

United States Senate

WASHINGTON, DC 20510

October 24, 2023

Jeffrey Sholey
Chief Executive Officer
YesCare Corporation
205 Powell Place, Suite 104
Brentwood, TN 37027

Yitzchok Lefkowitz, a/k/a Isaac Lefkowitz
Sole Director
Tehum Care Services, Inc.
205 Powell Place, Suite 104
Brentwood, TN 37027

Dear Mr. Sholey and Mr. Lefkowitz:

We are writing to strongly object to the attempt by Corizon Health, Inc. — and related companies, Tehum Care Services, Inc. and YesCare Corporation (together, “Corizon”) — to manipulate bankruptcy law with the aim of skirting accountability for the harms that incarcerated individuals have endured under Corizon’s care. We urge you to use the full financial capabilities of YesCare, Tehum, and any other entities as appropriate, to provide full relief for meritorious claims against Corizon by all incarcerated people, their families, former employees, and third-party medical providers — notwithstanding your attempts to circumvent these claims through the bankruptcy process. Moreover, we urge you to ensure that the numerous creditors with unfulfilled claims against Corizon (whether they have or have not filed a current lawsuit) are properly notified of the upcoming vote on the bankruptcy plan, and of any other upcoming proceedings, and granted all requisite due process regarding the Tehum bankruptcy filing.

Corizon has been recognized for many years as one of the largest providers of prison health care services in the country.¹ In that time, it has also been the repeat target of serious claims of malpractice and patient neglect.² In 2013, the American Civil Liberties Union reported that, in just the five preceding years, Corizon had been named as a defendant in 660 malpractice lawsuits brought by incarcerated people in their care or their families.³ That number has only grown since then.⁴ Incarcerated people and their families have brought claims regarding:

¹ Prison Legal News, “Neither Fines Nor Lawsuits Deter Corizon From Delivering Substandard Health Care,” Matt Clarke, Mar. 30, 2020, <https://www.prisonlegalnews.org/news/2020/mar/3/neither-fines-nor-lawsuits-deter-corizon-delivering-substandard-health-care/>.

² *Id.*; Reuters, “Special Report: U.S. jails are outsourcing medical care – and the death toll is rising,” Jason Szep, Oct. 26, 2020, <https://www.reuters.com/article/us-usa-jails-privatization-special-repor/special-report-u-s-jails-are-outsourcing-medical-care-and-the-death-toll-is-rising-idUSKBN27B1DH>.

³ American Civil Liberties Union, “Meet the Company Making \$1.4 Billion a Year off Sick Prisoners,” Sarah Solon and Jesse Lava, Oct. 8, 2013, <https://www.aclu.org/news/smart-justice/meet-company-making-14-billion-year-sick-prisoners>.

⁴ Prison Legal News, “Neither Fines Nor Lawsuits Deter Corizon From Delivering Substandard Health Care,” Matt Clarke, Mar. 30, 2020, <https://www.prisonlegalnews.org/news/2020/mar/3/neither-fines-nor-lawsuits-deter-corizon-delivering-substandard-health-care/>.

- Undertreatment of acute and chronic illness (such as the case of a father of four who died three days into a six-day sentence after Corizon providers ignored complaints of intense pain caused by an entirely treatable existing condition providers should have been aware of);⁵
- Lack of psychological care (such as a detention center housing 400 mentally ill patients which Corizon chose to staff with just a single psychiatrist);⁶
- Failure to adequately staff facilities (including at a facility in Oregon which Corizon left without a registered nurse for almost 20% of the time, though one was supposed to be on call at all times);⁷
- Refusal to prescribe appropriate medications (with one nurse alleging that she was explicitly asked “not to prescribe medications that [she] felt . . . were necessary”);⁸
- Failure to rectify a culture of sexual abuse and misconduct (such as in the Rikers Island facility in New York, where two Corizon staffers were indicted on multiple charges of rape, sexual abuse, and related crimes);⁹ and
- Other glaring instances of neglect of patients under your care.¹⁰

As a result of Corizon’s failures, many local agencies that hold contracts with Corizon have chosen not to renew those agreements.¹¹ New York’s State Commission of Correction described Corizon’s level of care as “so incompetent and inadequate as to shock the conscience.”¹² Corizon lost so many contracts between 2015 and 2021 that the company’s annual revenue declined by approximately \$900 million, or 60%.¹³

⁵ Business Insider, “Hidden investors took over Corizon Health, a leading prison healthcare company. Then they deployed the Texas Two-Step.” Nicole Einbinder and Dakin Campbell, Aug. 21, 2023, <https://www.businessinsider.com/corizon-health-bankruptcy-yescare-texas-two-step-law-2023-8>.

⁶ Reuters, “Special Report: U.S. jails are outsourcing medical care – and the death toll is rising,” Jason Szep, Oct. 26, 2020, <https://www.reuters.com/article/us-usa-jails-privatization-special-repor/special-report-u-s-jails-are-outsourcing-medical-care-and-the-death-toll-is-rising-idUSKBN27B1DH>.

⁷ The Oregonian, “Dying alone: A jail inmate’s health spiraled for 7 days and no one stopped it,” Rebecca Woolington, Apr. 10, 2016, https://www.oregonlive.com/washingtoncounty/2016/04/dying_alone_a_jail_inmates_he.html#incart_big-photo.

⁸ Reuters, “Special Report: U.S. jails are outsourcing medical care – and the death toll is rising,” Jason Szep, Oct. 26, 2020, <https://www.reuters.com/article/us-usa-jails-privatization-special-repor/special-report-u-s-jails-are-outsourcing-medical-care-and-the-death-toll-is-rising-idUSKBN27B1DH>.

⁹ The Intercept, “In Harm’s Way: Seeking Medical Care, Female Rikers Inmates Say They Faced Sexual Abuse,” Erika Eichelberger, September 10, 2015, <https://theintercept.com/2015/09/10/female-rikers-inmates-medical-care-sexual-abuse-allegations/>.

¹⁰ *Id.*; Business Insider, “Hidden investors took over Corizon Health, a leading prison healthcare company. Then they deployed the Texas Two-Step,” Nicole Einbinder and Dakin Campbell, Aug. 21, 2023, <https://www.businessinsider.com/corizon-health-bankruptcy-yescare-texas-two-step-law-2023-8>.

¹¹ Business Insider, “Hidden investors took over Corizon Health, a leading prison healthcare company. Then they deployed the Texas Two-Step,” Nicole Einbinder and Dakin Campbell, Aug. 21, 2023, <https://www.businessinsider.com/corizon-health-bankruptcy-yescare-texas-two-step-law-2023-8>; Southern Poverty Law Center, “Profits vs. Prisoners: How the largest U.S. Prison Health Care Provider Puts Lives In Danger,” Will Tucker, Oct. 27, 2016, <https://www.splcenter.org/20161027/profits-vs-prisoners-how-largest-us-prison-health-care-provider-puts-lives-danger>.

¹² The New York Times, “City to Pay \$5.75 Million Over Death of Mentally Ill Inmate at Riker’s Island,” Benjamin Weiser, September 27, 2016, <https://www.nytimes.com/2016/09/28/nyregion/rikers-island-lawsuit-bradley-ballard.html>.

¹³ Business Insider, “Hidden investors took over Corizon Health, a leading prison healthcare company. Then they deployed the Texas Two-Step,” Nicole Einbinder and Dakin Campbell, Aug. 21, 2023,

As Corizon’s debts and liabilities increased, the company was acquired by largely anonymous investors.¹⁴ Rather than facing victims and their families in court, Corizon attempted to shield itself by employing the so-called “Texas Two-Step,”¹⁵ a maneuver through which companies leverage bankruptcy proceedings to attempt to evade liability and, as characterized by Tehum Director Isaac Lefkowitz, “force plaintiffs into accepting lower settlements.”¹⁶ Using a provision of Texas state law,¹⁷ companies have employed this infamous tactic to split into two or more entities (a process known as a “divisional merger”), allocating most or all of their healthy assets to one entity and moving all of their liabilities and debts into another.¹⁸ The liability-laden entity then files for bankruptcy, triggering an automatic stay of all proceedings against the debtor, a standard element of bankruptcy procedure. In this maneuver, however, the bankruptcy shell company then asks the court to extend the protection of the automatic stay to the non-bankrupt entity, sheltering that company’s assets and freezing litigation.¹⁹ The Texas Two-Step is a distorted use of the U.S. bankruptcy system by corporations to evade mass tort liability.²⁰ Your company has taken this abusive strategy a step farther — using it not only to escape tort lawsuits, but also to avoid paying your bills for tens of millions of dollars’ worth of goods and services provided to Corizon by hospitals, small businesses, and your own former employees.²¹

Corizon carried out this maneuver beginning in the spring of 2022, when it changed the incorporation of the company from Delaware to Texas on April 28 and executed a divisional merger just five days later.²² Corizon split its assets and liabilities among two new companies: (1) CHX TX, with the assets and revenue of Corizon, existing today under the name “YesCare”; and (2) Corizon, a shell company holding most of the original company’s liabilities, which later changed its name to “Tehum Care Services” (Tehum).²³ On February 13, 2023, Tehum filed for Chapter 11 bankruptcy protection, attempting to dispose of claims by victims and families as

<https://www.businessinsider.com/corizon-health-bankruptcy-yescare-texas-two-step-law-2023-8>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*; Wall Street Journal, “Prison Health Contractor Expands Texas Two-Step Bankruptcy Tactic,” Andrew Scurria and Akiko Matsuda, Sept. 19, 2023, <https://www.wsj.com/articles/prison-health-contractor-expands-texas-two-step-bankruptcy-tactic-acac4928>.

¹⁷ Tex. Bus. Orgs. Code § 1.002 (55) (A) (2015).

¹⁸ Business Insider, “Hidden investors took over Corizon Health, a leading prison healthcare company. Then they deployed the Texas Two-Step,” Nicole Einbinder and Dakin Campbell, Aug. 21, 2023, <https://www.businessinsider.com/corizon-health-bankruptcy-yescare-texas-two-step-law-2023-8>.

¹⁹ *Id.*; Law360, “Tide May Be Turning on Texas Two-Step Bankruptcy Strategy,” Matthew Spero and Alexandria Tomanelli, July 19, 2023, <https://www.law360.com/articles/1701203/tide-may-be-turning-on-texas-two-step-bankruptcy-strategy>.

²⁰ See U.S. Senate Committee on the Judiciary, “Durbin, Senate and House Dems Object to Johnson & Johnson Bankruptcy Maneuver, Demand Answers,” press release, Nov. 11, 2021, <https://www.judiciary.senate.gov/press/dem/releases/durbin-senate-and-house-dems-object-to-johnson-and-johnson-bankruptcy-maneuver-demand-answers>.

²¹ Wall Street Journal, “Prison Health Contractor Expands Texas Two-Step Bankruptcy Tactic,” Andrew Scurria and Akiko Matsuda, September 19, 2023, <https://www.wsj.com/articles/prison-health-contractor-expands-texas-two-step-bankruptcy-tactic-acac4928>.

²² Business Insider, “Hidden investors took over Corizon Health, a leading prison healthcare company. Then they deployed the Texas Two-Step,” Nicole Einbinder and Dakin Campbell, Aug. 21, 2023, <https://www.businessinsider.com/corizon-health-bankruptcy-yescare-texas-two-step-law-2023-8>.

²³ *Id.*

well as contractual claims by former employees and contractors alleging failure by Corizon to satisfy their agreements.²⁴ The company's assurances of "corporate separateness" between YesCare and Tehum²⁵ are a transparent and unconvincing attempt to avoid adequately compensating victims. Indeed, this claim of separateness contradicts the company's own assertions in business proposals, as when it leverages Corizon's operating history to assert that YesCare, a one-year old company, has "40 years of experience as the leading provider of correctional healthcare."²⁶

Serious questions remain regarding YesCare and Tehum's current ownership. For example, YesCare says that it is managed by an entity called Geneva Consulting LLC.²⁷ But the terms of the management agreement between the two suggests that YesCare may in fact be owned by Geneva Consulting or its parent, the nursing home giant Genesis HealthCare Inc., which itself has faced scrutiny for its substandard operation of nursing homes.²⁸ Corizon's obfuscation of its ownership structure heightens our concern that the company is attempting to evade liability.

Reporting suggests that the largely unknown investors and associates that spearheaded the Texas Two-Step have engaged in questionable and unjust tactics, such as: (1) stonewalling during meetings with creditors; (2) diverting millions of Corizon dollars to other companies that the investors personally owned or were associated with, likely limiting funds available for victims; and (3) failing to substantively notify incarcerated individuals, along with agencies that contracted with Corizon, of the divisional merger or the bankruptcy filing.²⁹ This misuse of the bankruptcy system is unacceptable, and we are concerned that it may result in the denial of hundreds of claims stemming from the substandard care incarcerated people have received under Corizon's watch. These concerns have been exacerbated by the proposed global bankruptcy plan filed on September 29, 2023³⁰ and amended on October 17, 2023,³¹ which is, in the words of the U.S. Trustee, "patently unconfirmable" due to unexplained giveaways to Corizon affiliates and

²⁴ *Id.*; Notice of Designation as Complex Chapter 11 Bankruptcy Case, p. 1, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), Feb. 15, 2023, <https://www.kccllc.net/tehum/document/23900862302270000000000004>.

²⁵ *See, e.g.*, Response in Opposition to Plaintiff's Motion, p. 24, William Kelly v. Corizon Health, Inc., No. 2:22-cv-10589-MAG-DRG (E.D. Mich.), Aug. 17, 2022, <https://s3.documentcloud.org/documents/23919673/yescare-corp-and-chs-tx-incs-response.pdf>.

²⁶ Business Insider, "Hidden investors took over Corizon Health, a leading prison healthcare company. Then they deployed the Texas Two-Step," Nicole Einbinder and Dakin Campbell, Aug. 21, 2023, <https://www.businessinsider.com/corizon-health-bankruptcy-yescare-texas-two-step-law-2023-8>; YesCare Corp., "About YesCare," <https://www.yescarecorp.com/about>.

²⁷ Business Insider, "Hidden investors took over Corizon Health, a leading prison healthcare company. Then they deployed the Texas Two-Step," Nicole Einbinder and Dakin Campbell, Aug. 21, 2023, <https://www.businessinsider.com/corizon-health-bankruptcy-yescare-texas-two-step-law-2023-8>.

²⁸ *Id.*

²⁹ *Id.*; Brief for Public Justice as Amicus Curiae, p. 19, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), Mar. 3, 2023, https://www.publicjustice.net/wp-content/uploads/2023/05/0576-001_-05-17-2023-BRIEF-OF-AMICUS-CURIAE-IN-SUPPORT-OF-PRO-SE-LITIGANTS-REQUESTS-FOR-NOTICE-AND-O.pdf.

³⁰ Joint Chapter 11 Plan, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), Sept. 29, 2023, <https://www.kccllc.net/tehum/document/23900862309290000000000004>.

³¹ First Amended Joint Chapter 11 Plan, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), Oct. 17, 2023, <https://www.kccllc.net/tehum/document/2390086231016000000000018>.

insufficient relief for victims.³² The plan and Corizon’s tactics are further called into question given the secret romantic relationship between the judge mediating the plan negotiations and the attorney representing YesCare in the negotiations.³³

The bankruptcy system has many aims, but it was not designed to provide an avenue for companies to evade accountability for wrongdoing. Your company, however, is attempting to do just that, utilizing the “Texas Two-Step” to position yourselves to pay pennies on the dollar to claimants that deserve recompense for poor health outcomes and unpaid debts accrued under your watch.

In order to better inform our legislative efforts, and to protect and inform victims about Corizon’s bankruptcy maneuver, we request that you provide answers to the following questions by November 8, 2023:

1. Please provide a full description of YesCare and Tehum’s leadership and stakeholder structure, as well as the leadership and ownership of all of the entities’ parent companies, and YesCare’s latest corporate governance plan. In your response, please include the identities of each natural person that directly or indirectly holds an equity interest in Perigrove 1018 LLC and/or YesCare Holdings LLC, and the size of the membership interest(s) held by that natural person.
2. In a 2023 deposition, Tehum director Isaac Lefkowitz admitted to owning a stake in Perigrove, the private equity firm that took over Tehum. What role does Mr. Lefkowitz currently play within YesCare, Tehum, or any entities related to YesCare or Tehum?
3. How many claims against Corizon, Tehum, YesCare, or any affiliated entities were enjoined following Tehum’s motion to extend and enforce the automatic stay? Please also provide:
 - a. The estimated number of claims that will be affected by Tehum’s bankruptcy filing.
 - b. The number of claims related to each of the following categories and the aggregate settlement amount for each: medical malpractice, employment, and contract breach.
 - c. A list of all claims by creditors and the status of those claims.
4. Please provide a list of the entities and individuals that were involved in negotiating the global settlement filed September 29, 2023. In addition, please describe the role of Elizabeth Freeman in the negotiations, and list the individuals at YesCare and Tehum that were aware of Ms. Freeman’s romantic relationship with Judge David Jones, who mediated the negotiations.
5. With regard to Corizon’s use of the divisional merger process to separate its assets from its liabilities:
 - a. What was the rationale for determining which assets it would transfer or assign to Tehum and which it would shield from the reach of creditors through YesCare?

³² Objection of the United States Trustee to Joint Emergency Motion, p. 3, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), Oct. 13, 2023, <https://www.kccllc.net/tehum/document/239008623101300000000001>.

³³ Business Insider, “Lawsuit alleges undisclosed relationship involving federal judge that could cloud Corizon bankruptcy deal,” Nicole Einbinder and Dakin Campbell, Oct. 15, 2023, <https://www.businessinsider.com/bankruptcy-judge-david-jones-resigns-texas-corizon-2023-10>.

- b. What was the total value of Corizon's assets at the time of the divisional merger?
 - c. Please list all of the assets that were transferred to YesCare/CHS TX, Inc. and their cumulative value (excluding any liens on the assets).
 - d. Please list all of the liabilities that were transferred to Corizon, later Tehum, and their cumulative value.
6. Please list all of the assets that were transferred to affiliated entities other than YesCare/CHS TX, Inc. between December 1, 2021 and the date of Tehum's bankruptcy filing.
 7. What is the total value of YesCare's current assets?
 8. What is the total value of Tehum's current assets? Please include a full accounting of any funding agreement, lump sum payment, or other revenue stream provided to Tehum following the divisional merger process.
 9. Please describe in detail all actions taken to provide notice of Tehum's bankruptcy filing to known and potential creditors.

We look forward to your prompt response.

Sincerely,



Elizabeth Warren
United States Senator



Richard J. Durbin
United States Senator



Mazie K. Hirono
United States Senator



Jeffrey A. Merkley
United States Senator



Richard Blumenthal
United States Senator



Ron Wyden
United States Senator



Bernard Sanders
United States Senator



Peter Welch
United States Senator



Cory A. Booker
United States Senator