



Charles M. Walker
U.S. Bankruptcy Judge
Dated: 5/23/2019



**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

In re:

Curae Health, Inc., *et al.*¹

1721 Midpark Road, Suite B200
Knoxville, TN 37921,

Debtors.

Chapter 11

Case No. 18-05665

Judge Walker

Jointly Administered

Re: Docket No. 1074

**AGREED ORDER REGARDING THE
SETTLEMENT WITH CHS/COMMUNITY HEALTH SYSTEMS, INC. OF ANY AND
ALL ESTATE CLAIMS OR CAUSES OF ACTION**

This matter comes before the Court in connection with and in supplement to the *Findings of Fact, Conclusions of Law, and Order Confirming the Joint Chapter 11 Plan of Liquidation of Curae Health, Inc., et al.* (the “**Confirmation Order**”) [Docket No. 1074].

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Curae Health, Inc. (5638); Amory Regional Medical Center, Inc. (2640); Batesville Regional Medical Center, Inc. (7929); and Clarksdale Regional Medical Center, Inc. (4755); Amory Regional Physicians, LLC (5044); Batesville Regional Physicians, LLC (4952); Clarksdale Regional Physicians, LLC (5311).

WHEREAS, Curae Health, Inc., *et al.* (collectively, the “**Debtors**”) each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) on August 24, 2018 (the “**Petition Date**”);

WHEREAS, the Debtors and Committee assert that the estates have various claims against CHS relating to, among other things, the Debtors’ acquisition of the Hospitals from CHS (“**CHS Claims**”);

WHEREAS, CHS negotiated (1) resolution, settlement and release of all CHS Claims (“**CHS Claim Settlement**”) and (2) a purchase of assets located at the Debtor’s Clarksdale location (as more fully provided for in the Order (I) Authorizing, Approving, and Directing the Sale of Substantially All of the Assets of Northwest Mississippi Regional Medical Center to CHS Free and Clear of All Liens, Claims, Encumbrances, and Other Interests; (II) Authorizing and Approving the Clarksdale APA; (III) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (IV) Granting Related Relief (Docket No. 1065) (the “**Clarksdale Sale Order**”);

WHEREAS, ServisFirst Bank raised certain objections to the proposed confirmation order at the hearing conducted May 9, 2019, but none of those objections affected the amount of the CHS Settlement Payment or the CHS Release which ServisFirst supports;

WHEREAS, on May 13, 2019, the Bankruptcy Court² entered the Confirmation Order approving the *Joint Chapter 11 Plan of Liquidation* (the “**Joint Plan**”) [Docket No. 1074] for the Debtors;

WHEREAS, the Confirmation Order sets forth the CHS Claim Settlement, resolution and release terms, and specifically states in paragraph 10 as follows:

² All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Confirmation Order.

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CHS Objection. CHS/Community Health Systems, Inc. (“**CHS**”) filed an objection to confirmation of the Joint Plan [Docket No. 953] (the “**CHS Objection**”). At the Confirmation Hearing, the Debtors, Committee, and CHS announced that they had reached a global resolution with CHS with respect to all matters between CHS and the Debtors, including but not limited to the matters set forth in the CHS Objection on the following terms, which, notwithstanding anything to the contrary in the Joint Plan and subject to entry of the Clarksdale Sale Order and the occurrence of the Effective Date, shall be binding upon the Debtors, Committee, and CHS:

- a. Upon the Effective Date, CHS will pay to the Liquidating Trust established pursuant to the Joint Plan one lump sum cash payment of three million five hundred thousand dollars (\$3,500,000.00) (the “**CHS Settlement Payment**”).
- b. Effective upon receipt of the CHS Settlement Payment set forth in Paragraph 10(a) above, the Liquidating Trustee and Debtor Representative hereby fully and irrevocably release any and all actions, claims, counterclaims, cross-claims, causes of action, lawsuits, remedies, damages, liabilities, debts, suits, liens, demands, costs, expenses, fees, controversies, set-offs, third-party actions or proceedings (collectively, “**Claims**”), whether at law, equity, administrative, arbitration or otherwise, whether before a local, state, or federal court, or before a state or federal administrative agency or commission, whether now known or unknown, foreseen or unforeseen, accrued or unaccrued, liquidated or unliquidated, suspected or unsuspected, which the Liquidating Trustee, the Debtor Representative, or the Debtors’ bankruptcy estates may now have or has ever had or hereafter claims to have had against CHS and/or any of its past, present, and future predecessors, successors, assigns, agents, affiliates, employees and representatives, including without limitation, any Claims relating to CHS’s sales of any hospital(s) or physician practices to the Debtors, any Claims under any Transition Services Agreement or any other agreement between CHS or its affiliates and any of the Debtors, and any and all claims arising under Chapter 5 of title 11 of the United States Code, excluding only claims arising under this

Confirmation Order, the Clarksdale Interim Management Services Agreement, and the Clarksdale APA (“CHS Release”).

- c. CHS will provide reasonable cooperation to the Liquidating Trustee in connection with the wind down of the Debtors’ estates, the administration of the Liquidating Trust, and prosecution of causes of action by the Liquidating Trustee against third parties.

The Treatment of Classes 3 and 7 under the Joint Plan shall be and hereby is modified to provide that neither Class 3 nor Class 7 shall receive any distribution under the Joint Plan because the Class 3 and Class 7 Claims of CHS are disputed by the Debtors and the Committee. This shall fully and finally resolve the CHS Objection, which shall be deemed withdrawn. The modification of the Treatment of Classes 3 and 7 set forth in this Confirmation Order shall not constitute: (1) an exchange, extension of the time of payment of, or set off of any loans owed by Debtors to CHS; or (2) an amendment, alteration, or modification of any payment provisions, whether in amount, timing or otherwise, of any documents or instruments evidencing or executed in connection with any loans owed by Debtors to CHS, and therefore is neither inconsistent with nor violative of the Debt Subordination Agreement dated May 1, 2017 between ServisFirst Bank and CHS (the “Subordination Agreement”). At the Confirmation Hearing, ServisFirst Bank expressly consented to the treatment of CHS’s claim(s) as provided herein and agreed that the settlement embodied herein and the treatment of CHS’s claim in connection therewith does not violate or breach the Subordination Agreement. ServisFirst Bank further consented to the full and complete release of any and all claims against CHS. Accordingly ServisFirst Bank is hereby deemed to join in the full and complete release of any and all claims against CHS set forth above[;]

WHEREAS, the Plan provides in Article VIII(H) as follows:

Pursuant to sections 363 and 1123(b) of the Bankruptcy Code³ and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to this Plan, the provisions of this Plan shall constitute a good faith compromise of all Claims, Corporate Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or

³ All capitalized terms used but not otherwise defined in this Joint Plan excerpt shall have the meanings ascribed to them in the Joint Plan.

Corporate Interest may have with respect to any Allowed Claim or Corporate Interest, or any distribution to be made on account of such Allowed Claim or Corporate Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Corporate Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders of Claims and Corporate Interests, and is fair, equitable, and reasonable[;]

WHEREAS, as a result of good faith, arm's-length negotiation, and in an abundance of caution, the parties hereto wish to affirm and confirm the compromise, release and full resolution of, among other things, the CHS Objection and certain claims of the Debtors and their estates against CHS set forth in paragraph 10 of the Confirmation Order (the "**Settlement**"); now, therefore,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. Each of the foregoing paragraphs is incorporated into this paragraph 1 by reference, except that the CHS Settlement Payment shall be paid only after entry of this Order, and this Order becoming final, non-appealable and not subject to any post entry motion for amendment, reconsideration or otherwise..
2. Good and sufficient notice of the Settlement has been provided.
3. Consistent with the terms of the Confirmation Order and the Plan, the Settlement shall be and hereby is affirmed, confirmed, and approved pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure.
4. Nothing in this consent order (the "**Consent Order**") amends, modifies, alters, supersedes, impairs, or otherwise affects any provision of the Confirmation Order, including paragraph 10 of the Confirmation Order except as set forth in paragraph 1 of this Order.

5. All rights of all parties-in-interest in connection with or concerning the Confirmation Order are expressly reserved and preserved, and are not affected by any provision of this Consent Order.

6. This Consent Order is binding upon and inures to the benefit of the parties hereto and their respective successors and assigns.

7. Any applicable stay of this Consent Order is hereby waived.

8. The Court shall retain jurisdiction with respect to all matters arising under or related to this Consent Order.

**THIS ORDER WAS SIGNED AND ENTERED ELECTRONICALLY AS INDICATED
AT THE TOP OF THE FIRST PAGE.**

AGREED TO AND APPROVED FOR ENTRY BY:

Submitted for Entry By:

POLSINELLI PC

/s/ Michael Malone

Michael Malone (Bar No. 31219)
401 Commerce Street, Suite 900
Nashville, TN 37219
Telephone: (615) 259-1510
Facsimile: (615) 259-1573
mmalone@polsinelli.com

-and-

David E. Gordon (admitted *pro hac vice*)
Caryn E. Wang (admitted *pro hac vice*)
1201 West Peachtree Street NW
Atlanta, GA 30309
Telephone: (404) 253-6000
Facsimile: (404) 684-6060
dgordon@polsinelli.com
cewang@polsinelli.com

*Counsel to the Debtors
and Debtors in Possession*

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-and-

MANIER & HEROD, P.C.

/s/ Michael Collins

Michael E. Collins (Bar No. 16036)

Robert W. Miller (Bar No. 31918)

1201 Demonbreun Street, Suite 900

Nashville, TN 37203

Telephone: (615)-244-0030

Facsimile: (615) 242-4203

mcollins@manierherod.com

rmiller@manierherod.com

-and-

SILLS CUMMIS & GROSS P.C.

Andrew H. Sherman (admitted *pro hac vice*)

Boris I. Mankovetskiy (admitted *pro hac vice*)

One Riverfront Plaza

Newark, NJ 07102

Telephone: (973) 643-7000

Facsimile: (973) 643-6500

asherman@sillscummis.com

bmankovetskiy@sillscummis.com

*Co-Counsel for the Official Committee of
Unsecured Creditors of Curae Health, Inc., et al.*

-and-

BASS, BERRY & SIMS PLC

/s/ Paul Jennings

Paul G. Jennings

Russell E. Stair

150 Third Avenue South, Suite 2800

Nashville, TN 37201

Telephone: (615) 742-6200

Facsimile: (615) 742-6293

pjennings@bassberry.com

rstair@bassberry.com

Counsel for CHS/Community Health Systems, Inc.

-and-

NEAL & HARWELL, PLC

/s/ James Kelley

James R. Kelley (Bar No. 5525)

David G. Thompson (Bar No. 20309)

Stephen M. Montgomery (Bar No. 26489)

Neal & Harwell, PLC

1202 Demonbreun Street, Suite 1000

Nashville, TN 37203

jkelly@nealharwell.com

dthompson@nealharwell.com

smontgomery@nealharwell.com

(615) 244-1713 Telephone

(615) 726-0573 Facsimile

Counsel for ServisFirst Bank