

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.: 1:14-cv-23109-RNS

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

PARTNERS IN HEALTH CARE
ASSOCIATION, INC., *et al.*,

Defendants.

_____ /

RECEIVER'S RESPONSE TO MOTION TO TURN OVER PERSONAL PROPERTY

Peter D. Russin, in his capacity as receiver (the "***Receiver***") of Partners in Health Care Association, Inc.; United Solutions Group Inc.; and their subsidiaries, affiliates, successors and assigns (collectively the "***Receivership Entities***"),¹ appointed pursuant to this Court's Temporary Restraining Order dated August 25, 2014 [ECF No. 9] (the "***TRO***"); the Stipulated Preliminary Injunction Against United Solutions Group Inc., Constanza Gomez Vargas, and Walter S. Vargas [ECF No. 31] (the "***USGI Preliminary Injunction***"); and the Corrected Preliminary Injunction Against Partners In Health Care Association, Inc., and Gary L. Kieper [ECF No. 36] (the "***PIHC Preliminary Injunction***")² responds to the Motion to Turn Over Personal Property filed by Gary Kieper [ECF No. 108] (the "***Motion***") and states:

Prior to the auction approved by this Court, all files located at the Wisconsin Receivership Entities' office were placed in boxes to be held in storage. Prior to putting boxes in

¹ The administration of the Receivership Entities is referred to herein as the "***Estate.***"

² Collectively the USGI Preliminary Injunction and PIHC Preliminary Injunction are referred to as the "***Preliminary Injunctions.***"

storage, the Receiver's attorney separated out all of the personal documents that were found on a first pass through the files. There were three boxes of items returned to Mr. Kieper initially.

After Mr. Kieper submitted his request for return of the personal documents in mid January, the Receiver's attorneys retrieved the box that he had identified, in order to go through it and see what, if anything, could be returned to him. At the Receiver's Wisconsin local counsel's office there is currently a box of items (box # 100) that are all personal items that could be returned to Mr. Kieper, though the Receiver does not believe that such files are the files Mr. Kieper is seeking. The contents are:

BOX 100

Personal Items to be Returned to Gary Kieper

- Personal Receipts, Bills, Bank Statements and Miscellaneous mail (2007 - 2010)
- Associated Bank Checks for personal bank account
- Personal photographs
- Check carbons (2007)
- Tax Lien documents (personal)

All of those items are old, but may be what Mr. Kieper is looking for if he needs to file back taxes. The remainder of the items from the box he identified were moved into boxes 97-99, and the Receiver has prepared a detailed itemization of what is in those boxes. Those items are all related to PIHC/Tri Resources/Senior Advantage (Receivership Entities), as opposed to his personal taxes. Those boxes are as follows:

BOX 97

(Partners in Health Care, Senior Advantage, Tri-Resource, Senior Care USA)

- Bank Statements for Affordable Drugs for Americans (2006-2010) and Checkbook/Register
- Bank Statements for Independent Marketing Service Corp. (2006 - 2012)
- Bank Statements for Senior Care USA (2005)
- Bank Statements for Senior Advantage of Wisconsin Inc (2010 - 2011)
- Bank Statements for Partners in Health Care and Deposit Book (2005 - 2007)

- DVD Presentation Discs
- Blackberry smart phone
- Receipts
- Partners in Health Care Tax Lien Documents (2010)
- Telemarketers Daily Telephone Logs
- Reclining Chair Receipt
- Information for Healthcare Seminars
- Diabetes Sign Logs
- Wisconsin Department of Regulation Licensing
- TDS Service Contract
- Quickbooks Receipt
- Go Daddy Registration
- Microsoft Office 365 Receipt
- Job Descriptions
- Sam's Club Information
- New Office Paperwork
- AT&T Information
- Senior Advantage of Wis Tax Records (941's 4th Q 2009, 1st and 2nd Q 2010, 940 2009)
- Senior Advantage (Tax Lien Documents 2009 - 2010)
- Tri-Resource Tax Records (1120 - 2009)
- PIHC Tax Records (1120's - 2009 and various tax lien statements 2009 - 2010)
- Insurance Newscast binder
- Speed-dial directory
- Healthcare / Medicare reform info packets
- Medicaid Reports
- Various client files
- Spare Keys
- Sales Articles
- Amega Information
- IZIGG Information
- Inez Schwoch Complaint Documents
- Net Quotes - Internet Leads
- Statement of Attending Physician Forms
- Independent Marketing Information
- Recruiting
- Corporation Organization/Incorporation Documents and EIN Apps - Partners in Health, Senior Care and Affordable Drugs for Americans
- Call Scripts
- Veterans Affairs Aid and Attendance Benefits

BOX 98

(Partners in Health Care, Senior Advantage, Tri-Resource)

- Agent agreements

- Travel documents
- Office docs
- College Ave building lease
- Commissions
- Various contracts
- Applications
- Marketing documents

BOX 99

(Partners in Health Care, Senior Advantage, Tri-Resource)

- Various marketing / sales documents / information
- Insurance Newscast Binder
- Spare Keys
- PIHC Working File
- Seminar Selling
- Marketing Letters
- Sales Training
- Agent Recruiting
- Dental Network
- Call-a-Nurse
- Claim Re-pricing
- Neighborhood Pharmacy
- United American
- Affinity Group Prospects
- HSA Preservation Contacts
- Vision Network Discount
- Healics Blood Screenings
- Accident Medical Expense
- Fitness Club
- Newsletter information
- Qualified Leads
- Advertising for Medicaid

Mr. Kieper has not provided a specific description of what it is that he wants, so it is impossible to respond to the Motion. However, the Receiver's position is that any document related to health-care business is a Receivership asset, and will not be turned over, absent an order of this Court.

Attached hereto as **Exhibit A** is the complete index of the box contents in storage. Box 92 is listed as possibly having some personal documents, but its contents are older (circa 2006),

and this was not the box he had identified. Those items were not returned to Mr. Kieper initially because the personal items were commingled with non-personal items, and all items appeared to be fairly old and irrelevant. Nonetheless, the Receiver remains willing to retrieve Box 92, separate out any personal items, and return the same to Mr. Kieper. However, those items do not seem to be what Mr. Kieper is seeking.

Mr. Kieper has not served a request for production upon the Receiver. Were he to do so, he would be permitted to inspect and copy any documents, subject to the Receiver's objections, in the Receiver's possession. The Receiver is of the opinion that under the Preliminary Injunctions, documents related in any way to the business of the Receivership Entities is property of the Estate, and that it was the Court's intent in entering the Preliminary Injunctions that such items be held by the Receiver, and not Mr. Kieper. Thus, the Receiver will not turnover such items unless the Court so orders. Simply put, given the allegations in this case, the Receiver is hesitant to turn over any documents related to the health-care business, without Mr. Kieper first obtaining relief from this Court.

Dated: February 23, 2015.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing is being delivered to the following parties via transmission of Notices of Electronic Filing on February 23, 2015.

/s/ Lawrence E. Pecan
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