

**HEARING DATE:  
MONDAY, NOVEMBER 20, 2017 AT 9:30 AM  
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 FIRST INTERIM REPORT AND  
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 First Interim Report and Request For Approval of Administrative Fees, Costs and Expenses (the "First Report"). In support of the First Report 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 2,729 vested participants<sup>1</sup> of which approximately 1,229 were presently receiving monthly benefits payments.

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](mailto:stjosephretirementplan@pierceatwood.com)) and two dedicated phone lines (401-490-3436 and 401-865-6249). In addition, the Receiver established a dedicated 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.

5. In addition to establishing a direct means for communications, within the first two (2) weeks of the appointment as Temporary Receiver your Receiver met or communicated with, in some instances on several occasions, members of the Petitioner's Board, Angell Pension Group, Mercer Investment, Bank of America, counsel to the Diocese of Providence, counsel to UNAP, the Healthcare Advocate for the RI Attorney General, the RI Department of Revenue, the Pension Benefit Guaranty Corporation and members of local and national media. The Receiver

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<sup>1</sup> 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.

has also participated in meetings with the Governor's office, the Senate President, the Speaker of the House and the State Treasurer.

6. Due to their day-to-day involvement with the Plan, the Receiver has had consistent and regular communications with Bank of America (the Plan's Trustee and custodian of the assets), Mercer Investment (the Plan's discretionary Investment Manager) and Angell Pension Group (the Plan's actuary and benefits administrator) regarding the management and administration of the Plan. The Receiver is aware that, among the pension holders and other interested parties, there exists a level of distrust and concern regarding the pre-receivership administration and oversight of the Plan. As a result, the Receiver is considering all options and the related benefits regarding the ongoing day-to-day management and administration of the Plan and, if prudent, will make changes as necessary.

7. Soon after his appointment, the Receiver was advised that "Exhibit A" to the Petition was not the most recent version of the Plan. To rectify the error, on or about August 29, 2017, the Receiver filed an Ex Parte Petition to Substitute Exhibit and replaced the prior Exhibit A with the most recent version of the Plan.

8. Also on August 29, 2017, the Receiver attended a conference with the Court where the Receiver asked the Court to clarify whether or not the Court imposed "stay" set forth in paragraph 6 of the Temporary Receiver Order applied to the processing of post-receivership benefit applications from pension holders. The Court entered an Order preserving applicants filing date but postponing processing of those applications. The postponement was provided to give the Receiver time to assess possible benefits adjustments without constantly increasing monthly benefits payouts which would substantially impact calculations.

9. Soon thereafter, the Court requested that the Receiver provide a formal status report on September 8, 2017. Due to the shortened time frame for notice only, the hearing was considered an "emergency hearing".

10. As requested by the Court, the Receiver provided a formal status report to the Court on September 8, 2017. In addition to the general status, during the report the Receiver: (a) advised the Court that he had begun discussions regarding the possible engagement of Wistow, Sheehan

& Loveley, PC (“WSL”) to serve as special litigation counsel to assist the Receiver in investigating potential claims against third parties involved in the prior transactions involving Petitioner and pre-receivership management and administration of the Plan; (b) requested that the Court expand his powers as Temporary Receiver to include subpoena powers; and (c) requested that the Petitioner’s request that benefits be adjusted on October 11<sup>th</sup> be continued until after the start of 2018. With regard to (b) and (c), the Court granted the Receiver’s requests.

11. On or about October 2, 2017, the Receiver conducted a “town hall” style meeting for any and all pension participants who could attend. The purpose of the meeting was to provide those affected with a current status of the efforts taken to that point as well as to answer questions and provide a forum for discussion about the Plan and its future. The meeting was attended by approximately 650 pension holders. The Receiver has uploaded a video of the entire meeting on the dedicated website to allow those who could not attend the benefit of the information and discussion.

12. On or about October 11, 2017, the Court held a hearing on the appointment of Permanent Receiver, the Receiver’s Emergency Petition to Engage Special Counsel and the Receiver’s Petition for Instruction regarding Service on Bank of America and the Plan Administrator. At the hearing, the Receiver requested that the Court: (a) authorize the Receiver to engage WSL as special litigation counsel; (b) pass (i.e. not consider) the Petitioner’s request for a 40% uniform reduction of benefits; (c) authorize the Receiver to formally serve the Plan’s trustee and administrators; (d) add the Plan’s trustee, Bank of America NA, as a nominal respondent to the matter for purposes of notice and proper jurisdiction over the Plan; and (e) postpone the hearing on Permanent Receiver for a period of 2 weeks to effectuate the service upon the trustee and plan administrators. Following the hearing, the Court entered orders granting all the requests made by the Receiver and docketed the hearing on Permanent Receiver for October 27, 2017. In addition and also to be heard on October 27<sup>th</sup>, the Court directed the Receiver to submit to the Court a request to establish plan participant committees to assist the Receiver and Court regarding communications, benefits adjustments and similar issues.

13. In accordance with the Court's October 11, 2017, request, prior to October 27<sup>th</sup> the Receiver filed a Petition for Instruction Regarding Designation of Pension Plan Participant Groups and Formation of Advisory Committees (the "Committee Petition"). In the Committee Petition the Receiver advised the Court that in his several, separate discussions with UNAP, Attorneys Violet and Senville and a large number of pension participants there has been a consistent request for the Receiver to identify and form groupings of pension participants into similarly situated groups so that each group could have a voice in the analysis regarding benefit adjustments and the matter generally. It would also allow each group or participant to decide for themselves as to whether they want (or not) to engage counsel for formal representation in this matter. The Receiver identified common attributes of a large "middle group", requested that the "middle group" be recognized and designated as a group and requested that the Receiver be authorized to form two (2) advisory committees – one solely formed to communicate the status and other happenings in this proceeding to the entire group of Plan participants (as a supplement to the Receiver's notices) and one to solely provide objective perspectives and suggestions to the Receiver regarding benefit adjustments.

14. On or about October 27, 2017, the Court held a hearing on the appointment of Permanent Receiver and the Committee Petition. At the conclusion of the hearing, the Court entered an Order appointing the Temporary Receiver as the Permanent Receiver. The Court also approved the Receiver's formation of the advisory committees and recognized the "middle group" as a recognized and designated group in the receivership process. With regard to the middle group, the Court also authorized the Receiver to conduct another "town hall" style meeting with the "middle group" to explore that group's desire to break-out into more distinct, smaller groupings (for example, the middle group could be further broken out into currently receiving benefits vs eligible but not receiving benefits vs not yet eligible vs receiving spousal benefits) and to explore that group's (or smaller groups') desire to engage legal counsel.

15. The Receiver organized and conducted a meeting with the "middle group" on November 7, 2017. At that meeting, the Receiver provided an overview of the Committee Petition and entertained discussion regarding legal counsel engagement and a further break-out of the middle group into smaller groups. While the majority of those who spoke expressed a desire to stay as one large group and to not engage counsel, many who did not speak but who were in attendance

expressed an opposite opinion to the Receiver after the meeting had concluded. The Receiver has also received numerous emails and calls expressing similar differing opinions on those points. Similar to the October 2, 2017, meeting, this meeting was recorded and the recording will be uploaded to the Receiver's website.

16. Although the Receiver will continue to try to facilitate organizing the "middle group" in accordance with the varying interests and preferences, with February 2018 fast approaching the Receiver needs to assemble the Advisory Committee as quickly as possible. To that end, the Receiver will be sending a "volunteer" request to all Plan participants which will ask the prospective volunteers to identify factors such as age, current benefit status, current work status and other factors so that the Receiver can assemble approximately 15 people who comprise as representative a group as possible for the Advisory Committee.

17. Unless otherwise directed by the Court, the Receiver is intending to regularly schedule (i.e. monthly or every 2 months as may be appropriate or necessary) "town hall" style meetings for the Receiver to present an update as to the status of this proceeding as well as allow for an open forum to allow Plan participants an opportunity to ask questions and raise issues or concerns. The next "town hall" style meeting is scheduled for Monday, December 4, 2017, at 5:30 pm at Rhodes on the Pawtuxet in Cranston. Notice of the December 4<sup>th</sup> meeting will be sent to all Plan participants in the days following the filing of this First Report.

18. In addition to the above, the Receiver continues to receive and review documents related to the Plan and its history and explore options related to the ongoing management, investment and administration of the Plan. The Receiver is also review and analyzing financial data relative to the possible benefits adjustment scenarios in an effort to identify the most equitable, interim adjustment while the investigation of third parties progresses. Further, WSL have continued investigative efforts and subpoenas have been issued to several third parties seeking information to assist in that analysis.

19. In connection with the administration of the within proceeding, since August 18, 2017, your Receiver has had receipts totaling **\$650,000.00<sup>2</sup>** and disbursements totaling **\$20,242.31** leaving cash on hand in the sum of **\$629,757.69** all as set forth in the attached **Schedule of Receipts and Disbursements**.

20. In connection with this First Report, your Receiver is requesting that the Court authorize him to pay himself his fees, costs and expenses incurred from August 18, 2017, through October 31, 2017. A copy of your Receiver's First Interim Fee invoice will be presented, in redacted form, under separate cover to the Court for review in advance of the Hearing on this First Report. In addition, your Receiver is requesting that the Court authorize him to pay WSL's Special Counsel fees, costs and expenses incurred through October 31, 2017. A copy of the Special Counsel's fee invoice will also be presented, in redacted form, under separate cover to the Court for review in advance of the Hearing on this First Report. Due to the potential for litigation in this matter and the related description 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: (1) all of his acts, doings, and disbursements as Temporary and Permanent Receiver as of the filing of this First Report be approved, confirmed and ratified; (2) the Receiver be awarded a First Interim Allowance for his services as Temporary and Permanent Receiver herein, plus his costs and expenses; (3) the Receiver be authorized to satisfy the fees and expenses incurred by Special Counsel; (4) this proceeding remain open pending final resolution of all the issues identified herein and the general winding down of the receivership Estate; and (5) such further relief as this Honorable Court deems necessary and appropriate.

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<sup>2</sup> The "receipts" represent funds deposited with the Receiver, at the Receiver's request, from the Petitioner's Board. The Receiver understands that the funds deposited were provided from wind-down funds held by the former Roger Williams Hospital shell entity.

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  
72 Pine Street, 5<sup>th</sup> Floor

Providence, RI 02903

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Dated: November 10, 2017

**CERTIFICATE OF SERVICE**

I hereby certify that on the 14<sup>th</sup> day of November, 2017, 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**

**St Joseph Health Services of RI Retirement Plan  
Transaction Detail by Account  
August 18 through November 14, 2017**

| Date                           | Num | Name                               | Memo   | Debit             | Credit           | Balance           |
|--------------------------------|-----|------------------------------------|--|-------------------|------------------|-------------------|
| <b>BankRI Checking Account</b> |     |                                    |  |                   |                  |                   |
| 10/06/2017                     | 101 | Relevant Discover-e                | funds from RW/St. Joes (R. Land)                   | 400,000.00        |                  | 400,000.00        |
| 10/16/2017                     | 102 | Relevant Discover-e                | invoice #1924: 9/1/17                              |                   | 1,879.10         | 398,120.90        |
| 10/16/2017                     | 103 | The Hilb Group of New England, LLC | invoice #2048: 9/26/17                             |                   | 1,468.28         | 396,652.62        |
| 10/16/2017                     | 104 | William White Legal Video Services | invoice #662744: Receiver's Bond                   |                   | 5,000.00         | 391,652.62        |
| 10/19/2017                     |     |                                    | invoice #1517: 10/2/17 mtg video                   |                   | 500.00           | 391,152.62        |
| 10/23/2017                     | 105 | Russo Associates, Inc.             | funds from RW/St. Joes (R. Land)                   | 250,000.00        |                  | 641,152.62        |
| 10/25/2017                     |     |                                    | invoice #H9531 (service of Summons & Subpoenas)    |                   | 270.00           | 640,882.62        |
| 10/30/2017                     | 201 | Providence Journal                 | check order  |                   | 156.83           | 640,726.79        |
| 10/31/2017                     | 202 | Relevant Discover-e                | publication of Order Appointing Permanent Receiver |                   | 3,541.57         | 637,185.22        |
| 11/01/2017                     | 203 | Gina Gomes                         | invoice #2245: 10/3/17                             |                   | 1,328.39         | 635,856.83        |
| 11/02/2017                     | 204 | Relevant Discover-e                | 10/1/17 and 10/27/17 hearing transcripts           |                   | 120.00           | 635,736.83        |
| 11/07/2017                     | 205 | Rhodes on the Pawtuxet             | invoice #2250: 10/3/17                             |                   | 1,470.99         | 634,265.84        |
| 11/09/2017                     | 206 | ATR Teehouse                       | 11/7/17 meeting with plan participants             |                   | 2,200.20         | 632,065.64        |
| 11/13/2017                     | 207 | Relevant Discover-e                | audio for 11/7/17 meeting                          |                   | 978.09           | 631,087.55        |
|                                |     |                                    | postage for 11/13/17 mailing Notice of 11/20 hrg   |                   | 1,329.86         | 629,757.69        |
| Total BankRI Checking Account  |     |                                    |  | 650,000.00        | 20,242.31        | 629,757.69        |
| <b>TOTAL</b>                   |     |                                    |  | <b>650,000.00</b> | <b>20,242.31</b> | <b>629,757.69</b> |