

Cause No. D-1-GV-13-000384

THE STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
UNIVERSAL HMO OF TEXAS, INC.,	§	
Defendant	§	345 <sup>TH</sup> JUDICIAL DISTRICT

**SPECIAL DEPUTY RECEIVER’S APPLICATION FOR ORDER OF LIQUIDATION  
AND REQUEST FOR EXPEDITED HEARING**

TO THE HONORABLE JUDGE OF SAID COURT:

Jean G. Johnson, as Special Deputy Receiver (“SDR”) of Universal HMO of Texas, Inc. (“Universal Texas”), files this *Application for Order of Liquidation* (the “Application”). The SDR requests that a hearing be heard on an expedited basis as permitted by under TEX. INS. CODE §443.007(f).

**I. AUTHORITY**

1.1 The SDR is authorized to file this application under TEX. INS. CODE §443.104(a), which provides that: “When the rehabilitator believes further attempts to rehabilitate an insurer would substantially increase the risk of loss to creditors, policyholders, or the public or would be futile, the rehabilitator may move for an order of liquidation.”

1.2 The Court has jurisdiction over the parties and the subject matter of this Application under TEX. INS. CODE §443.005(c).

1.3 Universal Texas is a “Covered Person” as defined in TEX. INS. CODE §443.003.

1.4 This Court issued its order to place Universal Texas into rehabilitation under TEX. INS. CODE §443.057.

1.5 The business of Universal Texas has been placed by Centers for Medicare & Medicaid Services (CMS) with another insurer. No reasonable possibility of Universal Texas to emerge from rehabilitation as an operating company exists. Rehabilitation is futile, and this Court should enter an order of liquidation.

## **II. BACKGROUND**

2.1 Universal Texas is a Health Maintenance Organization (HMO) domiciled in Texas and regulated by the Texas Department of Insurance (“TDI”). Universal Texas’s only business activity is providing Medicare Advantage coverage to members, and it conducted that business through a single contract (#H6642) with CMS.

2.2 Universal Texas is a subsidiary of Universal Health Care Group, Inc. (“Holding Company”). The Holding Company owns 100% of Universal Texas and the following companies: Universal Health Care, Inc. (“UHC”), Universal Health Care Insurance Company, Inc. (“UHCIC”), Universal HMO of Nevada, Inc. (“Nevada HMO”), Universal HMO of Georgia, Inc., and American Managed Care, LLC (“AMC”). AMC historically provided all of the staff and services for Universal Texas and the Holding Company’s other operating subsidiaries.

2.3 The Holding Company filed for chapter 11 relief in U. S. Bankruptcy Court in the Middle District of Florida on February 6, 2013. The Bankruptcy Court thereafter approved a proposed sale of the Holding Company’s operating insurance subsidiaries to an entity known as Citrus Universal Healthcare, Inc. (the designated assignee of CarePoint Insurance Company) (“CarePoint”), with BankUnited, N.A. as the backup bidder. Before CarePoint could close on its purchase, however, the Florida insurance regulators put UHC and UHCIC into receivership for liquidation, effective April 1, 2013.

2.4 In response to the Florida regulators' actions, AMC in late March 2013 laid off all but about 10% of its workforce, which it retained to continue servicing ongoing Universal Texas and the Nevada HMO operations. CarePoint continued to pursue its acquisition of Universal Texas until, on or about April 8, 2013, CarePoint advised TDI that it was withdrawing its request for permission to acquire Universal Texas. Although TDI had been informed that BankUnited might close on its backup bid for Universal Texas or designate another company to complete the sale (subject to required regulatory approval for such change of control), TDI never received a Form A from BankUnited or such designee, seeking regulatory approval for such a change of control. The decision by CMS to move the business to another carrier makes further efforts to await a Form A from a bidder appear to be futile. On May 3, 2013, AMC filed a petition for bankruptcy relief in the United States Bankruptcy Court for the Middle District of Florida. The Trustee of the Holding Company is operating AMC as a debtor in possession while the HMO receiverships are wound down.

2.5 Eleanor Kitzman, the Commissioner of Insurance for the State of Texas ("Commissioner") sought and obtained an order of rehabilitation based on complaints and other information available to the agency that the adequacy of Universal Texas's provider network and members' access to care and prescription drugs was in jeopardy as a result of the recent events.

2.6 Universal Texas's board of directors consented to the appointment of a receiver and the entry the Agreed Order Appointing Rehabilitator and Permanent Injunction, stipulating that its consent was not the result of any coercion or duress.

2.7 Universal Texas was ordered into receivership by the State of Texas on April 18, 2013 for purposes of rehabilitation. The receivership court appointed the Commissioner as the Receiver.

2.8 On April 29, 2013, the Commissioner appointed Jean Johnson as the Special Deputy Receiver.

2.9 The Commissioner believes that further transaction of the Company's business will not be in the best interest of the Company's creditors and/or members because CMS obtained an agreed termination of the Company's Medicare Advantage contract and all members have been moved to another company. The SDR has also discovered that the company's claims records (particularly, the Company's computerized claims system) are flawed. A significant part of the claims operation was handled by an offshore claims handling organization headquartered in India. Significant data records are maintained outside of the United States. Universal HMO's current condition presents a hazard to its members, its providers and the public such that it cannot be released from rehabilitation. The HMO's operations are hazardous within the meaning of 28 TAC 8.3(a).

### **III. RELIEF REQUESTED**

3.1 Pursuant to TEX. INS. CODE §443.104(a), if the SDR believes that further attempts to rehabilitate an insurer would be futile, or would substantially increase the risk of loss to creditors, policyholders, or the public, the SDR may move for an order of liquidation.

3.2 Grounds exist to place Universal Texas into liquidation pursuant to TEX. INS. CODE pursuant to TEX. INS. CODE §443.104(a), because further efforts to rehabilitate the company would be futile and present a hazardous condition.

3.3 The SDR moves the Court to enter an order of liquidation pursuant to TEX. INS. CODE §443.151. In accordance with TEX. INS. CODE §443.151, the order shall appoint the

Commissioner as Liquidator of Universal Texas, and the Liquidator shall be vested with the title to all of Universal Texas's property.

#### **IV. NOTICE AND HEARING**

4.1 TEX. INS. CODE §443.007(d) provides that the SDR shall provide notice of an application to all persons on the service list, and any other parties as determined by the SDR. Notice of this application will be provided by electronic mail, where possible, as permitted by TEX. INS. CODE §443.007(d) and the Rehabilitation Order. Pursuant to TEX. INS. CODE §443.007(d), inclusion on the service list does not confer standing on any party.

#### **V. OFFER OF PROOF AND VERIFICATION**

5.1 This Application is verified by the affidavit and certification pursuant to TEX. INS. CODE §443.017(b) by Jean G. Johnson in her capacity as Special Deputy Receiver of Universal Texas.

#### **VI. STAY OF PROCEEDINGS AND PERMANENT INJUNCTION**

6.1 Pursuant to TEX. INS. CODE §443.008 (c), an automatic stay is in effect with respect to actions against Defendant or its property. The automatic stay will remain in effect after the entry of the order of liquidation.

6.2 This Court has entered a Permanent Injunction in accordance with TEX. INS. CODE §443.008(a). The SDR requests that the Permanent Injunction continue in full force and effect after the entry of the order of liquidation.

WHEREFORE, PREMISES CONSIDERED, the SDR requests that:

1. the Court grant the Application;
2. the Court immediately appoint the Commissioner as Liquidator pursuant to TEX. INS. CODE §443.151 *et seq*, and that the Liquidator be given all equitable powers under TEX. INS.

CODE Chapter 443 and the common law of the State of Texas that authorize the appointment of a receiver;

3. the Court vest the Liquidator with title to Universal Texas's property;
4. no bond be required of the Commissioner or the Liquidator;
5. the Permanent Injunction continue in effect; and
6. the Court grant any and further relief, both general and specific, in law and in equity, to which the SDR may be entitled.

Respectfully submitted,

Wisener Nunnally Gold, LLP

Original Signed by

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Attorneys for Jean Johnson, Special Deputy  
Receiver of Universal HMO of Texas, Inc.

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Affidavit and Certification of Jean Johnson

~~Came before me on this 9<sup>th</sup> day of May, 2012, Jean Johnson, who, being duly sworn, did upon~~  
her oath attest:

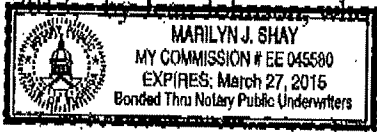
1. I am Jean Johnson. I am over the age of eighteen years, I am competent to be a witness. I have personal knowledge of the facts to which I attest. I acquired my personal knowledge in my role as Special Deputy Receiver of Universal HMO of Texas, Inc. I am over the age of eighteen years. I am competent to be a witness.
2. I have conducted an analysis of the potential for rehabilitation of Universal HMO of Texas, Inc. Universal HMO of Texas, Inc. is a health maintenance organization. Universal Texas's only business activity is providing Medicare Advantage coverage to members, and it conducts that business through a single contract (#H6642) with the Centers for Medicare & Medicaid Services ("CMS"). CMS terminated that agreement effective. Universal HMO of Texas, Inc. thus has no ongoing business, but instead merely has incurred losses and assets with which to pay them. Further efforts to rehabilitate Universal HMO of Texas, Inc. are futile, as its likelihood of operating again as an HMO are minimal. The claims records of the organization, including its digital records, are flawed.
3. The bases set forth in the foregoing Special Deputy Receiver's Application for an Order of Liquidation provide a basis for my recommendation that Universal HMO of

Texas, Inc. be placed into liquidation.

Original  
Signed by

Jean Johnson

SUBSCRIBED AND SWORN before me, a notary public on this 10<sup>th</sup> day of May,  
2013, by ~~Jean Johnson~~, whose identity was duly established to me.



Original Signed by

Notary Public

My commission expires \_\_\_\_\_



**Certificate of Service**

One copy of the foregoing document was served on the attached list via email in accordance with TEX. INS. CODE §443.007(d) and the Rehabilitation Order.

Original Signed by

Michael Roth

## SERVICE LIST

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