

**STATE OF RHODE ISLAND
PROVIDENCE, SC.**

SUPERIOR COURT

CHARTERCARE COMMUNITY BOARD,
individually and derivatively, as member of
PROSPECT CHARTERCARE, LLC and as
trustee of the beneficial interest of its
membership interest in PROSPECT
CHARTERCARE, LLC

Plaintiff,

v.

SAMUEL LEE; DAVID TOPPER; THOMAS
REARDON; VON CROCKETT; EDWIN
SANTOS; EDWARD QUINLAN; JOSEPH
DISTEFANO; ANDREA DOYLE; PROSPECT
EAST HOSPITAL ADVISORY SERVICES, LLC;
PROSPECT CHARTERCARE, LLC;
PROSPECT EAST HOLDINGS, INC.;
PROSPECT MEDICAL HOLDINGS, INC.,
JOHN DOE 1 – 10, AND JANE DOE 1 - 10

Defendants,

PC2019-3654

EXPEDITED MOTION TO COMPEL PRODUCTION

Now comes CharterCARE Community Board ("CCCB") and hereby moves for an Order compelling production of documents from Prospect Chartercare, LLC, and related entities.

Pursuant to prior Order of this Court, entered April 25, 2019, the parties stipulated that Prospect Chartercare, LLC ("PCC") would supply financial information in connection with CCCB's evaluation of the "put option" owned by

CCCB. The Stipulation and Consent Order further provided that CCCB could by e-mail request additional information as reasonably required in connection with the evaluation and that PCC "will provide such information within fifteen (15) days of such emails, provided the information is available." CCCB has engaged ECG Management Consultants in regard to the evaluation. By email dated August 1, 2019, CCCB, through its counsel, submitted a request for information to counsel for PCC. A copy of that email and attached request for information are attached to this motion, along with a copy of the Stipulation and Consent Order.

CCCB received no response to the initial August 1, 2019, request and no response to its renewed request by email dated August 13, 2019.

CCCB is entitled to the information requested and, furthermore, needs that information so that its expert can evaluate the "put option."

The Stipulation and Consent Order envisioned a resolution of any dispute as to relevance of any request and information to be decided by this Court "on an expedited basis from Judge Stern." What was not anticipated by CCCB was total silence from PCC, but it is entitled to immediate relief.

CCCB seeks an order compelling immediate compliance with the August 1, 2019, request for information.

WHEREFORE, CCCB prays that its motion to compel be granted and for such other relief as the Court deems just.

PLAINTIFF,

By their attorneys,
/s/ Robert D. Fine

Robert D. Fine (#2447)
Andre S. Digou (#8711)
Chace Ruttenger & Freedman, LLP
One Park Row, Suite 300
Providence, RI 02903
Tel.: (401) 453-6400
Email: rfine@crflp.com
adigou@crflp.com
Dated: August 19, 2019

CERTIFICATION

I hereby certify that on August 19, 2019, 2019, I caused a copy of this document to be filed and served through the Rhode Island Judiciary's electronic filing system. A copy of this document is available for downloading/viewing on the Rhode Island Judiciary's electronic filing system.

/s/ Robert D. Fine

From: [Robert Fine](#)
To: [Preston Halperin](#)
Cc: [Richard Land](#); [Stephen DelSesto \(sdelsesto@pierceatwood.com\)](mailto:sdelsesto@pierceatwood.com)
Bcc: kkole@wcgmc.com
Subject: Updated request for information
Date: Thursday, August 1, 2019 3:48:00 PM
Attachments: [Copy of CharterCARE Health Partners - Request for Information.xlsx](#)

Preston – Our valuation expert has forwarded the attached to us, an updated request for information dated August 1, 2019. In accordance with section 1 of the Stipulation and Consent Order, we ask that Prospect Chartercare produce the requested information. If there is difficulty or objection to any portions of the request, please advise me as soon as possible. As you know, the stipulation provides for Judge Stern to resolve any disputes over what is relevant to the valuation process.

Thank you for your attention.

Bob

Robert D. Fine
Chace Ruttenberg & Freedman, LLP
One Park Row, Suite 300
Providence, Rhode Island 02903
Phone: (401) 453-6400, Ext. 115
Fax: (401) 453-6411
Website: www.crflp.com

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CharterCARE Health Partners - Request for Information

Submitted on August 1, 2019

This request for information (RFI) is being made in conjunction with ECG Management Consultant's engagement to value Prospect CharterCARE. To provide a complete opinion, we are requesting the specific data elements outlined below from Prospect CharterCARE. **Please do not send any PHI.**



The table below contains the items being requested as part of this engagement. If you have any questions, please contact Karen Kole at 312-637-2522 or kkole@ecgmc.com.

Ref. Number	Description	Data Received	Data Not Available	File Name	Notes
1.00 Business and Operational Information					
1.01	Employee register with the following information: » Position or title » Specialty, if a clinical provider » Hourly rate or annual salary » Benefits » Full-time equivalents (FTEs)				
1.02	Facility information, including: » Address » Year occupancy began » Owned or leased and by whom » Square footage, indicate how much excess capacity there is at each location » Number and type of rooms (ORs, ERs, etc.) » Is there any deferred maintenance on the building? If so, what are the estimated costs?				
2.00 Financial Information					
2.01	Financial data, including: » List of factors that could materially impact earnings » List of any nonbusiness-related items that are represented in the financial statements » List of any business-related items that are not represented in the financial statements				
2.02	The following detailed financial statements (income statements, balance sheets and cash flow statements): » The most recent interim period (October 2018 - March 2019) with corresponding prior year interim period (October 2017 - March 2018), for Consolidated, RWMC, and SJHSRI » Consolidated audited financial statements: October 2017 - September 2018 » RWMC financial statements: October 2016 - September 2017 » Radiation therapy financial statements (audit labels this equity investment) for the last five fiscal years				
2.03	Financial budget and forecast, including estimated capital expenditures and working capital requirements. Please include any strategic planning documents, if available.				
2.04	Description of any contingent assets or liabilities that exist and are not disclosed in the latest annual (October 2017 - September 2018) financial statements (e.g., life insurance proceeds in excess of carrying value).				
2.05	Schedule of amounts due to/from third-party payors in conjunction with any disputes, pending rate appeals or other factors that could affect their ultimate collectability.				
2.06	Schedule of any unusual, non-recurring, or nonbusiness-related expenses for the same periods as the financial statements (to the extent available). These periods include: » Fiscal years 2015 - 2018 » The most recent interim period (October 2018 - March 2019) with corresponding prior year interim period (October 2017 - March 2018)				

CharterCARE Health Partners - Request for Information

Submitted on August 1, 2019

This request for information (RFI) is being made in conjunction with ECG Management Consultant's engagement to value Prospect CharterCARE. To provide a complete opinion, we are requesting the specific data elements outlined below from Prospect CharterCARE. **Please do not send any PHI.**



The table below contains the items being requested as part of this engagement. If you have any questions, please contact Karen Kole at 312-637-2522 or kkole@ecgmc.com.

Ref. Number	Description	Data Received	Data Not Available	File Name	Notes
2.07	Schedule of capital expenditures for the same periods as the financial statements. Please discuss any known deferred capital expenditures or repairs and maintenance. These periods include: » Fiscal years 2015 - 2018 » The most recent interim period (October 2018 - March 2019) with corresponding prior year interim period (October 2017 - March 2018)				
2.08	Gross charges, net revenue, and admissions by payor for the same periods as the financial statements. These periods include: » Fiscal years 2015 - 2018 » The most recent interim period (October 2018 - March 2019) with corresponding prior year interim period (October 2017 - March 2018)				
2.09	A/R aging report as of the most current balance sheet date, in total and by major payor. Please indicate whether the report is based on the date of service or billing date and if it includes credit balances.				
3.00	Assets and Facilities Data				
3.01	List of any of the property or equipment owned that is not presently used in the business.				
3.02	Current fixed asset listing with original cost, purchase date, and asset description.				
4.00	Hospital Operating Statistics and Clinical Metrics				
4.01	Production schedules and clinical metrics (admissions, patient days, census data, CMI, surgeries, outpatient visits, FTE employees, etc.) for the same periods as the financial statements. These periods include: » Fiscal years 2015 - 2018 » The most recent interim period (October 2018 - March 2019) with corresponding prior year interim period (October 2017 - March 2018)				
4.02	Volume statistics by referral source for the past two fiscal years (October 2016 - September 2017 and October 2017 - September 2018).				
4.03	Dashboards and/or other key reporting metrics routinely used to assess operations and/or finances of the hospital.				
4.04	Description of any concerns with the current physicians admitting and performing services at the hospital (aging physician staff, high turnover, shortages in any specialties or primary care, recruiting difficulty, etc.).				
4.05	Any available recent planning documents, as well as any recent or projected clinical hires and departures.				
5.00	Other Information about the Business				
5.01	List of any lawsuits, liens, or other legal proceedings to which the organization is currently a party.				
5.02	Copies of any previous valuations performed, to the extent available.				

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

CHARTERCARE COMMUNITY BOARD

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v.

C.A. No.: PC-2019-3654

SAMUEL LEE, ET AL

STIPULATION AND CONSENT ORDER

Prospect Chartercare, LLC ("PCC"), Prospect Chartercare SJHSRI, LLC, Prospect Chartercare RWMC, LLC, Prospect Medical Holdings, Inc., Prospect East Holdings, Inc., and Prospect East Hospital Advisory Services, LLC (all collectively the "Prospect Entities"), and CharterCARE Community Board ("CCCB"), having stipulated and consented to the entry of this Order, it is hereby:

ORDERED:

1. On or before May 15, 2019, PCC will provide CCCB with financial information in connection with CCCB's evaluation of the "put option" as requested by CCCB in correspondence dated September 20, 2018, October 2, 2018, October 3, 2018, and November 6, 2018. Thereafter, CCCB may by email request such additional information as CCCB reasonably requires in connection with the evaluation of the "put option" under the Prospect Chartercare, LLC Agreement (the "LLC Agreement"), and PCC will provide such information within fifteen (15) days of such email(s), provided the information is available. PCC shall not be required pursuant to this Stipulation and Consent Order to produce documents that are subject to the attorney-client privilege, joint defense privilege and/or attorney work product doctrine, provided that any objections to production of documents pursuant to this Order on the basis of attorney-client privilege, joint defense privilege and/or attorney work product doctrine are noted at the time for production, and any documents withheld from production based on such objections are identified in a privilege log in accordance with the requirements of Super. R. Civ. P. 26(b)(5)&(7). If the parties disagree over whether any information that CCCB requests is relevant for the valuation process, or that claims of attorney-client privilege, joint defense privilege and/or attorney work product doctrine should be overruled and production of documents should be compelled, the parties may seek a resolution of such dispute on an expedited basis from Judge Stern.

2. CCCB shall be authorized to share information produced by PCC with Stephen Del Sesto, the Receiver for St. Joseph's Health Services of Rhode Island Retirement Plan ("the Receiver"), and each of their respective attorneys, accountants and experts solely for the purpose of evaluating the "put option" so that the Receiver may participate fully and without restriction in the valuation and exercise of the "put option". All such information that PCC designates as "PCC-CONFIDENTIAL" will remain confidential

Filed in PSC Court
Date 4/25/19
Carin Miley *Deputy* Clerk

pursuant to the provisions of a Protective Order (attached), and such confidentiality shall continue unless CCCB and /or the Receiver obtain a court order in this case or in the federal court litigation filed by the Receiver lifting the confidentiality restriction.

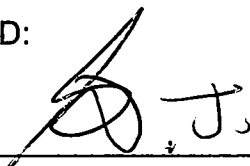
3. The parties to the LLC Agreement agree to modify the ninety (90) day period within which the put option created in Section 14.5 of the LLC Agreement can be exercised to the ninety (90) day period commencing September 21, 2019 and ending on December 20, 2019. If in the judgment of CCCB and the Receiver (or solely the Receiver if the settlement is approved by the Federal Court prior to such date) the option cannot in good faith be appraised and exercised by December 20, 2019 based on the information received, then, prior to the expiration of the period, CCCB (or solely the Receiver if the settlement is approved by the Federal Court prior to such date) reserves the right to seek a hearing on the already pending injunctive relief motion (filed on March 18, 2019) heard by the Court as soon as reasonably practical; and to ensure the exercise period does not expire while that motion is pending, the option exercise period shall be extended for an additional period extending for twenty (20) business days following the entry of an order by the Court on the request for a further extension of the option exercise period, provided, however that the extension during the pendency of the motion shall not exceed thirty (30) days from the date of the hearing on the request. The provisions of Section 14.6 of the LLC Agreement regarding the valuation process are not affected by this agreement except as expressly provided herein.

4. Except as to the motion for injunctive relief addressed above, a motion for relief from the confidentiality provision of the protective order, or a motion to enforce this Stipulation and Consent Order, the pending litigation commenced by CCCB will be stayed until twenty (20) days after any party to this agreement provides written notice to all parties withdrawing agreement to the stay or until December 20, 2019, whichever is later. Prospect Medical Holdings, Inc., Prospect East Holdings, Inc., and PCC shall be free to proceed with their motion for leave to sue CCCB in connection with the LLC Agreement, but in the event that leave is granted, the Prospect Entities agree to stay that litigation until twenty (20) days after any party to this agreement provides written notice to all parties withdrawing agreement to the stay or until December 20, 2019, whichever is later. In the event that the Court denies the stay or does not grant the stay within the period for the defendants to respond to the case, the Prospect Entities agree to dismiss the case without prejudice, all defendants agree not to object to such dismissal without prejudice, and the parties to this agreement agree that the statute of limitations with respect to any claim that in plaintiffs' judgment may be impacted by the dismissal is tolled until twenty (20) days after any party to this agreement gives written notice to all parties withdrawing agreement to the stay or until December 20, 2019, whichever is later. CCCB, Roger Williams Hospital, St. Joseph Health Services of Rhode Island, and the Receiver agree that plaintiffs will not be prejudiced as a result of such voluntary dismissal.

5. The Prospect Entities, CCCB, Roger Williams Hospital and St. Joseph Health Services of Rhode Island agree not to bring any other proceeding against each other, or any of their officers, directors, agents, or attorneys until twenty (20) days after any party to this agreement provides written notice to all parties or until December 20, 2019, whichever is later. Notwithstanding the foregoing, the parties shall be free to assert

claims against each other arising out of future conduct or events that may hereafter arise. In addition, the Prospect Entities shall (a) be free to assert any claims, cross-claims and third-party claims in the pending federal court litigation and in the pending Rhode Island state court litigation filed by the Receiver in the event that the stay of the Superior Court case is lifted and (b) upon leave of the Court in the Receivership action, be free to file and pursue administrative proceedings relating to the hospitals arising out of federal court approval of the Receiver's settlement agreement with CCCB.

ORDERED:

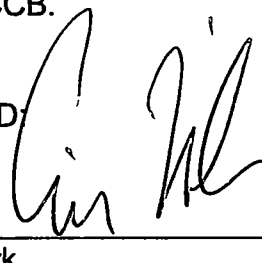


Stern, J.

Dated:

4/25/19

ENTERED:



Dep. Clerk

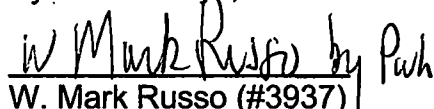
Dated:

4/25/19

Stipulated to and presented by:

PROSPECT CHARTERCARE, LLC
PROSPECT CHARTERCARE SJHSRI, LLC, AND
PROSPECT CHARTERCARE RWMC, LLC,

By its Attorneys,



W. Mark Russo (#3937)

Ferrucci Russo P.C.

55 Pine Street, 3rd Floor

Providence, RI 02903

Tel.: (401) 455-1000

mrusso@frlawri.com

PROSPECT MEDICAL HOLDINGS, INC.,
PROSPECT EAST HOLDINGS, INC., AND
PROSPECT EAST HOSPITAL ADVISORY SERVICES, LLC

By its Attorneys,



Preston W. Halperin, Esq. (#5555)

Dean J. Wagner, Esq. (#5426)

Christopher J. Fragomeni, Esq. (#9476)

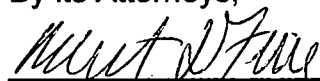
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CHARTERCARE COMMUNITY BOARD
By its Attorneys,



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rfine@crfillp.com

STEPHEN DEL SESTO,
RECEIVER FOR THE ST. JOSEPH HEALTH
SERVICES RETIREMENT PLAN

By his Attorneys,



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STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

CHARTERCARE COMMUNITY BOARD

:

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v.

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C.A. No.: PC-2019-3654

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SAMUEL LEE, ET AL

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STIPULATED PROTECTIVE ORDER
REGARDING PROSPECT CHARTERCARE LLC

Upon agreement of Plaintiff Chartercare Community Board (“CCCB”), Defendant, Prospect Chartercare LLC. (“PCC”) and third-party Stephen Del Sesto, Receiver (“Receiver”) for the St. Joseph Health Services of Rhode Island Retirement Plan (collectively the “Parties”) for Entry of a Stipulated Protective Order regarding the production of confidential and/or proprietary information, and the Court having reviewed and considered the proposed order, and good cause appearing therefor, it is hereby:

ORDERED:

1. **Scope.** This Order shall apply to documents produced by PCC pursuant to a Stipulation and Consent Order between the Parties relating to PCC’s production of certain financial information in connection with CCCB’s and/or the Receiver’s evaluation of the “put option” set forth in the Amended & Restated Limited Liability Company Agreement of Prospect Chartercare, LLC (the “PCC Operating Agreement”).

2. **Non-Disclosure of Confidential Material.** Except as hereinafter provided under this Order or subsequent Court Order, no Confidential Material may be

disclosed to any person except as provided in Paragraph 4 below. "Confidential Material" means any document produced by PCC that bears the legend "PCC-CONFIDENTIAL" to signify that it contains information deemed to be confidential by the producing party. It shall not include documents that CCCB or the Receiver obtains from another source.

3. **Duty of PCC in designating Confidential Material.** Documents shall not be designated as Confidential Material unless the documents are not publicly available, or contain personal identifying information (meaning social security numbers or other information of a non-public nature) of third parties.

4. **Permissible Disclosure of Confidential Material.** Notwithstanding Paragraph 2, Confidential Material may be disclosed to (a) to CCCB; (b) to the Receiver; (c) to counsel for the Receiver and/or CCCB; (d) to the associates, secretaries, paralegal assistants and employees of such counsel to the extent reasonably necessary to render professional services; (e) to consultants, experts, or investigators retained for the purpose of assisting such counsel; to (f) persons with prior knowledge of the Confidential Material and their agents; and to (g) court officials (including, without limitation: court reporters and any special master or mediator appointed by the Court). Such Confidential Material may also be disclosed to any additional person as the Court may order. This Order shall apply to and be binding upon any individual or entity to whom Confidential Material is disclosed. Prior to sharing Confidential Material with any person in category (e) above, any party or counsel making Confidential Material available shall provide that person with a copy of this Order and explain its terms and the Court's determination that anyone viewing Confidential Material is bound by this Order. All such persons in category (d) above will

read a copy of this Order and shall execute an Acknowledgment in the form of Exhibit 1 hereto, which copy shall promptly be provided to counsel for PCC.

5. **Confidential Information subpoenaed or requested by a court, administrative or legislative body.** If Confidential Information in the possession of a party or its counsel is subpoenaed or otherwise requested by any court, administrative or legislative body, or any other person purporting to have authority to subpoena or request such information, the party receiving the subpoena shall give written notice of the subpoena or request to counsel for PCC five (5) business days prior to the time when production of the information is required. In the event that the subpoena/request purports to require production of such Confidential Information on less than five (5) business days' notice, the party receiving the subpoena shall give immediate telephonic notice of the receipt of such subpoena or request, and forthwith deliver by hand, email, or facsimile a copy thereof, to counsel for PCC. Absent a further court order to the contrary, the party receiving the subpoena may comply with the subpoena or request.

6. **Declassification.** In the event that CCCB or the Receiver seeks to disclose Confidential Material in a manner outside of what is provided in Paragraph 4 or 5, CCCB or the Receiver may file a motion with the Court for a ruling that the document designated as Confidential Material is not or should not be entitled to such status and protection. Such motion may be heard upon no less than fourteen (14) days' notice to counsel for PCC. PCC shall have ten (10) days from the date such petition is filed to file an opposition to the petition defending the designation as Confidential Material. PCC shall have five (5) days in which to file a reply. Alternatively, CCCB and /or the Receiver may seek to obtain a court order in the federal court litigation filed by the Receiver against PCC lifting the confidentiality restriction.

7. **Filing of Confidential Material with the Court.** Confidential Material shall not be filed with the Court except under seal, when required in connection with motions as provided for in Paragraph 4 or 6, or any other reason or in connection with other matters pending before the Court for which such materials may be relevant. Any pleadings, motions, or other papers filed under seal shall be filed in accordance with the Rhode Island Superior Court Rules of Civil Procedure and any other applicable court rules or standing orders.

8. **Confidential Material at Trial or Other Court Proceeding.** Subject to the Superior Court Rules of Civil Procedure and any other applicable rules and standing orders, Confidential Material may be offered in evidence at trial or other court proceeding, provided that the proponent of the evidence gives notice to counsel for PCC sufficiently in advance so as to enable it to move the Court for an order that the evidence be received in camera or under other conditions to prevent unnecessary disclosures. The Court will then determine whether the proffered evidence should continue to be treated as Confidential Material and, if so, what protection, if any, may be afforded to such information at the trial or other court proceeding.

9. **No Waiver.**

- (a) Review of Confidential Material by any persons identified in Paragraph 4, 6 or 7 shall not waive the protections provided herein, or any objections to production of Confidential Material.
- (b) The inadvertent, unintentional, or in camera disclosure of Confidential Material shall not, under any circumstances, be deemed a waiver, in whole or in part, of claims of confidentiality. If

PCC inadvertently or unintentionally produces any Confidential Material without marking or designating it as such in accordance with the provisions of this Order, PCC may, promptly on discovery, furnish a substitute copy properly marked, along with written notice to the other persons that such document is deemed confidential and should be treated as such in accordance with the provisions of this Order. Each receiving person must treat such document as Confidential Material from the date such notice is received.

10. **Inadvertent Production of Privileged Material.** CCCB, the Receiver, counsel to CCCB and/or to the Receiver, PCC, and counsel to PCC shall adhere to the obligations imposed by the Superior Court Rules of Civil Procedure regarding privileged material. However, the inadvertent failure of any of them to designate and/or withhold any document as subject to the attorney-client privilege, the attorney work-product doctrine or any other applicable protection or exemption from discovery will not be deemed to waive a later claim as to its appropriate privileged or protected nature, or to stop the producing person from designating such document as privileged or protected from discovery at a later date in writing and with particularity.

11. **Privilege Log.** PCC shall not be required pursuant to this Order to produce documents that are subject to the attorney-client privilege, joint defense privilege and/or attorney work product doctrine, provided that any objections to production of documents on the basis of attorney-client privilege, joint defense privilege and/or attorney work product doctrine are noted at the time for production, and any documents withheld from production based on such objections are identified in a privilege log in accordance with the requirements of Super. R. Civ. P. 26(b)(5)&(7).

12. **Survival.** The terms of this Order shall survive the conclusion of this matter. Counsel to CCCB and/or to the Receiver and/or to PCC may move the Court for an order addressing the post-conclusion treatment of Confidential Material.

13. **Amendment or Modification of Order.** This Order may be amended or modified by this Court upon notice to CCCB, the Receiver, and PCC.

ORDERED:

ENTERED:

Stern, J.

Dep. Clerk

Dated:

Dated:

EXHIBIT 1

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

CHARTERCARE COMMUNITY BOARD :

v. :

C.A. No.: PC-2019-3654

SAMUEL LEE, ET AL :

ACKNOWLEDGEMENT

The undersigned declares and states as follows:

1. I have read the attached Order, dated April __, 2019 ("Order"), understand its contents and hereby agree to comply therewith and to be bound thereby. In addition, I consent to the jurisdiction of the Rhode Island Superior Court for the purposes of enforcement of the Order.

2. I agree to use Confidential Material only for purposes of assisting in the matters for which I have been retained, and for no other purpose.

3. I agree to retain all Confidential Material in a secure manner and in accordance with the terms of the Order. I also agree not to distribute any Confidential Material except in accordance with the Order. I further agree not to communicate Confidential Material to any person or entity not qualified to receive it under the terms of the Order.

4. I agree to comply with all other provisions of the Order.

5. I acknowledge that failure on my part to comply with the provisions of the Order may be punishable by contempt of court and may render me liable to any Party, person, or entity damaged thereby.

I declare under the penalties of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on _____.

Name: _____ (print or type)

Signature: _____