

ENTERED

TAWANA C. MARSHALL, CLERK
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The following constitutes the ruling of the court and has the force and effect therein described.

Hay G. C. Jones

United States Bankruptcy Judge

Signed April 29, 2010

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	CASE NO. 09-37010 (SGJ)
	§	
ERICKSON RETIREMENT COMMUNITIES, LLC, <i>et al.</i> ¹	§	CHAPTER 11
	§	Jointly Administered
Debtors.	§	
	§	

**STIPULATION AND ORDER TO RESOLVE ORACLE’S OBJECTION
TO DEBTORS’ ASSUMPTION OF CERTAIN AGREEMENTS AND
DEBTORS’ FOURTH AMENDED JOINT PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

WHEREAS, on October 19, 2009 (the “Petition Date”), the above captioned debtors and debtors in possession (the “Debtors”) each filed voluntary petitions for relief under chapter 11 of

¹ The Debtors in these chapter 11 cases are Erickson Retirement Communities, LLC, Ashburn Campus, LLC, Columbus Campus, LLC, Concord Campus GP, LLC, Concord Campus, LP, Dallas Campus GP, LLC, Dallas Campus, LP, Erickson Construction, LLC, Erickson Group, LLC, Houston Campus, LP, Kansas Campus, LLC, Littleton Campus, LLC, Novi Campus, LLC, Senior Campus Services, LLC, Warminster Campus GP, LLC, Warminster Campus, LP.

title 11 of the United States Code (the “Bankruptcy Code”) and have continued in the management and operation of their businesses and properties as debtors in possession pursuant to Bankruptcy Code sections 1107 and 1108 of the Bankruptcy Code; and

WHEREAS, terms undefined herein shall have the meaning ascribed in the Debtors’ Fourth Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code filed in the above-referenced and styled case (the “Plan”); and

WHEREAS, prior to the Petition Date, certain of the Debtors entered into various software, support and licensing agreements (collectively the “Oracle Contracts”) with Oracle USA, Inc., Oracle Corporation, BEA Systems, JD Edwards, Siebel Systems, PeopleSoft, Inc., and/or Hyperion Solutions Corporation, to which Oracle America, Inc. is the successor in interest (collectively “Oracle”); and

WHEREAS, following the Petition Date, Oracle filed its proof of claim (the “Claim”) relating to the alleged outstanding balance owed by Debtors related to the Oracle Contracts; and

WHEREAS, on March 25, 2010, Debtors filed a Notice of (i) Possible Assumption of Executory Contracts and Unexpired Leases (ii) Fixing of Cure Amounts and (iii) Deadline to Object Thereto [Doc. No. 1073] (the “Assumption Notice”) wherein the Debtors notified Oracle of the Debtors’ intent to assume certain Oracle Contracts; and

WHEREAS, on April 9, 2010, Oracle filed an objection to and rights reservation regarding the Assumption Notice and the Plan [Doc. No. 1271] (the “Objection”) and attached the previously filed Claim as Exhibit A to the Objection; and

WHEREAS, Debtors have determined it is in the best interest of the Debtors’ estates to resolve the issues raised in the Objection; and

NOW, THEREFORE, it is hereby **STIPULATED** and **AGREED**, by and between the Debtors and Oracle, by their respective attorneys, DLA Piper US LLP and Carrington, Coleman, Sloman & Blumenthal, L.L.P., as follows:

1. The Debtors will assume all obligations under the Oracle Contracts and will pay to Oracle the sum of \$717,080.31, which amount includes a pre-petition cure amount of \$61,849.66 and a post-petition cure/administrative expense amount of \$655,230.65 (collectively the foregoing amounts are referred to as the “Cure Payment”) at or no later than one (1) business day following the Closing, which payment will fully satisfy any outstanding obligation of the Debtors under the Oracle Contracts and the Claim as of the date of Closing. Key Equipment Finance, Inc. has confirmed its agreement that the Cure Payment in its entirety may be paid directly to Oracle pursuant to the terms of this Stipulation and Order.

2. Upon Court approval of the terms of this Stipulation, payment of the Cure Payment, and receipt by Oracle of the Cure Payment in good funds, Oracle will immediately withdraw the Claim.

3. Upon Court approval of the terms of this Stipulation, and Oracle’s timely receipt of the Cure Payment, Oracle will consent to the assumption of the Oracle Contracts by the Debtors, and thereafter upon execution by the Debtors and Redwood of Oracle assignment documents, Oracle will consent to the assignment of the Oracle Contracts by the Debtors or their estates to Redwood.

4. Each party hereto warrants and represents that in executing this Stipulation such party is not relying upon (i) any oral representation, promise or statement, or (ii) any representation or statement contained in any other written instrument.

5. Each individual signing this Stipulation on behalf of any party acknowledges and, with respect to his/her own signature below, warrants and represents, that he/she is authorized to execute this Stipulation in the representative capacities indicated below and on behalf of the party there indicated.

6. This Court shall retain jurisdiction over the parties hereto with respect to any matter related to or arising from this Stipulation.

#####End of Order###

Agreed by:

Dated: April 28, 2010

Dated: April 29, 2010

**CARRINGTON, COLEMAN, SLOMAN &
BLUMENTHAL, L.L.P.**

DLA PIPER US LLP

/s/ Stephen A. Goodwin (w/permission)

/s/ Vincent P. Slusher

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