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SUPERIOR COURT OF NJ
MERCER VICINAGE
CHANCERY

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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-MERCER COUNTY
DOCKET NO. MER-C- 63-16

RICHARD J. BADOLATO,)
COMMISSIONER OF THE)
DEPARTMENT OF BANKING AND)
INSURANCE OF NEW JERSEY,)
)
Plaintiff,)
)
)
v.)
)
FREELANCERS CONSUMER OPERATED)
AND ORIENTED PROGRAM OF NEW)
JERSEY D/B/A HEALTH REPUBLIC)
INSURANCE OF NEW JERSEY,)
)
)
Defendant.)
)

Civil Action

ORDER OF REHABILITATION

This matter having been opened to the Court by
Christopher S. Porrino, Attorney General of New Jersey, by
William B. Puskas, Jr., Deputy Attorney General, as attorney for

Richard J. Badolato, the Commissioner of the Department of Banking and Insurance ("Commissioner"), on application for an Order to be entered: (a) declaring Freelancers Consumer Operated and Oriented Program of New Jersey d/b/a Health Republic Insurance of New Jersey ("Freelancers") to be insolvent; (b) directing the Commissioner to rehabilitate Freelancers; and (c) permanently enjoining all persons and entities from pursuing litigation against Freelancers or from interfering with the Commissioner's efforts to rehabilitate Freelancers, and the Court having considered the Commissioner's application, the Court hereby finds that:

A) Freelancers is an insurance company domiciled in the State of New Jersey and governed by the provisions of Title 17B of the Statutes of New Jersey.

B) This Court has general jurisdiction over this proceeding pursuant to N.J.S.A. 17B:32-31 to -92.

C) The written and published notice of the Petition for Rehabilitation to interested persons evidenced by the Affidavit and Notice filed with the Court constitutes the best notice practicable under the circumstances and meets the requirements of due process concerning such notice.

D) Sufficient grounds exist pursuant to N.J.S.A. 17B:32-41a and -33 for entry of an Order of Rehabilitation and

Declaration of Insolvency, and such Order of Rehabilitation should be entered pursuant to N.J.S.A. 17B:32-42.

It is, therefore, on this 19th day of October, 2016, ORDERED:

1. Pursuant to N.J.S.A. 17B:32-31 and -41a, Freelancers is deemed to be insolvent and is in such a condition that its further transaction of business will be hazardous to its policyholders, to its creditors, and to the public.

2. The Commissioner and his successors in office are appointed as Rehabilitator of Freelancers (hereinafter as "Rehabilitator") with all the power and authority expressed or implied by N.J.S.A. 17B:32-31 to -92, including the power to appoint and recompense a Deputy Rehabilitator pursuant to N.J.S.A. 17B:32-43. The Deputy Rehabilitator shall have no personal liability for his acts or omissions in connection with his duties as Deputy Rehabilitator provided that such acts or omissions are undertaken or committed in good faith and without willful misconduct, or willful, wanton, or gross negligence or criminal intent. The Deputy Rehabilitator shall not be deemed to be an employee of the State of New Jersey and accordingly shall not be subject to the provisions of the New Jersey Tort Claim Act, N.J.S.A. 59:1-1 et seq. All expenses and costs incurred by the Deputy Rehabilitator in connection with lawsuits against him in his personal capacity shall, subject to the prior written

approval of the Commissioner, be paid out of the funds and assets of Freelancers, provided that such lawsuits are not the result of any bad faith, willful misconduct, gross negligence, or criminal actions on the part of the Deputy Rehabilitator. The Commissioner as Rehabilitator may also appoint and employ such counsel, clerks, professionals (e.g. actuaries, accountants, etc.), and assistants as deemed necessary in connection with the rehabilitation of Freelancers. All persons appointed by the Commissioner shall serve at the pleasure of the Commissioner.

3. The Rehabilitator is hereby vested with title to all assets of Freelancers, including but not limited to any of Freelancers' contracts, causes of action, books, records, bank accounts, certificates of deposits, funds, securities, or other funds, and all real or personal property of any nature, including furniture, fixtures, and office supplies, wherever located, including such property of Freelancers which may be discovered hereafter, and is hereby directed to take immediate and exclusive possession and control of same. The filing or recording of this Order with the Clerk of this Court and with the recorder of deeds of the jurisdiction in which Freelancers' corporate administrative offices are located or, in the case of real estate, with the recorder of deeds of the jurisdictions where the properties are located, shall impart the same notice

as would be imparted by a deed, bill of sale, or other evidence of title filed or recorded. Except as otherwise indicated elsewhere in this Order, and upon notice provided by the Rehabilitator, all agents and brokers and all other persons or entities holding funds, assets, or property of or on behalf of Freelancers shall forthwith file an accounting of those funds, assets, or property with the Rehabilitator and shall, within 10 days of the service of this Order, turn said funds, assets, or property over to the Rehabilitator. The Rehabilitator shall take such actions as he may deem necessary and appropriate to protect and preserve Freelancers' assets.

4. The Rehabilitator is directed to take such action as he deems necessary to or appropriate to reform, revitalize, rehabilitate, or run-off Freelancers.

5. The Rehabilitator shall deal with the property and business of Freelancers in his own name as Commissioner or as Rehabilitator in the name of Freelancers.

6. Pursuant to the inherent powers of this Court, all policies and contracts for the provision of health care benefits and services issued by Freelancers to any of its policyholders, members, or subscribers, shall terminate upon the earliest of the following:

(a) December 31, 2016; or

(b) The date when the policyholder, member or subscriber has effectuated replacement health benefits coverage with another carrier or otherwise terminated the policy or contract. This includes terminations for non-payment of premium with all applicable grace periods under law;

i) For small employer policies with renewal dates between the date of this Order and December 31, 2016, and subject to the exception in ii) below, the anniversary date of their policies will be extended at the same monthly premium rate and with same benefits to continue coverage through December 31, 2016, unless the policy is replaced by the small employer with new coverage from another carrier or terminated by non-payment of premium;

ii) For small employer policies with renewal dates between the date of this Order and December 31, 2016, where the small employer and/or the member has already made a new policy selection from Freelancers, Freelancers shall effectuate those new policy selections on the renewal date of the policy at the monthly premium rate for the new policy; however, those policies shall also terminate on December 31, 2016, absent additional action by the small employer as described above.

The Rehabilitator can apply to the Court for permission to terminate these policies at an earlier date if determined necessary;

This paragraph shall not operate to terminate any other contracts of insurance to which Freelancers is a party, including but not limited to, reinsurance, any directors and officers liability policies, any commercial insurance and/or employee benefit plans covering the business interest of Freelancers and/or its employees.

7. All claims against Freelancers must be asserted not later than one year from the date of the Order of Rehabilitation, in the form established by the Rehabilitator, or such claims will be forever barred. For the purposes of this Order, the word "claim" is defined to include claims for payment made by members, policyholders, subscribers, medical and medical service providers, hospitals, physicians, surgery centers, vendors, contractors, creditors, governmental agencies or any other parties directly against Freelancers.

8. The Rehabilitator shall establish procedures governing the payment of claims by Freelancers in accordance with his powers under N.J.S.A. 17B:32-31 et seq. and the provisions of this Order.

9. All secured creditors or parties, lienholders, collateral holders, or other persons claiming secured, priority,

or preferred interests in any property or assets of Freelancers, including any governmental entity, are hereby permanently enjoined from taking any steps whatsoever to transfer, sell, encumber, attach, dispose of, or exercise purported rights in or against any property or assets of Freelancers.

10. Freelancers, its officers, directors, policyholders, members, subscribers, enrollees, agents, and employees, and all other persons or entities of any nature, including but not limited to claimants, vendors, business partners, plaintiffs, petitioners, providers, hospitals or other medical or health care providers and any governmental agencies that have claims of any nature against Freelancers including crossclaims, counterclaims and third-party claims, are hereby enjoined and restrained from:

(a) Conducting any portion or phase of the business of Freelancers unless so authorized by the Rehabilitator or his designee;

(b) Instituting, maintaining or further prosecuting any action at law, suit in equity, special, or other proceeding against Freelancers, or the Commissioner as Rehabilitator or his successors in office as Rehabilitator therefore, or against the Deputy Rehabilitator;

(c) Making or executing a levy upon the property of Freelancers;

(d) Threatening, instituting, maintaining or further presenting any suit at law, suit in equity, or any collection activity, or any other proceeding of any nature against any policyholder, member, subscriber, enrollee, or insured of Freelancers resulting from Freelancers' insolvency or the failure of Freelancers or an third party administrator to pay on Freelancers' behalf, any medical or hospital bill or to meet any of Freelancers' contractual obligations due to its declaration of insolvency; except for any applicable member cost-sharing (co-payments, co-insurance and/or deductibles) or non-covered services that would ordinarily be the responsibility of the member or other insured party and not the obligation of Freelancers under the applicable health benefits plan; and

(e) Interfering in any way with the Rehabilitator, or any successors in office, in his possession of or title to the property and assets of Freelancers, or in the discharge of his duties pursuant to this Order, including but not limited to any lease or sublease for office space or computer hardware or software, contract or agreement (whether written or oral), license or other arrangement that is necessary to the operation of the business of Freelancers.

11. The Rehabilitator shall have the power to direct the operations of Freelancers, including but not limited to: the adjustment of any compensation paid to, or the removal and/or

discharge of, Freelancers' officers, directors, and employees; and, the affirmation, disavowal or renegotiation of any employment contracts.

12. Freelancers, its officers, directors, policyholders, members, subscribers, enrollees, agents, and employees, and all other persons or entities of any nature, including but not limited to claimants, plaintiffs, petitioners, providers, hospitals or other medical or health care providers and any governmental agencies have claims of any nature against Freelancers including crossclaims, counterclaims and third-party claims, having any property or records belonging to Freelancers, or pertaining to the business of Freelancers, including data processing information and records of any kind, are hereby directed to assign, transfer, and deliver to the Rehabilitator all of such property in whatever name the same may be, and any persons, firms, or corporations having any books, papers, or records relating to the business of Freelancers or its direct and indirect insurance subsidiaries shall preserve the same and submit these to the Rehabilitator for examination at all reasonable times.

13. All persons or entities of any nature, other than the Rehabilitator, are hereby restrained from commencing, maintaining, or further prosecuting any direct or indirect actions against any reinsurer of Freelancers or its direct and

indirect insurance subsidiaries for proceeds of reinsurance policies issued to, and treaties or other agreements with Freelancers.

14. The Rehabilitator shall have the power:

(a) to conduct the business of Freelancers under the general supervision of the Court;

(b) to honor, as expenses of administration, all expenses heretofore incurred by the Commissioner as Administrative Supervisor, or by his designees and appointees, which currently remain unpaid;

(c) to pay from the funds or assets of Freelancers, or from such other funds that may become available to him, all expenses of marshaling, taking possession of, conserving, conducting, rehabilitating, disposing of, or otherwise dealing with the business and property of Freelancers, as determined by the Rehabilitator in his discretion to be appropriate and reasonable, and such payments can either be made in full payment of the liabilities or in accordance with the priority of claims distribution provided in N.J.S.A. 17B:32-71;

(d) to collect all debts and monies due and claims belonging to Freelancers, wherever located, where economically feasible and for this purpose:

(i) to institute and maintain timely actions in other jurisdictions, in order to forestall

garnishment and attachment proceedings against such debts;

(ii) to do such other acts as are necessary or expedient to marshal, collect, conserve, or protect any of Freelancers' assets or property, including the power to sell, compound, compromise, or assign debts for purposes of collection upon such terms and conditions as he deems appropriate, and the power to initiate and maintain actions at law or equity or any other type of action or proceeding of any nature, in this and other jurisdictions;

(iii) to pursue any creditor's remedies available to enforce the Rehabilitator's claims;

(e) to conduct public and private sales of the assets and property of Freelancers, including any real property;

(f) to acquire, invest, deposit, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with any asset or property of Freelancers, and to sell, reinvest, trade, or otherwise dispose of any securities or bonds presently held by Freelancers, upon such terms and conditions as the Rehabilitator deems to be fair and reasonable, irrespective of the value at which such property was last carried on the books of Freelancers. The Rehabilitator

shall also have the power to execute, acknowledge, and deliver any and all deeds, assignments, releases, and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the rehabilitation;

(g) to borrow money on the pledge of assets of Freelancers, with or without security, and to execute and deliver all documents necessary to that transaction for the purpose of facilitating the rehabilitation. Any funds so borrowed may be repaid as an administrative expense and have priority over any claims in Class 1 under the priority of distribution of claims pursuant to N.J.S.A. 17B:32-30a(12). Neither the Commissioner as Rehabilitator, his successors in office, nor his designees or appointees shall be held liable in their official or personal capacities for any loans made for such purposes;

(h) to enter into such contracts as are necessary to carry out this Order and to affirm, renegotiate or disavow any contracts to which Freelancers is a party;

(i) to institute and to prosecute, in the name of Freelancers or in his own name, any and all suits and other legal proceedings, to defend suits to which Freelancers or the Rehabilitator is a party, in this State or elsewhere, commenced prior or subsequent to this Order, to abandon the prosecution or defense of suits, legal proceedings, and claims which he deems

inappropriate to pursue further and to compromise suits, legal proceedings, or claims on such terms and conditions as he deems appropriate;

(j) to prosecute any action which may exist on behalf of the creditors or policyholders of Freelancers against any officer or director of Freelancers or any other person or entity;

(k) to audit the books and records of all agents of Freelancers insofar as those records relate to the business activities of Freelancers;

(l) to use the assets of Freelancers to transfer policy obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to the applicable priorities of N.J.S.A. 17B:32-71;

(m) to perform such further and additional acts, including but not limited to all powers contained in N.J.S.A. 17B:32-50a(6) through (24), as he may deem necessary or appropriate for the accomplishment of or in aid of the purpose of rehabilitation, it being the intention of this Order that the aforesaid enumeration of powers shall not be construed as a limitation upon the Rehabilitator or Deputy Rehabilitator.

15. The Rehabilitator may at his discretion as of the date of this Order discontinue the defense of claims, suits, and other proceedings, in this State and elsewhere, in which the

insureds of Freelancers are parties, including those claims made and suits and proceedings undertaken prior to the date of this Order.

16. The Rehabilitator shall give or cause to be given notice of the entry of this Order as soon as possible by publication in a newspaper of general circulation in the county in which Freelancers' corporate offices were previously located, specifically, The Newark Star Ledger, The Courier Post, and The New Jersey Law Journal. Such publication shall commence within _____ days of the date of this Order and shall be repeated once a week thereafter for two successive weeks.

17. The amounts recoverable by the Rehabilitator from any reinsurer of Freelancers shall not be reduced as a result of this delinquency proceeding, or by reason of any partial payment or distribution on a reinsured policy, contract, or claim. Set-offs shall be allowed between Freelancers and its reinsurer only with the consent of the Rehabilitator. Unless either the insurance contract or an applicable statute provides to the contrary, payment made directly to an insured or other creditor shall not diminish the reinsurer's obligation to Freelancers.

18. Premiums Owed to Freelancers:

(a) Any agent, broker, premium finance company, or any other person, other than the insured, responsible for the payment of a premium, shall be obligated to pay any unpaid

premiums, whether earned or unearned, as shown on the records of Freelancers as of the date of entry of this Order. No credit or set-off shall be allowed in favor of such person against his account with Freelancers for the unearned portion of the premium on any canceled contract or policy, unless (i) that contract or policy was canceled prior to the entry of this Order, and (ii) the unearned premium on the canceled contract or policy was in fact refunded or credited to the insured or his or her assigns prior to the entry of this Order. The Rehabilitator shall also have the right to recover from such person any part of an unearned premium that represents a commission to such person.

(b) All group and individual policyholders of Freelancers shall be obligated to pay any unpaid earned premium due to Freelancers at any time, as shown on the records of Freelancers.

19. Existing contracts and other obligations by and between Freelancers and any reinsurer may, at the discretion of the Rehabilitator, be terminated. Such termination shall be effected by written notice issued by the Rehabilitator addressed to the reinsurer.

20. If the Rehabilitator determines that reorganization, conversion, reinsurance, merger or other transformation of Freelancers is appropriate, he shall prepare a plan to effect such changes. Upon the application of the

Rehabilitator for approval of the plan, and after such notice and hearings as the court may prescribe, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified. Any plan approved by the court shall be, in the judgment of the court, fair and equitable to all parties concerned.

21. Pursuant to N.J.S.A. 17B:32-42b, the court hereby requires accountings from the Rehabilitator at six-month intervals. Each accounting shall include a report concerning the Rehabilitator's opinion as to the likelihood that a plan as discussed in Paragraph 20 above will be prepared by the Rehabilitator and the timetable for doing so.

22. All further papers filed in these proceedings shall bear the caption and be entitled:

"I/M/O the Rehabilitation of Freelancers Consumer Operated and Oriented Program of New Jersey d/b/a Health Republic Insurance of New Jersey".

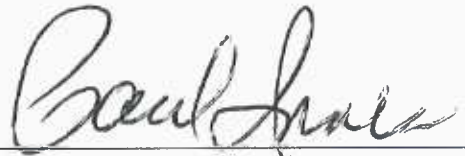
23. If any provision of this Order or the application thereof is for any reason held to be invalid, the remainder of this order and the application thereof to other persons or circumstances shall not be affected.

24. Any person, corporation or other entity having notice of this order who fails to abide by its terms shall be directed to appear before this Court to show good cause, if any

they may have, as to why they should not be held in contempt of Court for violation of the provisions of this Order.

25. The Rehabilitator may at any time make further application for such additional and different relief as he sees fit.

26. This Court shall retain jurisdiction for all purposes necessary to effectuate and enforce this Order.

A handwritten signature in cursive script, appearing to read "Paul Innes", written in dark ink. The signature is positioned above a horizontal line.

Paul Innes, P.J. Ch. Div.