

**HEARING DATE:
TUESDAY, APRIL 27, 2021 AT 10:00 AM
PROVIDENCE COUNTY BUSINESS CALENDAR BEFORE JUDGE STERN**

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

SUPERIOR COURT

St. Joseph Health Services of Rhode Island,
Inc.

Petitioner

vs.

St. Josephs Health Services of Rhode Island
Retirement Plan, as amended

Respondent

Bank of America, in its capacity as Trustee of
Respondent

Nominal Respondent

PC-2017-3856

**RECEIVER’S EIGHTEENTH INTERIM REPORT AND SEVENTEENTH INTERIM
REQUEST FOR APPROVAL OF FEES, COSTS AND EXPENSES**

NOW COMES Stephen F. Del Sesto, Esq., solely in his capacity as the Receiver (the “Receiver”) for St. Josephs Health Services of Rhode Island Retirement Plan (the “Plan”), and hereby submits this Eighteenth Interim Report (the “Eighteenth Report”) and Seventeenth Interim Request for Approval of Fees, Costs and Expenses (the “Seventeenth Fee Application”). In support of the Eighteenth Report and Seventeenth Fee Application the Receiver states as follows:

1. This case was commenced on August 17, 2017, upon the Petition for the Appointment of a Receiver (the “Petition”) filed by St. Joseph Health Services of Rhode Island, Inc. (“Petitioner”). As a result of that Petition, on August 18, 2017, this Court appointed Stephen F. Del Sesto, Esq. as Temporary Receiver of the Plan under surety bond ordered by this Court in the amount of One Million and 00/100 (\$1,000,000.00) Dollars (the “Temporary Receiver Order”).

2. The Plan is a defined benefit plan organized by Petitioner on or about July 1, 1965, for the benefit of Petitioner’s employees. As of the date of the Petition, the Plan had approximately 2,729

vested participants¹ of which approximately 1,229 were then receiving monthly benefits payments. Based on the benefits payments issued by Bank of America as of April 1, 2021, 1,512 participants are currently receiving monthly benefits payments. The total amount of benefits paid in April 2021 equaled \$956,179.14.

3. Typically, a hearing on permanent receiver is set for a date approximately twenty (20) days after the appointment of temporary receiver. Here however, the Petitioner requested that the Court set a hearing date no sooner than thirty (30) days to afford the Temporary Receiver time to consider the Petitioner's suggested 40% uniform benefit reduction. Based on that request, the Court docketed the hearing on permanent receiver for October 11, 2017.

4. Immediately upon appointment, in order to provide pension holders with a direct means to obtain answers to questions and access to information, the Receiver established a dedicated email address (stjosephretirementplan@pierceatwood.com) and two dedicated phone lines (401-490-3436 and 401-865-6249). In addition, the Receiver established a dedicated, public website (<https://www.pierceatwood.com/st-joseph-health-services-rhode-island-retirement-plan>) where all pleadings and other information would be posted for easy accessibility to pension holders and other interested parties. Notice of the dedicated email, phone lines and website was sent to all Plan participants via first class mail. The Receiver believes that establishing these various means of communication has been invaluable to the pension holders and the Receiver. Since establishing the email address and phone lines the Receiver has received hundreds of email and voicemail communications from pension holders. The dedicated website has been revised and is updated regularly to include access to filings made in both the State and Federal litigation matters as well as other related litigation and liquidating receivership matters related to this proceeding.

5. Due to their day-to-day involvement with the Plan, the Receiver initially had consistent and regular communications with Bank of America (the Plan's Trustee and custodian of the assets) and Angell Pension Group (the Plan's actuary and benefits administrator at the time) regarding the

¹ According to documents reviewed by the Receiver, excluding United Nurses and Allied Professionals Local 5110 ("UNAP") members hired before October 1, 2008, the Plan was closed to all employees on or about October 1, 2007. Thereafter, benefit accruals were frozen for non-union employees on September 30, 2009, for Federation of Nurses and Health Professionals and other non UNAP union employees on September 30, 2011 and for UNAP employees on June 19, 2014.

management and administration of the Plan. The Receiver has reviewed quarterly reports and had regular, periodic discussions with Mercer Investment (the Plan's discretionary Investment Manager) regarding the performance of asset investments, the allocation of the asset investments and market conditions and projections that may impact those investments. The Receiver is aware that, among the pension holders and other interested parties, there existed a level of distrust and concern regarding the pre-receivership administration and oversight of the Plan. As a result, the Receiver made changes regarding the day-to-day management and administration of the Plan and its assets and will continue to evaluate and make changes as may be prudent or necessary.

6. In the Order Appointing Permanent Receiver (the "Permanent Receiver Order") entered on October 27, 2017, this honorable Court established the Receiver's duties with respect to the St. Joseph Health Services of Rhode Island Retirement Plan (the "Plan"). The Order generally authorizes the Receiver to monitor, manage and administer the Plan and its assets on behalf of its participants and beneficiaries. Among other actions, the Receiver may engage actuaries, investment advisors, benefit administrators and other professionals to perform various administrative tasks and services for the Plan. The Receiver may also initiate and litigate claims against third parties on the Plan's behalf, acquire and dispose of property, direct investments and pay Plan-related expenses from the assets held in trust.

7. The Receiver continues to receive and review documents related to the Plan and its history. The Receiver and GRS, the Receiver's Plan actuary, are fully engaged regarding benefits administration of the Plan and address multiple inquiries, applications, and questions on a daily basis.

8. Prior to the COVID pandemic, approximately every 4-6 weeks throughout this proceeding the Receiver hosted "town-hall" style, informational meetings at Rhodes on the Pawtuxet in Cranston, Rhode Island. At these meetings the Receiver provided a current status of the receivership proceedings. In addition and in an effort to assure complete transparency of the receivership process and the Receiver's efforts, the Receiver responds to questions raised by the meeting participants regarding various aspects of the receivership and the Plan. Understanding that not all participants can attend these meetings, the Receiver digitally records each meeting and

a link to the meeting recordings are posted to the Receiver's dedicated website and available for unrestricted viewing.

Due to the State gathering restrictions imposed during the pandemic and in order to provide pension holders with information, the Receiver has moved from an in-person to virtual, via Zoom, town-hall meeting format. The Receiver has conduct five (5) meetings under this format and will continue every 4-6 weeks until in-person gatherings are safe again. The next meeting will be scheduled in or about May/June 2021 unless circumstances arise that warrant a meeting prior to that scheduled date.

9. Prior to this Eighteenth Report and Seventeenth Request for Approval of Fees, the Receiver has filed seventeen (17) prior reports with the Court and sixteen (16) prior requests for approval of fees. Rather than set forth summaries for each prior Report, copies of the First Report through the Seventeenth Report and related Orders are on file with the Clerk of the Court and accessible on the Receiver's dedicated website and all are incorporated by reference and made a part of this Eighteenth Interim Report as if fully set forth herein.

10. On or about June 28, 2018, as part of the Fourth Report, the Receiver advised the Court that litigation had been initiated in both State Court (*Stephen Del Sesto, et. al. v. Prospect CharterCARE, LLC, CharterCARE Community Board; St. Joseph Health Services of Rhode Island; Prospect CharterCARE SJHSRI, LLC; Prospect CharterCARE RWMC, LLC; Prospect East Holdings, Inc.; Prospect Medical Holdings, Inc.; Roger Williams Hospital; CharterCARE Foundation; The Rhode Island Community Foundation; Roman Catholic Bishop of Providence; Diocesan Administration Corporation; Diocesan Service Corporation; and The Angell Pension Group, Inc.* (PC-2018-4386)) (the "State Litigation") and Federal Court (*Stephen Del Sesto, et. al. v. Prospect CharterCARE, LLC, CharterCARE Community Board; St. Joseph Health Services of Rhode Island; Prospect CharterCARE SJHSRI, LLC; Prospect CharterCARE RWMC, LLC; Prospect East Holdings, Inc.; Prospect Medical Holdings, Inc.; Roger Williams Hospital; CharterCARE Foundation; The Rhode Island Community Foundation; Roman Catholic Bishop of Providence; Diocesan Administration Corporation; Diocesan Service Corporation; and The Angell Pension Group, Inc.* (1:18-cv-00328-WES-LDA)) (the "Federal Litigation" together with

the State Litigation shall be referred to as the “Litigation”) against various defendants and Special Counsel provided the Court with a status update of those actions and related next steps for the Litigation.

11. On February 12, 2021, this Court held a hearing via WebEx on the Receiver’s Seventeenth Interim Report (the “Seventeenth Report”) and Sixteenth Interim Request for Approval of Fees, Costs and Expenses (the “Sixteenth Fee Request”). Upon conclusion of the hearing, the Court approved the Seventeenth Report and the Sixteenth Fee Request.

12. Since the filing of and hearing on the Seventeenth Report in this Superior Court Receivership action the following events have occurred:

- a. On or about February 3, 2021, your Receiver filed his Receiver’s Seventeenth Report and Sixteenth Fee Request. The hearing on the Seventeenth Report and Sixteenth Fee Request was held on February 12, 2021. At the conclusion of the hearing, this Court approved the Seventeenth Report and Sixteenth Fee Request and an Order to that effect was entered on March 1, 2021.
- b. Also on February 12, 2021, the Court held a hearing on the Receiver’s “Petition for Settlement Instructions and Approval” (the “Settlement Petition”) filed on January 25, 2021. At the conclusion of the hearing the Court reserved its ruling and indicated that it would be issuing a written decision on the Settlement Petition.
- c. On or about March 4, 2021, the Court issued a written decision approving the Settlement Petition and authorizing the Receiver to present the same to the Federal Court for approval. The Court entered an Order consistent with the written decision on that same day.
- d. On or about March 8, 2021, the Court issued a written Amended Decision approving the Settlement Petition. The Amended Decision did not alter, amend or rescind the Court’s approval of the Settlement Petition.

13. Since the filing of and hearing on the Seventeenth Report, the following events have occurred in the Federal Litigation (CA No.: 1:18-CV-00328-S-LDA):

- a. On or about February 16, 2021, the Court entered a Text Order granting the Joint Motion to Stay the Proceedings Pending Judicial Approvals of the Settlement Agreement. In connection with the Text Order, the Court stayed all proceedings and deadlines between the settling parties and instructed the settling parties to submit a joint status report on March 15, 2021 and every 30 days thereafter, until a Motion for Preliminary Settlement Approval is filed or until the stay is lifted. The Court further indicated that the stay did not apply to Plaintiffs' claims against the Roman Catholic Bishop of Providence, the Diocesan Administration Corporation, or the Diocesan Service Corporation.
- b. On or about March 11, 2021, the Receiver and the other Plaintiffs in the federal action filed a Motion for Preliminary Settlement Approval, Settlement Class Certification, Appointment of Class Counsel, and a Finding of Good Faith Settlement (the "Motion for Prelim Approval"). On that same date, the Receiver and the other Plaintiffs filed a Declaration in support of the Motion for Prelim Approval.
- c. On or about March 25, 2021, the Diocesan Administration Corporation, Diocesan Service Corporation, Roman Catholic Bishop of Providence filed a Response In Limited Opposition to the Motion for Prelim Approval (the "Diocesan Response"). The Diocesan Response did not object to the amount, good faith or reasonableness of the proposed settlement; rather, the Diocesan Response re-asserted constitutionality arguments relative to the RI Joint Tortfeasors legislation enacted and applicable to this litigation on the St. Joseph's pension failure.
- d. On or about March 26, 2021, the Court: (i) entered an Order granting the Motion for Prelim Approval, (ii) issued a Notice of the Fairness Hearing; and, (iii) docketed the virtual Fairness Hearing for July 20, 2021 at 2pm.
- e. On or about April 9, 2021, the Receiver and the other Plaintiffs filed a Motion for Attorney Fees in Connection with Settlement with the Prospect Entities, Related Individuals, and The Angell Pension Group, Inc. On that same day the Receiver and the other Plaintiffs filed a Declaration in support.

14. Since the filing of and hearing on the Seventeenth Report no new events have occurred in the CCCB Litigation (PC-2019-3654).

15. Since the filing of and hearing on the Seventeenth Report, the following events have occurred in the Liquidating Receivership (PC-2019-11756):

- a. Also on February 12, 2021, the Court held a hearing on the Liquidating Receiver's "Petition for Instructions Regarding Settlement with Prospect Parties and Angell Pension Group" (the "Liquidating Receiver Settlement Petition"). At the conclusion of the hearing the Court reserved its ruling and indicated that it would be issuing a written decision on the Liquidating Receiver Settlement Petition.
- b. On or about March 1, 2021, the Court entered an Order approving the Liquidating Receiver's Fourth Report and Request for Interim Compensation (the "Fourth Report").
- c. On or about March 4, 2021, the Court issued a written decision approving the Liquidating Receiver Settlement Petition. The Court entered an Order consistent with the written decision on that same day.
- d. On or about March 8, 2021, the Court issued a written Amended Decision approving the Liquidating Receiver Settlement Petition. The Amended Decision did not alter, amend or rescind the Court's approval of the Liquidating Receiver Settlement Petition.

16. Originally, your Receiver, along with the Liquidating Receiver and several other parties filed formal objections and other related filings to the Prospect Entities and related entities and individuals' applications for a Change in Effective Control pending before the Rhode Island Health Services Council ("RIHSC") and applications for Hospital Conversion Act proceedings before the Rhode Island Department of Health and Rhode Island Attorney General. In accordance with the terms of the proposed Settlement Agreement, the Receiver and Liquidating Receiver have withdrawn those objections.

17. As the Court may recall, as of the start of this proceeding, the Plan assets totaled approximately \$85,795,641.99. In months since (as of February 28, 2021), the Plan assets totaled

approximately \$58,931,305.40.² The largest factor in the reduction of the Plan assets is monthly benefit payments and other payments required for the administration of the Plan (i.e. accountant fees, actuarial fees, investment manager fees, benefits administration fees, etc.). It is important to note that during the months since the inception of this proceeding the Plan paid out monthly benefit payments, retroactive benefit payments and other payments and fees related to Plan maintenance and services at an average rate of approximately \$956,000 per month.

To add to the volatility of the investments, the COVID pandemic and the recent election has had a dramatic impact on the market. However, in an effort to protect and insulate the Plan from dramatic market fluctuations, the Receiver regularly reviewed and adjusted the allocation of assets for investment risk. These reallocations have been somewhat successful in insulating the Plan from the volatility and related losses. The Receiver continues to work with the investment manager to regularly review and assess the allocation of investments so as to maximize the returns for the Plan while at the same time protecting it based on its status and unavoidable, unpredictable fluctuations of the markets.

18. In connection with the administration of the within proceeding, as of the filing of the Seventeenth Report on or about February 3, 2021, your Receiver had cash-on-hand totaling \$3,455,657.99. Since that time, your Receiver has had no additional receipts and has had additional disbursements totaling \$31,019.41, leaving current cash-on-hand in the sum of \$3,424,638.58, all as set forth in the **“Schedule of Receipts and Disbursements”** attached hereto.³

19. In connection with this Eighteenth Report, your Receiver is requesting that the Court approve the Seventeenth Fee Application incurred for the two (2) month period from February 1, 2021, through, and including, March 31, 2021, totaling approximately \$70,000. The Receiver respectfully requests that this Court approve the Seventeenth Fee Application of the Receiver and authorize him to pay himself such approved fees. A copy of your Receiver’s Seventeenth Fee Application Invoice will be presented, in redacted form, under separate cover to the Court for

² This amount does not include the Settlement “A” NET proceeds totaling approximately \$10,232,403.84 which are held with Schwab for the benefit of the Plan.

³ Cash-on-hand includes the funds received from Settlement “B”.

review in advance of the Hearing on this Eighteenth Report. Due to the Litigation and the related descriptions and narratives in time entries, to avoid any potential disclosure, strategy, attorney-client privileged communications, etc., the Receiver requests that the redacted invoices submitted to the Court be filed under seal.

WHEREFORE, your Receiver prays that this honorable Court enter an order or orders: (1) approving, confirming and ratifying all of the Receiver's acts, doings, and disbursements as Temporary and Permanent Receiver as of the filing of this Eighteenth Report; (2) authorizing the Receiver to satisfy the fees, costs and expenses incurred by the Receiver and presented in connection with the Seventeenth Fee Application for his services as Temporary and Permanent Receiver herein; (3) directing that this proceeding remain open pending final resolution of all the issues identified herein and the general winding down of the Receivership Estate; and (4) granting such further relief as this Honorable Court deems necessary and appropriate.

Respectfully submitted,

/s/ Stephen F. Del Sesto

Stephen F. Del Sesto, Esq. (#6336)

Solely in his capacity as Permanent Receiver
for St. Josephs Health Services of Rhode
Island Retirement Plan, and not individually
One Financial Plaza, 26th Floor

Providence, RI 02903

Tel: 401-490-3415

sdelsesto@pierceatwood.com

Dated: April 19, 2021

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of April, 2021, I electronically filed and served the within document via the Electronic Case Filing System of the Superior Court with notice to all parties in the system.

/s/ Stephen F. Del Sesto

SCHEDULE OF RECEIPTS AND DISBURSEMENTS

7:39 PM

St Joseph Health Services of RI Retirement Plan
Transactions by Account 041921
As of April 19, 2021

04/19/21

Accrual Basis

Date	Num	Name	Memo	Debit	Credit	Balance
BankRI Checking Account						
02/22/2021	367	Gina Gomes	2/12/21 hearing transcript		120.00	3,455,657.99
03/03/2021	368	Relevant Discover-e	Inv #8138; copying & postage of meeting & hrg notices		3,643.27	3,455,537.99
04/02/2021	369	Relevant Discover-e	Inv #8274; copying & postage of class notice		12,402.32	3,451,894.72
04/15/2021	370	Wistow Sheehan & Loveley, PC	out-of-pocket expenses thru 03/31/21		11,788.86	3,439,492.40
04/15/2021	371	Relevant Discover-e	Inv #8314; copying & postage notice of hearing		3,064.96	3,427,703.54
Total BankRI Checking Account				0.00	31,019.41	3,424,638.58
TOTAL				0.00	31,019.41	3,424,638.58