

STATE OF RHODE ISLAND
 PROVIDENCE, SC

SUPERIOR COURT

ST. JOSEPH HEALTH SERVICES OF
 RHODE ISLAND, INC.

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v.

C.A. No.: PC-2017-3856

ST. JOSEPH'S HEALTH SERVICES OF
 RHODE ISLAND RETIREMENT PLAN,
 AS AMENDED

**THE RECEIVER’S RESPONSE TO PROSPECT CHARTERCARE,
 LLC’S SUPPLEMENTAL SUBMISSION RE RECEIVER’S MOTION TO
 ADJUDGE IT IN CONTEMPT**

The Receiver hereby responds to Prospect CharterCare, LLC (“Prospect
 “Chartercare”)’s supplemental memorandum (“Supp. Memo.”) in support of its objection
 to the Receiver’s Motion to Adjudge Prospect Chartercare in Contempt.

Prospect Chartercare’s supplemental memorandum goes well beyond the
 Court’s allowance for a supplemental submission addressing the Court’s possible
 treatment, as a motion to compel production, of the motion to adjudge Prospect
 Chartercare in contempt. It also is completely unnecessary given Prospect
 Chartercare’s statement that it “would moot this issue by providing redacted copies of
 the capital commitment update to the Attorney General’s office...” Supp. Memo. at 4.
 Having by its own admission “mooted” the issue (subject to issues of timing, discussed
infra), Prospect Chartercare had no warrant to make additional comments to the Court.

However, the Receiver cannot leave Prospect Chartercare’s extraneous
 statements uncorrected, starting with Prospect Chartercare’s claim that “the Receiver
 has no present rights in the Settlement Agreement.” Supp. Memo. at 1-2. The
 Receiver has already extensively addressed, in writing and at oral argument, why the

Receiver has a great many “present rights in the Settlement Agreement” (including but not limited to the full beneficial interest of CharterCARE Community Board’s ownership interest in Prospect Chartercare), all secured by the UCC-1 financing statements already filed by the settling defendants. In addition, even contingent assets are property of the Receivership Estate.

Second, Prospect Chartercare’s claim that its reporting to the Attorney General concerning its capital commitment was not relevant until the Settlement Agreement was executed is clearly incorrect. From the very outset of Special Counsel’s investigation, we have focused on the value of CharterCARE Community Board’s 15% interest in Prospect Chartercare, and Prospect East’s capital commitment, as shown by the express allegations in the complaint in the Federal Court action addressing those issues.¹ The Federal Court Complaint was filed on June 18, 2018, months before the Settlement Agreement was executed. The reason why Special Counsel has *also* focused on the relevance of that information to the Receiver’s rights under the Settlement Agreement was to demonstrate to the Court how Prospect Chartercare is deliberately interfering with the property of the Receivership Estate and obstructing the Receiver, in support of the Receiver’s motion to adjudge Prospect Chartercare in contempt. Special Counsel has never stated that the *only* or *exclusive* relevance of that information was to the Receiver’s rights under the Settlement Agreement. Indeed, there are other bases for its relevance that are not presently before the Court.

¹ See Federal Court Complaint ¶¶ 12, 57(d), 148, 333, 411, 419-423 (referencing CCCB’s 15% interest) and 422 (“The consideration that the Prospect Entities provided in return for the assets included the undertaking to provide long term working capital of \$50,000,000, which conferred a benefit on CCCB as 15% shareholder in the additional amount of \$9,479,000, according to Prospect Chartercare’s own audited financials.”).

Third, Prospect Chartercare's request that the Court order the Receiver to obtain documents concerning CCCB and SJHSRI's reporting to the Attorney General concerning the pension plan is both presumptuous and bizarre. The debtors of the Receivership Estate have no standing to direct the Receiver's discovery efforts pursuant to subpoenas issued in the Receivership. This is an inappropriate effort by Prospect Chartercare to deflect attention away from Prospect Chartercare's failures to comply with the subpoena in question, and to shift the discussion to the failures (*vel non*) of other parties to comply with other subpoenas and/or post-conversion reporting requirements.

Fourth, Special Counsel has never stated that in our investigations we have obtained no post-transaction reporting to the Attorney General. What we stated is that we are lacking complete post-transaction reporting by Prospect Chartercare, and, specifically, reporting concerning the \$50 million capital commitment.

Fifth, Prospect Chartercare does not indicate when it will produce the documents it now says it will produce. We would ask that they be produced by close of business this Friday, November 9, 2018.

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Dated: November 5, 2018

CERTIFICATE OF SERVICE

I hereby certify that, on the 5th day of November, 2018, I filed and served the foregoing document through the electronic filing system on the following users of record:

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