



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

April 19, 2007

DIVISION OF  
CORPORATION FINANCE

Mr. Jay P. Lefkowitz  
Kirkland & Ellis LLP  
655 Fifteenth Street, N.W.  
Washington, D.C. 20005

Re: **In the Matter of Tenet Healthcare Corporation LA- 2658**  
**Waiver Request of Ineligible Issuer Status under Rule 405 of the Securities Act**

Dear Mr. Lefkowitz:

This is in response to your letter dated April 2, 2007, written on behalf of Tenet Healthcare Corporation (Company), and constituting an application for relief from the Company being considered an "ineligible issuer" under Rule 405(1)(vi) of the Securities Act of 1933 (Securities Act) arising from the settlement of a civil injunctive proceeding with the Commission. On April 2, 2007, the Commission filed a civil injunctive complaint against the Company in the United States District Court for the Central District of California alleging that the Company violated, among other things, Sections 17(a) of the Securities Act and Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934 (Exchange Act). The Company filed a consent in which it agreed, without admitting or denying the allegations of the Commission's Complaint, to the entry of a Final Judgment against it. Among other things, the Final Judgment as entered on April 16, 2007, permanently enjoins the Company from violating Section 17(a) of the Securities Act and Section 10(b) and Rule 10b-5 of the Exchange Act.

Based on the facts and representations in your letter, and assuming the Company will comply with the Final Judgment, the Commission, pursuant to delegated authority has determined that the Company has made a showing of good cause under Rule 405(2) and that the Company will not be considered an ineligible issuer by reason of the entry of the Final Judgment. Accordingly, the relief described above from the Company being an ineligible issuer under Rule 405 of the Securities Act is hereby granted. Any different facts than as represented or non-compliance with the Final Judgment might require us to reach a different conclusion.

Sincerely,

A handwritten signature in cursive script that reads "Mary Kosterlitz".

Mary Kosterlitz, Chief  
Office of Enforcement Liaison  
Division of Corporation Finance

# KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

655 Fifteenth Street, N.W.  
Washington, D.C. 20005

Jay P. Lefkowitz  
To Call Writer Directly:  
212 446-4970  
jlefkowitz@kirkland.com

(202) 879-5000

www.kirkland.com

Facsimile:  
(202) 879-5200  
Dir. Fax: (212) 446-4900

April 2, 2007

## VIA EMAIL AND MESSENGER

Mary Kosterlitz  
Chief, Office of Enforcement Liaison  
Division of Corporate Finance  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549

**Re: *In the Matter of Tenet Healthcare Corporation***

Dear Ms. Kosterlitz:

We write on behalf of our client, Tenet Healthcare Corporation (“Tenet”), in connection with a proposed settlement agreement and consent judgment (the “Settlement”) arising out of the above-referenced investigation by the Securities and Exchange Commission (“the Commission”). The Settlement would result in the filing of a complaint, and simultaneously a consent decree, against Tenet in the United States District Court for the Central District of California (“the Court”), in a civil action styled *Securities and Exchange Commission v. Tenet Healthcare Corp., et al.*, and contemplates the issuance of a Final Judgment by the Court against Tenet that is described below. The Settlement arises out of an investigation informally commenced by the Commission in November of 2002 and formally launched in April of 2003.

We respectfully request, pursuant to amended Rule 405 under the Securities Act of 1933 (the “Securities Act”), that the Division of Corporate Finance, on behalf of the Commission, determine that Tenet shall *not* be considered an “ineligible issuer” (as defined in Rule 405) as a result of the proposed order to be entered in the above-referenced matter. We submit that good cause exists for such a finding and request that this determination be made effective upon entry of the proposed order.

## **BACKGROUND**

Tenet and the Division of Enforcement have reached an agreement in principle to settle the matter as described below, and Tenet expects to submit to the Commission an offer of settlement in which, for the purpose of this proceeding, it will consent to the entry of an order by

## KIRKLAND & ELLIS LLP

Mary Kosterlitz  
April 2, 2007  
Page 2

the Commission (the "Order") without admitting or denying the matters set forth in the Order (except as to jurisdiction of the Commission and the subject matter of the proceeding).

In the Order, if approved, the Commission will make findings, without admission or denial by Tenet, that Tenet caused violations of Section 17(a)(2) of the Securities Act and Sections 10b-5, 10(b), 13(a), and 13(b)(2)(A) of the Securities Exchange Act of 1934 (the "Exchange Act"), and Rules 10b-5, 12b-20, 13a-1, and 13a-13, in connection with the adequacy of its disclosures regarding the growth in its Medicare outlier revenues and the effects of increased prices on that growth. Based on these findings, the Order will require Tenet to pay a civil penalty in the amount of \$10 million pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act, and to disgorge \$1, representing profits gained as a result of the conduct alleged in the Commission's complaint. The Order also permanently restrains and enjoins Tenet from violating the federal securities laws.

### DISCUSSION

A company that qualifies as a "well-known seasoned issuer," as defined in Rule 405, will be eligible, among other things, to register securities for offer and sale under an "automatic shelf registration statement," and have the benefits of a streamlined registration process under the Securities Act. Companies that qualify as "well-known seasoned issuers" are also entitled to conduct registered offerings more easily and with substantially fewer restrictions. Pursuant to Rule 405, however, a company cannot qualify as a "well-known seasoned issuer" if it is determined to be an "ineligible issuer."<sup>1</sup>

Rule 405 defines "ineligible issuer" as any issuer that "[w]ithin the past three years . . . , was made the subject of any . . . administrative . . . order arising out of a governmental action that . . . [r]equires that the person cease and desist from violating the anti-fraud provisions of the federal securities laws." 17 C.F.R. § 230.405. The rule, however, provides that an issuer "shall not be an ineligible issuer if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the issuer be considered an ineligible issuer." *Id.* The Commission has delegated authority to the Division of Corporate Finance to determine whether "good cause" exists and to grant waivers from any of the eligibility requirements. *See* 17 C.F.R. § 200.30.1; *see also* note 215 in Release No. 33-8591 (July 19, 2005).

---

<sup>1</sup> Similarly, the Securities Act rules also permit an issuer and other offering participants to communicate more freely during registered offerings by using free-writing prospectuses, but only if the issuer is not an "ineligible issuer."

## KIRKLAND & ELLIS LLP

Mary Kosterlitz

April 2, 2007

Page 3

The proposed Order may cause Tenet to be deemed an “ineligible issuer” under Rule 405. Consequently, Tenet respectfully requests that the Commission waive any disqualifying effect that the entry of the proposed Order may have on Tenet’s status as a “well-known seasoned issuer.” For the following reasons, we believe that good cause exists for such a waiver.

*First*, over the past four years, since the Commission began its investigation, Tenet has voluntarily cooperated with the Commission in its investigation, conducted by the Staff of the Division of Enforcement (“the Staff”). Tenet, in fact, has at all times cooperated with and facilitated the Staff’s inquiry by, among other things, producing millions of pages of documents on a database compiled at Tenet’s expense to expedite (and minimize the costs of) the Staff’s review, encouraging the cooperation of witnesses and making its former executives available to the Commission and its Staff, and sharing the results of its independent inquiry into a separate matter concerning contractual allowances. Furthermore, Tenet has produced to the Commission (formerly) privileged documents concerning its Medicare outlier revenues. This level of cooperation underscores Tenet’s commitment to resolving the investigation to the satisfaction of the Commission and justifies an exception to the disqualification provision of Rule 405.

*Second*, Tenet is now a completely new company. As an initial matter, since the Commission began its investigation over four years ago, Tenet has experienced near total shareholder turn over. In this same period, Tenet has rapidly and dramatically changed its corporate governance structure and reporting procedures. Tenet terminated and replaced all of the individuals responsible for the alleged violations including its former Chief Executive Officer, its former Chief Financial Officer, its former Chief Operating Officer, its former Chief Accounting Officer and its former General Counsel. The company also significantly changed its Board of Directors, replacing all but two of the directors who served on the board in November 2002. Tenet now has a completely independent board of directors (with the exception of the CEO director), led by an independent non-executive chairman. The Board and Audit Committee also have independent, separate legal counsel to ensure their independence. In addition, Tenet has hired a Chief Compliance Officer who is independent from the Legal Department and who reports directly to the Quality, Compliance & Ethics Committee of the Board. In short, Tenet has transformed its management and its corporate governance structure, and has implemented various policies and procedures to prevent the reoccurrence of the kinds of issues alleged in the Commission’s complaint and has changed its disclosures to detail its revenues more completely. Tenet’s efforts to improve its corporate governance structure and disclosures have not gone unnoticed by the investment community. As of April 1, 2006, Institutional Shareholder Services (ISI) ranks Tenet third out of all Standard & Poor’s 500 companies for corporate governance. Thus, repetition of the conduct alleged in the Commission’s complaint is extremely unlikely. Equally important, Tenet’s loss of its status as a “well known seasoned issuer” would be a burden falling squarely on innocent shareholders and unduly burden a changed Tenet.

KIRKLAND & ELLIS LLP

Mary Kosterlitz

April 2, 2007

Page 4

*Third*, Tenet has already paid a high price under the terms of the proposed settlement. Tenet's shareholders have already been compensated by a \$215 million settlement of a shareholder class action lawsuit. Investors will receive an additional \$10 million as a result of the settlement in this investigation. The loss of its status as a "well known seasoned issuer" will only serve to harm innocent current shareholders and impair Tenet's efforts to provide patients with state-of-the art care and invest in the communities in which it operates. The company's financial health has continued to deteriorate and it would not be in shareholders' (or the millions of other Tenet stakeholders') best interests to put it under further stress. Thus, Tenet's loss of its status as a "well known seasoned issuer" would not be in the public interest, nor advance the interests of investors.

*Finally*, designation of Tenet as an "ineligible issuer" would impose additional burdens on Tenet's access to U.S. capital markets, an important source of funding for the company's operations. Because the company's financial health has continued to deteriorate, these added burdens and costs, would be unduly and disproportionately severe. The proposed Order will require Tenet to pay a civil money penalty of \$10 million. Disqualification under Rule 405 would result in an additional burden beyond what the Order requires.

\* \* \* \* \*

In light of the above, we believe designating Tenet as an "ineligible issuer" under Rule 405 is not necessary, in the public interest, nor for the protection of investors. Accordingly, we respectfully request that the Division of Corporate Finance, on behalf of the Commission, find that it is not necessary under the circumstances that Tenet be considered an "ineligible issuer" under Rule 405 as a result of the Court's entry of the proposed Order described above. We request that this determination be made effective upon entry of the proposed order.

If you have any questions regarding this request, please contact the undersigned at (212) 446-4970.

Very truly yours,

A handwritten signature in cursive script, reading "Jay P. Lefkowitz" followed by a stylized monogram or initials.

Jay P. Lefkowitz, P.C.

JPL/pbm