

**HEARING DATE:
FRIDAY, FEBRUARY 12, 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 SEVENTEENTH INTERIM REPORT AND SIXTEENTH 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 Seventeenth Interim Report (the “Seventeenth Report”) and Sixteenth Interim Request for Approval of Fees, Costs and Expenses (the “Sixteenth Fee Application”). In support of the Seventeenth Report and Sixteenth 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 February 1, 2021, 1,446 participants are currently receiving monthly benefits payments. The total amount of benefits paid in February 2021 equaled \$940,939.08.

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.²

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.

² Although likely overly and unnecessarily cautious, due to the Receiver's contemporaneous request for settlement approval, the "Receiver's Petition for Settlement Instructions and Approval" has not yet been uploaded to the Receiver's dedicated website. In connection with that Settlement Petition and this 17th Interim Report the Receiver will be requesting that the Court authorize and direct the Receiver to upload the Receiver's Petition for Settlement Instructions and Approval and all related Exhibits to the dedicated website.

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 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. 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 four (4) meetings under this format and will continue every 4-6 weeks until in-person gatherings are safe again. The next meeting is scheduled in March 2021 unless circumstances arise that warrant a meeting prior to that scheduled date.

7. Prior to this Seventeenth Report and Sixteenth Request for Approval of Fees, the Receiver has filed sixteen (16) prior reports with the Court and fifteen (15) prior requests for approval of fees. Rather than set forth summaries for each prior Report, copies of the First Report through the Sixteenth 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 Seventeenth Interim Report as if fully set forth herein.

8. 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.

9. On December 9, 2020, this Court held a hearing via WebEx on the Receiver's Sixteenth Interim Report (the "Sixteenth Report") and Fifteenth Interim Request for Approval of Fees, Costs and Expenses (the "Fifteenth Fee Request"). Upon conclusion of the hearing, the Court approved the Sixteenth Report and the Fifteenth Fee Request.

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

- a. On or about November 30, 2020, your Receiver filed his Receiver's Sixteenth Report and Fifteenth Fee Request. The hearing on the Sixteenth Report and Fifteenth Fee Request was held on December 9, 2020. At the conclusion of the

hearing, this Court approved the Sixteenth Report and Fifteenth Fee Request and an Order to that effect was entered on that same day.

- b. On or about January 3, 2021, your Receiver, the federal class action Plaintiffs, the Liquidating Receiver, the federal litigation defendants Prospect Medical Holdings, Inc. and related Prospect entities and the federal litigation defendant Angell Pension Group filed a Stipulation and Consent Order related to the proposed settlement reached between those parties (the “Stipulation”). The Stipulation sought to establish, among other things, deadlines for the deposit of the proposed settlement funds by the settling defendants pending this Court’s and the Federal Court’s approval of the proposed settlement. This Court entered the Stipulation on or about January 4, 2021.
- c. As required by the Settlement Agreement and Stipulation, Prospect Medical Holdings, Inc. and related Prospect entities delivered two Letters of Credit to the Receiver on or about January 20, 2021. Similarly, Angell Pension Group deposited its portion of the funds with the Court Registry on or about January 15, 2021.
- d. On or about January 25, 2021, the Receiver filed a “Petition for Settlement Instructions and Approval” (the “Settlement Petition”). The hearing on the Settlement Petition is docketed for the same day as the hearing on this Seventeenth Report - February 12, 2021.
- e. On or about February 1, 2021, the Court entered a Scheduling Order directing that all persons, entities or governmental agencies who are represented by counsel of record in this matter to file any objections or other response to the Settlement Petition no later than 4:00pm (EST) on February 5, 2021.

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

- a. On or about December 8, 2020, the Prospect Entities filed a Reply to the Plaintiffs’ Opposition to the Prospect Entities’ Motion for Summary Judgement on Count IV of the First Amended Complaint.
- b. Also on December 8, 2020, the Diocesan Entities filed a Response to Plaintiffs’ Statement of Disputed Facts.

- c. On or about January 28, 2021, the Plaintiffs filed a Joint Motion to Stay the Proceedings Pending Judicial Approvals of the Settlement Agreement. The Joint Motion was joined by the Prospect Entities and Angell Pension Group.

12. Since the filing of and hearing on the Sixteenth Report, the following events have occurred in the CCCB Litigation (PC-2019-3654):

- a. On or about November 27, 2020, the Prospect Entities filed a Motion for a Protective Order and related memorandum relative to the production of certain documents.
- b. On or about December 1, 2020, JPMorgan Chase Bank, NA's ("JPMorgan") filed its Answer to the Verified First Amended and Supplemental Complaint.
- c. On or about December 11, 2020, the Court entered an Order denying JPMorgan's Motion to Dismiss.
- d. On or about December 13, 2020, the Plaintiff, through the Liquidating Receiver, filed an Objection and supporting memorandum in response to the Prospect Entities' Motion for a Protective Order. The Prospect Entities filed a Reply on December 15, 2020.
- e. On December 28, 2020, JPMorgan filed a Motion for a Protective Order.
- f. On January 28, 2021, the parties filed a Joint Motion to Stay the Proceedings Pending Settlement Approvals.

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

- a. On or about December 11, 2020, the Court entered an Order approving the Liquidating Receiver's Third Report and Request for Interim Compensation.
- b. On or about December 22, 2020, the Liquidating Receiver and your Receiver filed a Motion for Reconsideration of the Court's decision issued on October 19, 2020, and supporting memorandum based on critical evidence withheld from the receivers and this Court.
- c. On or about January 25, 2021, the Liquidating Receiver filed a "Petition for Instructions Regarding Settlement with Prospect Parties and Angell Pension

Group” (the “Liquidating Receiver Settlement Petition”). The hearing on the Liquidating Receiver Settlement Petition is docketed for the same day as the hearing on this Seventeenth Report - February 12, 2021.

- d. On January 27, 2021, the Liquidating Receiver filed his Fourth Report and Request for Interim Compensation (the “Fourth Report”). The hearing on the Fourth Report is docketed for the same day as the hearing on this Seventeenth Report - February 12, 2021.
- e. On or about February 1, 2021, the Court entered a Scheduling Order directing that all persons, entities or governmental agencies who are represented by counsel of record in this matter to file a response to the Liquidating Receiver Settlement Petition no later than 4:00pm (EST) on February 5, 2021.

14. 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.

15. 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.

16. 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.

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 November 30, 2020), the Plan assets totaled approximately \$59,943,433.73.³ 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 Sixteenth Report on or about November 30, 2020, your Receiver had cash-on-hand totaling \$3,510,195.65. Since that time, your Receiver has had no additional receipts and has had additional disbursements totaling \$54,537.66, leaving current cash-on-hand in the sum of \$3,455,657.99, all as set forth in the "**Schedule of Receipts and Disbursements**" attached hereto.⁴

³ 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.

⁴ Cash-on-hand includes the funds received from Settlement "B".

19. In connection with this Seventeenth Report, your Receiver is requesting that the Court approve the Sixteenth Fee Application incurred for the two (2) month period from December 1, 2020, through, and including, January 31, 2021, totaling approximately \$100,000. The Receiver respectfully requests that this Court approve the Sixteenth Fee Application of the Receiver and authorize him to pay himself such approved fees. A copy of your Receiver's Sixteenth Fee Application Invoice will be presented, in redacted form, under separate cover to the Court for review in advance of the Hearing on this Seventeenth 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 Seventeenth Report; (2) authorizing the Receiver to satisfy the fees, costs and expenses incurred by the Receiver and presented in connection with the Sixteenth 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: February 3, 2021

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of February, 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

5:24 PM

St Joseph Health Services of RI Retirement Plan
Transactions by Account 020321
As of February 3, 2021

02/03/21

Accrual Basis

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Debit</u>	<u>Credit</u>	<u>Balance</u>
BankRI Checking Account						
12/07/2020	362	Relevant Discover-e	Inv #7812; copying & postage notice of meeting		3,347.73	3,510,195.65
01/04/2021	363	Gina Gomes	12/9/20 hearing transcript		18.00	3,506,847.92
01/11/2021	364	Relevant Discover-e	Inv #7928; copying & postage notices of meeting & hearing		3,639.06	3,506,829.92
01/12/2021	365	Wistow Sheehan & Loveley, PC	out-of-pocket expenses thru 12/21/20		30,025.81	3,503,190.86
02/02/2021	366	Relevant Discover-e	Inv #8031; copying & postage settlement petition		17,507.06	3,473,165.05
Total BankRI Checking Account				0.00	54,537.66	3,455,657.99
TOTAL				0.00	54,537.66	3,455,657.99