

1 KAMALA D. HARRIS
Attorney General of California
2 DIANE S. SHAW
Supervising Deputy Attorney General
3 LISA W. CHAO (STATE BAR NO. 198536)
MATTHEW C. HEYN (STATE BAR NO. 227474)
4 Deputy Attorneys General
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2444
6 Fax: (213) 897-2805
E-mail: Matthew.Heyn@doj.ca.gov

7
8 *Attorneys for Applicant, Insurance Commissioner of
the State of California*

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF LOS ANGELES**

11 **CENTRAL CIVIL WEST COURTHOUSE**

12
13 INSURANCE COMMISSIONER OF THE
14 STATE OF CALIFORNIA,

15 Applicant,

16 v.

17 SEECHANGE HEALTH INSURANCE
18 COMPANY,

19 Respondent.

Case No. BS152302

~~PROPOSED~~ ^{STIPULATED} ORDER APPOINTING
CONSERVATOR AND RESTRAINING
ORDER

Hearing Date and Time
Date: November 19, 2014
Time: 8:30 a.m.
Place: Department 324

FILED
LOS ANGELES SUPERIOR COURT
NOV 19 2014
JUDICIAL CLERK, EXECUTIVE OFFICER/CLERK
BY *N. Navarro* Deputy
NANCY NAVARRO

1 On November 18, 2014, the Insurance Commissioner of the State of California (the
2 "**Commissioner**") filed his *Petition for Order Appointing a Conservator* and his *Verified Ex*
3 *Parte Application for Order Appointing a Conservator* (hereinafter, the "**Application**"). On
4 November 19, 2014, the Court held a hearing on the Application. Appearances at the hearing are
5 as set forth on the record. It appearing to this Court from said Application that (1) after an
6 examination, the Commissioner has determined and found that SeeChange Health Insurance
7 Company (hereinafter, "**SeeChange**") is in a condition that makes further transaction of business
8 hazardous to its policyholders, or creditors or the public and (2) the Commissioner has found and
9 determined that SeeChange does not comply with the requirements for the issuance to it of a
10 certificate of authority because it does not have adequate surplus (see Application at 4),

11 IT IS HEREBY ORDERED:

12 1. The Commissioner is hereby appointed as conservator of SeeChange with (1) David
13 E. Wilson serving as the Special Deputy Insurance Commissioner in charge of the
14 conservatorship and (2) Joseph Holloway, Jr., serving as the on-site Conservation Manager for
15 Special Deputy Insurance Commissioner Wilson (hereinafter, the "**Conservator**"). The
16 Conservator is hereby directed to conduct the business of SeeChange or so much of the business
17 as he may deem appropriate. The Conservator is authorized, in his discretion, to pay or defer
18 payment of some or all claims, expenses, liabilities and/or obligations of SeeChange, in whole or
19 in part, accruing prior and/or subsequent to his appointment as Conservator.

20 2. The Conservator is hereby authorized to assume, reject, or modify any executory
21 contract, including without limitation, any lease, rental or utilization contract or agreement
22 (including any schedule to any such contract or agreement), and any license or other arrangement
23 for the use of computer software of business information systems. The Conservator is hereby
24 directed to effect any such assumption, rejection, or modification of any executory contract not
25 later than 120 days from the date of the Order Appointing Conservator, unless such date is
26 extended by application to and further order of this Court; all executory contracts not expressly
27 assumed by the Conservator shall be deemed rejected.

28

1 3. The Conservator is hereby authorized to take possession of all the assets of
2 SeeChange, including but not limited to books, records, property (both real and personal),
3 accounts, safe deposit boxes, rights of action, subsidiaries, and all such assets as may be in the
4 name of SeeChange wherever they are situated.

5 4. By this order, title to all property and assets of SeeChange, wherever they are
6 situated, including but not limited to deposits, securities, contracts, rights of actions, books,
7 records, and other assets of every type and nature, including both those currently in SeeChange's
8 possession and those that may be discovered hereafter, is hereby vested in the Conservator. The
9 Conservator is hereby authorized to manage SeeChange's property and assets in his own name as
10 Conservator or in the name of SeeChange Health Insurance Company. All persons are enjoined
11 from interfering with Conservator's possession and title to SeeChange's property and assets.

12 5. The Conservator is hereby granted all the powers of the directors, officers, and
13 managers of SeeChange, whose authorities are suspended except as such powers as may be
14 redelegated by the Conservator.

15 6. The Conservator is hereby authorized to terminate compensation and benefits
16 arrangements with SeeChange employees, and to enter into new compensation arrangements with
17 employees, including arrangements containing retention incentives. The Conservator is hereby
18 authorized to hire employees on such terms and conditions as he deems reasonable.

19 7. SeeChange, its officers, directors, agents, and employees are hereby enjoined from
20 transacting any of the business of SeeChange, whether in the State of California or elsewhere, or
21 from disposing of, using, transferring, selling, assigning, cancelling, alienating, hypothecating, or
22 concealing in any manner or in any way, or assisting any person in any of the foregoing, the
23 property or assets of SeeChange, of any nature or kind, including claims or causes of action,
24 except upon the express authorization of the Conservator; enjoin SeeChange, its officers,
25 directors, agents, and employees from obstructing or interfering with the Conservator's conduct
26 of his duties as Conservator.

27 8. All persons are hereby enjoined from (a) instituting, prosecuting, or maintaining any
28 action at law or suit in equity (including but not limited to actions or proceedings to compel

1 discovery or production of documents or testimony, and matters in arbitration), (b) attaching,
2 executing upon, redeeming of, or taking any other legal proceedings, against any of the property
3 of SeeChange, and (c) interfering with the conduct of said business by the Conservator, except
4 after an order from this Court obtained after reasonable notice to the Conservator.

5 9. SeeChange and all its officers, directors, agents, and employees are hereby directed to
6 deliver to the Conservator, and make immediately available to him, all of SeeChange's assets,
7 books, records, accounts, information, computers, tapes, discs, writings, other recordings of
8 information, equipment, and other property, wherever situated, in said person's custody or
9 control. To the extent that such items are not in their possession, custody or control, SeeChange
10 and all its officers, directors, agents, and employees shall disclose the exact location of the
11 foregoing items.

12 10. All officers, directors, trustees, employees or agents of SeeChange, or any other
13 person or entity handling any aspect of SeeChange's affairs (including but not limited to banks,
14 savings and loan associations, financial or lending institutions, brokers, stock or mutual
15 associations) are hereby directed to cooperate with the Conservator in the performance of his
16 duties.

17 11. The Conservator is hereby authorized to pay all reasonable costs of taking possession
18 of and conserving SeeChange out of the assets of SeeChange and to pay all reasonable costs of
19 operating SeeChange out of the assets of SeeChange. If there are insufficient assets, the
20 Conservator is authorized to pay the costs out of the Insurance Fund.

21 12. All funds and assets, including certificates of deposit, bank accounts, and mutual fund
22 shares of SeeChange, wherever situated, shall be vested in the Conservator and subject to
23 withdrawal only upon his order.

24 13. All persons who maintain records for SeeChange are hereby directed to deliver such
25 records to the Conservator upon his request.

26 14. All agents and brokers of SeeChange are hereby directed to make all remittances of
27 all funds collected by them or in their hands to the Conservator.
28

1 15. The Conservator is hereby authorized to initiate any equitable or legal actions or
2 proceedings in this or other States as may appear to him necessary to carry out his functions as
3 Conservator.

4 16. The Conservator is hereby authorized to appoint and employ special deputies, estate
5 officers and managers, other professionals, clerks and assistants.

6 17. The Conservator is hereby authorized to divert, take possession of, and secure all mail
7 of SeeChange.

8 18. SeeChange and its officers, directors, agents, servants, and employees are hereby
9 directed to turn over to the Conservator all records of all funds, assets, property (owned
10 beneficially or otherwise), wherever situated, and all books and records, title documents and other
11 documents in their possession or under their control, which relate to assets or property owned or
12 held by SeeChange. All persons having possession of any lists of policyholders or escrow holders
13 of SeeChange are directed to deliver such lists to the Conservator.

14 19. Except with leave of this Court that is issued after a hearing in which the Conservator
15 has received reasonable notice, all persons are enjoined from obtaining preferences, judgments,
16 attachments, or other liens, or making any levy against SeeChange or its assets or property, and
17 from executing or issuing any court attachment, subpoena, replevin, execution, or other process
18 for the purpose of impounding or taking possession of or interfering with or creating or enforcing
19 a lien upon any property or assets owned or in the possession of SeeChange or the Conservator,
20 wherever situated, and from doing any act interfering with the conduct of said business by the
21 Conservator.

22 20. Except with leave of this Court issued after a hearing in which the Conservator has
23 received reasonable notice, all persons are enjoined from (a) accelerating the due date of any
24 obligation or claimed obligation; exercising any right of set-off; taking, retaining, or attempting to
25 retake possession of any real or personal property; (b) withholding or diverting any rent or other
26 obligation; (c) doing any act or other thing whatsoever to interfere with the possession of or
27 management by the Conservator of the property and assets owned or controlled by SeeChange; or
28

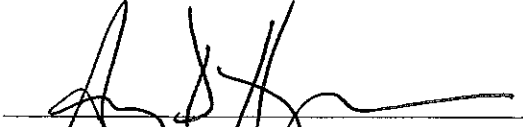
1 (d) in any way interfering with the Conservator or interfering with the exclusive jurisdiction of
2 this Court over SeeChange.

3 21. The application of all provisions of any agreement entered into by and between any
4 third party and SeeChange which provides that the selection or appointment of a conservator,
5 receiver, or trustee by any court, or entry of any such order as hereby made, shall be deemed to
6 be, or operates as a breach, violation, event of default, termination, event of dissolution, event of
7 acceleration, insolvency, bankruptcy, or liquidation (an "**Ipsa Facto Provision**") is hereby stayed.
8 The assertion of any and all rights and remedies relating to an Ipsa Facto Provision or any similar
9 such provision shall also be stayed and barred, except as otherwise ordered by this Court. The
10 Court shall retain jurisdiction over any such cause of action that has arisen or may otherwise arise
11 under any such provision.

12 22. The Conservator is authorized to invest SeeChange's assets and funds in such manner
13 as to him may seem suitable for the best interest of SeeChange's policyholders and creditors;
14 provided, however, that no investment or reinvestment shall be made exceeding the sum of
15 \$100,000 without first obtaining the consent of this Court except that the Conservator may make
16 investments or reinvestments in excess of \$100,000 but not exceeding \$5,000,000 (five million
17 dollars) pursuant to the investment guidelines of the Commissioner's Conservation & Liquidation
18 Office ("CLO"), as those guidelines are set forth in Exhibit E to the Application. The
19 Conservator is directed to file quarterly reports of such investments or reinvestments in excess of
20 \$100,000 with this Court within 60 days of the end of each quarter, with notice to all persons on
21 the service list.

22 23. All persons are enjoined from wasting SeeChange's assets.

23
24 11/19/14

25 
26 JUDGE OF THE SUPERIOR COURT
27
28