

No. D-1-GV-13-000384

THE STATE OF TEXAS,

Plaintiff,

v.

UNIVERSAL HMO OF TEXAS, Inc.,

Defendant.

IN THE DISTRICT COURT
IN TRAVIS COUNTY, TEXAS
345TH JUDICIAL DISTRICT

**MOTION TO MODIFY ORDER APPROVING
APPLICATION FOR APPROVAL OF FEES AND EXPENSES**

1. TEX. INS. CODE ANN. § 443.015(c)(1) requires the SDR to submit an application for the approval of the terms of compensation of the SDR or subcontractors when it can reasonably be expected that the total amount of compensation to be paid over the course of the proceeding will exceed \$250,000, or such other amount established by the Court. TEX. INS. CODE ANN. § 443.015(d) also permits the SDR, at her discretion, to submit an application to approve any compensation, anticipated expenses, or incurred expenses not described by Subsection (c)(1).

2. On May 31, 2013, the SDR filed her Application for Approval of Fees and Expenses, seeking court approval for the rates as set out in Exhibit B to said Application. The Special Master appointed in this case on June 19 recommended approval of the Application, and the next day, the Honorable Judge Sulak signed the Fee Order granting the Application.

3. The SDR and staff at the Texas Department of Insurance have determined that Exhibit B is inaccurate. Although it correctly reflects the rates of compensation charged by the individuals or entities listed, Exhibit B inadvertently mischaracterized the capacity of some of the persons or entities listed. A Revised Exhibit B is attached hereto, together with the SDR's affidavit in support.

4. No party in interest is affected by the requested change. The expense to the Receivership estate is unchanged by the proposed modifications in Revised

Exhibit B. In order to properly reflect the capacities of the payees, however, it is critical that the Order be amended to include the Revised Exhibit B.

5. Jean G. Johnson, as the Special Deputy Receiver of Universal HMO of Texas, Inc., requests that this Court enter an order amending the Order Granting Application for Approval of Fees and Expenses dated June 21, 2013, by substituting the original Exhibit B with the Revised Exhibit B attached to this motion, and that she have such other and further relief to which she is entitled.

Respectfully submitted,
Wisener Nunnally Gold, L.L.P.

By: Original Signed by

Robert H. Nunnally, Jr.
Bar No. 15141600
Harold B. Gold
Bar No. 08069600

245 Cedar Sage Drive, Suite 240
Garland, Texas 75040
T: 972-530-2200
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*Attorneys for Jean Johnson,
Special Deputy Receiver of
Universal HMO of Texas, Inc.*

APPLICANT'S NOTICE OF SUBMISSION

Pursuant to the terms of the *Order of Reference to Master* entered on May 22, 2013, by the District Court in this cause, the foregoing Motion to Amend Order Granting Application for Approval of Fees and Expenses is set for written submission before the receivership master, Tom Collins, on Monday, August 12, 2013.

The Master has asked that the following rules be provided to you:

1. Any objection by a party in interest ("objecting party") must be filed with the Travis County District Clerk at least 3 calendar days before the submission date.
2. A copy of any objection shall be served by such date on:
 - (a) Master's Docket Clerk, Mrs. Jean Sustaita, Texas Department of Insurance, at jean.sustaita@tdi.state.tx.us (*by email*); 333 Guadalupe, Hobby Tower III, 5th Floor, Room 550, Austin, Texas (*by hand delivery*); or MC-305-1D, P.O. Box 149104, Austin, Texas 78714-9104 (*by mail*).
 - (b) All parties in interest, including those listed on the Applicant's Certificate of Service, and the undersigned counsel.
3. The written objection must specifically list all reasons for objection with supporting references to and discussion of statutory and case authorities. Reasons not stated in writing will not be considered orally.
4. If a matter is set for submission, an objecting party shall expeditiously coordinate with Applicant's counsel and the Master's docket clerk [(512) 463-6450] to obtain an oral hearing, unless the Master determines that an oral hearing is not necessary. The objecting party shall serve a Notice of Oral Hearing on applicant's counsel and all

interested parties, including those listed on the Applicant's Certificate of Service.

5. Failure to file timely a written objection before the Master constitutes a waiver of the right to object to the Master's recommendation to the District Court.
6. Any Acknowledgment of Notice and Waiver to be filed by any party in interest should be filed at least 3 calendar days before the submission or hearing date.

Original Signed by

Harold B. Gold

Certificate of Service

The foregoing document was served on the persons set forth on the attached list by email on July 30, 2013.

/s/ Harold B. Gold
Harold B. Gold

SERVICE LIST

Mr. Tom Collins, Receivership Master
by serving his Docket Clerk
Mrs. Jean Sustaita
Texas Department of Insurance
333 Guadalupe, Tower III, 5th Fl., MC-305-1D
Austin, Texas 78701
Email: jean.sustaita@tdi.texas.gov

Ms. Jemmie Russell, Rehabilitations & Liquidation Oversight
Texas Department of Insurance
333 Guadalupe St., Tower III
5th Floor, MC-305-1C
Austin, Texas 78701
Email: Jemmie.Russell@tdi.state.tx.us

Universal Health Care Group, Inc.
c/o Soneet Kapila, Chapter 11 Trustee
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STATE OF TEXAS
COUNTY OF DALLAS

AFFIDAVIT OF JEAN G. JOHNNSON

Before me, the undersigned authority personally appeared Jean G. Johnson, who being duly sworn to tell the truth, states the following:

1. "My name is Jean G. Johnson. I am over 21 years of age and reside in Dallas, Dallas County, Texas. I do not suffer from any mental or physical infirmities that affect my ability to recall facts or communicate them to others. Each statement contained in this affidavit is from my personal knowledge, and is true and correct."
2. "I am the Special Deputy Receiver of Universal HMO of Texas, Inc. (*Special Deputy Receiver*) which was placed into liquidation on May 17, 2013. The statements in this affidavit are in my capacity as Special Deputy Receiver and the information learned while serving in that role."
3. "I have been Special Deputy Receiver since April 29, 2013, when the company was placed into receivership by Court order."
4. "I have read the *Motion to Modify Order Approving Application for Approval of Fees and Expenses*, in the case *State of Texas v. Universal HMO of Texas, Inc.*, no. D-1-GV-13-000384 in the 345th District Court in Travis County, Texas. The facts stated in that document are true and correct."
5. "Also, I have read Exhibit B attached to the motion. It is a true and correct fee schedule of subcontractors approved by the Receiver for the administration of this estate."



Jean G. Johnson

Subscribed and sworn to before me by Jean G. Johnson, as Special Deputy Receiver, on July 30 2013, to certify which witness my hand and official seal.

Marilyn J. Bonlie
Notary Public in and for
The State of Texas



Revised Exhibit B
Rates for Compensation

Special Deputy Receiver – Jean Johnson \$150.00

Administrative Insurance Management Services, Inc.

Specialist \$100.00
Specialist \$ 90.00
Claims Manager \$ 75.00
Claims Specialist \$ 75.00
Clerical \$ 35.00

Wisener * Nunnally * Gold, LLP

Partner \$240.00
Partner \$240.00
Associate \$180.00
Clerical \$ 35.00

Amy Jeanne Welton, Attorney at Law

Partner \$210.00
Associate Atty I \$210.00
Associate Atty II \$180.00
Assistant \$ 75.00
Clerical \$ 30.00

Petrosewicz & Company, Inc.

Accountant, CPA \$175.00
Accountant, CPA \$150.00
Accountant \$140.00
Staff Accountant \$ 95.00
Staff Accountant \$ 90.00
Staff Accountant \$ 80.00
Clerical \$ 35.00

Jennan Enterprises

IT Specialist \$135.00

Buttner Hammock & Company, PA

CPA/ Acctg Expert Witness \$275.00

Milford Consulting, LLC

Receivership Specialist \$125.00