

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

In re:

Progressive Acute Care, LLC, *et al.*¹

No. 16-50740

Chapter 11

Substantively Consolidated

**PAC LIQUIDATION TRUST’S OBJECTION TO PROOF
OF CLAIM FILED BY RICHARD HYLLAND (CLAIM #18)**

Matthew E. Rubin, the Liquidation Trustee (the “Liquidation Trustee”) for the PAC Liquidation Trust (the “Liquidation Trust”), appointed in the proceedings of the above-captioned debtors (collectively the “Debtors”), by and through its undersigned counsel, files this objection (this “Objection”) to the Proof of Claim of Richard Hylland (Claim # 18) against the Debtors, and respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2).
2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

I. General Case Background and Claims Bar Dates

¹ The original Debtors were Progressive Acute Care, LLC; Progressive Acute Care Avoyelles, LLC; Progressive Acute Care Oakdale, LLC; and Progressive Acute Care Winn, LLC. The Debtors were substantively consolidated through the Confirmation Order entered July 12, 2017, as more particularly described herein.

3. On May 31, 2016, each of the Debtors filed for relief under chapter 11 of the Bankruptcy Code. The Debtors' chapter 11 cases (the "Chapter 11 Cases") are being jointly administered pursuant to Bankruptcy Rule 1015(b).

4. On October 26, 2016, the Court established deadlines to file proofs of claim. The Court's *Order Establishing Bar Date for the Filing of Proofs of Claim* (Doc. No. 376) and *Order (I) Establishing Bar Date for Filing Administrative Expense Claims Pursuant to 11 U.S.C. §§ 105(a) and 503, Including Claims Under 11 U.S.C. § 503(b)(9); (II) Approving the Form, Manner, and Sufficiency of Notice Thereof; and, (III) Approving Proof of Administrative Expense Claim Forms* (Doc. No. 377) (together, the "Claims Bar Date Orders") established December 5, 2016, as the deadline for any person, other than governmental units, to file a proof of claim for a prepetition claim against the Debtor and any Administrative Expense Claim, including a 20 Day Claim. The Claims Bar Date Orders established January 5, 2017, as the deadline for governmental units, as defined in section 101(27) of the Bankruptcy Code to file proofs of claim for prepetition claims against the Debtors.

II. The Confirmed Plan and Creation of the Liquidation Trust

5. On March 14, 2017, the Debtors and the Committee jointly filed the *Disclosure Statement Relating to the Joint Plan of Orderly Liquidation of Progressive Acute Care, LLC, et al.* (Doc. No. 466) (as subsequently amended by the *First Amended Disclosure Statement Relating to the Joint Plan of Orderly Liquidation of Progressive Acute Care, LLC, et al.* (Doc. No. 504), the "Disclosure Statement"), and the *Joint Plan*

of *Orderly Liquidation of Progressive Acute Care, LLC, et al.* (Doc. No. 465) (as subsequently amended by immaterial modifications, the “Plan”).²

6. On April 19, 2017, the Court approved the Disclosure Statement by its *Order Approving Disclosure Statement Relating to the Joint Plan of Orderly Liquidation of Progressive Acute Care, LLC, et al., Proposed by the Debtors and the Official Committee of Unsecured Creditors* (Do. No. 507) (the “Disclosure Statement Order”).

7. On July 12, 2017, the Court issued its Findings of Fact, Conclusions of Law and Order Confirming Joint Plan of Orderly Liquidation of Progressive Acute Care, LLC, et al., as Jointly Proposed by the Debtors and The Official Committee of Unsecured Creditors (Do. No. 550) (the “Confirmation Order”), confirming the Plan.

8. On August 7, 2017, the *Notice of Occurrence of the Effective Date and Administrative Claim Bar Date* (Doc. No. 558) (the “Effective Date Notice”) was filed to provide notice to the parties in interest that the Plan became effective on August 1, 2017 (the “Effective Date”).

9. On the Effective Date, the Liquidation Trust was formed pursuant to the Plan and was granted the exclusive authority to, among other things, file, withdraw or litigate to judgment objections to claims filed against the Debtors. (Plan, §§ 7.5.3, 10.2.)

III. Substantive Consolidation

10. Pursuant to Article VI of the Plan and paragraph Z of the Confirmation Order, as of the Effective Date, the Debtors’ estates were substantively consolidated for

² Capitalized terms used but not otherwise defined in this Objection shall have the meanings ascribed to them in the Plan or Disclosure Statement, as relevant.

purposes of the Plan and distributions thereunder. The substantive-consolidation provisions of the Plan provide that each Class of Claims will be treated as against a single consolidated estate without regard to the separate legal existence of the Debtors, such that each claim will be treated as a claim against the consolidated estates of all Debtors.

IV. Claims Resolution Process

11. The Liquidation Trustee and its advisors have been reviewing and reconciling the filed proofs of claim with the Debtors' books and records to determine the validity of the asserted claims. This reconciliation process includes identifying particular categories of claims that may be targeted for disallowance, expungement, and/or reclassification, as applicable. To avoid possible double recovery or otherwise improper recovery by claimants, the Liquidation Trustee is filing this Objection to the Disputed Claims and anticipates filing additional omnibus objections.

V. Richard Hylland's Claim

12. On July 1, 2016 Richard Hylland ("Hylland") filed a proof of claim, claim number 18, in the Chapter 11 Case for Progressive Acute Care, LLC (the "Claim"). Hylland's Claim is an alleged unsecured claim of \$252,601.00 for amounts due under a services agreement entered into with that Debtor.

VI. History of Dealings between the Debtors and Hylland

13. Several years before the Petition Date, on July 11, 2012, Progressive Acute Care, LLC ("Progressive") and Hylland executed a document titled "Progressive Term Sheet for Dick Hylland Arrangements" (the "Term Sheet"). A copy of the Term Sheet is attached hereto as Exhibit A. The Term Sheet anticipates a definitive agreement

wherein Hylland would agree to “provide management resources to Progressive to assist in the execution of Progressive strategic growth, acquisition and capital markets activities as part of and under the directives of Progressive,” and in exchange, Progressive would agree to pay Hylland an hourly rate of \$120 per hour, or a monthly minimum amount of \$15,000.00. Exh. A, p. 1. The Term Sheet anticipated a term from June 1, 2012 to June 30, 2013. Exh. A, p. 1. The Term Sheet also stipulated that Progressive and Hylland would later execute an “employment agreement,” which the parties never executed. Exh. A, p. 1.

14. The Term Sheet provided that Progressive would pay Hylland a “Minimum Bonus Incentive” if stated capital raising objectives occurred during the term of Hylland’s employment. Exh. A, p. 2. The Term Sheet also stipulated that Hylland could earn an “Equity Performance Incentive” of a 4% equity option if Progressive raised over \$20,000,000.00 in capital “during the term of” the Term Sheet. Exh. A, p. 2.

15. Hylland and Joel Longtin (“Longtin”), a member of Progressive’s Board of Manager’s at the time, entered into an assignment agreement whereby Hylland assigned to Longtin one-half (1/2) of the Minimum Bonus Incentive and Equity Performance Incentive which may have become due to Hylland under the Term Sheet (the “Assignment”). Hylland signed and dated the Assignment on July 11, 2012, but did not disclose the Assignment to Progressive’s Board of Managers.

16. Progressive became aware of the Assignment in November 11, 2012, after receiving Longtin’s disclosure on his Director’s and Officer’s Insurance questionnaire.

17. On December 21, 2012, Progressive's Board of Managers met and resolved to terminate Hylland and the Term Sheet. The Board Resolution memorializing Hylland's termination is attached as Exhibit B, and incorporated herein by reference.

18. Also on December 21, 2012, Progressive transmitted by email and certified mail return receipt requested, a termination notice to Hylland stating that the Progressive Board unanimously resolved "to terminate Progressive's relationship and any Agreement with you . . . effective immediately" and also requested Hylland return any and all records he held pertaining to the Debtors. A copy of the termination notice is attached hereto as Exhibit C. Progressive paid Hylland for all service rendered under the Term Sheet up and through December 21, 2012.

19. Following Hylland's formal termination from Progressive, Hylland sent numerous letters to Progressive management and board members demanding that Progressive honor the Term Sheet for payment up and through June 30, 2013, despite Hylland abandoning all responsibilities under the Term Sheet as of the termination date. Progressive subsequently responded that it would not honor the Term Sheet and that no monetary compensation was due to Hylland under the Term Sheet.

20. On August 22, 2014, after Hylland continued to make written demands to Progressive for payment, counsel for Progressive sent a letter to Hylland emphatically stating that no compensation was due to Hylland under the Term Sheet. A copy of this letter is attached hereto as Exhibit D. The letter explained that Progressive terminated Hylland's relationship for cause and detailed the reasons for termination. Exh. D. The letter also stated that any claims for payment after termination were without merit. Exh.

D. Progressive counsel also requested that Hylland direct any and all communications regarding Progressive to Progressive's counsel. Exh. D, p. 4. Despite this request, Hylland continued to make demands and requests for payment directly to Progressive's management and board members.

RELIEF REQUESTED

21. By this Objection, the Liquidation Trustee seeks entry of the Proposed Order, pursuant to sections 502(b) and 503(b) of the Bankruptcy Code and Bankruptcy Rule 3007, disallowing the Claim.

BASIS FOR RELIEF REQUESTED

VII. Prescription

22. The Liquidating Trustee objects to Hylland's Claim on the basis that any claim for monetary payment under the Term Sheet has prescribed.

23. Under Louisiana Civil Code Art. 3494 an action for the recovery of compensation for services rendered is subject to a liberative prescription period of three (3) years:

The following actions are subject to a liberative prescription of three years:

(1) An action for the recovery of compensation for services rendered, including payment of salaries, wages, commissions, tuition fees, professional fees, fees and emoluments of public officials, freight, passage, money, lodging, and board;

24. Hylland's Claim is for the payment of wages and commissions Hylland claims are owed under the Term Sheet. As such, Hylland's claim is subject to a three (3) year prescriptive period under La. Civ. Code art. 3494(1).

25. Prescription begins to run from the day payment is exigible. La. Civ. Code art. 3495. Progressive formally notified Hylland of his termination on December 21, 2012, by letter stating unequivocally that Progressive terminated any and all relationships and agreements it had with Hylland, and that no further payments would be made under the Term Sheet. Thus, prescription on Hylland's Claim began to run on December 21, 2012. Hylland did not file a legal claim against the Debtors within three (3) years of that date. Accordingly, Hylland's Claim has prescribed.

26. Section 108 of the Bankruptcy Code does not apply to extend the prescription period for Hylland's Claim. The Debtors filed for bankruptcy on May 31, 2016, well past the three year prescriptive period under Louisiana Civil Code Art. 3494.

27. By this Objection, the Liquidating Trustee seeks entry of an order by this Court disallowing Hylland's Claim on the basis that the Claim has prescribed.

VIII. Termination For Cause

28. The Liquidating Trustee objects to Hylland's Claim on the basis that Hylland was terminated by Progressive for cause and he is not due any compensation under the Term Sheet.

29. Louisiana is an "at-will" employment state in which either the employer or employee may terminate an employment relationship without assigning any reason for doing so. La. Civ. Code art. 2747. However, the parties to an employment agreement may contractually modify the default "at-will" employment regime by providing for an express term of employment. La. Civil Code art. 2749. In the event an employment contract does not specify reasons to prematurely terminate a term employment

relationship before the end of the term, an employer may terminate the agreement for good or just cause. *Id.* Assuming that the Term Sheet was a binding agreement and not an agreement to agree, it had a term from June 1, 2012 to June 30, 2013. Thus, Progressive could terminate the Term Sheet for good or just cause.

30. Employees owe a duty of fidelity to their employers and/or principals. *ODECO Oil & Gas Co. v. Nunez*, 532 So. 2d 453, 462 (La. App. 1 Cir. 1988), *writ denied*, 535 So. 2d 745 (La. 1989). “An employee is bound not to act in antagonism or opposition to the interest of the employer.” *Harrison v. CD Consulting, Inc.*, 934 So. 2d 166, 170 (La. App. 1 Cir. 2006). In addition, courts have found that an employee breaches his or her fiduciary duty to his employer when an employee has “engaged in dishonest behavior or unfair trade practices for the purpose of his own financial or commercial benefit.” *Id.* at 170–71.

31. Prior to his termination, Hylland continuously criticized, complained and rejected any recommendations made by Progressive’s management team aside from his own recommendations.

32. Hylland’s constant criticism of Progressive management and other conduct objected to by Progressive Management made the performance of his duties under the Term Sheet impossible. Hylland was required to perform his duties as part of and under the direction of Progressive management. Instead, Hylland repeatedly clashed with Progressive senior management and ignored or declined directives from them.

33. Finally, Hylland assigned to Longtin one-half (1/2) of the Minimum Bonus Incentive and Equity Performance Incentive which may have become due to Hylland

under the Term Sheet. However, Hylland never disclosed this assignment and the conflict of interest it created to Progressive's management or Board of Directors.

34. The reasons listed above sufficiently justify the fact that Progressive terminated Hylland for good and just cause under Louisiana law. Accordingly, by this Objection, the Liquidating Trustee seeks entry of an order by this Court disallowing Hylland's Claim because Hylland was terminated for good and just cause.

IX. No Liability & No "Supporting" Documentation

35. The Liquidating Trustee objects to Hylland's Claim on the basis that that the Debtors have no liability to Hylland and that the supporting documentation provided by Hylland is presented in a way which does not allow the Debtors' to properly evaluate the basis of Hylland's Claim.

36. Hylland's Claim attaches in excess of six hundred (600) pages of "supporting documentation," the majority of which have are irrelevant to Hylland's Claim for past due wages due under the Term Sheet.

37. Hylland's Claim states that Hylland is owed \$155,000.00 for "Unpaid Monthly and Transaction Charges." However, Hylland's Claim does not breakdown this category of "Unpaid Monthly and Transaction Charges" to show how the total is calculated. It is unclear how this amount is calculated, what component might be due, and whether this amount, if any is due, contains amounts which were assigned to Longtin through the Assignment, which cannot be owed to Hylland.

38. Much of the "supporting documentation" provided in Hylland's Claim is irrelevant and presented in a manner in which the Debtors' cannot readily evaluate

whether Hylland's Claim provides proper supporting documentation for the claim. Accordingly, the Liquidating Trustee objects to Hylland's Claim and requests entry of an order disallowing the full amount, or in the alternative a portion, of Hylland's Claim. In the alternative, the Liquidating Trustee requests entry of any order by this Court requiring Hylland to resubmit his proof of claim in a manner which accurately breaks down his claim in an organized manner.

RESERVATION OF RIGHTS

39. Nothing contained in this Objection and no actions taken by the Liquidation Trustee pursuant to the relief granted in the Proposed Order are intended or should be construed as: (a) an admission as to the validity of the Claim; (b) a waiver of the Liquidation Trust's rights to dispute the Claim; (c) a promise or requirement to pay the Claim; (d) an implication or admission that the Claim is of a type specified or defined in this Objection; or (e) a waiver or limitation of the Liquidation Trust's rights under the Bankruptcy Code or any other applicable law. Moreover, the Liquidation Trust hereby reserves their rights to amend, modify, and/or supplement this Objection on any additional grounds.

NOTICE AND HEARING

40. Pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure, a copy of this Objection with notice of hearing will be mailed or otherwise delivered to Hylland and the United States Trustee's Office at least thirty (30) days prior to the hearing.

CONCLUSION

WHEREFORE the Liquidation Trustee respectfully requests that this Court enter an order disallowing and expunging the Claim of Richard Hylland, Claim #18.

March 6, 2018

Respectfully submitted,

s/J. Eric Lockridge

J. Eric Lockridge, (#30159)

Wade R. Iverstine, (#31793)

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Attorneys for PAC Liquidation Trust

EXHIBIT A



Progressive Term Sheet for Dick Hylland Arrangements June, 2012

Preamble

Whereas Progressive shareholders desire to evaluate multiple strategic alternatives, growth strategies and capital markets activities and have authorized Progressive management to develop plans and resources to most effectively advance such activities,

Whereas Progressive shareholders and management also desire to build additional internal management capabilities in the areas of strategic growth, acquisitions and capital markets expertise,

Whereas Dick Hylland has extensive experience in the areas of strategic growth, acquisitions and capital markets and desires to assist Progressive and related entities with resource needs in these areas as part of and directed by Progressive management,

Therefore, the parties Progressive and Dick Hylland wish to engage in the arrangements outlined below for both the execution of Progressive's strategic growth, acquisition and capital markets activities as part of and in accordance with the directives of Progressive management.

Progressive and Dick Hylland Arrangement Framework

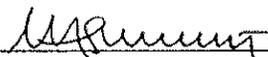
Management Resource Arrangements: Dick Hylland shall provide management resources to Progressive to assist in the execution of Progressive strategic growth, acquisition and capital markets activities as part of and under the directives of Progressive management. Compensation for such service shall be at a rate of \$120 per hour for Hylland. Hylland's minimum monthly compensation shall be \$15,000 for dedication to Progressive activities as part of and under the direction of Progressive's management on a part time basis. The term of these management resource arrangements shall be effective June 1, 2012 and shall extend through June 30, 2013. Concurrent with the execution of management service agreements between Progressive and Hylland, Hylland shall also execute an employment agreement with Progressive, if required, which will be in a form necessary to assure future Progressive partners, investors, capital markets entities, acquirees and other third parties that Hylland is a member of the management resource team of Progressive.

Bonus Incentive: For Parties introduced or identified to Progressive by Hylland as part of the Progressive management resource team during the term of the management services agreement with a minimum funding of \$20 million, Progressive shall provide bonus compensation of .75% of Progressive debt financings and 3% of Progressive equity financings to Hylland, reduced by any monthly fees provided to Hylland under the management services agreement, upon the closing of one or more capital markets financing transactions (or a minimum of \$50,000 for each financing completed by any party not introduced to Progressive by Hylland). These bonus incentive provisions shall apply to all financings entered into between Progressive and the financial institutions introduced to Progressive by Hylland during the term of the management services agreement plus a period of two years thereafter. All financing transactions entered into by Progressive shall be at Progressive's Board and management team sole discretion. All parties understand that Hylland is a Progressive management resource and not a broker dealer or active CPA nor will act as a broker dealer or active CPA in any way as part of Progressive's financing activities.

Equity Performance Incentives: Progressive shall award an equity option based incentive to Hylland at a market based exercise price (such exercise price deemed to be based on the Progressive preferred unit "put" valuation formula used to value Progressive equity under Progressive's operating agreement) representing 4% of the total Progressive outstanding equity units at the date of management service agreement execution and effectiveness if Progressive raises over \$20 million (5% shall replace 4% if Progressive raises over \$30 million during the term of the management services agreement) with vesting of such equity option based incentives on the date of Progressive financial transaction closure and exercise period equal to ten years from the date of vesting. In the event the Progressive operating agreement or LLC structure does not efficiently provide for the equity option under this provision, than the parties shall structure an equivalent "phantom equity" incentive that represents the same economic terms as the equity option terms herein.

Indemnities and Other Provisions: Given Hylland will be a part of and under the direction of Progressive's management in connection with these arrangements, Progressive shall provide the same standard terms for indemnity, confidentiality, non-compete, expense reimbursement and other provisions, in addition to coverage under Progressive's D&O insurance policies, as the Progressive officers and directors for the mutual protection and benefit of Progressive and Hylland during activities executed under the terms of agreements between the parties.

Progressive Acute Care LLC

By: 

Title: COO

Date: 7/11/2012

RICHARD R. HYLLAND (an Individual)

By: 

Title: Individual Mgr 7/11/2012

Resolution (re: Dick Hylland)

BE IT KNOWN that on December 21, 2012, the Board in and for Progressive Acute Care, LLC (the "Company") convened for a "Special Meeting" by "conference telephone" and means which all members can hear each other simultaneously to address and act upon the following:

WHEREAS, the Board on this day discussed and acted with respect to the employment/contract between the Company and Dick Hylland d/b/a DT Capital (collectively referred to as "Hylland") executed July 11, 2012 (the "Contract") and takes notice of the following;

- 1. Hylland was to serve as a "management resources to Progressive to assist in the execution of Progressive strategic growth, acquisition and capital markets activities as part of and under the directives of Progressive management;"*
- 2. In connection with Hylland's obligations, he was granted access to confidential and proprietary information and trade secrets (the "Special Confidences");*
- 3. These Special Confidences gave rise to the Company's expectations of mutual trust, loyalty, good faith, fair dealing, not to act in antagonism or opposition to the interest of the Company, to not serve or acquire any private interest of his own in opposition to the Company interests, and not use any information acquired by reason of his employment either for the purpose of acquiring property or doing any other act which is in opposition to the Company's interests.*

WHEREAS, the Board discussed Hylland's acts, practices and pattern of conduct leading up to this Special Meeting and based on credible and trustworthy information, finds the following:

- 1. Hylland violated duties of trust, loyalty, good faith, fair dealing, operated to serve his own interest, used information acquired in his employment to serve his personal interests, improperly communicated with Board members, the membership and third parties, and attempted to form a conspiracy with other Company fiduciaries to breach the same or similar duties all of which intended to serve his personal and individual interests.*

WHEREAS, the Board concludes that Hylland breached duties to the Company that are of a magnitude to pose a significant threat to its going concern and it is in the best interest of the Company to TERMINATE THE CONTRACT and HYLLAND IMMEDIATELY and to specifically empower Mike Hurlburt to carry out any and all actions necessary to protect the Company in this respects.

BE IT RESOLVED that a Special Meeting with respect to the continued employment of Dick R. Hylland d/b/a DT Capital is approved;

BE IT FURTHER RESOLVED that any deficiency with respect to formality in calling this special meeting, "notice" or "agenda" is waived;

BE IT FURTHER RESOLVED that after deliberation and discussion it is determined to be in the best interest of the Company to terminate Dick Hylland d/b/a DT Capital immediately and Mike Hurlburt is hereby empowered to carry out any and all actions necessary and advisable to carry out the purposes and intent of these resolutions;

BE IT FURTHER RESOLVED that any actions taken by executives and officers of the Company prior to date of the forgoing resolution are hereby ratified, confirmed and approved as the acts and deeds of the Company.

IT IS HEREBY CERTIFIED by the undersigned that the foregoing resolution was duly passed by the Board of Directors of the Company on December 21, 2012, in accordance with the Articles of Organization and Operating Agreement of the Company and that said resolution has been duly recorded in the Minute Book of the Company and is in full force and effect.

Chairman:



Daniel Rissing

Secretary:



Hector Lopez

December 21, 2012

Mr. Richard Hylland
d/b/a DT Capital
77158 Iroquois Drive
Indian Wells, CA 92210

VIA: *Email and Certified Mail, Return Receipt Requested*

RE: *Termination of Agreement*

Dear Dick:

On December 21st, 2012, the Progressive Board of Directors met and unanimously resolved to terminate Progressive's relationship and any Agreement with you and DT Capital effective immediately. In addition, they authorized me to resolve any remaining issues regarding termination of your services.

In connection with the termination, all Progressive information and work product, including all original work product and notes, in your, DT Capital's or any affiliated entities' possession must be returned to Progressive at our Corporate Offices, 2210 7th Street, Mandeville, Louisiana 70471, addressed to my attention and received no later than the close of business of January 3, 2013. As Progressive's business records exist in various forms and formats, you and all of your related entities are prohibited from further continued possession and from copying, transferring, sharing, archiving and dissemination. Progressive's business records are proprietary and highly confidential, therefore you and your related entities are no longer authorized to possess or use them. Also, you and your related entities are prohibited from representing Progressive in any form or manner with any past, current or potential Progressive affiliate and with any business or entity to whom you represented yourself as an agent of Progressive.

In addition, you and your related entities should cease further communication with any Progressive executive, officer, fiduciary, employee, business partner and contractor.

I can be available for any questions that may arise from this transition.

Best Regards,

Michael F. Hurlburt
On behalf of the Board of Directors

EXHIBIT D

KOLEY JESSEN

ATTORNEYS

KOLEY JESSEN PC, LLO

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OMAHA, NE 68124

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koleyjessen.com

August 22, 2014

Dick Hylland
P.O. Box 88708
Sioux Falls, SD 57109

Re: Response to Demands
Our File No. 14774-8

Dear Mr. Hylland:

As you know, our law firm represents Progressive Acute Care ("PAC"). This letter is in response to your repeated demands to PAC for money that you are not owed. We have had the opportunity to study this matter at length and stand on PAC's consistent position throughout receiving your demands that PAC owes you nothing. While you worked for PAC, you were paid well under terms proposed and insisted on by you--and PAC paid you pursuant to those terms--until such time as it became evident to PAC that you were failing at the sole task for which you were hired and also that you were unwilling to work in a team environment.

Before turning to a summary of the details of terminating your engagement, we wish to note that on February 19, 2014, we sent a letter to you informing you that our law firm was representing PAC with respect to your demands and we requested that you cease all communication with PAC and instead communicate with our office. As further evidence to the discussion below regarding your unwillingness to work within specified parameters or at the request of others, you have failed and refused to communicate with our office even once, and instead you continued to send demand letters and purported "invoices" to PAC on a monthly basis.

To be clear, PAC terminated your engagement for a number of reasons, to wit: First, in the time you worked for PAC you failed to raise any capital and only orchestrated one meeting for the potential raising of capital, neither of which resulted in any investment in PAC. Indeed, there was no money raised during your engagement, and the only capital raised after your engagement was terminated was done by PAC through its prior and existing relationships and with no assistance from you.

Second, PAC tried to work with and accommodate your bullish and aggressive working style, but ultimately your refusal to listen to viewpoints from other members of the team, work with other team members who might disagree with you, and accept direction from management--including PAC's CFO--became unworkable and counterproductive. PAC's ownership and

DANIEL J. FISCHER

DIRECT. 402.343.3757

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management prides themselves on working together towards a common goal, even when team members may hold differing opinions. Ultimately, they are able to compromise and work together. Your work style, however, was to criticize, to complain about other team members, to reject any disagreement with your recommendations, and to persist in courses of action that management rejected. By way of example and not limitation, and notwithstanding your lack of healthcare management experience, you persisted in recommending that PAC seek capital well in excess of its needs even despite management rejecting that strategy due to the *debt load such a strategy would impose and the narrow and difficult margins involved in owning and operating small, rural hospitals*. PAC explained that it had not sought funding at those levels in the past, that it was not comfortable accepting that level of debt load, and it explained to you its reasons for such position. You refused to accept such decision however and continued to press PAC to accept funding far in excess of its needs. It is important to also note, however, that you never generated such funding (or any funding) at any time. We also note that your "viewpoint" of this excess financing was clearly self-serving in that the bonus terms of your compensation arrangement with PAC would result in you being paid more if PAC accepted the higher debt load you so strongly recommended.

Related to this second reason is your hostile attitude toward, and acrimonious relationship with, PAC's chief financial officer, Wayne Thompson. Clearly, you and Mr. Thompson have different views and approaches to financial matters, but instead of working with Mr. Thompson, you refused to work with him, refused to take any direction from him, and attempted to undermine management and PAC employees' confidence in his leadership and direction. Regardless of any opinions by you, Mr. Thompson was and remains PAC's chief financial officer. Therefore it was your responsibility to perform your duties within the financial parameters he set. If you disagreed with him, it was your responsibility to make a calm, rational argument that persuaded either Mr. Thompson or the remainder of management to change the focus or direction set by Mr. Thompson. You chose not to do that. Instead, you chose to engage Mr. Thompson in a power struggle, making frequent and loud complaints about him and attempting to undermine confidence in him. Indeed, in our investigation of your performance we learned of an incident in which you refused to work with or speak to Mr. Thompson and even stormed off and left the office over a dispute with him at a critical time during diligence activities. Your tantrum lasted for a full week before you finally contacted PAC again and indicated a willingness to return. It became clear to PAC however that you could not work cooperatively with Mr. Thompson for the benefit of PAC, which presented an insurmountable barrier to any future you might have had with PAC.

To make matters worse, you refused to cooperate or compromise when management ultimately agreed with Mr. Thompson's position that the company would not seek to raise capital in excess of its needs for any particular transaction. You had your opportunity to persuade PAC otherwise, but the Board and management chose the wisdom and experience behind Mr. Thompson's recommendation over your recommendation. Instead of choosing to accept that decision and direction, you took a take-it-or-leave-it approach and persisted in treating people the way you had, undermining Mr. Thompson in his role as CFO, and insisting that PAC should raise capital far in excess of its needs. Accordingly, PAC did not accept you back after your week-long

absence, choosing instead to terminate your engagement for at least the reasons discussed in this letter.

Third, your abrasive interpersonal demeanor was unfortunately not limited to offending just internal people at PAC. You were invited to meet with Business First, an ongoing finance relationship PAC had in place before you were engaged, and it took only one meeting with you for Business First to ask PAC to never bring you to another meeting with them or be *involved in* any work they may do with PAC. Mr. Thompson also stated that you were not to be allowed in any meeting with Business First again. PAC's relationship with Business First was and remains important to it, as the companies had worked well together before your time with PAC. Furthermore, given that you failed to raise any new funding sources for PAC as you were hired to do, PAC's relationship with Business First was particularly important. PAC could not allow you to jeopardize that relationship further, and this situation certainly highlighted to PAC that irrespective of your failure to raise capital, your working demeanor itself was a significant problem.

Fourth, once it became apparent to you that Mr. Thompson and other members of management were in agreement that PAC would not pursue financing in excess of its needs for any particular transaction, you began undermining management itself. This led to reports that you were discussing internally how to oust management and take over control of PAC yourself. Whether you were serious in such intent or just "venting" your frustrations to a coworker, such comments undermine a positive and productive team atmosphere.

Any one of these reasons is sufficient to justify PAC's decision to terminate your engagement. Collectively, these reasons show that PAC was generous in allowing your engagement to continue for as long as it did given the problems you caused, which were problems PAC did not have before your time with the company. Furthermore, PAC came to learn that you had secretly made an agreement with one of its board members to share in any bonus payments you might receive from PAC, but you never disclosed this conflict of interest at any time, and PAC ultimately learned of it through disclosure by the board member himself. This too is sufficient grounds for terminating your engagement.

Your engagement with PAC set forth specific terms as to payments owed to you for services rendered. PAC faithfully met those terms during your engagement. It paid you the monthly amount for each month you worked there. But you were terminated for cause, meaning that your claims for monthly payments after your termination are without merit. Furthermore, no bonus payments are due because you failed to raise even a single dollar of capital for PAC during your engagement, nor has any money been raised as a result of any work or any lead provided by you. Furthermore, no transaction or deal closed during your engagement, and the one that closed after PAC terminated your engagement was a deal that had been in progress since before you were engaged and was financed through the pre-existing bank relationship that your conduct jeopardized.

Also, with respect your contract we wish to note that you were not an licensed broker/dealer at the time the contract was executed because you were still in the sanctioning period by the SEC

Dick Hylland
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during which your license to be a broker/dealer was revoked. There is a plethora of case law that explains that despite a contract's attempts to state that it is not a broker/dealer contract, it is the substance of the contract--and particularly the payment terms--that will govern whether the contract is a broker/dealer contract. Bonuses based on the obtaining of financing or the closing of a deal are considered quintessential elements of a broker/dealer contract. Accordingly, the contract you are attempting to enforce, and particularly the payment provisions you are claiming, is unenforceable.

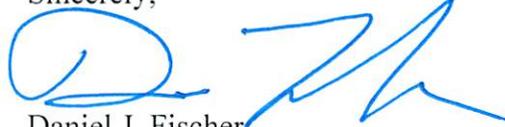
Still further, we have noticed that some of your letters to PAC have included information or reference to information that is confidential and arose after PAC terminated your engagement. To be clear, you are not authorized to have any confidential information regarding PAC. Furthermore, any conduct by you to induce, participate in, or otherwise benefit from any PAC insider providing you with confidential information that you are not authorized to have will be vigorously addressed by PAC.

Lastly, we wish to respond briefly to your repeated references and unsupported accusations to PAC's credit and solvency status. It is sufficient to say that your claims are based on the faulty premise that PAC owes you money, which as we describe here it does not. PAC rejects your claims in their entirety.

Please understand that PAC will not be bullied or harassed by you. Indeed, it was this type of conduct that ultimately led PAC to terminate your engagement. Please be advised that for all future correspondence from you, it will be discarded without review unless it is sent only to our law firm and to my attention.

This letter is written without prejudice, and all rights, remedies, and defenses are expressly reserved. Please govern yourself accordingly.

Sincerely,



Daniel J. Fischer

DJF/hw
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