

Hearing date: March 17, 2022 at 10:00 a.m. by WebEx

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

In re:

CharterCARE Community Board; St. Joseph
Health Services of Rhode Island; and Roger
Williams Hospital

C.A. No. PC-2019-11756

**LIQUIDATING RECEIVER'S SEVENTH REPORT
AND REQUEST FOR INTERIM COMPENSATION**

Thomas S. Hemmendinger (the "Liquidating Receiver"), the permanent liquidating receiver of CharterCARE Community Board ("CCCB"), St. Joseph Health Services of Rhode Island ("SJHSRI"), and Roger Williams Hospital ("RWH") (each also, individually, a "Legacy Hospital Entity" and, collectively, the "Legacy Hospital Entities"), hereby reports as follows:

Introduction

1. On December 18, 2019, this Court appointed the Liquidating Receiver as temporary liquidating receiver of the Legacy Hospital Entities and their respective assets. On January 17, 2020, this Court appointed the Liquidating Receiver as permanent liquidating receiver. The Liquidating Receiver has qualified by posting the surety bond required by this Court.

2. The Liquidating Receiver has to date performed all duties required by law or by orders of this Court.

3. CCCB is the parent of SJHSRI and RWH. Until June 20, 2014, SJHSRI owned and operated Our Lady of Fatima Hospital in North Providence, Rhode Island, and RWH owned and operated Roger Williams Medical Center in Providence, Rhode Island.

4. On June 20, 2014, the Legacy Hospital Entities closed on a transaction involving the sale of these hospitals to subsidiaries of Prospect CharterCARE, LLC. The details of this

transaction are set forth in detail in the Liquidating Receiver's Fourth Report to this Court.¹

The Pension Litigation

5. In 2017, at the request of SJHSRI, this Court appointed Stephen Del Sesto (the "Plan Receiver") as receiver of the St. Joseph Health Services of Rhode Island Retirement Plan (the "Plan"). At the time, the Plan was substantially underfunded, and the Plan Receiver asserts that the Plan had been substantially underfunded for years before the commencement of the Plan receivership.

6. On June 18, 2018, after an investigation by Wistow, Sheehan & Loveley, PC ("Plan Receiver's Special Counsel"), special counsel to the Plan Receiver, the Plan Receiver and certain Plan participants as putative class representatives sued the Legacy Hospital Entities, various Prospect entities, various Roman Catholic organizations, and others to recover damages for the benefit of the Plan and its participants in this Court and in the U.S. District Court (collectively, the "Pension Litigation").

7. In 2018, subject to court approval, the Legacy Hospital Entities, the Plan Receiver, and the putative class-action representatives entered into the Settlement "A" Agreement and the Settlement "B" Agreement, which brought the gross amount of approximately \$17.1 million into the Plan.

8. Both this Court and the U.S. District Court approved these settlements. The U.S. District Court also certified settlement classes for purposes of both Settlement "A" and Settlement "B", appointed the Plan participant plaintiffs as class representatives of all Plan

¹ Certain capitalized terms used in this report are defined in the Fourth Report.

participants, appointed the same firm that serves as the Plan Receiver's Special Counsel as class counsel for the two settlements, and found that both settlements were made in good faith.

9. Despite these settlements, the Legacy Hospital Entities remain nominal defendants in the Pension Litigation. The Liquidating Receiver continues to monitor developments in the litigation.

10. Both the temporary and permanent orders appointing the Liquidating Receiver directed him to perform the Legacy Hospital Entities' obligations under the settlement agreements. As this Court has directed, the Liquidating Receiver has been performing all of the Legacy Hospital Entities' current obligations under them.

Other Controversies with Prospect Entities

11. As more fully set forth in the Liquidating Receiver's Fourth Report, the Liquidating Receiver and various Prospect entities were parties to a number of substantial controversies, both in this liquidating receivership, the Plan receivership, the Delaware Chancery Court, and in administrative proceedings before the Rhode Island Department of Health and the Rhode Island Attorney General.

The Prospect/Angell Settlement

12. As of December 30, 2020, after extensive litigation and negotiations, and subject to approval by this Court and by the U.S. District Court, the Liquidating Receiver, the Plan Receiver, and the individual named plaintiffs in the Pension Litigation entered into a Settlement Agreement (the "Prospect/Angell Settlement Agreement") with Prospect Medical Holdings, Inc., Prospect East, Inc., Prospect CharterCARE, LLC, Prospect CharterCARE SJHSRI, LLC, and Prospect CharterCARE RWMC, LLC (collectively, the "Prospect Parties"), Sam Lee and David

Topper (principals of the Prospect Parties), and The Angell Pension Group, Inc. (“Angell”).²

13. On March 4, 2021, this Court issued its decision approving the Prospect/Angell Settlement Agreement.

14. On March 26, 2021, the U.S. District Court granted preliminary approval of the settlement as a good faith settlement, preliminarily certified the class of Plan participants for the purpose of the proposed settlement, and certified the same firm that serves as the Plan Receiver’s Special Counsel as class counsel. On July 29, 2021, the U.S. District Court granted final approval of the settlement and found that the settlement was made in good faith.³

SJHSRI’s Pre-Receivership Self-Insured Workers Compensation Program

15. From about 1986 to 1999, SJHSRI maintained a self-insurance program for its employees’ workers compensation claims. Starting in November 2010, Beacon Mutual Insurance Company (“Beacon”) served as third-party administrator of the program.

16. After the start of this liquidating receivership, disputes arose among Beacon, the Rhode Island Department of Labor and Training (“DLT”), the Liquidating Receiver, and the Plan Receiver, related to workers compensation claims against SJHSRI and funding sources to pay those claims.

² The Prospect/Angell Settlement Agreement is described in detail in the Liquidating Receiver’s Fourth Report and in the Liquidating Receiver’s Petition for Instructions Regarding Settlement with Prospect Parties and Angell Pension Group.

³ In its final approval of the Prospect/Angell Settlement, the U.S. District Court expressly left open for later adjudication the claims of the non-settling defendants that the statute providing contribution protection to parties who make court-approved settlements related to the Plan, R.I. Gen. Laws § 23-17.14-35, is either preempted by the federal Employee Retirement Income Security Act (ERISA) or is unconstitutional.

The Beacon/DLT Settlement

17. As described in the Joint Petition, after extensive negotiations, Beacon, DLT and the Receivers entered into a proposed agreement (the “Beacon/DLT Settlement Agreement”) resolving the disputes among Beacon, DLT and the Receivers.

18. On February 11, 2022, on notice to all parties in interest, including the SJHSRI workers compensation claimants and their counsel, this Court granted the Joint Petition and approved the Beacon/DLT Settlement.

RWH’s Pre-Receivership Self-Insured Workers Compensation Program

19. During various times before this receivership, RWH also maintained a self-insurance program for its employees’ workers compensation claims.

20. Under Settlement “A” RWH assigned to the Plan Receiver its rights to a \$750,000 escrow fund at DLT, which serves as security for potential self-insured obligations of RWH. Pursuant to that settlement, the Receivers are collaborating on the Plan Receiver’s efforts to obtain a loss portfolio transfer to free this escrow for the benefit of the Plan. Currently, the Liquidating Receiver is standing by to further assist the Plan Receiver if requested.

Proofs of Claim

21. On May 22, 2020, this Court ordered that the Plan Receiver may file a proof of claim in this receivership on behalf of all Plan participants, and that individual Plan participants are not required to file separate proofs of claim in their capacity as Plan participants. The Plan Receiver submitted a timely sworn proof of claim on behalf of the Plan and the Plan participants.

22. The bar date for creditors to submit sworn proofs of claim has expired.

23. The Liquidating Receiver’s obligations to cooperate with the Plan Receiver under

Settlement “A” and the Orders of this Court include “opposing and seeking to limit the claims of other creditors where appropriate.”

24. Pursuant to the Prospect/Angell Settlement, the Prospect entities withdrew their claims with prejudice.

25. Pursuant to the Beacon/DLT Settlement, Beacon has withdrawn its claim with prejudice.

Truk-Away Environmental Remediation Site

26. The R.I. Department of Environmental Management (“DEM”) filed a \$50 million proof of claim in this receivership, based on allegations that SJHSRI and RWH generated hazardous materials that were ultimately deposited at the Truk-Away landfill site in Warwick, Rhode Island. A group of potentially responsible parties at the site have filed a \$16.7 million proof of claim in this receivership.

27. The Liquidating Receiver disputes these claims and, pursuant to Settlement “A” and orders of this Court, is collaborating with the Plan Receiver to investigate these claims and the liquidating receivership’s defenses and to defend against these claims.

Pre-Receivership Tort Litigation

28. At the Liquidating Receiver’s request, on February 10, 2020, this Court modified the receivership stay to permit fourteen tort plaintiffs to prosecute cases against SJHSRI and RWH for claims that arose before June 20, 2014, on condition that the plaintiffs limit their recovery to any insurance proceeds.

29. None of these plaintiffs has filed a proof of claim in this liquidating receivership.

30. In one potentially substantial case, brought by Michael Nissensohn, the insurance

carrier's counsel sought the Liquidating Receiver's assistance. The Liquidating Receiver promptly complied, and the case was settled. The insurance carrier paid the settlement amount.

31. In late October 2021, Prospect Medical Holdings notified the Liquidating Receiver of a civil action commenced in November 2018 against various Prospect entities, alleging that one of the Prospect Entities (Prospect CharterCARE SJHSRI, LLC, d/b/a Our Lady of Fatima) is liable for acts and omissions both before and after the 2014 sale to Prospect. This was the first notice that either the Liquidating Receiver or the Legacy Hospital Entities had of this action. Further, neither the complaint nor the amended complaint in this action names SJHSRI.

32. The Liquidating Receiver promptly tendered the defense of this matter to SJHSRI's liability insurance carrier. The carrier has engaged counsel to represent the Liquidating Receiver and SJHSRI and participate in the defense of this action under a reservation of rights. It is the position of both the Liquidating Receiver and the Plan Receiver that this does not constitute a claim against the Legacy Hospital Entities or this liquidating receivership.

Coordination with the Plan Receiver

33. Since the period covered by the Liquidating Receiver's Fourth Report, the Liquidating Receiver has received further specific requests and recommendations from the Plan Receiver and the Plan Receiver's Special Counsel with respect to (i) seeking to recover or release additional funds that would be available for distribution to the Plan Receiver against his claims in this liquidating receivership, and (ii) opposing or limiting the claims of the Legacy Hospital Entities' other creditors as noted above. The Liquidating Receiver will continue to coordinate work on these matters with the Plan Receiver and with his designated representatives to facilitate the speedy and just resolution of those issues and the closing of this liquidating

receivership.

Charitable Trust Income

34. The Liquidating Receiver continues to collect distributions from various charitable trusts of which SJHSRI or RWH is a beneficiary.

35. On February 27, 2022, the Plan Receiver filed a petition to apply the trust income to the Pension Plan. This Court has scheduled the petition for hearing on March 22, 2022. The Liquidating Receiver has reviewed the petition and intends to recommend to the Court that it be approved on certain terms and conditions.

Other Matters

36. The Liquidating Receiver continues to deal with subpoenas and other court process served on SJHSRI or RWH regarding medical records requests, accounts receivable that predate the sale to Prospect and were sold to Prospect in the 2014 sale, and other matters.

37. The Liquidating Receiver is also monitoring two civil actions in which the plaintiffs allege negligence by Roger Williams Medical Center which occurred long after RWH ceased all operations and transferred its operations and operating assets to Prospect CharterCARE RWMC, LLC in June 2014. One of these actions seeks recovery for wrongful death based on events in 2020; the other seeks recovery for personal injury based on events in 2018.

38. The plaintiffs in each case named both Prospect CharterCARE RWMC, LLC and RWH as defendants, even though it is beyond dispute that RWH was not operating the hospital at the time of the alleged negligence and therefore should not be a defendant, and that any cause of action must be directed against persons other than RWH. The Liquidating Receiver has given plaintiffs' counsel in each civil action until March 11, 2022 to dismiss their actions as to RWH.

Interim Accounting

39. From October 1, 2021 to December 31, 2021, the Liquidating Receiver has made the following collections and disbursements:

	<u>CCCB</u>	<u>SJHSRI</u>	<u>RWH</u>	<u>Aggregate</u>
Starting cash	\$ 9,662.08	\$ 666,087.93	\$ 535,911.27	\$ 1,211,661.28
Receipts	-	68,368.85	48,626.00	116,994.85
Disbursements	-	89,249.17	75,028.03	164,277.20
Net income (loss)	\$ -	\$ (20,880.32)	\$ (26,402.03)	\$ (47,282.35)
Ending cash	\$ 9,662.08	\$ 645,207.61	\$ 509,509.24	\$ 1,164,378.93

40. Attached hereto as Exhibit 1 is a consolidated income statement for the Legacy Hospital Entities from October 1, 2021 to December 31, 2021.

Request for Interim Compensation and Reimbursement of Expenses

41. From October 1, 2021 to December 31, 2021, the Liquidating Receiver and his counsel put in a total of 165.90 hours and advanced \$zero for expenses.

42. The Liquidating Receiver has given this Court a detailed statement of the Liquidating Receiver's time and expenses, and this statement (redacted for privileged and work-product information) is available to parties in interest on request.

43. The Liquidating Receiver asks this Court to award him compensation for services rendered and award him reimbursement for expenses advanced.

Notice to Parties in Interest

44. The Liquidating Receiver has served this Report and notice of the hearing thereon to counsel of record in this receivership and to counsel of record for the following parties in interest: the Plan Receiver; all remaining parties in the Pension Litigation; the parties who have

filed proofs of claim; the Prospect entities; and the defendants in *CCCB v. Lee*.

45. The Liquidating Receiver believes that this constitutes sufficient notice of this Report and of the Liquidating Receiver's requests for relief.

WHEREFORE, the Liquidating Receiver prays that this Court:

- (a) Accept, approve and ratify this Report.
- (b) Approve and ratify the acts of the Liquidating Receiver.
- (c) Award to the Liquidating Receiver an interim fee for services rendered and for expenses advanced and authorize the Liquidating Receiver to pay same from cash on hand.
- (d) Award to the Liquidating Receiver such other and further relief as this Court deems appropriate.

Respectfully submitted,

Date: March 7, 2022

/s/ Thomas S. Hemmendinger
Thomas S. Hemmendinger #3122
Liquidating Receiver
Brennan, Recupero, Cascione, Scungio &
McAllister, LLP
362 Broadway
Providence, RI 02909
Tel. (401) 453-2300
Fax (401) 453-2345

CERTIFICATE OF SERVICE

I hereby certify as follows:

- 1) On March 7, 2022, I electronically filed the foregoing document. This document is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.
- 2) The following parties received electronic notice: any parties entered to be notified through the Electronic Filing System.
- 3) The document was served by United States Postal Service, postage prepaid, on the following persons: see separate certificate of service.

/s/ Thomas S. Hemmendinger
Thomas S. Hemmendinger

Exhibit 1
Receipts and Disbursements
(October 1, 2021 to December 31, 2021)

CharterCARE Community Board et al.
Profit & Loss Detail
 October through December 2021

4:23 PM
 03/04/22
 Accrual Basis

Type	Date	Num	Name	Memo	Clr	Split	Amount	Balance
Ordinary Income/Expense								
Income								
interest Income								
Deposit	10/31/2021			Interest		St. Joseph He...	6.12	6.12
Deposit	10/31/2021			Interest		Roger Williams...	2.72	8.84
Deposit	10/31/2021			Interest		Roger Williams...	2.55	11.39
Deposit	11/30/2021			Interest		St. Joseph He...	5.92	17.31
Deposit	11/30/2021			Interest		Roger Williams...	2.47	19.78
Deposit	11/30/2021			Interest		Roger Williams...	2.63	22.41
Deposit	12/31/2021			Interest		St. Joseph He...	6.12	28.53
Deposit	12/31/2021			Interest		Roger Williams...	2.72	31.25
Deposit	12/31/2021			Interest		Roger Williams...	2.55	33.80
Total interest Income							33.80	33.80
Trust Income								
Deposit	10/05/2021		Bank of America	Brown fund		Roger Williams...	10,323.50	10,323.50
Deposit	11/19/2021		Bank of America	Townsend Co...		St. Joseph He...	67,134.36	77,457.86
Deposit	11/26/2021		Bank of America	Knight fund		Roger Williams...	3,640.50	81,098.36
Deposit	12/09/2021		Bank of America	Steinert quart...		St. Joseph He...	972.50	82,070.86
Deposit	12/09/2021		Bank of America	Steinert - defi...		St. Joseph He...	243.83	82,314.69
Deposit	12/16/2021		Bank of America	Flint		Roger Williams...	5,450.50	87,765.19
Deposit	12/16/2021		Bank of America	Steinert		Roger Williams...	972.50	88,737.69
Deposit	12/16/2021		Bank of America	Steinert defici...		Roger Williams...	243.83	88,981.52
Deposit	12/23/2021		Bank of America	Horton		Roger Williams...	27,979.53	116,961.05
Total Trust Income							116,961.05	116,961.05
Total Income							116,994.85	116,994.85
Expense								
Accounting Fees								
Check	10/06/2021	1025	Kahn Litwin Renza ...	2020 IRS 990's		St. Joseph He...	5,292.00	5,292.00
Check	10/06/2021	1026	Kahn Litwin Renza ...	2020 IRS 990...		St. Joseph He...	3,780.00	9,072.00
Check	10/06/2021	1050	Kahn Litwin Renza ...	2020 IRS 990		Roger Williams...	4,032.00	13,104.00
Total Accounting Fees							13,104.00	13,104.00
Court-related Expense								
Check	12/07/2021	1052	Litigistics	Mailing 6th re...		Roger Williams...	383.10	383.10
Total Court-related Expense							383.10	383.10
Legal Fees								
Check	10/06/2021	1049	Oliverio & Marcacio...	Final invoice		Roger Williams...	320.00	320.00
Check	10/14/2021	1028	Chace Rutterberg &...	Invoice #5013		St. Joseph He...	2,445.00	2,765.00
Total Legal Fees							2,765.00	2,765.00

CharterCARE Community Board et al.
Profit & Loss Detail
 October through December 2021

4:23 PM
 03/04/22
 Accrual Basis

Type	Date	Num	Name	Memo	Clr	Split	Amount	Balance
Receiver's Fees and Expenses								
Check	10/13/2021	1051	BRCSM	5th interim fee...		Roger Williams...	42,315.34	42,315.34
Check	10/13/2021	1027	BRCSM	5th interim fee...		St. Joseph He...	42,315.33	84,630.67
Check	12/30/2021	1032	BRCSM	6th interim fee...		St. Joseph He...	27,977.59	112,608.26
Check	12/30/2021	1053	BRCSM	6th interim fee...		Roger Williams...	27,977.59	140,585.85
Total Receiver's Fees and Expenses							140,585.85	140,585.85
Records Management								
Check	11/17/2021	1029	Xact Data Discovery	Monthly invoic...		St. Joseph He...	2,479.75	2,479.75
Check	12/01/2021	1030	Xact Data Discovery	Monthly invoic...		St. Joseph He...	2,479.75	4,959.50
Check	12/29/2021	1031	Xact Data Discovery	Monthly invoic...		St. Joseph He...	2,479.75	7,439.25
Total Records Management							7,439.25	7,439.25
Total Expense							164,277.20	164,277.20
Net Ordinary Income							-47,282.35	-47,282.35
Net Income							-47,282.35	-47,282.35

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

In re:

CharterCARE Community Board; St. Joseph
Health Services of Rhode Island; and Roger
Williams Hospital

C.A. No. PC-2019-11756

**ORDER ACCEPTING AND APPROVING LIQUIDATING RECEIVER'S SEVENTH
REPORT AND REQUEST FOR INTERIM COMPENSATION**

This matter came before this Court on December 16, 2021, Justice Stern presiding, on the Seventh Report and Request for Interim Compensation (the "Report") by Thomas S. Hemmendinger (the "Liquidating Receiver"), permanent liquidating receiver of CharterCARE Community Board, St. Joseph Health Services of Rhode Island, and Roger Williams Hospital (the "Legacy Hospital Entities"). After consideration of the Report and any response thereto, and after hearing all parties present and interested, it is hereby ORDERED as follows:

1. The Liquidating Receiver gave due and adequate notice of the Report and of the date and time of this Court's consideration of the Report to counsel of record in this receivership and to counsel of record for the following parties in interest: Stephen Del Sesto (the "Plan Receiver"), receiver of the St. Joseph Health Services of Rhode Island Retirement Plan (the "Plan"); the remaining parties in *Del Sesto et al. v. Prospect CharterCARE, LLC et al.*, C.A. No. 18-cv-00328-WES (D. R.I.), and *Del Sesto et al. v. Prospect CharterCARE, LLC et al.*, C.A. No. PC-2018-4386 (R.I. Super.); the Prospect entities; and the defendants in *CharterCARE Community Board et al. v. Lee et al.*, C.A. No. PC-2019-3654 (R.I. Super.).

2. The Report is accepted and approved, and all actions of the Liquidating Receiver in this case through the date of the Report are approved and ratified.

3. The Liquidating Receiver is awarded an interim fee of \$ _____ for

services rendered from October 1, 2021 to December 31, 2021 and is awarded reimbursement for expenses advanced from October 1, 2021 to December 31, 2021 in the amount of \$_____. The Liquidating Receiver is instructed to pay himself this fee and this reimbursement from the Legacy Hospital Entities' cash on hand.

ENTER:

PER ORDER:

Stern, J.

Date: _____, 2022

Presented by Thomas S. Hemmendinger #3122, Brennan, Recupero, Cascione, Scungio & McAllister, LLP, 362 Broadway, Providence, RI 02909, tel. (401) 453-2300, fax (401) 453-2345, e-mail themmendinger@brasm.com

CERTIFICATE OF SERVICE

I hereby certify that on March 7, 2022:

- 1) I electronically filed the foregoing document. This document is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.
- 2) The following parties received electronic notice: any parties entered to be notified through the Rhode Island Judiciary's Electronic Filing System.
- 3) The document was served by United States Postal Service, postage prepaid, on the following persons: N/A

/s/ Thomas S. Hemmendinger
Thomas S. Hemmendinger