

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Rel. No. 59074 / December 10, 2008

Admin. Proc. File No. 3-13140

In the Matter of

Birman Managed Care, Inc. (n/k/a Alcar Chemicals Group, Inc.)

Respondent

ORDER GRANTING MOTION TO AMEND ORDER INSTITUTING PROCEEDINGS

On August 20, 2008, the Commission issued an Order Instituting Proceedings ("OIP") against Birman Managed Care, Inc. (n/k/a Alcar Chemicals Group, Inc.) and five other respondents pursuant to Section 12(j) of the Securities Exchange Act of 1934 ^{1/} to determine whether to revoke or suspend the registration of these issuers. The OIP alleged that each of the named issuers was delinquent in its required Exchange Act periodic filings with the Commission. In the OIP, the Division of Enforcement referred to Birman Managed Care, Inc. ("Birman"), to which the Commission previously had assigned the Central Index Key number 1009822, ^{2/} as "Birman Managed Care, Inc. (n/k/a Alcar Chemicals Group, Inc.)." The Division based its identification of Alcar as Birman's successor upon information obtained from www.pinksheets.com. The pink sheets stated "Birman Managed Care, Inc." was a prior name of Alcar and listed Alcar with the same CIK number as Birman. On August 21, 2008, "a private process server for the Division" served the OIP on Alcar through the registered agent listed for Alcar in the records of the Delaware Secretary of State. On August 25, 2008, the Division served the OIP on Birman at the address shown in the company's last filing with the Commission.

On September 8, 2008, the administrative law judge assigned to the proceeding issued an order pursuant to Exchange Act Section 12(j) finding all six respondents in default and revoking the registration of each class of their securities registered pursuant to Exchange Act

^{1/} 15 U.S.C. § 78l(j).

^{2/} The Central Index Key (CIK) is "[a] unique number assigned by the SEC, distinguishing the company or individual to which it is assigned." <http://www.sec.gov/info/edgar/edgarfm-vol1-v2r1.pdf>.

Section 12(g). ^{3/} On September 11, 2008, Birman filed an Answer and a Motion to Set Aside Order Revoking Registrations by Default of Birman Managed Care. On September 23, 2008, the law judge set aside the default as to Birman. To date, Alcar has not responded to the OIP.

On October 21, 2008, the Division and Birman jointly moved pursuant to Rule of Practice 200(d)(1) ^{4/} to amend the OIP to "strik[e] Alcar Chemicals Group, Inc. ("Alcar") from the caption and body of the pleadings and all allegations about Alcar in ¶ II.A.1 of the OIP" In their joint motion, the parties state that "after the OIP was instituted, Birman in its Motion to Set Aside the Default alleged, among other things, that Alcar was not a legitimate successor to Birman." The parties represent that the Division, after reviewing Delaware corporate records, agreed that Alcar Chemicals Group, Inc. ("Alcar") was not a successor of Birman and, therefore, not properly a party to these proceedings.

In a supporting declaration, counsel for the Division described the steps the Division took to reach the conclusion that Alcar was not a successor of Birman. The Division reviewed the Delaware corporate records and determined that there were two Delaware corporations that used the name "Birman Managed Care, Inc." Respondent Birman, identified by its Delaware Corporate File No. 2658719, was incorporated on August 30, 1996. On March 1, 2003, Birman's charter was declared void by the State of Delaware, an event that caused its corporate name to be free for reassignment to another corporation. Birman's corporate charter remained void until August 21, 2008, when it was restored to good standing.

On July 6, 2005, during the period that Birman's corporate charter was void, a second, unrelated, entity incorporated in Delaware under Delaware Corporate File No. 3995118, taking the then-available name "Birman Managed Care, Inc." ("Second Birman"). Second Birman subsequently changed its name to "Hackerproof Ltd." and then "Alcard Chemical Group, Inc." and most recently "Alcar Chemical Group, Inc." In its declaration, the Division represents that its investigation determined that the Respondent "Birman (Delaware Corporate File No. 2658719) and Second Birman (Delaware Corporate File No. 3995118) are two entirely separate and unrelated corporate entities." The Division bases its conclusion on the information in the Delaware corporate records and the representation of Respondent Birman director David Hunt that, as described in the Division's declaration, "at no time has Second Birman shared any stockholders, officers, directors, or offices with Birman, nor has it ever had any relationship with Birman." The Division also represents in its declaration that, based on a search of the Commission's records, at no time has Alcar (or its predecessors Alcard Chemicals Group, Inc. or Hackerproof Ltd) ever had "a class of securities registered with the Commission pursuant to Exchange Act Section 12."

^{3/} 15 U.S.C. § 78I(g).

^{4/} 17 C.F.R. § 201.200(d)(1).

Rule of Practice 200(d)(1) provides that the Commission "may, at any time, amend an order instituting proceedings to include any new matters of fact or law." 5/ The Commission has stated that such amendments should be "freely granted, subject only to the consideration that other parties should not be surprised, nor their rights prejudiced." 6/ The Commission has found that "where an amendment is intended to correct an error and is within the scope of the original order, the Commission has authority to amend the OIP." 7/

In this case, the amendment seeks to correct an error in the OIP. Although at one time Alcar had the same name as the Respondent Birman, it appears on the record before us that there never has been a corporate relationship between the companies. Thus, Alcar is not a successor entity to the respondent, whose periodic filings are the subject matter of the proceeding. 8/ Consequently, Alcar should not be named in the OIP. Moreover, because Alcar does not now have, and never has had, any securities registered with the Commission, the Commission does not have jurisdiction to take action against Alcar pursuant to Exchange Act Section 12(j). 9/ Finally, it does not appear that Alcar or any of the other parties to the proceeding will be surprised by this amendment or have their rights prejudiced. Therefore, it is appropriate to amend the OIP consistent with the proposed amended OIP attached to the joint motion.

Accordingly, IT IS ORDERED that the Joint Motion of the Division of Enforcement and Birman Managed Care, Inc. to amend the OIP to remove all references to Alcar Chemicals Group, Inc. be, and it hereby is, granted.

By the Commission.

Florence E. Harmon
Acting Secretary

5/ Id.

6/ 17 C.F.R. § 201.200(d)(1), Comment (d), (as quoted in Steven Wise, Securities Exchange Act Rel. No. 48850 (November 26, 2003), 81 SEC Docket 2774 (Order Amending OIP with respect to references to Vladlen Larry Vindman)).

7/ Wise, 81 SEC Docket at 2775.

8/ See 17 C.F.R. § 240.12b-2 (defining *succession* to include "the direct acquisition of the assets comprising a going business, whether by merger, consolidation, purchase, or other direct transfer . . .").

9/ 15 U.S.C. § 78j.