

SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY

PRESENT: Engoron  
Justice

37  
PART  
450297-19

Lacewell, LINDA A.

INDEX NO. \_\_\_\_\_

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. 1

-v-  
Atlantis Health Plan, Inc.

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

Notice of Motion/Order to Show Cause — Affidavits — Exhibits \_\_\_\_\_ | No(s). \_\_\_\_\_

Answering Affidavits — Exhibits \_\_\_\_\_ | No(s). \_\_\_\_\_


Replying Affidavits \_\_\_\_\_ | No(s). \_\_\_\_\_

Upon the foregoing papers, it is ordered that this motion is

granted, on default and on the merits,  
pursuant to the attached order dated  
April 11, 2019.

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

Dated: 4/11/19

  
HON. ARTHUR F. ENGORON, J.S.C.

- 1. CHECK ONE: .....  CASE DISPOSED  NON-FINAL DISPOSITION
- 2. CHECK AS APPROPRIATE: ..... MOTION IS:  GRANTED  DENIED  GRANTED IN PART  OTHER
- 3. CHECK IF APPROPRIATE: .....  SETTLE ORDER  SUBMIT ORDER
- DO NOT POST  FIDUCIARY APPOINTMENT  REFERENCE

At IAS Part 37 of the Supreme Court of the State of New York, at the courthouse located at 60 Centre Street, in the City, County and State of New York, on the 11 day of April, 2019.

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

In the Matter of  
the Application of

Index No. 450297/2019  
(Engoron, A.F., J.S.C.)  
**ORDER**

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

ATLANTIS HEALTH PLAN, INC.

Linda A. Lacewell, Acting 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 Atlantis Health Plan, Inc. (“Atlantis”) into liquidation, appointing the Superintendent and her successors in office as liquidator (“Liquidator”) of Atlantis, and directing the Liquidator to take possession of the property of Atlantis and to liquidate its business and affairs, and upon reading and filing the petition of the Superintendent, duly verified on February 27, 2019 (the “Petition”), the affidavit of Stephen J. Wiest, sworn to on January 29, 2019, and the exhibits and schedules annexed thereto, this Court finds that Atlantis should be placed into liquidation under Insurance Law Article 74 because: (i) it consented to the entry of an order of liquidation; and (ii) it is insolvent pursuant to New York Insurance Law (“Insurance Law”) § 7402(a);

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 Atlantis;
3. The Liquidator is directed to take possession of Atlantis’ property and liquidate Atlantis’ 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 Atlantis’ 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 Atlantis in Atlantis’ name or in the name of the Liquidator;
6. All persons and entities are permanently enjoined and restrained from wasting the assets of Atlantis, and are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting Atlantis’ business or disposing of Atlantis’ 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 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. The Liquidator is vested with all rights in Atlantis’ contracts and agreements, however described, and is permitted 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. 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. 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 Atlantis providing Medicare Advantage and Medicare Advantage Part D prescription drug coverage (“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. 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 Atlantis, 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 Atlantis, other than the Liquidator’s claim for administrative expenses (“Administrative Claims”), and all evidence supporting such claims, must be submitted to the Liquidator (“Bar Date”) is the earlier of either: (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 order placing Atlantis into liquidation, and all claims submitted after the Bar Date are barred and discharged;
13. All claims against Atlantis 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.nybpoc.org](http://www.nybpoc.org);
14. Immunity is extended 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. The Liquidator may at any time make further application to this Court for such further and different relief as she sees fit;
16. The Liquidator shall serve a copy of this Order by overnight delivery upon: (a) (i) Atlantis Health Plan, Inc., Attention: Kiran Patel, MD, Chairman, 5600 Mariner Street, Suite 200, Tampa, Florida 33609 and (ii) Greenberg Traurig LLP, attorneys for Atlantis Health Plan, Inc., Attention: Harold N. Iselin, 54 State Street, 6<sup>th</sup> Floor,

Albany, New York 12207; and (b) any person or entity who or that timely filed and served papers in opposition to the relief sought;

- 17. The Liquidator shall provide notice of this Order to all creditors, claimants, and interested persons by: (i) 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 (ii) 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;
- 18. This Court shall retain jurisdiction over this matter for all purposes;
- 19. 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  
  
 ATLANTIS HEALTH PLAN, INC.  
 -----X

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

ENTER

  
 HON. ARTHUR F. ENGORON

**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  
ATLANTIS HEALTH PLAN, INC.

Notice is Hereby Given:

Linda A. Lacewell, Acting 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 \_\_\_\_\_, 2019, as the liquidator (the "Liquidator") of Atlantis Health Plan, Inc. ("Atlantis") and, as such, has been: (i) directed to take possession of Atlantis' property and liquidate Atlantis' 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 Atlantis' 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 Atlantis in Atlantis' name or in the name of the Liquidator;
- II. All persons and entities are permanently enjoined and restrained from wasting the assets of Atlantis, and all persons are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting Atlantis' business or disposing of Atlantis' 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 Atlantis, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, Atlantis, 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 Atlantis' contracts and agreements, however described, and the Liquidator is permitted 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;
- 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 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;

- 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, 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;
- VII. 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 Atlantis, 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 Atlantis, other than the Liquidator's claim for administrative expenses ("Administrative Claims"), and all evidence supporting such claims, must be submitted to the Liquidator ("Bar Date") is the earlier of: (a) the contractual deadline for the submission of claims established in a Plan or a contract 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 Order, and all claims submitted after the Bar Date are barred and discharged;
- IX. All claims against Atlantis 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.nylibpoc.org](http://www.nylibpoc.org) on or before the Bar Date;
- X. Immunity is extended 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 the Court, or in the performance of their duties pursuant to Insurance Law Article 74;
- XI. Atlantis is insolvent pursuant to Insurance Law § 7402(a);
- XII. The Liquidator may at any time make further application to the Court for such further and different relief as she sees fit;
- XIII. The Court shall retain jurisdiction over this matter for all purposes; and
- XIV. All communications relating to Atlantis and to the liquidation proceeding thereof should be addressed to:

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

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



LINDA A. LACEWELL  
Acting Superintendent of Financial Services of  
the State of New York as Liquidator of  
Atlantis Health Plan, Inc.

DAVID AXINN  
Special Deputy Superintendent  
and Agent of the Liquidator