

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

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In the Matter of

Index No. 450500/2016

the Liquidation of

**AFFIRMATION**

HEALTH REPUBLIC INSURANCE OF  
NEW YORK, CORP.

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Eliot Kirshnitz, an attorney at law, duly admitted to practice law before the Courts of the State of New York, hereby affirms the following to be true under the penalties of perjury:

1. I am an attorney with the New York Liquidation Bureau (“NYLB”), the organization that carries out the duties of Maria T. Vullo, Superintendent of Financial Services of the State of New York as liquidator (“Liquidator”) of Health Republic Insurance of New York, Corp. (“Health Republic”). I make this affirmation upon information and belief, the sources of which are files maintained by the NYLB and communications made to the affirmant by employees of the NYLB.

2. On October 11, 2016, the Court signed an Order Approving the Procedure for the Liquidator’s Adjudication of Claims (“Claims Adjudication Procedure Order”).

3. The Claims Adjudication Procedure Order provides that unresolved objections to the Liquidator’s determination of Policy Claims (as defined in paragraph 3(a) of the Claims Adjudication Procedure Order) are to be referred to a referee and/or qualified medical claims examiner to hear and report on the validity of such objections.

4. On February 8, 2017, as was previously disclosed to the Court, the Liquidator posted an Invitation for Candidates for Appointment as Referees and Medical Claims Examiners on the Health Republic and NYLB Internet web pages. In addition, the Liquidator directly

informed several interested organizations and parties of the existence of the invitation. A copy of the invitation is attached as Exhibit A.

5. In response to the Liquidator's invitation, expressions of interest were received from two individuals offering to serve as referees and from one organization offering to provide independent medical review services.

6. Following an internal review process, it was determined that the three candidates who submitted expressions of interest are (a) competent and qualified, (b) possess the requisite skills and expertise, and (c) are able to provide the necessary services consistent with the appropriate fee scale.

7. The following are brief summaries of the candidates' background and experience:

a. **Hon. Anthony J. Carpinello (Ret.)**. Judge Carpinello's background materials are attached at Exhibit B and provide, among other things, that:

- i. he has been an attorney in New York since 1974;
- ii. he was an Associate Justice of the New York State Appellate Division, Third Department, for twelve and a half years, and the caseload of the Court regularly included hundreds of appeals involving insurance coverage;
- iii. he has served as an arbitrator and mediator at JAMS since 2009, where he has been involved in a number of cases implicating insurance coverage issues; and
- iv. he previously has served as a referee in another New York insurance insolvency proceeding, presiding over numerous matters.

b. **Alberto Torres, Esq.** Mr. Torres's background materials are attached at Exhibit C and provide, among other things, that:

- i. he has been an attorney in New York since 1988;

ii. he previously has been appointed as Court Evaluator and Guardian in several Supreme Court cases that required the review of medical records to evaluate patient care, treatment and appropriate discharge plans;

iii. his review of medical records included medical evaluations, prescriptions, medical diagnosis, and assessments; and

iv. he previously has served as a referee in another New York insurance insolvency proceeding, presiding over numerous matters.

c. **Independent Medical Expert Consulting Services Inc. (IMEDECS).**

IMEDECS's background materials are attached at Exhibit D and provide, among other things, that:

i. the company has provided independent medical reviews since 1999;

ii. the company is accredited by URAC under its independent review standards and provides expert medical review services to health plans, employers groups, third-party administrators and state agencies throughout the U.S.;

iii. the company has a panel of hundreds of reviewers and is able to handle cases involving all types of medical issues; and

iv. the company is certified to perform external reviews in 14 states, including New York, where it is a recognized External Review Agent.

8. Based on a review of these candidates' backgrounds and qualifications, the Liquidator respectfully recommends that the Court issue an Order:

a. Appointing Hon. Anthony J. Carpinello (Ret.) and Alberto Torres, Esq., as referees to hear and report on unresolved objections to the Liquidator's determination of Policy Claims; and

b. Authorizing the Liquidator to engage Independent Medical Expert Consulting Services Inc. ("IMEDECS") to provide independent medical review services on an as-needed basis in support of referee reviews of such unresolved objections.

9. In accordance with the Claims Adjudication Procedure Order, it is proposed that the two referees will serve as a panel, and any unresolved objections to the Liquidator's determinations will be referred to one of the referees on a rotating basis. In the event that the referee hearing an objection finds that the review requires an independent medical review, the referee will have the discretion to refer the objection, or any individual issue(s) therein, to the independent medical review service provider engaged by the Liquidator, which will provide the results of any such medical review to the referee. Following the referee's review of the objection, the referee will issue a report and recommendation setting forth the referee's recommended resolution of the disputed objection and the reasons therefor.

10. Except for the appointments and authorities sought in this application, the claims adjudication procedures set forth in the Claims Adjudication Procedure Order remain operative.

11. The Liquidator requests that this Court issue the accompanying Order to Show Cause approving a return date ("Return Date") for a hearing on the Liquidator's application to be held before this Court at least twenty (20) days after the date of issuance of the Order to Show Cause.

12. Notice is sought through (i) posting the Order to Show Cause and its supporting papers on the Health Republic Internet web page at <http://www.healthrepublicny.org/> and the

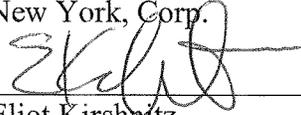
NYLB Internet web page at <http://www.nylb.org/> at least ten (10) days before the Return Date; and (ii) publishing the notice substantially in the form attached as Exhibit E hereto in the *New York Post* and the *New York Daily News* within twenty (20) days following the date of issuance of this Order to Show Cause.

13. No previous application for the relief sought herein has been made to this or any other court of judge thereof.

WHEREFORE, the Liquidator respectfully requests that this Court grant an order substantially in the form attached as Exhibit F hereto (1) appointing Hon. Anthony J. Carpinello (Ret.) and Alberto Torres, Esq., to serve as referees to hear and report on the validity of any unresolved objections to the Liquidator's determination of Policy Claims (as defined in paragraph 3(a) of the Court's Order Approving the Procedure for the Liquidator's Adjudication of Claims, dated October 11, 2016); and (2) authorizing the Liquidator to engage Independent Medical Expert Consulting Services Inc. ("IMEDECS") to provide independent medical review services on an as-needed basis in support of referee reviews of such unresolved objections.

Dated: New York, New York  
April 14, 2017

JOHN PEARSON KELLY,  
Attorney for Maria T. Vullo, Superintendent of  
Financial Services of the State of New York as  
Liquidator of Health Republic Insurance of  
New York, Corp.

By: 

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