

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND, INC.,

Plaintiff,

v.

ST. JOSEPHS HEALTH SERVICES OF RHODE ISLAND RETIREMENT PLAN, as amended,

Defendant.

C.A. No. PC-2017-3856

IN RE:

CHARTERCARE COMMUNITY BOARD,
ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND and ROGER WILLIAMS HOSPITAL

C.A. No. PC-2019-11756

TRUSTEE BANK OF AMERICA’S MOTION TO CLARIFY

As the Court noted several months ago, litigation concerning St. Joseph’s Hospital has been longstanding and complex. Trustee Bank of America seeks to clarify portions of the Court’s April 20, 2015 Order and December 3, 2019 Final Judgment in case number KM-2015-0035, as they relate to *In re Chartercare Community Board*, PC-2019-11756 to try to avoid future disagreements and needless litigation.

On April 20, 2015, the Court Ordered:

As set forth in paragraph 31 of the Petition,¹ *cy pres* approval is granted to transfer any unknown charitable gifts and future charitable gifts that may become known at a later date on behalf of [Roger Williams Hospital (“RWH”)] and [St. Joseph Health Services of Rhode Island, Inc. (“SJHSRI”)] to [CharterCARE Health Partners Foundation (“CCHP Foundation”)], to be used as close to the

¹ The Petition is the January 13, 2015 Petition for Approval of Disposition of Charitable Assets Including Application of Doctrine of *Cy Pres* filed by CharterCARE Health Partners Foundation, Roger Williams Hospital and St. Joseph Health Services of Rhode Island. CCHP changed its name to CharterCare Foundation in 2015.

donors' intent as possible, at the discretion of CCHP Foundation's Board of Directors, to serve the Foundation mission.

At the time of the 2015 Petition, the CharterCARE Community Board ("CCCB") was the CCHP's sole member. *See* Petition for Approval of Disposition of Charitable Assets Including Application of Doctrine of Cy Pres, KM-2015-0035, at ¶ 1. In 2018, CCCB assigned its membership interest in the CharterCARE Foundation ("CCF") to the St. Joseph's Health Services of Rhode Island Retirement Plan Receiver (the "Plan Receiver") as part of a settlement agreement. *See* Receiver's Petition to Distribute Corpora of Certain Trusts, PC-2019-11756, at ¶ 14. The Plan Receiver later disposed of the membership interest in CCF as part of a different settlement. *Id.* at n.5.

In its December 2019 Final Judgment, the Court ordered CCF to transfer certain funds to the Plan Receiver, and further held "[e]xcepting the funds to be transferred to the Receiver as described above, all other terms of the Court's [April 20,] 2015 Cy Pres Order are hereby affirmed and shall continue to be in full force and effect."

The Trust of Anthony A. Iavazzo contains one of the unknown and/or future charitable gifts referenced in the Court's April 20, 2015 Order. The Iavazzo Trust is set to terminate according to its terms. Under the terms of the Iavazzo Trust, St. Joseph's Hospital should receive 10% of the balance of the trust funds.

The liquidating receiver for CCCB has requested payment of the funds. However, Trustee Bank of America believes that the April 20, 2015 Order and the December 2019 Final Judgment, require it to pay the funds to CCF.² As such, it files the instant Motion to seek clarification from the Court.

² Other beneficiaries have already received partial payment. Trustee Bank of America takes no position in this Motion concerning whether the Plan Receiver should receive the funds

Bank of America
By its Attorneys

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Dated: November 30, 2023

earmarked for St. Joseph's Hospital, but brings this application after recognizing a potential gap in the orders and judgments entered in this complex case.

CERTIFICATE OF SERVICE

I hereby certify that on November 30, 2023, 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/ Ryan M. Gainor _____

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