UNITED STATES BANKRUPTCY COURT FOR THE
DISTRICT OF COLUMBIA

In re: GREATER SOUTHEAST COMMUNITY HOSPITAL CORP., I, *et al.*, *Debtors.*	Chapter 11 Jointly Administered Case No. 02-2250 Judge S. Martin Teel, Jr.
SAM J. ALBERTS, TRUSTEE FOR THE DCHC LIQUIDATING TRUST, *Plaintiff,* v. BURNS INT'L SECURITY SERVICES, *Defendant.*	Adv. Proc. No. 04-_____

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COMPLAINT

For his complaint (the "Complaint"), Sam J. Alberts, Trustee for the DCHC Liquidating Trust (the "Trust" or "Plaintiff"), alleges as follows:

NATURE OF THIS ACTION

1. This is an action to avoid preferential transfers, fraudulent transfers and/or post-petition transfers made by the Debtors (as defined herein) to BURNS INT'L SECURITY SERVICES (collectively or individually, the "Defendant"), and to recover the amount of such transfers from the Defendant.

JURISDICTION

2. The Court possesses subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1334 (bankruptcy cases and proceedings), 28

U.S.C. § 157 (authorizing the district court to refer cases and proceedings arising under title 11 to the bankruptcy judges of the district), as well as Rule 5011-1 of the Bankruptcy Rules for the United States District Court for the District of Columbia (referring all cases and proceedings arising under title 11 to the Bankruptcy Judge of this District).

3. This matter is a core proceeding pursuant to 28 U.S.C. § 157.

VENUE

4. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1409(a).

PARTIES

I. The Plaintiff – Sam J. Alberts, Trustee for the DCHC Liquidating Trust

5. The Plaintiff in this case is Sam J. Alberts, Trustee for the Trust, on behalf of one or more of the estates of the Debtors (as defined herein).

6. On November 20, 2002 (the "Petition Date"), Greater Southeast Community Hospital Corporation I ("GSE"), PACIN Healthcare-Hadley Memorial Hospital Corporation ("Hadley"), Michael Reese Medical Center Corporation ("Michael Reese"), Pine Grove Hospital Corporation ("Pine Grove"), Doctors Community Healthcare Corporation ("DCHC") and Pacifica of the Valley Corporation ("Pacifica") (GSE, Hadley, Michael Reese and Pine Grove, and Pacifica are collectively, the "Debtors" and each individually a "Debtor"), filed voluntary petitions under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code").

7. DCHC is a privately-held healthcare management company organized under the laws of the State of Delaware with its corporate offices located in Scottsdale, Arizona. Prior to the Petition Date, DCHC managed and owned, directly and indirectly, five acute-care and psychiatric hospitals located in California, Illinois, and Washington, D.C. The hospitals were Greater Southeast Hospital, Hadley Memorial Hospital, Michael Reese Medical Center, Pacifica of the Valley Hospital and Pine Grove Hospital.

8. By order dated April 2, 2004 (the "Confirmation Order"), the Court confirmed the Second Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code filed by the Debtors (the "Plan"). The Plan went into effect on April 5, 2004.

9. The Confirmation Order authorized the establishment of the DCHC Liquidating Trust and further provided that the Trust would have all of the rights and duties set forth in Section 6.6 of the Plan, as modified by the Confirmation Order.

10. In relevant part, Section 6.6 of the Plan confers upon the Trust the power and authority to prosecute and resolve certain litigation claims (the "Litigation Claims") encompassing, but not limited to, all claims, rights (including rights of setoff and/or recoupment) and causes of action that could have been brought or raised by or on behalf of the Debtors arising before, on or after the Petition Date, including but not limited to claims or causes of action under sections 542 through 553 of the Bankruptcy Code (together, the "Chapter 5 Claims").

11. The claims asserted in this complaint are Chapter 5 Claims.

II. The Defendant – BURNS INT'L SECURITY SERVICES

12. The Defendant in this case is BURNS INT'L SECURITY SERVICES, which is a business entity, government entity, or individual residing in and/or conducting business in the United States.

COUNT ONE

(Preferential Transfers Under 11 U.S.C. §§ 547 and 550)

13. Plaintiff incorporates by reference paragraphs one through 12 as though fully set forth herein.

14. Under section 547(b) of the Bankruptcy Code, the Trust may avoid any transfer of an interest of a Debtor in property -- (1) to or for the benefit of a creditor; (2) for or on account of an antecedent debt owed by a Debtor before such transfer was made; (3) made while the Debtor

was insolvent; (4) made -- (A) on or within 90 days before the date of the filing of the petition; or (B) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider; and (5) that enables such creditor to receive more than such creditor would receive if -- (A) the case were a case under chapter 7 of this title; (B) the transfer had not been made; and (C) such creditor received payment of such debt to the extent provided by the provisions of this title.

15. On or within ninety (90) days before the Petition Date, one or more of the Debtors transferred at least $83,678.36 (the "Ninety-Day Prepetition Transfer") to the Defendant on account of an antecedent debt or antecedent debts. A schedule of the Ninety-Day Prepetition Transfer(s) made by the Debtor(s) to the Defendant is attached hereto as Schedule A and incorporated by reference.

16. At the time the Ninety-Day Prepetition Transfer was made, the Defendant was a creditor of one or more of the Debtors. The Ninety Day Prepetition Transfer was made directly to or for the benefit of the Defendant.

17. The Debtors were insolvent within the meaning of section 547(b)(3) of the Bankruptcy Code at the time the Ninety-Day Prepetition Transfer was made.

18. The Ninety-Day Prepetition Transfer enabled the Defendant to receive more value than it would have received if (i) the bankruptcy cases were cases filed under Chapter 7 of the Bankruptcy Code; (ii) the Ninety-Day Prepetition Transfer had not been made; and (iii) the Defendant had received payment on account of the debts to the extent provided by the Bankruptcy Code.

19. The Ninety-Day Prepetition Transfer is an avoidable preference pursuant to section 547(b) of the Bankruptcy Code.

20. Despite due demand, the Defendant has failed and refused to remit the amount of the Ninety-Day Prepetition Transfer to the Plaintiff.

21. Under 11 U.S.C. § 550(a), "[e]xcept as otherwise provided in this section, to the extent that a transfer is avoided under section 544, 545, 547, 548, 549, 553(b), or 724(a) of this title, the trustee may recover, for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property, from--

> (1) the initial transferee of such transfer or the entity for whose benefit such transfer was made; or
> (2) any immediate or mediate transferee of such initial transferee."

22. The Debtors have been damaged in, and the Plaintiff seeks, an amount equal to the dollar value of the preferential Ninety-Day Prepetition Transfer, or the value of the transferred property, together with interest, attorneys' fees, costs of suit and collection allowable by law.

23. To the extent that the Ninety-Day Prepetition Transfer referenced above is avoided, the Plaintiff on behalf of the Debtor(s) may recover the transferred property, or the value of the transferred property, from the Defendant pursuant to section 550(a) of the Bankruptcy Code.

COUNT TWO

(Fraudulent Conveyances Under 11 U.S.C. §§ 544, 548 and 550)

24. Plaintiff incorporates by reference paragraphs one through 23 as though fully set forth herein.

25. Under 11 U.S.C. § 544(b)(1), "[e]xcept as provided in paragraph (2), the trustee may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is

allowable under section 502 of this title or that is not allowable only under section 502(e) of this title." The phrase "under applicable law" has been interpreted to mean the state fraudulent transfer law that would govern the potentially fraudulent transaction.

26. Under 11 U.S.C. § 548, the Trust may avoid any transfer that was made or incurred within one year before the date of the filing of a bankruptcy petition, if the Debtor voluntarily or involuntarily (A) made such transfer or incurred such obligation with actual intent to hinder, delay or defraud any entity to which the debtor was or became, on or after the date that such transfer was made or such obligation was incurred, indebted; or (B)(i) received less than a reasonably equivalent value in exchange for such transfer or obligation; and (ii)(I) was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation; (II) was engaged in business or a transaction, or was about to engage in business or a transaction for which any property remaining with the Debtor was an unreasonably small capital; or (III) intended to incur, or believed that the Debtor would incur, debts that would be beyond such Debtors' ability to pay as such debts matured.

27. To the extent that any Ninety-Day Prepetition Transfer was made by one or more of the Debtors who was not obligated on the indebtedness paid, such Debtor(s) did not receive reasonably equivalent value in exchange for such Ninety-Day Prepetition Transfer.

28. The Ninety-Day Prepetition Transfer for which any or all of the Debtors did not receive reasonably equivalent value is an avoidable fraudulent transfer ("Fraudulent Transfer") under section 544 and 548 of the Bankruptcy Code.

29. The Debtors have been damaged in, and the Plaintiff seeks an amount equal to the dollar value of the Fraudulent Transfer, or the value of the transferred property, together with interest, attorneys' fees, costs of suit and collection allowable by law.

30. To the extent that any Fraudulent Transfer referenced above is avoided, the Plaintiff on behalf of the Debtor(s) may recover the transferred property, or the value of the transferred property, from the Defendant pursuant to section 550(a) of the Bankruptcy Code.

COUNT THREE

(Avoidance of Postpetition Clearance Payments Under 11 U.S.C. §§ 549 and 550)

31. Plaintiff incorporates by reference paragraphs one through 30 as though fully set forth herein.

32. Under 11 U.S.C. § 549, the trustee may avoid a transfer of property of the estate – (1) that occurs after the commencement of the case; and (2)(A) that is authorized only under section 303(f) or 542(c) of the Bankruptcy Code; or (B) that is not authorized under the Bankruptcy Code or by the Court.

33. To the extent that the Ninety-Day Prepetition Transfer cleared the bank on or after the Petition Date, such transfer constitutes a "Postpetition Clearance Payment" that is avoidable pursuant to section 549 of the Bankruptcy Code.

34. The Postpetition Clearance Payment is avoidable under section 549 of the Bankruptcy Code because:

a. the Postpetition Clearance Payment was made after the commencement of the Debtors' chapter 11 cases, and

b. the Postpetition Clearance Payment was not authorized under the Bankruptcy Code or by this Court.

35. This is not an involuntary case under section 303 of the Bankruptcy Code.

36. The Defendant does not constitute a good faith purchaser of real property without knowledge of the case.

37. Despite due demand, the Defendant has failed and refused to remit the amount of the Postpetition Clearance Payment to the Plaintiff.

38. The Debtors have been damaged in, and the Plaintiff seeks, an amount equal to the dollar value of the Postpetition Clearance Payment, or the value of the transferred property, together with interest, attorneys' fees, costs of suit and collection allowable by law.

39. To the extent that the Postpetition Clearance Payment referenced above is avoided, the Plaintiff on behalf of the Debtors may recover the transferred property, or the value of the transferred property, from the Defendant pursuant to section 550(a) of the Bankruptcy Code.

DEMAND FOR RELIEF

WHEREFORE, for all the foregoing reasons, the Plaintiff, on behalf of the Debtors, respectfully requests:

(a) As to Count I, that the Court enter judgment against the Defendant (i) avoiding the Preferential Ninety-Day Prepetition Transfer pursuant to sections 547 and 550 of the Bankruptcy Code; (ii) awarding judgment in favor of the Plaintiff and against the Defendant in the amount of the avoided Ninety-Day Prepetition Transfer, plus pre- and post-judgment interest and attorneys' fees and costs, as appropriate; (iii) disallowing, in accordance with section 502(d) of the Bankruptcy Code, any payment or claim held by Defendant; and (iv) granting such relief as the Court deems just and equitable.

(b) As to Count II, that the Court enter judgment against the Defendant (i) avoiding the Fraudulent Transfer pursuant to sections 544, 548 and 550 of the Bankruptcy Code; (ii) awarding judgment in favor of the Plaintiff, on behalf of the Debtors, and against the Defendant in the amount of the avoided Fraudulent Transfer, plus pre- and post-judgment interest and

attorneys' fees and costs, as appropriate; (iii) disallowing, in accordance with section 502(d) of the Bankruptcy Code, any payment or claim held by Defendant; and (iv) granting such relief as the Court deems just and equitable.

(c) As to Count III, that the Court enter judgment against the Defendant (i) avoiding the Postpetition Clearance Payment pursuant to sections 549 and 550 of the Bankruptcy Code; (ii) awarding judgment in favor of the Plaintiff, on behalf of the Debtors, and against the Defendant in the amount of the Postpetition Clearance Payment, plus pre- and post-judgment interest and attorney's fees and costs, as appropriate; (iii) disallowing, in accordance with section 502(d) of the Bankruptcy Code, any payment or claim held by Defendant; and (iv) granting such relief as the Court deems just and equitable.

Dated: November 16, 2004

Respectfully submitted,

Sam J. Alberts, Trustee For The DCHC Liquidating Trust

By: _____
Sam J. Alberts, Esq. (D.C. Bar No. 443260)
Lucius B. Lau, Esq. (D.C. Bar No. 446088)
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Counsel to Sam J. Alberts, Trustee for the DCHC Liquidating Trust

Schedule A

The DCHC Liquidating Trust
Greater Southeast Community Hospital
Listing of Preference Payments

Vendor: BURNS INT'L SECURITY SERVICE **Vendor ID : A00081**

Check Date	Check No.	Invoice(s) Paid	Check Amount
8/28/2002	19707	2078458, 2066880, 2055619, 2043906, 2032441	20,000.00
9/10/2002	19859	2078458, 290235	11,892.78
9/20/2002	19997	2135864, 2124334, 2113134, 2101581	20,000.00
10/4/2002	20063	2169618, 2147311, 2135864	20,000.00
11/8/2002	20265	2192162, 2181006, 2169618	11,785.58
Total Check Amount for BURNS INT'L SECURITY SERVICES			**$ 83,678.36**

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(Rev. 2/92)

ADVERSARY PROCEEDING COVER SHEET
(Instructions on Reverse)

ADVERSARY PROCEEDING NUMBER
(Court Use Only)

PLAINTIFFS	DEFENDANTS
Sam J. Alberts, Trustee for the DCHC Liquidating Trust	BURNS INT'L SECURITY SERVICES 1625 K ST NW WASHINGTON, DC 20006-1604
ATTORNEYS (Firm Name, Address, and Telephone No.) Lucius B. Lau, Esq. White & Case, LLP 601 13th Street N.W. Washington, DC 20005 202-626-3696	ATTORNEYS (If Known)

PARTY (Check one box only) ☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☒ 3 U.S. NOT A PARTY

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

This is an action by the Plaintiff to avoid preferential transfers, fraudulent transfers and/or post-petition transfers made by the Debtors (as defined herein) to the Defendant, pursuant to 11 U.S.C. §§ 544, 547, 548, and 549 and to recover the amount of such transfers from the Defendant pursuant to 11 U.S.C. § 550.

NATURE OF SUIT
(Check the one most appropriate box only.)

- ☒ 454 To Recover Money or Property
- ☐ 435 To Determine Validity, Priority, or Extent of a Lien or Other Interest in Property
- ☐ 458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property
- ☐ 424 To object or to revoke a discharge 11 U.S.C. § 727
- ☐ 455 To revoke an order of confirmation of a Chap. 11, Chap. 12, or Chap. 13 Plan
- ☐ 426 To determine the dischargeability of a debt 11 U.S.C. § 523
- ☐ 434 To obtain an injunction or other equitable relief
- ☐ 457 To subordinate any allowed claim or interest except where such subordination is provided in a plan
- ☐ 456 To obtain a declaratory judgment relating to any of foregoing causes of action
- ☐ 459 To determine a claim or cause of action removed to a bankruptcy court
- ☐ 498 Other (specify)

ORIGIN OF PROCEEDINGS (Check one box only.) ☒ 1 Original Proceeding ☐ 2 Removed Proceeding ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another Bankruptcy Court ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND	OTHER RELIEF SOUGHT	☐ JURY DEMAND
$83,678.36		Check only if demanded in complaint

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES

NAME OF DEBTOR	BANKRUPTCY CASE NO.
Greater Southeast Community Hospital Corp., I, et al.	02-02250

DISTRICT IN WHICH CASE IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
District of Columbia		Judge S. Martin Teel, Jr.

RELATED ADVERSARY PROCEEDING (IF ANY)

PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.

DISTRICT	DIVISIONAL OFFICE	NAME OF JUDGE

FILING FEE (Check one box only.) ☒ FEE ATTACHED ☐ FEE NOT REQUIRED ☐ FEE IS DEFERRED

DATE	PRINT NAME	SIGNATURE OF ATTORNEY (OR PLAINTIFF)
11/16/2004	Lucius B. Lau, Esq.	

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