

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA**

In re:	:	Chapter 11
	:	
GREATER SOUTHEAST COMMUNITY	:	Jointly Administered
HOSPITAL CORP., I, <i>et al.</i> ,	:	Case No. 02-2250
	:	Judge S. Martin Teel, Jr.
Debtors.	:	

**THE DCHC LIQUIDATING TRUST'S TWENTY-FIRST OMNIBUS OBJECTION
TO CLAIMS PURSUANT TO 11 U.S.C. § 502 AND FED. R. BANKR. P. 3007:
DUPLICATIVE, SUPERSEDED, BLANK, UNLIQUIDATED
AND MISCLASSIFIED CLAIMS**

**TO THE HONORABLE S. MARTIN TEEL, JR.
UNITED STATES BANKRUPTCY JUDGE:**

The DCHC Liquidating Trust (the “Trust”), by and through its undersigned counsel, hereby files the Trust’s Twenty-First Omnibus Objection (the “Twenty-First Omnibus Objection”), pursuant to section 502 of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) to those claims listed on Exhibits A-E annexed hereto (collectively the “Subject Claims”).¹ The Twenty-First Omnibus Objection seeks to disallow and expunge, or reclassify, the Subject Claims on the basis that each Subject Claim either: (1) is duplicative of another claim (Exhibit

¹ The electronic version of the Twenty-First Omnibus Objection and its exhibits will not include copies of the proofs of claim representing the Subject Claims due to the size of the claims. Each Subject Claim is available by e-mail upon reasonable request (at no charge) or in hard copy form (at a charge). A hard copy of the Subject Claims will be delivered to the Court. There are 8 Subject Claims, totaling \$34,578.13 on Exhibit A; 2 Subject Claims totaling \$16,545.30 on Exhibit B; 5 Subject Claims totaling no amount on Exhibit C; 5 unliquidated Subject Claims on Exhibit D totaling no amount; and 1 Subject Claim for \$4,645.00 on Exhibit E. Some of the Subject Claims listed on Exhibits A-C are scheduled claims listed on the Debtors’ Schedules, not evidenced by a proof of claim. These Subject Claims are indicated by a claim number preceded by the letter “s” on Exhibits A-C.

A); (2) has been superseded by another claim (Exhibit B); (3) was scheduled or filed in a blank amount and without any supporting documentation or description (Exhibit C); (4) is an unliquidated claim that does not assert any amount owing, was never amended and for which amounts are not believed to be owed (Exhibit D); or (5) a misclassified claim (Exhibit E). For these reasons, and as further detailed herein, the Subject Claims should be disallowed and expunged, or reclassified, as indicated on Exhibits A-E hereto.

BACKGROUND

1. On November 20, 2002, Doctors Community Healthcare Corporation (“DCHC”), Greater Southeast Hospital Corp. I (“GSE”), Michael Reese Medical Center Corporation (“MR”), Pacifica of the Valley Corporation (“Pacifica”), Pacin Healthcare-Hadley Memorial Hospital Corporation (“Hadley”) and Pine Grove Hospital Corporation of Canoga Park, California (“Pine Grove,” collectively referred to along with DCHC, GSE, MR, Pacifica and Hadley as the “Debtors”) filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

2. On March 3, 2003, pursuant to Bankruptcy Rule 3003(c)(3), this Court entered an order (the “Bar Date Order”) fixing May 30, 2003, as the date by which proofs of claim by non-governmental claimants were required to be filed in these chapter 11 cases (the “Non-Governmental Bar Date”), and setting July 9, 2003 as the deadline for governmental entities to file proofs of claim (the “Governmental Bar Date,” and referred to along with the Non-Governmental Bar Date as the “Bar Dates”).

3. By application dated May 5, 2003, the Debtors requested the retention of Bankruptcy Management Corp. (“BMC”) as the Debtors’ official claims and noticing agent (the “BMC Retention Application”). An order approving the BMC Retention Application was

entered by this Court on June 3, 2004 (the “BMC Retention Order”). Under the BMC Retention Application, BMC’s responsibilities included, *inter alia*, preparing and maintaining an official copy of the Debtors’ schedules filed with this Court (the “Schedules”), notifying all of the Debtors’ known creditors of the deadline for filing proofs of claim and providing individualized proof of claim forms to each such creditor, maintaining the official claims registers in these chapter 11 cases, recording all transfers of claims, making changes to the claims registers pursuant to any Court order, providing the clerk’s office with copies of the claims registers for the clerk’s review, receiving and maintaining claims sent to the clerk’s office, and maintaining an official mailing list for each Debtor of all the entities that have filed a proof of claim. *See* BMC Retention Application at ¶ 14; Declaration of Brad Daniel, Senior Manager, BMC Group (the “Daniel Decl.”) (annexed hereto as Exhibit F) at ¶ 6. Since the Effective Date (as defined herein) BMC has been employed by the Trust. *Daniel Decl.* at ¶ 7.

4. On or about April 25, 2003 and April 28, 2003, in accordance with the Bar Date Order, BMC, on behalf of the Debtors, mailed a proof of claim form and Bar Date notice to all creditors listed on the Debtors’ Schedules, members of the Official Committee of Unsecured Creditors in these chapter 11 cases, and all persons and entities requesting notice pursuant to Bankruptcy Rule 2002 as of the date of the entry of the Bar Date Order. *Daniel Decl.* at ¶ 8; *see also* Declarations of Service re: Notices of Procedures and Deadline for Filing Proofs of Claim, dated April 25, 2003, and May 5, 2003, respectively. The Debtors also published a notice of the Bar Dates in the following newspapers: *The Washington Times*, *The Wall Street Journal*, the *Daily Herald*, and the *Daily News*. *See* Notice of Filing of Affidavits of Publication, dated May 20, 2003.

5. In compliance with the BMC Retention Order and Court procedure, proofs of claim (including those with respect to the Subject Claims) filed in these chapter 11 cases were processed and maintained as follows. BMC and the Court received claims. BMC issued the numbering sequence to the office of the Clerk of this Court (the “Clerk”); thus, claims received directly by the Court and claims received directly by BMC were numbered using the same sequence. Claims received by the Court were forwarded to BMC *via* mail by the Clerk’s office. All claims filed in these chapter 11 cases are stored at a BMC facility located at 444 North Nash Street, El Segundo, CA 90245. *Daniel Decl.* at ¶ 9.

6. On April 2, 2004, the Court entered an order (the “Confirmation Order”) approving the Debtors’ Second Amended Joint Chapter 11 Plan of Reorganization (the “Plan”).²

7. On April 5, 2004 (the “Effective Date”), the Plan went into effect. Pursuant to the terms of the Plan, on the Effective Date several events occurred, including the reorganization of the Debtors (with the exception of Pine Grove) and Trust formation. Under the Plan, certain claims were transferred to the Trust for resolution, and other claims were retained by the Reorganized Debtors.

8. Pursuant to section 7.1(b) of the Plan, objections to claims were to be made within “120 days after the Effective Date, unless such date is extended by order of the Bankruptcy Court.” The 120th day following the Effective Date was August 3, 2004, which deadline has been extended by Court order. The current objection deadline is December 31, 2008. *See* Order entered on October 30, 2008 (Docket #3499).

9. Annexed hereto as Exhibit G is the Declaration of Kerby Baden (the “Baden Decl.”). Mr. Baden is a licensed certified public accountant and a Director of Invotex Group

² All capitalized terms not defined herein shall have the meaning assigned to them in the Plan.

(“Invotex,” f/k/a Maryland First Financial Services Corporation). *Baden Decl.* at ¶ 2. Mr. Baden was retained during the Debtors’ bankruptcy cases as financial advisor to the Official Committee of Unsecured Creditors and Invotex has been retained by the Trust in a similar capacity. *Id.* Mr. Baden and Invotex have reviewed the proofs of claim related to the Subject Claims listed on Exhibits A-E hereto and the Debtors’ books and records. *Id.* at ¶ 6.

JURISDICTION AND VENUE

10. This is a core proceeding pursuant to 28 U.S.C. § 157(b). This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. The Court retained jurisdiction to hear objections to claims under Plan Article XI(c) (“The Bankruptcy Court shall retain jurisdiction of all matters arising under, arising out of, or related to, the Chapter 11 Cases and Plan pursuant to, and for purposes of, section 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes . . . [t]o hear and determine any objection to or requests to estimate any Claims.”). The Trust has personal jurisdiction to assess the Subject Claims under Plan § 6.6(f)(v). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

REQUEST FOR RELIEF

11. The Twenty-First Omnibus Objection seeks to disallow and expunge, or reclassify, the Subject Claims set forth in Exhibits A-E annexed hereto on the basis that they either: (1) are duplicative of other claims (Exhibit A); (2) have been superseded by other claims (Exhibit B); (3) were scheduled or filed in a blank amount and without any supporting documentation or description (Exhibit C); (4) are unliquidated claims that do not assert any amounts owed, were never amended and for which amounts are not believed to be owed (Exhibit D); or (5) are misclassified (Exhibit E).

ARGUMENT

I. Duplicative Claims (Exhibit A)

12. Each of the Subject Claims listed on Exhibit A represents a claim that upon review, Invotex has matched with another claim, both of which are for the same creditor and in the same amount.³ *Baden Decl.* at ¶ 7. Upon review of such claims, Invotex has determined that the claims are duplicate claims representing the same obligation. *Id.*

13. To that end, the claims listed on Exhibit A hereto have been divided into one of two categories as indicated by the column headings on Exhibit A: (1) “Claim to be Expunged” (collectively, the “Duplicate Claims”) or (2) “Surviving Claim.” The Duplicate Claims should be expunged at this time.

II. Superseded Claims (Exhibit B)

14. Each of the two Subject Claims listed on Exhibit B hereto represents a claim that upon review, Invotex has determined has been superseded by another claim representing the same or overlapping obligations. *Baden Decl.* at ¶ 9. To that end, the claims listed on Exhibit B hereto have been divided into one of two categories, as indicated by the column headings therein: (1) “Claim to be Expunged” (collectively, the “Superseded Claims”) or (2) “Remaining Claim.” The Superseded Claims should be expunged at this time.

III. Blank Amount Claims (Exhibit C)

15. Each of the five Subject Claims listed on Exhibit C hereto represents a claim that has been (1) either scheduled or filed in a blank or unknown amount; (2) contains no supporting

³ With respect to Design Visual listed on Exhibit A, Design Visual has filed four claims in these cases: Claim Nos. 107, 438, 504 and 716. Claim No. 504 is for \$15,145.51. Design Visual’s other three claims (Claim Nos. 107, 438 and 716) collectively total \$15,145.51. Upon review of such claims, Invotex determined that Claim No. 504 represents the same obligations as Claim Nos. 107, 438 and 716, combined. Therefore, Design Visual’s Claim Nos. 107, 438 and 716 are duplicative of Claim No. 504 and should be expunged at this time. *Baden Decl.* at ¶ 8.

documentation; (3) contains no description as to what the claim is for; and (4) has not been amended by another claim. *Baden Decl.* at ¶ 10. Therefore, each of the Subject Claims listed on Exhibit C have no claim value and should be disallowed and expunged.

IV. Unliquidated Claims (Exhibit D)

16. Each of the five Subject Claims listed on Exhibit D represents a filed proof of claim on which the claimant stated “unliquidated” or “not ascertained” as the claim amount. Based upon the supporting documentation attached to such claims, each of these Subject Claims appears to serve as a “placeholder” claim because they do not assert an amount owed, but reserve the right to later file an amended liquidated claim. Each of the Subject Claims’ claimants have had more than four years to amend their Subject Claims, but have not done so. The Trust is now finalizing its claims objection process and is preparing to make distributions. Therefore, as an administrative matter, because none of the Subject Claims listed on Exhibit D are liquidated, assert an amount owed or have they been amended, they should be expunged. Each of the Subject Claims listed on Exhibit D are discussed below.

- a. **Haemo-Stat, Inc. (Claim No. 1979).** Haemo-Stat, Inc.’s Subject Claim was filed on June 10, 2004, and is based on costs and damages “that may be incurred as a result of removal of the equipment due to the rejection of the Agreement.” Haemo-Stat, Inc. has not amended its Claim No. 1979. *Baden Decl.* at ¶ 11.
- b. **American Internationality Group, Inc. entities (collectively, “AIG”) (Claim Nos. 67, 323 and 1367).** AIG filed three identical “unliquidated” claims in these cases on April 22, 2003, one against Hadley, one against MR and one against GSE. Each of AIG’s Subject Claims are allegedly for, among other things, “premiums, deductibles, and other related fees, expenses and obligations for

among other things, insurance coverages and services provided and to be provided by Claimant to the Debtors” once such items become liquidated. In its Subject Claims, AIG reserved the right to amend the Subject Claims once such amounts become liquidated. However, AIG has not amended any of its Subject Claims. *Baden Decl.* at ¶ 11.

- c. **SEIU, Social Services Union Local 535 (“SEIU”) (Claim No. 1641).** SEIU’s Claim No. 1641, which was filed on May 23, 2003, states on the claim that the amount owed is “not ascertained” and the claim is allegedly “on behalf of represented employees covered by its Collective Bargaining Agreement with the Debtor.” “The claim is for all amounts owing under the Collective Bargaining Agreement (“CBS”), including unpaid vacation and severance pay accrued and owing as of the petition date and amounts due under arbitration awards and pending grievances” but does not provide any amount outstanding. SEIU’s has not amended its Claim No. 1641. *Baden Decl.* at ¶ 11.

V. Misclassified Claim (Exhibit E)

17. There is one Subject Claim listed on Exhibit E hereto: James Cashaw’s Claim No. 2045 for \$4,645 (the “Cashaw Claim”). The Cashaw Claim was filed as a prepetition patient refund claim for alleged overpayments for patient healthcare services rendered by the Debtors. On the Cashaw Claim, Mr. Cashaw checked both the box claiming that the Cashaw Claim is secured and the box claiming priority status for wages, salaries and commission pursuant to Bankruptcy Code section 507(a)(4). The Trust believes that Mr. Cashaw’s classification of the Cashaw Claim was made in error. First, patient refund claims are classified as Class 8 — Patient Refund Claims under the Plan. *Plan* at § 4.8. Class 8 claims are treated equally, for distribution

purposes, with Class 10 General Unsecured Claims under the Plan. *Plan* at § 4.8(b). Second, Cashaw does not allege, nor is there proof that, there is any collateral securing his claim or that he was an employee entitled to priority status. Third, patient refund claims relate to overpayments for patient healthcare services, and it therefore cannot be secured or relate to wages, salaries or commissions, as provided in Bankruptcy Code section 507(a)(4). Thus, the Cashaw Claim should be reclassified and allowed as an unsecured Class 8 — Patient Refund Claim under the Plan.⁴

CONFLICTS

18. In light of certain actual or potential conflict issues, the Trust has retained Stinson Morrison Hecker LLP to prosecute this Twenty-First Omnibus Objection with respect only to the following Subject Claims listed on Exhibit D: American International Specialty Lines, *et al.*'s Claim Nos. 67, 323 and 1367. The remaining Subject Claims are to be prosecuted by White & Case LLP.

RESERVATION

19. The Trust hereby reserves its right to object in the future to any of the claims listed in this Twenty-First Omnibus Objection (and/or on Exhibits A-E annexed hereto) on any ground, whether legal or equitable, and whether or not stated herein or on Exhibits A-E annexed hereto, and to amend, modify and/or supplement this Twenty-First Omnibus Objection. Separate notice and hearing will be scheduled for any such objection.

20. By expunging the Subject Claims listed on Exhibits A-B hereto, the Trust does not acknowledge liability for any of the surviving claims at this time, as these claims may not be

⁴ Counsel to the Trust attempted to contact Cashaw at the telephone number listed on the Cashaw Claim to resolve this matter consensually, but was informed that the number does not belong to him.

obligations of the Trust, may have been previously objected to or may be objected to at a later time.

NO PREVIOUS REQUEST

21. No previous request for the relief set forth herein has been made to this or any other Court.

WHEREFORE, the Trust respectfully requests that the Court enter an order granting the relief requested herein and such other and further relief as is just and proper.

Dated: November 5, 2008

Respectfully submitted,

WHITE & CASE_{LLP}

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CERTIFICATE OF SERVICE

I certify that on November 5, 2008, a copy of the foregoing pleading was sent by First Class Mail to the parties identified on Exhibits A-E to the Twenty-First Omnibus Objection and to the parties listed below.

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