

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA
Department of Insurance, Securities
and Banking,

Petitioner,

v.

D.C. CHARTERED HEALTH PLAN, INC.,

Respondent.

Civil Action No.: 2012 CA 008227 2
Judge: Ramsey Johnson
Calendar No.: 15
Next Scheduled Event: Status Hearing
April 20, 2017, at 10:00 a.m.

SPECIAL DEPUTY TO THE REHABILITATOR’S TWENTIETH STATUS REPORT

Daniel L. Watkins, as Special Deputy to the Rehabilitator of D.C. Chartered Health Plan, Inc. (in Rehabilitation) (“Chartered”), files this *Twentieth Status Report*.

1. **Update From Nineteenth Status Report.** On December 12, 2016, the Special Deputy filed his Nineteenth Status Report with the Court. The following information provides an update to that Report.

(a) **Parent Company and Related Party Issues.**

- (i) **Thompson Action.** Chartered is involved in litigation with its sole shareholder District of Columbia Heath Systems, Inc. (DCHSI) and DCHSI’s owner, Jeff Thompson (the “Thompson Action,” D.C. Super. Ct. Civil Case No. 2013 CA 003752 B). An Amended Scheduling Order in the Thompson Action reopened discovery and provides for the completion of discovery by June 16, 2017. Mr. Thompson’s deposition was taken on February 28, 2017. The parties are communicating about additional depositions, including a 30(b)(6)

deposition of DCHSI. New requests for documents and interrogatories have been issued to Chartered which are being addressed.

- (ii) DCHSI Federal Lawsuit. A federal lawsuit was filed by DCHSI on August 12, 2016 and amended on January 11, 2017 (DCHSI federal lawsuit). Defendants are the District of Columbia, Commissioner Stephen C. Taylor, Commissioner of the Department of Insurance, Securities and Banking (DISB), in his official capacity as Rehabilitator of Chartered; former DISB Commissioner and Chartered Rehabilitator William White; Daniel Watkins, in his official capacity as Special Deputy to the Rehabilitator (SDR) and personally; Wayne Turnage, Director of the D.C. Department of Health Care Finance (DHCF), in his official capacity and personally; AmeriHealth (purchaser of Chartered assets); and Mercer LLC (actuarial firm engaged by DHCF).

The Rehabilitation Court previously determined that it is appropriate for the defense, by Troutman Sanders, of the Special Deputy in his individual capacity to be funded by the Chartered estate because he was acting in a manner that was consistent with the approved Reorganization Plan of rehabilitation and status reports, and his actions have been approved by the Court.

- Troutman Sanders has filed on behalf of the Special Deputy in his individual capacity a motion to dismiss and a reply to DCHSI's opposition to the motion to dismiss.

- The District of Columbia Office of the Attorney General, Public Interest Division, also filed a motion to dismiss on behalf of the Rehabilitator and the Special Deputy, as to claims brought against them in their official capacities and a reply to DCHSI's opposition to the motion. Motions to dismiss and replies to opposition briefs also have been filed on behalf of the remaining defendants. It is not known when the federal court will rule on the motions to dismiss.

(iii) Motions to Reconsider and Stay Pending Appeal. On December 19, 2016, Judge Judith Bartnoff issued an order denying DCHSI's Motion to Intervene after a hearing on December 15 where the Court heard from counsel for both DCHSI and Chartered. Judge Bartnoff found the proposed intervention was untimely and that there was no basis for DCHSI to claim that its interests are not adequately represented by existing parties.

In response, DCHSI filed 1.) a motion for this Court's reconsideration of its proposed intervention; 2.) a notice of appeal of the denial of intervention with the D.C. Court of Appeals; and, 3.) a motion to stay in this Court pending appeal of the denial. Chartered has filed responses in opposition to the motions in Superior Court which may not be ruled on given the pending appeal.

(b) **Tax Matters.** The IRS has granted Chartered's requests for abatement of certain penalties and interest previously assessed for its late-filed 2011 and 2012 tax returns on which no taxes have been paid. After the IRS abatement, Chartered has tax liabilities, penalties and interest totaling approximately \$350,000 relating to tax years 2011-2012.

Chartered believes it should have no tax liability for the tax years 2013-2016 on which returns have been filed with the IRS. Chartered's filings with the IRS have noted the priority order of asset distribution set by the Court in the Reorganization Plan. To date, no payment has been made to the IRS toward the tax obligations (Class 3 priority) as there currently are not sufficient assets to pay 100% of Class 2 provider claims.

Chartered has filed requests with the IRS to shorten the statutory period for audit or other exception to Chartered's returns. The IRS has granted those requests and applicable statutory periods for audit exceptions have already run on tax returns for 2011-2014.

However, Chartered remains a member of DCHSI's consolidated tax group and DCHSI has not filed tax returns since 2010. Therefore, federal tax matters relating to DCHSI and Chartered as a member of DCHSI's consolidated tax group, have yet to be fully or finally resolved.

2. **Carrying Out the Plan of Reorganization and Payment of Chartered's Liabilities.**

(a) **Proofs of Claim Process.** The status of the proof of claim process remains unchanged since the last status report. All claims except the three cited previously have been determined with no outstanding appeals.

3. **Rehabilitation Expenses/Assets/Status.** Chartered filed its 2016 financial statement on March 1, 2017. General and Administrative Expenses of \$670,277 in 2016 were offset to great extent by \$400,861 in claim recoveries and subrogation receipts. Submissions for fees and expenses for work performed in this proceeding by the Special Deputy, counsel and consultants from August 2016 through January 2017 have been reviewed and recommended for payment by the Rehabilitator and are pending the Court's review and approval. Chartered currently has cash assets of approximately \$6.3 million.

Respectfully submitted,

/s/ Daniel L. Watkins

DANIEL L. WATKINS

Special Deputy to the Rehabilitator of
D.C. Chartered Health Plan, Inc.