and discharged.
13. All claims against QHPNY submitted for the first time after the issuance of this Order, and all evidence supporting such claims, shall be filed on or before the Bar Date using the electronic portal for the submission of claims located on the website www.nyfbpoc.org.
14. In accordance with Insurance Law § 4307(d): (a) no Member shall be liable to any Provider for any services covered by QHPNY; (b) no Provider shall collect, or attempt to collect, any amounts owed by QHPNY from any Member; and (c) no Provider shall maintain any action against any Member to recover any such amount; provided that the foregoing shall not apply in respect of any coinsurance amounts, copayments, and/or deductibles owed by any Member.
15. The Liquidator is authorized, in her discretion, to refrain from adjudicating claims of any class unless and until: (a) she reasonably believes that adjudication of such claims would be in the best interests of the estate or (b) it is likely that the QHPNY estate will have sufficient assets to pay claims of such class.
16. Immunity is extended to the Superintendent in her capacity as Liquidator of QHPNY, 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;

- 17. The Liquidator may at any time make further application to this Court for such further and different relief as she sees fit;
- 18. The Liquidator shall serve a copy of this Order by overnight delivery upon: (a) Quality Health Plans of New York, Inc., Attention: Dr. Safia Khan, Interim Chief Executive Officer and Senior Executive Vice President of Quality Health Plans of New York, Inc., 2805 Veterans Memorial Highway, Suite 17, Ronkonkoma, NY 11779 and (b) any person or entity who or that timely filed and served papers in opposition to the relief sought;
- 19. The Liquidator shall provide notice of this Order to all creditors, claimants, and interested persons by: (a) publication of notice of this Order, in a form substantially similar to the one attached hereto as Annex A, in the *New York Post*, once a week for two consecutive weeks, commencing within 30 days of entry of this Order; and (b) posting this Order on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> within 15 days after the entry of this Order;
- 20. This Court shall retain jurisdiction over this matter for all purposes;
- 21. The caption for this proceeding is hereby amended as follows:

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

-----X
In the Matter of

the Liquidation of

QUALITY HEALTH PLANS OF NEW YORK, INC.
-----X

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

ENTER

Debra A. James
T.S.C.
DEBRA A. JAMES

SEP 08 2020

ANNEX A

[Form of Notice of Liquidation Order]

NEW YORK LIQUIDATION BUREAU
180 MAIDEN LANE
NEW YORK, NEW YORK 10038
(212) 341-6400

To all persons or entities interested in the affairs of
QUALITY HEALTH PLANS OF NEW YORK, INC.

Notice is Hereby Given:

Linda A. Lacewell, Superintendent of Financial Services of the State of New York ("Superintendent"), has been appointed by an order (the "Order") of the Supreme Court of the State of New York, County of New York ("Court"), entered on _____, 2020, as the liquidator (the "Liquidator") of Quality Health Plans of New York, Inc. ("QHPNY") and, as such, has been: (i) directed to take possession of QHPNY's property and liquidate QHPNY's business and affairs in accordance with New York Insurance Law ("Insurance Law") Article 74; and (ii) vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in the Order and with title to QHPNY's property, contracts, rights of action, and all of its books and records, wherever located, as of the date of entry of the Order. The Liquidator has, pursuant to Insurance Law Article 74, appointed David Axinn, Special Deputy Superintendent (the "Special Deputy"), as her agent to carry out her duties as Liquidator. The Special Deputy carries out his duties through the New York Liquidation Bureau ("Bureau"), 180 Maiden Lane, New York, New York 10038. The Order provides that:

- I. The Liquidator is permitted to deal with the property and business of QHPNY in QHPNY's name or in the name of the Liquidator;
- II. All persons and entities are permanently enjoined and restrained from wasting the assets of QHPNY, and all persons are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting QHPNY's business or disposing of QHPNY's property;
- III. All persons and entities are permanently enjoined and restrained from interfering with the Liquidator or the proceeding, obtaining any preferences, judgments, attachments, or other liens, making any levy against QHPNY, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, QHPNY, or the New York Liquidation Bureau, or their present or former employees, attorneys or agents, relating to the proceeding or the discharge of their duties under Insurance Law Article 74 in relation thereto;
- IV. The Liquidator is vested with all rights in QHPNY's contracts and agreements, however described, and the Liquidator is permitted to, in her discretion, reject any contracts to which QHPNY is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
- V. 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 QHPNY's 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;

- VI. 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 offered by QHPNY providing Medicare Advantage and Medicare Advantage Part D prescription drug coverage ("Plans"), underwriting data, any reinsurance or other insurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to QHPNY 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;
- VII. The Liquidator is authorized, permitted, and allowed to sell, assign, or transfer any and all stocks, bond, or other securities, in the best interest and only as liable at such times and upon such terms and conditions, such that the date of sale does not be in the best interest of the creditors of QHPNY, 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 the Court;
- VIII. The date by which all claims against QHPNY, other than the Liquidator's claim for administrative expenses, and all evidence supporting such claims, must be submitted to the Liquidator ("Bar Date") is the earlier of: (a) the contractual time period established for the timely submission of claims in all Plans or agreements between QHPNY 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 four (4) months from the date of entry of the Liquidation Order, and all claims submitted after the Bar Date are barred and discharged;
- IX. All claims against QHPNY submitted for the first time after issuance of the Order, and all evidence supporting such claims, shall be filed using the electronic portal for the submission of claims located on the website www.nyfbpo.org on or before the Bar Date;
- X. In accordance with Insurance Law § 4307(d): (a) no Member shall be liable to any Provider for any services covered by QHPNY; (b) no Provider shall collect, or attempt to collect, any amounts owed by QHPNY from any Member; and (c) no Provider shall maintain any action against any Member to recover any such amount; provided that the foregoing shall not apply with respect to any coinsurance amounts, copayments, and/or deductibles owed by any Member;
- XI. The Liquidator is authorized, in her discretion, to refrain from adjudicating claims of any class unless and until: (a) she reasonably believes that adjudication of such claims would be in the best interests of the estate or (b) it is likely that the QHPNY estate will have sufficient assets to pay claims of such class;
- XII. Immunity is extended to the Superintendent in her capacity as Liquidator of QHPNY, 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 the Court, or in the performance of their duties pursuant to Insurance Law Article 74;
- XIII. QHPNY is insolvent pursuant to Insurance Law § 7402(a);
- XIV. The Liquidator may at any time make further application to the Court for such further and different relief as she sees fit;
- XV. The Court shall retain jurisdiction over this matter for all purposes; and

XVI. All communications relating to QHPNY and to the liquidation proceeding thereof should be addressed to:

New York Liquidation Bureau
180 Maiden Lane, 15th Floor
Attention: General Counsel
New York, New York 10038
(212) 341-6400

with a copy e-mailed to nylb@nylb.org.

A copy of the Order may be viewed at <http://www.nylb.org>. To the extent there are any discrepancies between this notice and the Order, then the language of the Order controls.

LINDA A. LACFWELL
Superintendent of Financial Services of
the State of New York as Liquidator of
Quality Health Plans of New York, Inc.

DAVID AXINN
Special Deputy Superintendent
and Agent of the Liquidator