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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK - CIVIL TERM - PART 35

-----X
IN RE OF THE MATTER OF MARIA T. VULLO, ACTING
SUPERINTENDENT OF FINANCIAL SERVICES OF
THE STATE OF NEW YORK,

Plaintiffs,

-against-

HEALTH REPUBLIC INSURANCE OF NEW YORK CORPORATION,

Defendant.

-----X
Index # 450500/2016E Proceedings

60 Centre Street
New York, New York
May 18, 2017

B E F O R E:

HONORABLE CAROL R. EDMEAD,
Justice.

A P P E A R A N C E S:

NEW YORK LIQUIDATION BUREAU
110 Williams Street
New York, New York 10038
BY: ELIOT J. KIRSHNITZ, ESQ.
Attorney for Plaintiff

TIBBETTS KEATING
BY: THOMAS NOONAN
Attorney for Northwell Health Systems, Inc.

ALSO PRESENT:

MOUND COTTON WOLLAN & GREENGROSS
One New York Plaza
New York, New York 10004
BY: JAMES VEACH, ESQ.

DEBORAH A. ROTHROCK, RPR
Official Court Reporter

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1 -Proceedings-

2 THE COURT: Today is the application, yes?

3 MR. KIRSHNITZ: Yes.

4 THE COURT: To --

5 MR. KIRSHNITZ: Well, before you this morning is
6 the Liquidator's order to show cause asking the Court to
7 appoint a panel of the two referees and a medical reviewer,
8 as is called for by the claims adjudication procedures.

9 I could just confirm to you, that the order to show
10 cause was noticed pursuant to your instruction. My
11 affirmation of service has been filed. I could also confirm
12 that no opposition to the relief has been received.

13 THE COURT: Excellent.

14 All right. What did anybody else want me to hear
15 on that issue; nothing?

16 MR. NOONAN: Not on that issue.

17 THE COURT: Then the application he has made is
18 granted.

19 What else is there on this issue that anyone else
20 has today?

21 MR. VEACH: Your Honor, when we were here on
22 May 8th, your Honor asked how much was in the pot; how much
23 is available to be distributed to the policyholders?

24 Mr. Lubinsky, the CFO of the Liquidation Bureau
25 said that \$43 million in assets. There is posted now on the
26 website --

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1 -Proceedings-

2 THE COURT: Is this something subsequent to that
3 date that is posted, or something that was posted before
4 that date, before he came in and said what he said?

5 MR. VEACH: Before that dates and still on that
6 website --

7 THE COURT: I understand.

8 Did I not address it on that day?

9 MR. VEACH: Your Honor, I don't believe we
10 addressed that the website says 99 million and Mr. Lubinsky
11 says 43 million.

12 THE COURT: But the explanation for why there was
13 that discrepancy he gave it on the record in the transcript;
14 I know it because I remember. So, because he did not do
15 something as expeditiously as maybe you thought he should
16 have, doesn't mean there wasn't an explanation. Other than
17 that, what is the question?

18 MR. VEACH: Here is my concern: The policyholders
19 are checking the website are seeing balance sheets --

20 THE COURT: I understand. They are also getting a
21 transcript; has the transcript been uploaded yet?

22 MR. KIRSHNITZ: The transcript is not ready yet.

23 THE COURT: When it is uploaded, if they really
24 want to know the distinction, they will look at the
25 transcript.

26 MR. KIRSHNITZ: Just to clarify, we have not

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1 -Proceedings-

2 received the transcript from the reporter yet.

3 THE COURT: I understand.

4 MR. VEACH: Your Honor, we have a letter -- -

5 THE COURT: We? Who is the "we"?

6 MR. VEACH: Sorry. The Court has a letter that was
7 filed last night.

8 THE COURT: I know, I say that. From whom?

9 MR. VEACH: Mr. Young.

10 THE COURT: Right.

11 MR. VEACH: Who is the only policyholder who has
12 appeared before your Honor.

13 THE COURT: Okay.

14 MR. VEACH: And he is concerned --

15 THE COURT: I want him at the table. I don't want
16 you speaking for him unless you are his attorney. If you're
17 his attorney, speak for him. If you're not his attorney, I
18 want him at the table. I don't want you to tell me what his
19 concerns are; do you understand that?

20 Because he has serious concerns he needs to step up
21 and speak up right here; I will listen and I will try to
22 understand, and I will try to respond. But I will not hear
23 it from you unless you're going to do a Notice of Appearance
24 and you're his counsel or it is your concern.

25 MR. VEACH: Your Honor, what I'm addressing is not
26 something that is unique to Mr. Young --

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1 -Proceedings-

2 THE COURT: No. No.

3 You could started out by telling me that Mr. Young
4 submitted a letter and his concern you cannot tell me.
5 Because if he has a concern, I will accommodate whatever his
6 time schedule is, whatever his hours of availability are I
7 will make sure the Court can handle it. I want to hear it
8 from him. So whatever his concern is I would like him to
9 step up.

10 MR. VEACH: Your Honor, I sent an e-mail to Mr.
11 Croney yesterday trying to arrange for a Monday conference.
12 He's available --

13 THE COURT: What reason?

14 MR. VEACH: That was his schedule.

15 THE COURT: Tell him -- tell him to send me an
16 e-mail and I will communicate with him and with anyone else.
17 I will communicate globally but he has to speak with me
18 directly, that's all.

19 MR. VEACH: All right. My concern is --

20 THE COURT: Off the record.

21 (Whereupon an off the record discussion was held.)

22 THE COURT: Back on the record.

23 MR. VEACH: Your Honor, my concern is that the
24 policyholders don't have an idea of how much their claims
25 are worth.

26 THE COURT: How do you know that? How do you know

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1 -Proceedings-

2 what the policyholders know or don't know. I want to know
3 how you know, other than what you're surmising from your
4 assessment.

5 Listen, there are a couple of things, at some point
6 you're going to have to disclose what your interest is on
7 the record because you're not a policyholder and you're not
8 counsel. And I have no problem with you sitting and talking
9 but you can't talk on behalf of people who you don't
10 represent. If they want me to know it, they have to step up
11 and tell me.

12 All you could tell me is what you think and what
13 you know. And that is fine. And I will listen. Because
14 this is an open proceeding and anybody could tell me
15 anything of their own. But you cannot speak to me on behalf
16 of the policyholders.

17 MR. VEACH: Your Honor, as somebody whose been
18 doing this for over 30 years, receivership, I'm concerned of
19 the waste that is current in the state. And I am also
20 concerned that we are just getting ready to spend a vast
21 amount of money.

22 THE COURT: "We?"

23 MR. VEACH: Your Honor, I am concerned of the
24 estate and the Liquidation Bureau and parties are about to
25 waste a lot of money adjudicating claims that are worthless;
26 that is what my concern is.

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1 -Proceedings-

2 THE COURT: Then you know what -- you see, you have
3 no bases for that, so far, that has impressed the Court
4 sufficiently for the Court to move in the manner other than
5 what the Court has moved.

6 I have nothing in front of me. I mean, let me just
7 say: I'm not revisiting anything I've already addressed. I
8 have had a hearing on expenses and I'm not revisiting, I'm
9 not revisiting.

10 MR. VEACH: I'm not asking that your Honor.

11 Here is the latest timeline submitted by the
12 Liquidation.

13 THE COURT: Did I not have that on the date before
14 the hearing?

15 MR. VEACH: Yes, you did.

16 THE COURT: I'm not revisiting. If I had it, I'm
17 not revisiting it, I'm not. This is not a motion --this is
18 not an argument to reargue.

19 MR. VEACH: All right.

20 THE COURT: So tell me what it is; not that I have
21 visited already.

22 MR. VEACH: My concern is that the Liquidator has
23 not posted on the website the fact -- as she has testified
24 in Albany --that no claim will be paid to all her
25 differences --

26 THE COURT: I know I have discussed this and I know

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I addressed this. I am not one who revisits.

I discussed it --and told you that when he or she, or whomever has made declaration --I'm not doing that again. I have already address that.

When that is addressed to the Liquidator or to the Court by the superintendent, I will address it. And if you think that the superintendent needs to address it, you need to contact the superintendent and say "I want you to formally state that the Liquidation should stop" --and you could do that -- to that person and then they could respond directly and I will know what to do.

MR. VEACH: All right.

THE COURT: I know I have already said that as well. I am not one who repeats, I really don't do it. Is there something else?

MR. VEACH: I will write the letter.

Your Honor, the second thing is lastly --

THE COURT: No, you're on the fourth thing but go ahead.

MR. VEACH: Your Honor, at the last conference on May 8th, you said that you were addressing Weil's legal fees.

THE COURT: In camera.

MR. VEACH: Since then Weil has been substituted.

THE COURT: That is right.

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1 -Proceedings-

2 MR. VEACH: Is there anything that you could put on
3 the record now about the status of the fees?

4 THE COURT: No.

5 MR. VEACH: All right.

6 THE COURT: No, I cannot.

7 MR. VEACH: We have new counsel. -

8 THE COURT: "We?"

9 MR. VEACH: The Liquidation Bureau -- I'm sorry
10 --the Liquidation advised that they no longer can retain
11 Weil and they are using a new firm, Clarick, Gerard and
12 Weisbaum.

13 My question is: Has their retainer agreement and
14 proposed fees been submitted and will they be made
15 available.

16 THE COURT: I don't remember. I know we talked
17 about them at length. I talked about --let me just say, I
18 talked about their qualification and found it compelling.
19 So I have no issue with them being on board.

20 But have I been uploading retainer-- no. No, I
21 would not upload a retainer agreement.

22 Would you want your retainer agreement uploaded
23 between your clients and you?

24 MR. VEACH: If I work for a public interest I
25 expect that --

26 THE COURT: No. No. No. Really?

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1 -Proceedings-

2 Give me an example where it has been done.

3 MR. VEACH: Done in this case. Weil's retainer
4 agreement?

5 THE COURT: Was that before or after the
6 liquidation became a litigation?

7 MR. VEACH: There were two.

8 THE COURT: Two after the liquidation became a
9 litigation?

10 MR. VEACH: I believe one before and one during.

11 THE COURT: The before doesn't concern me.

12 Yes, only about the uploading. You uploaded Weil's
13 retainer agreement? That is just my only question.

14 MR. KIRSHNITZ: I do want to renew our objection
15 about having uninterested parties participated in the
16 proceedings. I think we have see this the mischief that it
17 causes.

18 THE COURT: I understand. You make it every time.

19 MR. KIRSHNITZ: I need to review that.

20 THE COURT: Good. Answer the question.

21 MR. KIRSHNITZ: Let me clarify.

22 THE COURT: Was it uploaded Weil's.

23 MR. KIRSHNITZ: Weil's retainer was uploaded and
24 the new law firm's is uploaded. It has been on the website.

25 THE COURT: Thank you. It's been there. That's
26 it. It is there.

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1 -Proceedings-

2 MR. VEACH: All right. My question is: Did the
3 Court have an opportunity to review it?

4 THE COURT: Absolutely.

5 MR. VEACH: Next issue is suing the federal
6 government.

7 THE COURT: Which I am not discussing.

8 MR. VEACH: And, finally, the issue that Mr. Young
9 raised, I will arrange for him to come down here.

10 THE COURT: I'm done on that.

11 Do you have anything else for me?

12 MR. VEACH: Yes. It has come to our attention.

13 THE COURT: "Our?"

14 MR. NOONAN: My clients, Northwell Health Systems,
15 that Mr. Veach has a previous correspondence claim that
16 Northwell was going to be a Class 6 creditor.

17 THE COURT: I'm sorry. Who did that?

18 MR. NOONAN: Mr. Veach.

19 THE COURT: Why am I responding to that?

20 MR. NOONAN: It is more --

21 THE COURT: He put it where?

22 MR. NOONAN: On the Court docket.

23 It is more for our record, your Honor. We are not
24 responding to Mr. Veach. I believe he has no motion --

25 THE COURT: Neither am I.

26 MR. NOONAN: We are putting on the record that we

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2 disagree with that assertion.

3 THE COURT: The assertion that?

4 MR. NOONAN: Class 6.

5 THE COURT: Why are you responding to it.

6 MR. NOONAN: We felt we need to put it on the
7 record.

8 THE COURT: If you choose to.

9 MR. NOONAN: That's all. We disagree with it and
10 hope the Court --

11 THE COURT: Pays no attention. I'm not dealing
12 with it.

13 MR. NOONAN: Because he has not taken a hostile
14 position, we will object.

15 THE COURT: He has taken a hostile position?

16 MR. NOONAN: Mr. Veach.

17 THE COURT: He has no position. He has no position
18 in this case.

19 MR. NOONAN: I agree.

20 THE COURT: Don't you get it.

21 MR. NOONAN: I get it. I understand the Court is
22 allowing him --

23 THE COURT: As a courtesy to the public. Just like
24 I allow you, which you have way more standing, as an
25 interested party; you are really an interested party and you
26 have claims.

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1 -Proceedings-

2 MR. NOONAN: I expect, that based on previous
3 orders of the Court, that Northwell will be treated equally
4 as we have been previously.

5 THE COURT: Of course.

6 There is nothing before me except that order which
7 I have just granted.

8 MR. NOONAN: I understand.

9 THE COURT: That's it. Is there something he was
10 pending before me?

11 MR. KIRSHNITZ: There is not.

12 THE COURT: Done and done. Done and done.

13 MR. VEACH: Your Honor --

14 THE COURT: Yes.

15 MR. VEACH: Audited 2016 Statement for the company
16 Health Republic, when will that be available?

17 THE COURT: Sorry, what?

18 MR. VEACH: Audited 2016 --

19 THE COURT: Is it on the schedule?

20 MR. VEACH: Schedule?

21 THE COURT: Is it in the projections of when things
22 will happen?

23 MR. VEACH: At the main conference I believe
24 someone said they are almost there, they are going to file
25 it soon. Eisner--

26 THE COURT: That is what it is. That is all there

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is. That is what it is. Have a good day everyone.

MR. VEACH: One last thing, your Honor. The transcript, could we ask that the transcripts be expedited?

THE COURT: Sure, if you pay for it.

If you want to pay for an expedited transcript, it is expedited; not Liquidator. If you want an expedited you pay for it and it is expedited. It is five times the cost but if that is what you want, you could do it; otherwise it is a regular transcript. I'm not spending the money without basis for expedited transcripts. If you want it, you could have it.

So ordered. Thank you.

(Whereupon, the proceedings concluded.)

* * *

It is hereby certified that the foregoing is a true and accurate transcript of the proceedings.


DEBORAH A. ROTHROCK, RPR
Official Court Reporter

SO ORDERED


CAROL EDMEAD
J.S.C.

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