

**HEARING DATE:  
THURSDAY, DECEMBER 9, 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 TWENTY-FIRST INTERIM REPORT AND TWENTIETH 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 Twenty-First Interim Report (the "Twenty-First Report") and Twentieth Interim Request for Approval of Fees, Costs and Expenses (the "Twentieth Fee Application"). In support of the Twenty-First Report and Twentieth 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 participants<sup>1</sup> of which approximately 1,229 were then receiving monthly benefits payments. Based on the benefits payments issued by Bank of America as of December 1, 2021, 1,542 participants are currently receiving monthly benefits payments. The total amount of benefits paid in December 2021 equals \$970,995.68. Year to date (2021 calendar year) the Plan has paid out \$10,753,696.69.

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, 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, including, without limitation, the Liquidating Receivership (PC-2019-11756).

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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.

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. 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.

7. 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.

8. 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 conducted seven (7) meetings under this format and will continue every 4-6 weeks until in-person gatherings are safe again. The next meeting will be scheduled in or about December 2021/January 2022 unless circumstances arise that warrant a meeting prior to that scheduled date.

9. Prior to this Twenty-First Report and Twentieth Request for Approval of Fees, the Receiver has filed twenty (20) prior reports with the Court and nineteen (19) prior requests for approval of fees. Rather than set forth summaries for each prior Report, copies of the First Report through the Twentieth 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 Twenty-First Interim Report as if fully set forth herein.

10. 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.

11. Since the filing of the Receiver’s Twentieth Interim Report and Nineteenth Interim Request for Approval of Fees, Costs and Expenses in this Superior Court Receivership action the following hearings and filings have occurred:

- a. On September 28, 2021, this Court held a hearing via WebEx on the Twentieth Report. Upon conclusion of the hearing, the Court approved the Twentieth Report and the Nineteenth Fee Request and an Order to that effect entered on November 8, 2021.
- b. On or about September 17, 2021, your Receiver filed the Twentieth Interim Report and filed an Affidavit of Notice relative to that Report on September 20, 2021.
- c. In or about the end of September, 2021, the Receiver participated in a mediation session with the federal court litigation Diocesan Defendants. Although the mediation was scheduled to take place over a several day period, the mediation concluded at the suggestion of the mediator without resolution after the first session.

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

- a. On or about October 13, 2021, the Plan Receiver and other plaintiffs filed a Motion to Withdraw the previously filed Motion for Summary Judgement on Count IV of the Amended Complaint.
- b. On or about October 25, 2021, the Plaintiffs and Diocesan Defendants entered into and filed a Stipulation extending the time for the Diocesan Defendants to reply to the Motion to Withdraw.

- c. On November 11, 2021, the Diocesan Defendants filed their Response in Opposition to the Motion to Withdraw.
- d. On November 16, 2021, the parties filed a Joint Stipulation extending the time for the Plaintiffs to respond to the Diocesan Defendants' Response.
- e. On November 23, 2021, the Court docketed the Motion for a virtual Zoom hearing on December 3, 2021. On November 24, 2021, that hearing date was moved to December 10, 2021, also via Zoom.

13. Since the filing of and hearing on the Twentieth Report the following hearings and filings have occurred in the Liquidating Receivership (PC-2019-11756):

- a. On or about September 21, 2021, the subpoenas *duces tecum* served upon Beacon Mutual Insurance and several other parties related to claim issues existing in that matter by the Liquidating Receiver were returned as served.
- b. On or about September 22, 2021, the Liquidating Receiver filed his 5<sup>th</sup> Interim Report and Request for Interim Compensation.
- c. On September 28, 2021, The Liquidating Receiver and the Plan Receiver filed a Motion and supporting memoranda seeking to enforce the subpoenas issued to Beacon Mutual Insurance Company.
- d. On October 12, 2021, the Court entered an Order approving the Liquidating Receiver's 5<sup>th</sup> Interim Report.
- e. On October 18, 2021, Beacon Mutual Insurance Company filed an Objection to the Motion to Compel.
- f. On October 22, 2021, the Liquidating and Plan Receivers filed a Memorandum in Reply to the Objection.

In addition to the above filings, your Receiver and Special Counsel have been working cooperatively with the Liquidating Receiver to: (i) recover or release additional funds that would be available for distribution to the Plan Receiver against his claims in the Liquidating Receivership; (ii) oppose or limit the claims of other creditors, as appropriate, in accordance with paragraph 7 of the Order Appointing Permanent Liquidating Receiver; and, (iii) coordinate those efforts with the Liquidating Receiver to facilitate the speedy and just resolution of those issues and, ultimately the liquidating receivership.

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 October 31, 2021) and as a result of the receipt of the NET Settlement funds, the Plan assets totaled approximately \$75,465,085.81.<sup>2</sup> 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 \$967,000 per month.

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 relatively successful in insulating the Plan from market volatility and 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.

14. In connection with the administration of the within proceeding, as of the filing of the Twentieth Report on or about September 28, 2021, your Receiver had cash-on-hand totaling \$3,378,784.09. Since that time, your Receiver has had additional receipts in the amount of \$0.00 and has had additional disbursements totaling \$14,055.46, leaving current cash-on-hand in the sum of \$3,364,728.63, all as set forth in the **Schedule of Receipts and Disbursements** attached hereto.<sup>3</sup>

15. In connection with this Twenty-First Report, your Receiver is requesting that the Court approve the Twentieth Fee Application incurred for the three (3) month period from September 1, 2021, through, and including, November 30, 2021, totaling approximately \$110,000. The Receiver respectfully requests that this Court approve the Twentieth Fee Application of the Receiver and

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<sup>2</sup> This amount does not include the Settlement "A" NET proceeds totaling approximately \$10,554,399.07 which are held with Schwab for the benefit of the Plan.

<sup>3</sup> Cash-on-hand includes the funds received from Settlement "B".

authorize him to pay himself such approved fees. A copy of your Receiver's Twentieth Fee Application Invoice will be presented, in redacted form, under separate cover to the Court for review in advance of the Hearing on this Twenty-First 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 Twenty-First Report; (2) authorizing the Receiver to satisfy the fees, costs and expenses incurred by the Receiver and presented in connection with the Twentieth 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, 26<sup>th</sup> Floor  
Providence, RI 02903  
Tel: 401-490-3415  
[sdelsesto@pierceatwood.com](mailto:sdelsesto@pierceatwood.com)  
Dated: November 29, 2021

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 29<sup>th</sup> day of November, 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**

4:27 PM

11/29/21

Accrual Basis

**St Joseph Health Services of RI Retirement Plan**  
**Transactions by Account 112921**  
**As of November 29, 2021**

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Debit</u>	<u>Credit</u>	<u>Balance</u>
<b>BankRI Checking Account</b>						
10/06/2021	381	Wistow Sheehan & Loveley, PC	out-of-pocket expenses incl Judge Williams		6,845.28	3,378,784.09
10/06/2021	382	The Financial Valuation Group	Inv dated 10/5/21		3,325.00	3,371,938.81
10/21/2021	383	Litgistics	Inv 1390; copying & postage		3,885.18	3,368,613.81
Total BankRI Checking Account				0.00	14,055.46	3,364,728.63
<b>TOTAL</b>				<b>0.00</b>	<b>14,055.46</b>	<b>3,364,728.63</b>