

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

ST. JOSEPH HEALTH SERVICES OF)
R.I., INC)

VS.)

C.A. NO. PC-2017-3856

ST. JOSEPH HEALTH SERVICES OF)
R.I. RETIREMENT PLAN, as amended)
et al)

HEARD BEFORE

THE HONORABLE BRIAN P. STERN, ASSOCIATE JUSTICE,

REMOTELY ON OCTOBER 20, 2020

APPEARANCES:

STEPHEN DEL SESTO, ESQUIRE.....RECEIVER
CHRISTOPHER FRAGOMENI, ESQUIRE.....FOR PROSPECT
STEVEN BOYASIAN, ESQUIRE.....FOR ANGELL PENSION

GINA GIANFRANCESCO GOMES
COURT REPORTER

C E R T I F I C A T I O N

I, Gina Gianfrancesco Gomes, hereby certify that the succeeding pages 1 through 8, inclusive, are a true and accurate transcript of my stenographic notes taken remotely to the best of my ability.

GINA GIANFRANCESCO GOMES
COURT REPORTER

1 TUESDAY, OCTOBER 20, 2020

2 MORNING SESSION

3 (The following proceeding was conducted remotely:)

4 THE CLERK: The matter before the Court is
5 PC-2017-3856, St. Joseph Health Services v. St. Joseph's
6 Health Services Retirement. Counsel, please identify
7 yourselves beginning with the Plaintiff, please.

8 MR. DEL SESTO: Good morning, your Honor. This is
9 Stephen Del Sesto. I am the court-appointed receiver for
10 the St. Joseph's Retirement Plan.

11 MR. FRAGOMENI: Good morning, your Honor. Chris
12 Fragomeni for the Prospect entities.

13 MR. BOYASIAN: Good morning, Judge. Steve Boyajian
14 for the Angell Pension Group.

15 THE COURT: Thank you very much. I've reviewed the
16 Receiver's report. There have been no objections, so
17 I'll allow the Receiver to proceed.

18 MR. DEL SESTO: Thank you, your Honor. As your
19 Honor noted, there have been no objections that I am
20 aware of. I have filed -- the report was provided to all
21 interested parties, all plan participants, and any
22 creditors known to the Receiver. There is an affidavit
23 of notice on file with the Court indicating the same.
24 Your Honor, we were last before you approximately 60 days
25 ago on a report. Since then, your Honor, not much has

1 changed by way of information. I will only hit some of
2 the high points in the new developments in the case,
3 unless your Honor has any specific questions regarding
4 anything that is set forth in the report, your Honor.

5 THE COURT: No, actually I thought it was clear. I
6 don't know if there has been any significant changes in
7 the cash position since filing of the report.

8 MR. DEL SESTO: There has not, your Honor. There
9 have been no significant changes in the cash. I was
10 going to just highlight for your Honor that as of October
11 1st we now have 1,494 participants currently receiving
12 benefits and in October those benefit payments totaled
13 \$954,398.44. That is approximately about \$15,000 more
14 than what we were running as of the last report. I can
15 provide your Honor with -- I did receive yesterday, and I
16 can provide your Honor with it, if you're interested, in
17 how many participants actually are eligible but not yet
18 collecting benefits. There are approximately -- I can
19 give you the exact number but there are approximately
20 450, which range from parties who are eligible for early
21 retirement collection as well as standard retirement
22 collection. Early retirement being 55 years old;
23 standard being 65, your Honor.

24 With regard to events since the last hearing, your
25 Honor, the 14th report, which was on August 25th, we have

1 filed with regard to, your Honor, a -- we had filed a
2 motion regarding Adler Pollock & Sheehan. Your Honor did
3 a decision. I believe it was published yesterday or
4 issued yesterday denying that motion. In addition, as
5 your Honor knows, there is a motion by the Prospect
6 entities seeking to hold myself as well as the
7 liquidating receiver, Tom Hemmendinger, in contempt, and
8 I believe that is presently scheduled -- it was
9 originally scheduled and continued, and it's now
10 scheduled for October 28th before your Honor.

11 Aside from that, your Honor, there has been nothing
12 of significance occurring in the federal litigation. I
13 won't go through in detail, I set it forth in the report,
14 the CCCB litigation as well as the liquidating receiver.
15 I know Attorney Hemmendinger has recently provided his
16 second interim report to the Court. There is nothing
17 more that I can add to what he already provided.

18 With regard to the change of effective control
19 application, your Honor, that is going through it's
20 regulatory process. That's related to the decision that
21 you handled down yesterday with regard to Adler Pollock &
22 Sheehan.

23 I continue to work with the actuaries, GRS, Gabriel
24 Roeder & Smith, as well as with Mercer and Bank of
25 America with regard to the benefit issues that come up on

1 a daily basis with participants relative to benefits as
2 well as the investments. I have a call scheduled with
3 Mercer, I believe -- or I was trying to schedule a call
4 with Mercer for next week some time, and I will keep your
5 Honor updated. I know I have spoken to your Honor about
6 issues and concerns with the investment of the assets,
7 investment manager, and that call is in part two to see
8 if there is a change that may be necessary relative to
9 those issues. I don't want to get into too much detail
10 until it happens, but I have discussed it with your
11 Honor.

12 We continue to field phone calls on a daily basis
13 from participants. Some very administrative in terms of
14 change of address and things of that nature, others more
15 complex. I have recommenced the town hall-style
16 meetings, which prior to the pandemic were an in-person
17 meeting at Rhodes on the Pawtuxet. We are now doing it
18 via Zoom and on the same schedule, approximately four to
19 six weeks. We have been having participants in the range
20 of about 75 to 100, which is slightly lower than our
21 in-person tally. We were about 150 people at each
22 in-person meeting. I don't know why. I'm assuming that
23 the lack of computers, either prowess or computer
24 unavailability may be partially the cause. The meetings
25 are going forward. They are active. There are questions

1 that are asked in the same way that they were in the
2 in-person meetings. So I think it's beneficial to the
3 participants to have that opportunity to continue to hear
4 what is happening in those days where there are no
5 hearings especially because, as your Honor knows, during
6 our in-person days, your courtroom was often filled with
7 purple shirts. We cannot do that now so the meetings
8 have become even more critical to provide the
9 participants with that information.

10 Other than that, your Honor, there is nothing more
11 that I can add. I do have cash on hand in the estate in
12 the amount of \$3,524,000. I have attached a schedule of
13 receipts and disbursements to the report indicating -- I
14 have my dog right now, your Honor. I apologize for that.

15 THE COURT: I wish I could control my dog that
16 easily.

17 MR. DEL SESTO: I think he was getting excited about
18 the cash position. He doesn't understand the idea of
19 what money is mine and what money isn't mine. We have
20 approximately \$3,524,000, your Honor. As I stated, the
21 assets in the plan have not changed substantially. The
22 market has been relatively kind to us lately so we are
23 keeping some stability, of course. As I have
24 consistently reported to the Court, the benefit payments
25 are exceeding the amount of investment income so we are

1 on a cash drain on a monthly basis as a result of that,
2 but it is no dramatic than it has been in the past. Like
3 I said, we are running approximately \$955,000 a month in
4 benefit payments. That does not include other plan
5 related expenses, such as the expense for the actuaries,
6 audits, things of that nature. That will add, obviously,
7 money to that drain putting it somewhere in the vicinity
8 of a million to a million one, but those are all typical
9 expenses, your Honor.

10 Based on that, your Honor, I am asking that the
11 Court approve this 15th interim report, approve, confirm,
12 and ratify all my acts and doings through the date of
13 this report and set a hearing down, or at least indicate
14 that a hearing should be scheduled, maybe not pick a date
15 today, but a hearing should be scheduled for
16 approximately 60 days, which will put us right around the
17 time the Court may be breaking for the holiday in
18 December.

19 THE COURT: And just one thing, normally we live
20 stream through Youtube. There is an issue with the
21 system that the Supreme Court is fixing, so if you can as
22 part of your update, and I am sure you will, and if you
23 wish to, you can always get a transcript, but just if you
24 can pass on to those people because we did have people
25 that had gone on to Youtube live to listen. I didn't

1 want to hold up the hearing itself.

2 MR. DEL SESTO: No, I appreciate that, your Honor,
3 and we typically do ask Ms. Gomes to provide us with a
4 transcript and I do post that on the website so that
5 people can at least read what transpired at these
6 hearings.

7 THE COURT: Okay. No objections were filed. Would
8 either Attorney Boyajian or Fragomeni wish to be heard?

9 MR. BOYAJIAN: No, thank you, your Honor.

10 MR. FRAGOMENI: No, thank you, your Honor.

11 THE COURT: Okay. The Court has had an opportunity
12 to review the report as well the fees, costs, and
13 expenses, some of which appropriately was provided in
14 camera to the Court. The Court approves the report
15 ratifying the acts and doings of the Plan Receiver. In
16 addition, the Court finds that the fees, costs, and
17 expenses are fair, reasonable, and for the benefit of
18 this receivership estate and are approved.

19 Attorney Del Sesto, we're not going to set up a date
20 now, but if you can set up a date closer to the break for
21 the next hearing itself.

22 MR. DEL SESTO: I will, your Honor. Do you know
23 when the Court is going on recess for the winter break,
24 your Honor?

25 THE COURT: I believe it's December 18th. I don't

1 remember whether that's the last day or the first day,
2 but right around the 18th. The days and months don't
3 necessarily make a difference right now.

4 MR. DEL SESTO: Thank you. I will contact Clerk
5 Miley and see what is available for your Honor's
6 schedule.

7 THE COURT: Great. Gina, do you need clarification
8 on anything?

9 COURT REPORTER: No, thank you.

10 THE COURT: The Court will be in recess.

11 (A D J O U R N E D.)
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