

Hearing date: January 9, 2020 at 9:30 a.m.

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

PETITION TO ENGAGE SPECIAL COUNSEL

Thomas S. Hemmendinger (the “Liquidating Receiver”), the temporary liquidating receiver of CharterCARE Community Board, St. Joseph Health Services of Rhode Island, and Roger Williams Hospital (the “Petitioners”), requests authorization to engage Verrill Dana LLP and Chace Ruttenberg & Freedman LLP as special counsel, on the following grounds:

1. On December 18, 2019, this Court appointed the Liquidating Receiver.
2. Paragraph 4 of the appointment order authorizes the Liquidating Receiver to engage “professionals necessary or appropriate for the efficient administration of the Petitioners, and to pay all such individuals and entities in the usual course of business.”
3. Although the appointment order allows the Liquidating Receiver to engage professionals without further Court action, the Liquidating Receiver believes it is appropriate for the Court to consider the appointment of special counsel on a case-by-case basis.

Verrill Dana

4. Before this liquidating receivership, Verrill Dana represented the Petitioners in their prosecution of Medicare appeals. Through Verrill Dana’s efforts, the Petitioners obtained a settlement of approximately \$580,000 with the Centers for Medicare & Medicaid Services (“CMS”). CMS is expected to pay the settlement within the next two months.

5. Verrill Dana’s work is nearly complete, but the Liquidating Receiver needs Verrill

Dana's expert services to ensure that he collects the CMS settlement and proposes to engage Verrill Dana to complete its existing engagement.

6. Verrill Dana would charge the Liquidating Receiver on an hourly basis for its work plus out-of-pocket expenses. The current hourly rate for Gary Rosenberg, Esq., the principal lawyer on this engagement for Verrill Dana, is \$585.

7. The Liquidating Receiver requests permission to pay Verrill Dana's invoices in the ordinary course, subject to the Court's review at the conclusion of Verrill Dana's services.

8. Further, a December 2019 pre-receivership payment of \$8,097 to Verrill Dana cleared Roger Williams Hospital's bank only after Roger Williams Hospital transferred all of its funds to the Liquidating Receiver. Therefore, the pre-receivership account is overdrawn by that amount.

9. The services covered by this payment were essential to achieving the CMS settlement. Therefore, the Liquidating Receiver seeks permission to fund the shortfall in the pre-receivership bank account, because it would be inequitable under the circumstances for Verrill Dana to disgorge the payment or for the depository bank to incur the loss.

Chace Ruttenberg & Freedman

10. Before this liquidating receivership, Chace Ruttenberg & Freedman represented the Petitioners as general counsel.

11. In the course of this representation, the lawyers at Chace Ruttenberg & Freedman gained detailed, valuable knowledge of the Petitioners' assets and liabilities, the settlements the Petitioners made with Stephen Del Sesto, Esq., the receiver for the St. Joseph Health Services of Rhode Island Retirement Plan (the "Plan Receiver"), and CharterCARE Community Board's litigation against Prospect Chartercare, LLC and other parties.

12. Chace Ruttenberg & Freedman has already given the Liquidating Receiver substantial and invaluable transition briefings and consultations.

13. The Liquidating Receiver proposes to engage Chace Ruttenberg & Freedman to continue providing valuable transition services to the Liquidating Receiver and to represent the Liquidating Receiver on certain other matters where its intimate knowledge is particularly helpful and where the Liquidating Receiver determines that such representation would be cost-effective.

14. Chace Ruttenberg & Freedman would charge the Liquidating Receiver on an hourly basis for its work plus out-of-pocket expenses. The current hourly rates for Robert Fine, Esq., Richard Land, Esq., and Andre Digou, Esq., the principal Chace Ruttenberg & Freedman lawyers in this matter, are \$420, \$395, and \$325 respectively.

15. The Liquidating Receiver requests permission to pay Chace Ruttenberg & Freedman's invoices in the ordinary course, subject to the Court's review at the conclusion of Chace Ruttenberg & Freedman's services.

16. Chace Ruttenberg & Freedman is holding a \$5,000 pre-receivership deposit in its IOLTA account. The Liquidating Receiver requests permission to allow the firm to apply this deposit to its fees and expenses as special counsel.

Notice

17. The Liquidating Receiver has served this Petition and notice of the hearing thereon to counsel of record in this receivership, to the Plan Receiver and his counsel, and to counsel of record for Prospect Chartercare, LLC and its affiliates.

WHEREFORE, the Liquidating Receiver prays that this Court:

(a) Authorize the Liquidating Receiver to engage and pay Verrill Dana LLP as special counsel on the terms proposed above.

(b) Authorize the Liquidating Receiver to fund Roger Williams Hospital's pre-receivership bank account for the recent Verrill Dana payment.

(c) Authorize the Liquidating Receiver to engage and pay Chace Ruttenberg & Freedman LLP as special counsel on the terms proposed above.

(d) Ratify and approve the Liquidating Receiver's actions in connection with the matters set forth in this Petition.

(e) Award to the Liquidating Receiver such other and further relief as this Court deems appropriate.

Date: January 8, 2020

/s/ Thomas S. Hemmendinger
Thomas S. Hemmendinger #3122
Liquidating Receiver
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CERTIFICATE OF SERVICE

I hereby certify as follows:

- 1) On January 8, 2020, 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 EFS
- 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