

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA, EX REL.)
BRUCE R. RAMGE,)
DIRECTOR OF INSURANCE OF)
THE STATE OF NEBRASKA,)
)
PETITIONER,)
)
v.)
)
OMNI DENTAL ASSOCIATES, INC.)
)
RESPONDENT.)

Case No. C114-2486

**PETITION FOR
ORDER OF LIQUIDATION
AND REQUEST FOR
INJUNCTIVE RELIEF**

**This is a COPY
Original filed by the
Clerk, District Court
Lancaster County, NE
on JUL 21 2014**

COMES NOW the State of Nebraska, ex rel, Bruce R. Ramge, Director of Insurance for the State of Nebraska, Petitioner, and for its petition requests and alleges as follows:

PETITION FOR ORDER OF LIQUIDATION

1. Petitioner is the sovereign State of Nebraska on the relation of Bruce R. Ramge, the duly appointed and qualified Director of the Department of Insurance for the State of Nebraska ("Director"), who is acting under the authority of Neb. Rev. Stat. § 44-101 and §§ 44-4801 et seq. in petitioning this Court for an Order of Liquidation pursuant to Neb. Rev. Stat. § 44-4817.

2. Respondent, Omni Dental Associates, Inc. ("Omni"), is a Nebraska domestic Prepaid Dental Service Corporation organized under the laws of Nebraska and is authorized to do the business a prepaid dental service corporation pursuant to Neb. Rev. Stat. §44-3801 et seq. Omni's home office is located at 6846 Pacific Street, Omaha, NE 68145. The president and treasurer of Omni is Edward J. Bragg ("Bragg").

3. Jurisdiction and venue for this action lies with the District Court of Lancaster County, Nebraska, pursuant to Neb. Rev. Stat. § 44-4804.

4. Under the authority of Neb. Rev. Stat. § 44-4817, the Director may petition the District Court of Lancaster County, Nebraska, for an order to liquidate a domestic insurer on the grounds that the insurer is insolvent or that the insurer is in such condition that further transaction of business would be hazardous financially to its policyholders, its creditors, or the public. Prepaid Dental Service Corporations are subject to the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act pursuant to Neb. Rev. Stat. §44-3822.

5. On June 6, 2014, Omni was placed under a Supervision Order by the Director as a result of Omni being in hazardous financial condition as defined by 210 Neb. Admin. Code § 55. Under this Supervision Order, the Department requested additional information to ascertain the current financial condition of Omni. Omni only partially fulfilled this request.

6. Under the authority of Neb. Rev. Stat. § 44-4817, the Director may petition the District Court of Lancaster county for an Order directing him to liquidate Omni if Omni is insolvent or if Omni is in such condition that the further transaction of business would be hazardous, financially or otherwise, to its insureds or creditors or the public.

7. Based upon examination of financial statements filed by Omni, including those filed with the Department dated December 31, 2013 and March 31, 2014, a review of additional requested information, and conversations with Bragg, the Director has reasonable cause to believe that Omni is in hazardous financial condition as

defined by 210 Neb. Admin. Code § 55 and that Omni is insolvent as defined by Neb. Rev. Stat. § 44-4803(14).

8. Pursuant to 210 Neb. Admin. Code § 55-004.05, a hazardous condition may be deemed to exist when an insurer's operating loss in the last twelve-month period or any shorter period of time is greater than fifty percent (50%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required.

9. Omni's policyholder surplus as of December 31, 2013 was \$28,115. Omni's policyholder surplus as of March 31, 2014 was \$20,541. This represents a \$7,574 operating loss over this three-month period. Omni's capital and surplus is currently below the minimum amount allowed by the Director of \$25,000 by (\$4,459). Therefore, the operating loss of \$7,574 represents one hundred seventy percent (170%) of the insurer's remaining surplus in excess of the minimum required. This exceeds the limits established in 210 Neb. Admin. Code § 55-004.05 and constitutes a hazardous financial condition.

10. Pursuant to 210 Neb. Admin. Code § 55-004.13, to determine whether continued operation of any insurer might be deemed hazardous to its policyholders, creditors or the general public, the Director may also consider whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the Director.

11. Omni's financial filings are not satisfactory. In the 2013, 2012, and 2010 Annual Statement reviews of Omni's financial filings performed by the exam division, numbers do not tie, are not carried forward correctly, are not added together correctly, and items are misclassified.

12. Pursuant to 210 Neb. Admin. Code § 55-004.20, any other finding determined by the Director to be hazardous to Omni's policyholders/subscribers, creditors or the general public can be considered.

13. The Department's Consumer Affairs Division and Life & Health Division have each received phone calls from providers and policyholders/subscribers who are trying to reach Omni, ultimately Bragg as the sole employee of Omni, to discuss questions or concerns. In addition, the Department has received calls from providers who are not being paid and are unable to get in touch with Bragg as the phone number appears to be disconnected.

14. The Department has made recommendations in Omni's financial examination reports with which Omni is not complying. Specifically, Bragg utilizes Omni's credit card for personal expenses. The Department has instructed that this practice end. Bragg has not complied.

15. Pursuant to Neb. Rev. Stat. § 44-4803(14)(b), "insolvent" means an entity is unable to pay its obligations when they are due.

16. Based on a review of Omni's financial information and discussions with Bragg, the Department has determined that Omni is unable to pay its obligations currently due, and is insolvent.

17. As described above and substantiated by the Affidavit of Justin Schrader, Chief Financial Examiner for the Department, attached hereto as Exhibit "A" and incorporated herein by reference, Omni is insolvent and hazardous financially to its policyholders, creditors and the public as defined in 210 Neb. Admin. Code § 55. The

analysis reveals that further efforts to supervise the company and transact any business would be futile.

18. The Director believes grounds exist for an Order of Liquidation under Neb. Rev. Stat. §§ 44-4817(2) and (3) and that the Director should immediately be appointed Liquidator of Omni.

9. The Liquidator should be authorized and directed to forthwith take possession of Omni and to take all steps necessary in liquidating the business of Omni as allowed by law and as necessary to protect the interests of the policyholders/subscribers, creditors and the public.

10. Further, the Liquidator should be authorized to employ such persons, including but not limited to Deputy Liquidators, attorneys, accountants and other consultants, as from time-to-time may be necessary or appropriate to assist him in the proper performance of his duties as Liquidator of Omni. All reasonable costs and expenses incurred by the Liquidator or such other persons as may be designated by him from time-to-time to assist in the proper performance of such duties should be charged to and be paid by Omni.

11. Subject to the supervision of the Liquidator, the present employees and officers of Omni should be allowed to continue to perform their duties, unless and until the contrary shall have been directed by the Liquidator with respect to all or any of such personnel; and all such persons shall be ordered to cooperate with the Liquidator as required by Neb. Rev. Stat. § 44-4806.

12. It is in the best interests of the policyholders, the public and creditors of Omni for Omni to be ordered liquidated.

REQUEST FOR INJUNCTIVE RELIEF

13. Petitioner, for its request for injunctive relief, hereby incorporates all allegations of law and fact as contained in the above-captioned Petition for Order of Liquidation.

14. The Director requests that an injunction be issued restraining and enjoining Omni and its officers, managers, agents, and employees and all persons and other legal entities, except the Liquidator, from:

- A. The transaction of further business of Omni herein except as directed by the Liquidator;
- B. The transfer of Omni's assets and property;
- C. Interference with the Liquidator or his employees, assistants;
- D. Waste of Omni's assets;
- E. Dissipation or transfer of bank accounts of Omni;
- F. Institution or further prosecution of any actions or proceedings;
- G. The obtaining of preferences, judgments, attachments, garnishments, or liens against Omni, its assets or its policyholders;
- H. The levying of execution against Omni, its assets or its policyholders;
- I. The making of any sale or deed for nonpayment of taxes or assessments which would lessen the value of the assets of Omni;
- J. The withholding from the Liquidator of books, accounts, documents or other records relating to Omni; and
- K. Any other threatened or contemplated action that might lessen the value of Omni assets or prejudice the right of policyholders, creditors or

shareholders or the administration of any proceeding under the Nebraska Insurers Supervision, Rehabilitation and Liquidation Act, Neb. Rev. Stat. § 44-4801 et seq., until further orders of this Court.

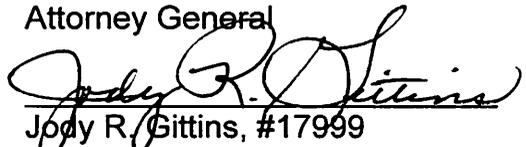
WHEREFORE, Petitioner prays that the court enter an order placing Omni Dental Associates, Inc. in Liquidation, appointing Bruce R. Ramge as Liquidator, that an Injunction be entered accordingly, and that the court grant such other relief as is appropriate.

Dated this 21 day of July, 2014.

STATE OF NEBRASKA, ex rel.
BRUCE R. RAMGE, Director
Of Insurance for the State
of Nebraska, Petitioner

BY: JON BRUNING, #20351
Attorney General

BY:



Jody R. Gittins, #17999
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509-4906
Tel: (402) 471-2682
Jody.gittins@nebraska.gov

Attorneys for Petitioner.

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**AFFIDAVIT OF
JUSTIN SCHRADER**

STATE OF NEBRASKA)
)
COUNTY OF LANCASTER) ss.

I, Justin Schrader, being first duly sworn, depose and state as follows:

1. I am currently employed by the Nebraska Department of Insurance as the Chief Financial Examiner. I have a Bachelors of Science degree in Business Administration with an emphasis in Accounting and Management from the University of Nebraska. I am a member of and have a Certified Financial Examiner designation with the Society of Financial Examiners. I have over 13 years of experience with the Nebraska Department of Insurance in various positions regulating the financial solvency of the insurance industry.

2. As Chief Financial Examiner, I am familiar with the history and present condition of Omni Dental Associates, Inc. ("Omni"). I have personally met with and held discussions with Edward J. Bragg ("Bragg") about the financial condition of Omni, as well as reviewed the financial filings and communication on the security deposit from Bragg to the Department.



3. Based on an analysis of financial statements filed by Omni, a review of additional requested information, and conversations with Bragg, Omni is in hazardous financial condition for the following reasons:

- a) Pursuant to 210 Neb. Admin. Code § 55-004.05, a hazardous condition may be deemed to exist when an insurer's operating loss in the last twelve-month period or any shorter period of time is greater than fifty percent (50%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required.
- b) Omni's policyholder surplus as of December 31, 2013 was \$28,115. Omni's policyholder surplus as of March 31, 2014 was \$20,541. This represents a \$7,574 operating loss over this three-month period. Omni's capital and surplus is currently below the minimum amount allowed by the Director of \$25,000 by (\$4,459). Therefore, the operating loss of \$7,574 represents one hundred seventy percent (170%) of the insurer's remaining surplus in excess of the minimum required. This exceeds the limits established in 210 Neb. Admin. Code § 55-004.05 and constitutes a hazardous financial condition.
- c) Pursuant to 210 Neb. Admin. Code § 55-004.13, to determine whether continued operation of any insurer might be deemed hazardous to its policyholders, creditors or the general public, the Director may also consider whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the Director.
- d) Omni's financial filings are not satisfactory. In the 2013, 2012, and 2010 Annual Statement reviews of Omni's financial filings performed by the exam division, numbers do not tie, are not carried forward correctly, are not added together correctly, and items are misclassified.
- e) Pursuant to 210 Neb. Admin. Code § 55-004.20, any other finding determined by the Director to be hazardous to Omni's policyholders/subscribers, creditors or the general public can be considered.
- f) The Department's Consumer Affairs Division and Life & Health Division have each received phone calls from providers and policyholders/subscribers who are trying to reach Omni, ultimately Bragg as the sole employee of Omni, to discuss questions or concerns. In addition, the Department has received calls from providers who are not being paid and are unable to get in touch with Bragg as the phone number appears to be disconnected.
- g) The Department has made recommendations in Omni's financial examination reports with which Omni is not complying. Specifically, Bragg utilizes Omni's credit card for personal expenses. The Department has instructed that this practice end. Bragg has not complied.

4. Based on a review of filed financial statements, other requested information, and conversations with Bragg, it is my conclusion that Omni is unable to pay its obligations currently due and into the future while maintaining its required surplus, and therefore Omni is insolvent. This decision is based on the balance of Omni's bank accounts in April and May 2014 and Omni's outstanding obligations.

Specifically:

- a) Omni's bank account balance as of April 30, 2014 was \$19.94;
- b) On April 15, 2014, \$3,289.75 was deposited into Omni's account, \$3,200 of which was transferred to another checking account which the Department believes is Mr. Bragg's personal checking account;
- c) In April a total of \$8,090 was transferred to the above referenced checking account;
- d) No April payments were made to the providers. While information regarding amounts due to providers was not submitted to the Department, the estimated amount due to providers is approximately \$2,600;
- e) Omni's bank account balance as of May 30, 2014 was \$434.72;
- f) On May 15, 2014, \$3,289.75 was deposited into Omni's account, \$1,020 of which was transferred to another checking account which the Department believes is Mr. Bragg's personal checking account, and \$920 cash was withdrawn;
- g) No May payments were made to the providers. While information regarding amounts due to providers was not submitted to the Department, the estimated amount due to providers is approximately \$2,600;
- h) Bragg stated that no payments have been made to providers for June, so Omni is now three months in arrears for an estimated \$7,800;
- i) Requested credit card statements, which were not provided in full, do not show the card balance. However, these statements show questionable charges including restaurants, supermarkets, and golf courses.
- j) Omni has outstanding bills for Bragg's accountant (\$2,200), a cellphone bill (\$537.88), and the cost of the Department exam (\$7,907.85). It is unclear if Omni has other outstanding obligations.

Based on the information provided to date, an order of liquidation is necessary in order to protect Omni's policyholders, creditors, and the public.

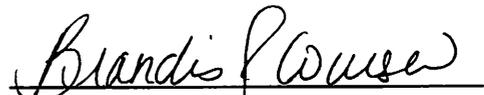
Further affiant sayeth not.

Dated this 2 day of July, 2014.


Justin Schrader

SUBSCRIBED and SWORN to before me this 2 day of July, 2014.




Notary Public

52-168-30