

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

In re: CHARTERCARE HEALTH PARTNERS :
FOUNDATION; ROGER WILLIAMS :
HOSPITAL; and ST. JOSEPH HEALTH :
SERVICES OF RHODE ISLAND, INC., :
Petitioners :

C.A. NO: KM-2015-0035

v. :

STEPHEN DEL SESTO, AS RECEIVER AND :
ADMINISTRATOR OF THE ST. JOSEPH :
HEALTH SERVICES OF RHODE ISLAND :
RETIREMENT PLAN; GAIL J. MAJOR; :
NANCY ZOMPA; RALPH BRYDEN; :
DOROTHY WILLNER; CAROLL SHORT; :
DONNA BOUTELLE; and EUGENIA :
LEVESQUE, :

Respondents and Third :
Party Petitioners :

v. :

RHODE ISLAND COMMUNITY :
FOUNDATION, d/b/a RHODE ISLAND :
FOUNDATION, :

Third Party Respondent :

**STATEMENT OF CHARTERCARE FOUNDATION
REGARDING PARAGRAPH 18 OF OCTOBER 15, 2019 JOINT PETITION**

In advance of the scheduled November 21, 2019 hearing to consider the parties' October 15, 2019 *Joint Petition to Modify April 20, 2015 Cy Pres Order, Vacate June 29, 2018 Order Concerning Preservation of CCF Assets, and For Entry of Final Judgment* (the "Joint Petition"). CharterCARE Foundation ("CCF") makes the following statement regarding paragraph 18 of that Joint Petition.

The sixth sentence of paragraph 18 of the Joint Petition states as follows.

The “amount of the assets listed under ‘General Use’ in the [2015] *Cy Pres* Petition” was \$3,714,310. Id. at 10 fn. 5; see also (2015 *Cy Pres* Petition, ¶ 22).

(Joint Petition at p. 11). Paragraph 22 of the 2015 *Cy Pres* Petition did indeed reference \$3,714,310 of such “General Use” assets. In turn, paragraph 22 of the 2015 *Cy Pres* Petition cited to Exhibit G of the 2015 *Cy Pres* Petition for a breakdown of those “General Use” assets.

After filing the Joint Petition on October 18, 2019, it came to the attention of CCF’s undersigned counsel that, in the chart that itemizes such “General Use” assets appearing on pages 4-6 of Exhibit G of the 2015 *Cy Pres* Petition, the numbers in that chart add up to \$1,082,090 rather than \$3,714,310. At this time, CCF and its undersigned counsel are unable to re-construct how the \$3,714,310 figure was computed at the time of the 2015 *Cy Pres* Petition.

Ultimately, CCF submits that this discrepancy is not significant with respect to the Court’s action on the Joint Petition, inasmuch as the Settling Parties would have made the same settlement in any event, based on all of the factors of the case, and that this Court should indeed issue an order granting the Joint Petition for all the reasons set forth in paragraph 1-17 of the Joint Petition. Indeed, the Receiver’s claims against CCF assert that, as creditors of dissolving non-profit corporations (SJHSRI and RWH), R.I. Gen. Laws § 7-6-51 afforded the Plan and/or its beneficiaries a priority claim to all the Heritage Hospitals’ charitable assets before any portion of such assets, restricted or otherwise, could be transferred to another nonprofit corporation such as CCF under the doctrine of *cy pres*.

CHARTERCARE FOUNDATION,

By its attorneys,

/s/ Russell F. Conn
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Dated: November 8, 2019

CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2019, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's Electronic Filing System.

/s/ Andrew R. Dennington

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