

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re : Chapter 11
:
SOUND SHORE MEDICAL CENTER INC, : Case No. 13-22840 (RDD)
OF WESTCHESTER, et al. :
:
Debtors. : (Jointly Administered)
:
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UNITED STATES TRUSTEE'S APPOINTMENT OF PATIENT CARE OMBUDSMAN

TO: THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:

Tracy Hope Davis, Acting United States Trustee for Region 2 (the "United States Trustee"), in furtherance of her administrative responsibilities set forth in Section 586(a) of title 28, United States Code, Section 333(a)(2) of title 11, United States Code (the "Bankruptcy Code"), Rule 2007.2(c) of the Federal Rules of Bankruptcy Procedure, and the Order directing this appointment entered by the Court on June 21, 2013 (ECF No. 98), hereby appoints as Patient Care Ombudsman in the captioned cases:

Daniel T. McMurray
Focus Management Group USA, Inc.
5001 Lemon Street
Tampa, FL 33609
Tel. (813) 281-0062
d.mcmurray@focusmg.com

This notice is accompanied by a verified statement of Daniel T. McMurray (the "Patient Care Ombudsman") setting forth his connections and the connections of Focus Management Group USA, Inc. with the debtors, creditors, any other party in interest, their respective attorneys

and accountants, the United States Trustee, and any person employed in the Office of the United States Trustee.

Section 333(b) of the Bankruptcy Code provides that the Patient Care Ombudsman shall:

- (1) monitor the quality of patient care provided to patients of the debtor, to the extent necessary under the circumstances, including interviewing patients and physicians;
- (2) not later than 60 days after the date of this appointment, and not less frequently than at 60 day intervals thereafter, report to the court after notice to the parties in interest, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and
- (3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or written report, with notice to the parties in interest immediately upon making such determination.

11 U.S.C. § 333(b).

In addition, Section 333(c)(1) of the Bankruptcy Code generally provides that the Patient Care Ombudsman shall maintain any information she obtains by virtue of his appointment in this case that relates to patients (including information relating to patient records) as confidential information. 11 U.S.C. § 333(c)(1). Pursuant to Bankruptcy Rule 2015.1:

- (a) Reports. Unless the court orders otherwise, a patient care ombudsman, at least 10 days before making a report under § 333(b)(2) of the Code, shall give notice that the report will be made to the court. The notice shall be transmitted to the United States trustee, posted conspicuously at the health care facility that is the subject of the report, and served on the debtor, the trustee, all patients, and any committee elected under § 705 or appointed under § 1102, on the creditors included on the list filed under Rule 1007(d), and such other entities as the court may direct. The notice shall state the date and time when the report will be made, the manner in which the report will be made, and,

if the report is in writing, the name, address, telephone number, email address, and website, if any, of the person from whom a copy of the report may be obtained at the debtor's expense.

- (b) Authorization to Review Confidential Patient Records. A motion by a health care ombudsman under § 333(c) to review confidential patient records shall be governed by Rule 9014, served on the patient and any family member or other contact person whose name and address has been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care, and transmitted to the United States trustee subject to applicable nonbankruptcy law relating to patient privacy. Unless the court orders otherwise, a hearing on the motion may be commenced no earlier than 15 days after service of the motion.

Fed. R. Bankr. P. 2015.1.

Notice is further given that the Patient Care Ombudsman in this case is permitted expressly to use the staff of Focus Management Group USA, Inc. to assist him in the performance of his duties and responsibilities, save and except for his reporting obligations as set forth in Section 333(b)(2) of the Bankruptcy Code.

Notice is further given that the Patient Care Ombudsman may resign from such position for any reason upon twenty (20) days written notice to the United States Trustee, said notice to be delivered to her via overnight mail or certified mail at the following address:

Tracy Hope Davis
United States Trustee
Office of the United States Trustee
U.S. Federal Office Building
201 Varick Street, Suite 1006
New York, New York 10014

A copy of any such notice also shall be transmitted to the Clerk of the Bankruptcy Court for filing and docketing in these cases.

This appointment is made as of this 21st day of June, 2013.

TRACY HOPE DAVIS
UNITED STATES TRUSTEE

By /s/ Susan D. Golden
Susan D. Golden
Trial Attorney
33 Whitehall Street, 21st Floor
New York, New York 10004
Tel. No. (212) 510-0500
Fax No. (212) 668-2255

Mark I. Fishman (MF3487)
Neubert, Pepe & Monteith, P.C.
195 Church Street, 13th Floor
New Haven, Connecticut 06510
Tel. 203.821.2000
Proposed Counsel to Patient Care Ombudsman

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SOUTHERN DISTRICT OF NEW YORK

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WESTCHESTER, et al.	:	
	:	
Debtor.	:	
	X	

**AFFIDAVIT OF DANIEL T. MCMURRAY IN SUPPORT OF APPOINTMENT
AS PATIENT CARE OMBUDSMAN PURSUANT TO 11 U.S.C. § 333**

STATE OF GEORGIA)
)
COUNTY OF FULTON)

Daniel T. McMurray, being duly sworn, deposes and says:

1. This statement is being submitted in connection with the United States Trustee's Appointment of Patient Care Ombudsman, which appoints me as Patient Care Ombudsman in the above-captioned jointly administered Chapter 11 case (the "Case").

BACKGROUND INFORMATION

2. I am a Managing Director of Focus Management Group USA, Inc. ("Focus"), which maintains offices at 5001 W. Lemon St., Tampa, FL 33609, as well as in Atlanta, GA, Chicago, IL, Cleveland, OH, Columbus, OH, Philadelphia, PA, Los Angeles, CA, and Dallas, TX. Focus specializes in, *inter alia*, managing and turning around distressed health care businesses and advising other parties who are involved in

such distress situations.

3. Focus' staff includes a licensed physician, hospital operations specialists and healthcare finance professionals. Focus has advised and/or represented debtors and financial institutions in distressed health care cases.

4. I have more than 35 years of experience as a hospital administrator and executive officer, directing the day-to-day operations of hospitals and health systems from 25 beds to nearly 1700 beds, often in turnaround situations. As described hereinafter, I have also served as Patient Care Ombudsman in hospital, nursing home, substance abuse, behavioral health, and other healthcare cases throughout the United States. In those cases I have determined, among other things, whether the respective debtors had appropriate and adequate staffing, had all necessary material, including supplies and equipment, provided for the necessary physical and environmental needs, provided appropriate safety and security and maintained sound fiscal operations in order to provide proper patient care.

5. During my career, among other positions, I was employed for seventeen years by St. Anthony Health Care Center, a 434-bed acute care facility in St. Petersburg, Florida, first as Assistant Administrator/Associate Administrator for seven years, as Executive Vice President/ Chief Operating Officer for two years, and as President and Chief Executive Officer for eight years, bearing responsibility for the overall operation of the health care center, its three subsidiaries and four affiliates, creating programs for that hospital, including a successful captive insurance program, and facilitating substantial growth in the hospital's profitability.

6. From 1993 to 1999, I served as Senior Vice President and Chief Operating

Officer of University of Miami/Jackson Memorial Medical Center, a major urban hospital with 60,000 annual admissions, and its satellite hospital, long-term care facilities, home health plan, primary care centers and other facilities and programs. In that capacity, I developed and implemented a Total Performance Improvement/Customer Service Re-engineering Process for the entire organization, including a patient satisfaction measurement program, and implemented a strategic reorganization in order to decentralize the organization's operations. During my tenure at Jackson Memorial, the organization received a score of 97 from the Joint Commission on Accreditation of Healthcare Organizations and accreditation with commendation for all of its units.

7. After my six years at Jackson Memorial, I became Regional Vice President for Hospital Administration of Broward General Medical Center of the North Broward Hospital District (the "District"), which operated a 744-bed acute care facility in Fort Lauderdale, Florida that included an adult and pediatric Level 1 Trauma Center and a Level 1 Perinatal Center. I directed and coordinated the hospital's operations as well as all regional clinical operations, including long-term care, home health and industrial medicine, and developed a pilot model for addressing problems in physician practice management for District-owned physician practices. While at Broward, I was successful in generating \$29,000,000 of net revenue for fiscal year 1999, exceeding projections by 27 percent.

8. Thereafter, I returned to the University of Miami to serve briefly as a consultant and then for three years as Administrator of the University's Bascom Palmer Eye Institute. During my tenure as Administrator, I instituted a satisfaction measurement program and customer service training program which is now utilized by the entire

medical school. I also assisted Bascom Palmer in establishing new services and in significantly increasing its surgical volume and outpatient volume each year that I served as Administrator, thereby considerably increasing net operating income.

9. I joined Focus in 2004. While at Focus, I have, inter alia, led Focus' efforts as Special Advisor to the Office of the Attorney General of Michigan to advise the Attorney General and his staff in their review of the sale of Detroit Medical Center, advised hospitals in California and Connecticut, imaging centers in New Jersey and a multi-specialty medical practice in Florida, served as advisor in a medical malpractice self-insurance trust bankruptcy, served as Chief Restructuring Officer of a hospital in Texas and participated in Focus' engagements as Chief Restructuring Officer of a multi-site hospital system in Hawaii and of hospitals in New York and Indiana, and served as Patient Care Ombudsman in numerous cases.

10. In April 2007, approximately 17 months after the effective date of Section 333 of the Bankruptcy Code and after having published an article on the subject, I was appointed as Patient Care Ombudsman of Our Lady of Mercy Medical Center (S.D.N.Y.), a 370- bed acute care hospital in The Bronx, and served in that capacity until the closing of a sale of that hospital to Montefiore Medical Center in the Summer of 2008.

11. I was subsequently appointed, and served as, Patient Care Ombudsman in the cases, among others, of Caritas Health Care, Inc. (E.D.N.Y), which was operating and closing its two hospitals and its substance abuse facilities in Queens in 2009; Renaissance Health Systems (N.D. Tex.), a multi-hospital, acute care system in Texas; St. Mary's Hospital, Passaic, New Jersey (D.N.J.), which completed its Chapter 11 reorganization in

2010; Twin City Hospital (N. D. Ohio) in Dennison, Ohio; and Saint Vincents Catholic Medical Centers of New York (S.D.N.Y.), which was operating and closing its hospital in Manhattan and, among its many other facilities, was operating and selling a behavioral hospital in Westchester in 2010.

12. As Patient Care Ombudsman, I have performed the following functions, among many others:

- Review of policies and procedures for each department, as well as interdepartmental coordination and review of operations;
- Establishing benchmarking quality performance goals and achievement measures;
- Direct involvement with physicians, staff (both clinical and non-clinical), patients, the public and state regulators;
- Directing, monitoring and investigating issues involving infection control, medication errors, and the full range of risk management issues, incident reporting, morbidity and mortality review, peer review and credentialing;
- Reviewing and/or monitoring the process for maintaining, managing, accessing and protecting patient information and records in all forms and of all types to assure the preservation of such records, patient privacy, control of the records, and appropriate access; and
- Reporting to the applicable court in writing on a regular basis regarding my observations on the quality of patient care being provided.

CONFLICT SEARCH RESULTS

13. This Affidavit provides the disclosures required under Title 11 of the

United States Code (the “Bankruptcy Code”) in order to qualify as a “disinterested person,” as such term is defined pursuant to Section 101(14) of the Bankruptcy Code, and to comply with the disclosure requirements of Rules 2007.2(c) and 2014 of the Federal Rules of Bankruptcy Procedure (collectively, the “Bankruptcy Rules”). This Affidavit is intended as a verified statement setting forth to the best of my knowledge all of my connections with the Debtors, their creditors, patients, other parties in interest and their respective attorneys and accountants, the United States Trustee, any person employed in the Office of the United States Trustee and this Court.

14. I am not related, to the best of my knowledge, to any Judge of the United States Bankruptcy Court for the Southern District of New York, nor do I have any connection with the United States Trustee’s Office in this district other than my service in other cases.

15. In order to prepare this Affidavit, I caused a conflicts check to be conducted by searching, inter alia, the names of the Debtors, their attorneys, the Debtors’ consolidated list of 30 largest creditors, the Debtors’ secured creditors, the proposed debtor-in-possession lender, the United States Trustee and Judge Drain (the “Searched Parties”).

16. To the best of my knowledge, neither I nor Focus have any connection with the Searched Parties. While Focus arranged financing for a client with the Debtors’ proposed debtor-in-possession lender, MidCap Financial, LLC or an affiliate (“MidCap”), and may have advised or represented other clients to whom MidCap is or was a lender, Focus has not been employed by MidCap.

17. Focus and its personnel, including me, may have in the past represented or

advised, may currently represent or advise, and will probably in the future represent or advise, other creditors of the Debtors and other parties in matters unrelated to the Case. Those connections which have been discovered are described above. As a firm that is involved with many distress situations, Focus is involved in many situations in which the various other professionals engaged in the Case represent parties or serve as trustees or in similar roles. If any material connections are discovered, I will file supplemental disclosures as appropriate.

18. I am a “disinterested person” as that term is defined in Section 101(14) of the Bankruptcy Code in that I:

- a. am not a creditor, equity security holder or insider of the Debtors;
- b. am not, and was not, within 2 years before the date of filing of the petition, a director, officer, or employee of the Debtors; and
- c. do not have an interest materially adverse to the interest of the estates or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, or for any other reason.

19. I intend to apply for compensation for professional services rendered in connection with the Case subject to the approval of this Court and in compliance with applicable provisions of the Bankruptcy Code, Bankruptcy Rules, Local Rules, U.S. Trustee Guidelines, and Orders of this Court, on an hourly basis, plus reimbursement of actual, necessary expenses and other charges incurred. The expenses charged to clients include, among other things, telephone and telecopier tolls and other charges, mail and express mail charges, special or hand delivery charges, document processing, photocopying charges, word processing charges, courier services, overnight delivery services, docket and court filing fees, telecommunications, travel expenses, expenses for

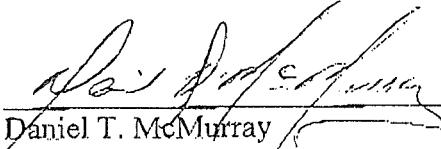
working meals, computerized research, and transcription costs, as well as non-ordinary overhead expenses such as overtime for secretarial personnel and other staff. I will charge the estate for these expenses in a manner and at rates consistent with local rules, administrative orders and U.S. Trustee Guidelines.

20. I intend to retain Mark J. Fishman, Esq. of the law firm of Neubert, Pepe & Monteith, P.C., which has represented me in previous engagements, to assist me in my engagement and will apply for Court approval of that retention.

21. I intend to utilize the staff of Focus to assist me in performing my duties and responsibilities except my reporting obligations as set forth in Section 333(b)(2) of the Bankruptcy Code.

By reason of the foregoing, I believe that I am eligible for appointment as Patient Care Ombudsman pursuant to Section 333 of the Bankruptcy Code and the applicable Bankruptcy Rules.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.


Daniel T. McMurray

Subscribed and sworn to
before me this 19 day of June, 2013


Notary Public

