

19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

SUIT NO. 499,737

DIVISION "D"

J. ROBERT WOOLEY, AS
ACTING COMMISSIONER OF INSURANCE
FOR THE STATE OF LOUISIANA
VERSUS
AMCARE HEALTH PLANS OF LOUISIANA, INC.

FILED: _____

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ANSWER AND CONSENT
TO PETITION FOR REHABILITATION,
INJUNCTIVE RELIEF AND RULE TO SHOW CAUSE

AmCare Health Plans of Louisiana, Inc. ("AmCare Louisiana"), in Answer and Consent to the Petition for Rehabilitation, Injunctive Relief and Rule to Show Cause, would show the Court as follows:

1.

AmCare Louisiana is a Louisiana corporation authorized to do business as a health maintenance organization ("HMO") pursuant to a Certificate of Authority issued by the Louisiana Department of Insurance ("LDI").

2.

AmCare Louisiana is a wholly owned subsidiary of AmCareCo, Inc. ("AmCareCo"), a Texas corporation. Health Net, a publicly traded company, is the largest shareholder of AmCareCo, owning 46.9% of the AmCareCo stock.

3.

During late 2001 and early 2002, AmCareCo management was negotiating with Health Net, AmCareCo's largest stockholder, to acquire 100% of the AmCareCo stock and provide in full the capital infusion necessary to allow AmCareCo to meet its financial commitments, including its financial commitment to its subsidiary, AmCare Louisiana. AmCareCo management was advised in late 2001 that Health Net would not provide the full amount of the necessary capital to AmCareCo. Immediately upon being so advised, AmCareCo and AmCare Louisiana management engaged the services of investment bankers and other agents to obtain the additional financing necessary for AmCare Louisiana to meet its statutory capital and surplus requirements and continue operations.

LDOI was kept fully informed of AmCare Louisiana's financial condition and efforts to seek the necessary financing.

4.

On May 1, 2002, LDOI, with AmCare Louisiana's consent, placed AmCare Louisiana under confidential administrative supervision pursuant to La. R.S. 22:768 *et seq.*, of the Louisiana Insurance Code. The Administrative Supervision Order was amended with AmCare Louisiana's consent on July 17, 2002.

5.

Prior and subsequent to being placed under administrative supervision, AmCareCo and AmCare Louisiana management worked diligently and in good faith, with the full knowledge and cooperation of LDOI, to obtain additional capital and to continue the business operations of the company in a prudent fashion. Several potential transactions were pursued to address the financial difficulties of AmCareCo and AmCare Louisiana. These potential transactions ultimately proved unsuccessful.

6.

During early- to mid-September, 2002, LDOI advised AmCare Louisiana of its intent to take further regulatory action if additional capital was not obtained forthwith. AmCareCo and AmCare Louisiana management acknowledged and agreed with LDOI's position, but were advised by their agents seeking additional funding sources that they had identified a potential purchaser for AmCare Louisiana. The potential purchaser was identified as Guidestar Health Systems, Inc. ("Guidestar"). Guidestar had indicated its willingness and financial ability to purchase AmCare Louisiana and invest the capital necessary for AmCare Louisiana to satisfy its statutory capital and surplus requirements and continue operations, subject to verification by due diligence of AmCare Louisiana's financial information provided to Guidestar. The financial information upon which Guidestar relied in offering to purchase AmCare Louisiana was prepared while AmCare Louisiana was under administrative supervision. Therefore, such financial information was subject to independent verification by LDOI prior to being reviewed by Guidestar.

7.

A purchase of AmCare Louisiana by Guidestar would have required Guidestar to infuse the additional capital necessary for AmCare Louisiana to meet its operating

expenses, as well as statutory capital and surplus requirements. Guidestar understood these conditions. Such capital infusion would have allowed all AmCare Louisiana members to continue receiving health benefits coverage without interruption or transition to a new health benefits plan. Such capital infusion would have also allowed AmCare Louisiana to pay in full all health care providers providing care or treatment to AmCare Louisiana members. Guidestar verbally indicated its intent to make this necessary capital infusion, subject to due diligence, to AmCare Louisiana management and its agents.

8.

On September 18, 2002, LDOI advised AmCare Louisiana management that Guidestar must notify AmCare Louisiana and LDOI of its intent to purchase AmCare Louisiana in writing by the end of the day.

9.

On September 18, Guidestar indicated in writing its strong interest in acquiring AmCare Louisiana and providing the capital necessary to satisfy the shortfall, subject to on-site due diligence. A copy of Guidestar's letter expressing its desire to acquire AmCare Louisiana is attached as Exhibit 1.

10.

As is the case with any HMO, AmCare Louisiana's primary value to a prospective purchaser is found in (i) the groups to which it provides health benefits and/or related administrative services and the premiums/revenue derived therefrom, and (ii) its network of contracted health care providers. However, financial uncertainty created by public regulatory action by LDOI against an HMO ordinarily results in (i) groups dropping their coverage or terminating their administrative services agreements with the HMO, and (ii) providers terminating their network agreements with the HMO and refusing to provide care to HMO members. In short, public regulatory action by LDOI against an HMO ordinarily results in the loss or impairment of the primary assets which would make an HMO attractive to a potential purchaser.

11.

As of September 18, 2002, AmCare Louisiana had not lost any significant customer groups or network providers that would make it a less attractive investment to Guidestar.

12.

One of AmCare's significant customer groups is the State of Louisiana, Office of Group Benefits ("OGB") pursuant to an administrative services agreement (the "OGB Agreement") between OGB and AmCare Louisiana. Mr. George Salem, Chief Executive Officer of Guidestar, advised AmCare Louisiana management that he had spoken with Mr. Kip Wall, Chief Executive Officer of OGB on September 19, 2002, and that Mr. Wall seemed comfortable with a potential sale of AmCare Louisiana to Guidestar. Mr. Wall also expressed to Mr. Salem, however, his concern about the impact of public regulatory action by LDOI on AmCare Louisiana. Mr. Salem therefore advised AmCare Louisiana management that, based upon his conversation with Mr. Wall on September 19, 2002, he was confident that the OGB Contract would remain in effect, provided LDOI did not immediately take further regulatory action.

13.

Late in the afternoon on Thursday, September 19, 2002, Mr. Craig Gardner, Deputy Secretary of LDOI, notified undersigned counsel for AmCare Louisiana that the Guidestar commitment letter was not sufficient to delay further regulatory action, and that the LDOI intended to petition the Court for an order to either rehabilitate or liquidate AmCare Louisiana on Monday, September 23, 2002. LDOI did not respond to Guidestar's letter in writing with any guidance as to the nature of the commitment that would have been or would be required to forestall such action. LDOI further advised counsel for AmCare Louisiana of LDOI's belief that the OGB Agreement would be terminated, thereby diminishing AmCare Louisiana's value to Guidestar. Upon information and belief, Mr. Gardner's communications regarding the OGB's intentions were based on communications between Mr. Gardner and Mr. Wall or other OGB representatives.

14.

On September 20, 2002, one day after Mr. Salem's conversation with Mr. Wall upon which Mr. Salem based his belief that the OGB Agreement would not be terminated, AmCare Louisiana received notice of OGB's intent to terminate the OGB Agreement. A copy of Mr. Wall's letter to Mr. Thomas Lucksinger, President and Chief Executive Officer of AmCare Louisiana and AmCareCo, is attached as Exhibit 2.

15.

The situation in which AmCare Louisiana was placed by September 20, 2002, was untenable. A viable statement of intent to purchase AmCare Louisiana and provide the capital necessary to make members and providers whole, without interruption or transition of services, had been presented. The viability of that transaction, however, was severely threatened by OGB's termination of the OGB Agreement, which was prompted by threatened regulatory action by LDOI.

16.

By September 20, 2002, AmCare was in a quandary – the OGB Agreement was being terminated, severely threatening the Guidestar proposal, because LDOI was threatening regulatory action. At the same time, LDOI would not delay such regulatory action, and potentially avoid termination of the OGB Agreement, to allow reasonable time to pursue the Guidestar proposal. Once LDOI proceeded to take public regulatory action, the OGB Agreement would be terminated, other groups and providers would abandon the company, and virtually all hope of salvaging any value would be gone. AmCare Louisiana would then be forced into liquidation, with the disruption and financial loss to members and providers that will result from that process, even though a viable offer to purchase the company and avoid that result had been presented.

17.

On September 20, 2002, counsel for LDOI advised counsel for AmCare Louisiana of its intent to file a Petition for Rehabilitation on Monday, September 23, 2002. Counsel for LDOI further advised counsel for AmCare Louisiana of LDOI's intention to file an emergency motion for Court permission to cancel AmCare Louisiana policies and transfer AmCare business. LDOI requested that AmCare Louisiana consent to these actions.

18.

Between close of business on Friday, September 20, 2002, and start of business on Monday, September 23, 2002, undersigned counsel for AmCare Louisiana sent a letter via e-mail, followed by a fax copy, to Mr. Wall at OGB, addressing Mr. Wall's concerns and asking him to reconsider termination of the OGB Agreement in the interests of AmCare Louisiana members and providers. Mr. George Salem, Chief Executive Officer

of GuideStar, again confirmed his interest in acquiring AmCare Louisiana by e-mail to Craig Gardner of LDOI on the morning of September 23, 2002. A copy of the letter to Mr. Wall was provided to Mr. Gardner at LDOI. Mr. Wall was not available to speak with AmCare Louisiana representatives on Monday, September 23, 2002.

19.

LDOI filed its Petition for Rehabilitation and Emergency Motion to Cancel Policies early in the morning on Monday, September 23, 2002. AmCare Louisiana recognizes that LDOI did what it deemed to be in the best interests of AmCare Louisiana members. AmCare Louisiana, however, did not agree with LDOI. Thus, AmCare Louisiana did not consent to the Petition or Motion because it did not believe that the Petition and Motion were in the best interests of the company's members or providers (i) as long as there was any possibility that the Guidestar proposal might be salvaged, (ii) because it would be unfair to groups and members to force them to obtain alternative coverage on less than one week's notice, and (iii) because of the confusion, disruption of services and other damages which would accrue to members as a result of termination of their health coverage on less than one week's notice.

20.

Upon LDOI's filing of the Petition and Motion, undersigned counsel was advised that the Court set a hearing on both of those matters for Friday morning, September 27, 2002. Upon such notice, AmCare Louisiana began preparing to present to the Court its position that the Petition and particularly the Motion were not in the best interests of AmCare Louisiana members for the reasons set forth in Paragraph 19 above.

21.

As of September 23, 2002, AmCare Louisiana was preparing to show the Court that LDOI should operate the company through October 31, 2002, to determine if the Guidestar deal could be immediately consummated, or if not consummated, whether Guidestar would be willing to make the financial commitment necessary to forestall further regulatory action for thirty (30) days. If an agreement with Guidestar was not reached and agreed to by LDOI by October 1, 2002, AmCare Louisiana would have consented to an October 31, 2002, termination of coverage in order to give groups

adequate time to obtain other coverage, and avoid the confusion and disruption to service caused by termination of coverage on such short notice.

22.

On September 23, 2002, AmCare Louisiana was also preparing to show the Court that the risk of further financial loss that might have resulted from operating the company for an additional thirty (30) days was outweighed by the benefits of a potential acquisition of the company by Guidestar. AmCare Louisiana was further preparing to show the Court that terminating certificates of coverage and moving members on less than one week's notice is patently unfair and not in the best interests of AmCare Louisiana's members in any event.

23.

On the morning of September 24, 2002, AmCare Louisiana received multiple request from various people within the LDOI for items such as electronic files of names and addresses of approximately 185 individual policy holders to be notified via overnight mail of the LDOI's notice to cancel coverage effective 12:00 a.m. September 30, 2002. An additional request was for the electronic transfer all group data needed for underwriting purposes to United Healthcare, another health benefits company.

24.

During the afternoon of September 24, 2002, AmCare Louisiana received a copy of the notice that United Healthcare was advising insurance brokers and others that coverage with AmCare Louisiana was terminating September 30, 2002, and that LDOI had selected United Healthcare to provide replacement coverage effective October 1, 2002. These were precisely the issues the Court set for hearing on Friday, September 27, 2002. Upon information and belief, the communication from United Healthcare was made with LDOI knowledge and approval. A copy of the communication from United Healthcare is attached as Exhibit 3.

25.

The September 24, 2002, communication from United Healthcare effectively terminated AmCare Louisiana's coverage effective September 30, 2002, without Court approval, while LDOI's Emergency Motion for Court approval was pending and

scheduled for hearing on September 27, 2002. This action effectively eliminated AmCare Louisiana's opportunity to present its position and the Court's ability to make a meaningful decision on that issue, and renders a decision on the issue without practical effect. In other words, the process for terminating the policies has already begun.

26.

Because AmCare Louisiana's policies have already effectively been cancelled as of September 30, 2002, without Court approval, there is no value in the company to attract a potential purchaser. AmCare Louisiana no longer has any covered groups or provider network. Regardless of how the Court may have viewed this situation, as of September 24, 2002, the Court's position on whether termination of coverage on less than one week's notice was in the best interest of AmCare Louisiana's members became moot. Further, because of the events which commenced on Monday, September 23, 2002, there is nothing left of AmCare Louisiana to rehabilitate. Given these circumstances, any additional delay in this matter will only be a further disservice to AmCare Louisiana's members.

27.

For the above and foregoing reasons, AmCare Louisiana hereby consents to the Petition for Rehabilitation, Injunctive Relief, and Rule to Show Cause, and waives any further right to hearing on these matters.

Respectfully yours,



Patrick D. Seiter (Bar No. 22,153)

J. Wendell Clark (Bar No. 4150)

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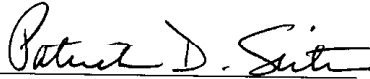
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading has been sent to the following counsel of record by placing a copy of same, properly addressed and postage prepaid, in the United States mail and by facsimile on this 26th day of September 2002.

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Patrick D. Seiter

CERTIFICATE OF SERVICE
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