

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

EXHIBIT B

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In re: :

HMCA (CAROLINA), INC. : BK No. 90-03402 (ANV)
Debtor Chapter 11

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In re: :

HMCA (PR), INC. : BK No. 90-03403 (ANV)
Debtor Chapter 11

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ORDER DENYING MOTION FOR RECONSIDERATION

Before the Court is the motion of Jean Philip Gauthier, Esq., seeking reconsideration of this Court's Order imposing sanctions in the amount of \$9,050 jointly and severally against the Puerto Rico Department of Health ("DOH") and its attorneys. Gauthier was legal counsel to the DOH when the sanctionable conduct occurred, and asks this Court to vacate the order as to him, arguing that he had no personal culpability in the matter.

Mr. Gauthier's argument completely sidesteps and/or misunderstands the issue with which this Court struggled in rendering its initial decision - i.e., the anonymity of the DOH insiders guilty of the offensive and sanctionable conduct, and the Court's inability to pierce that curtain of anonymity. The parties were given every opportunity, and in fact were urged (unsuccessfully) by the Court to submit evidence as to the

identity of the actual offenders, so that they could be dealt with individually and appropriately, but none was forthcoming. Because it alone has the answer to the question, we left it to the DOH to identify internally the guilty actors, and to apportion the responsibility appropriately, among themselves. This Court is in no better position today to resolve the identity issue than it was in September 2001, and the DOH is still in the only position to do so. If accountability for such errant conduct could be avoided simply by engaging in the type of conspiracy of silence that we have here, the Court's authority, and indeed its duty, to control the behavior of litigants and their agents would be rendered meaningless. For these, and for reasons argued by the Debtor in its response, Document No. 657, which is adopted and incorporated herein by reference, reconsideration is DENIED.¹

A report and affidavit of compliance with this Order shall be filed within 30 days. Implicit herein is the requirement that the guilty party(ies) pay the sanction(s) personally, and that they may not apply for reimbursement from the Commonwealth.

¹ If as Gauthier contends, he knows he is innocent, then he also knows who is guilty. His identification of the DOH people who really deserve the sanctions would, of course, cure his alleged dilemma, but Mr. Gauthier has chosen not to do so.

To have any meaning, these sanctions must be paid by the wrongdoers, and not simply passed on to taxpayers. *See Williams v. Internal Revenue Service (In re Williams)*, 188 B.R. 721, 729-31 (Bankr. D.R.I. 1995), *aff'd in part and vacated in part*, 215 B.R. 289 (D.R.I. 1997).

Closure of this matter is long overdue, and the respondents are forewarned that further delay will likely result in the imposition of additional sanctions.

Dated at Providence, Rhode Island, this 25th day of February, 2002.

/s/ Arthur N. Votolato
Arthur N. Votolato
U.S. Bankruptcy Judge*

*Of the District of Rhode Island, sitting by designation.