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

IN RE:	§	**CASE NO. 09-37010**
	§	
ERICKSON RETIREMENT COMMUNITIES,	§	**CHAPTER 11**
LLC, *et al.*[1]	§	**Jointly Administered**
	§	
Debtors.	§	

ORDER APPOINTING EXAMINER PURSUANT TO 11 U.S.C. § 1104

Upon consideration of the Motion of the CCRC Mezzanine Lenders for Order Appointing Examiner Pursuant to 11 U.S.C. § 1104 (the "Motion"); and it appearing that the Court has jurisdiction over the Motion pursuant to 28 U.S.C. § 157(b)(2); and due and adequate notice of the Motion having been provided under the circumstances; and it appearing that the

[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 (collectively, the "Debtors").

relief requested in the Motion is in the best interests of the Debtors, their estates, and creditors; and upon the Motion and the full record in these cases; and after due deliberation and sufficient cause appearing therefor; it is therefore

ORDERED that the Motion is **GRANTED**; and it is further

ORDERED that the U.S. Trustee is directed to appoint an examiner in this matter to conduct an investigation of such matters as the examiner or the Court sees appropriate for investigation, including, without limitation the following:

i. Intercompany accounts;

ii. Pre and post-petition acts and omission of the Debtors' officers and directors impacting their fiduciary duties;

iii. Propriety of the Debtors' decision to sell all or substantially all of their assets and, in particular, the proposed method of such sale on a bulk basis;

iv. Whether a conflict of interest exists based on the inter-creditor relationship between the various Debtors based on the Related Party Contracts or otherwise, making common counsel for the Debtors prejudicial to creditors and other parties in interest of the CCRC Subsidiary Debtors;

v. Whether separate counsel should be appointed for each of the CCRC Subsidiary Debtors, including the Concord Debtor, Ashburn Debtor, Concord Campus GP, LLC, Warminster Debtor, Novi Debtor, Houston Debtor, Dallas Debtor, Littleton Debtor, and the Kansas Debtor to insure that the interests of all such Debtors are properly protected;

vi. Potential mismanagement, dishonesty, and self-dealing involved in managing the Debtors' businesses, including with respect to the perspective proceeds of the sale of the Debtors' assets;

vii. Issues regarding the proposed auction and/or the PSA, including whether the proposed sale of the assets on an aggregate basis is necessary, appropriate, or can adequately protect the individual interests of the creditors of the subsidiary Debtors.

viii. Whether the auction procedures should be clarified or supplemented to more clearly provide how any bids for assets other than on a bulk basis would be evaluated;

ix. Whether an allocation of the proposed purchase price on an asset-by-asset or entity-by-entity basis is necessary to properly maximize the benefits of the stalking horse sale and/or the auction process;

x. Whether the auction procedures need to be modified, supplemented or clarified as it relates to credit bidding to ensure that parties rights under 11 U.S.C. Section 363 are properly preserved and protected;

xi. Whether the Debtors have truly engaged in adequate marketing efforts before and after execution of the PSA;

xii. Whether the interests of the NFP entities in any property of any Landholder is subject to attack under 11 U.S.C. Sections 544, 547, or 548 of the Bankruptcy Code (or any other provision of the Bankruptcy Code or applicable state law);

xiii. Whether the purported "debt" owed to any NFP is truly "debt", is truly owed, is properly calculated and other analysis of these transactions between any Debtor and an NFP;

xiv. Whether the assumption and assignment of the some or all of the Related Party Contracts as contemplated by the Debtors' Plan and the PSA is in the best interest of creditors of the CCRC Subsidiary Debtors;

xv. Whether the Debtors' Plan strategy, which seeks to transfer assets that are individually owned on an aggregate basis is permissible or can be accomplished in the manner proposed without violating the interests of the creditors of the CCRC Subsidiary Debtors;

xvi. Suggested proposals regarding the proper allocation of any sales proceeds between the various debtor entities and the creditors having claims with respect to each such entity;

xvii. Whether the directors and officers of the CCRC Subsidiary Debtors are acting consistent with their fiduciary duties, particularly in light of the paragraph 7.5 of the PSA, which precludes the CCRC Subsidiary Debtors from entertaining other transactions involving the sale of their asset, even though such entities are not parties to the PSA;

xviii. Any and all value that will be received pursuant to the sale of assets to Redwood, under the Debtors' Plan, or otherwise in connection with the chapter 11 cases and the transactions related thereto by John C. Erickson, any person related to John C. Erickson by blood or marriage, and any entity directly or indirectly owned or controlled by any of the foregoing;

xix. Intercompany transfers and transfers to affiliates and/or NFPs and any claims related thereto;

xx. Relationships between the Debtors, the Debtors' affiliates, the NFPs and Redwood, and any and all claims arising out of or related to those relationships; and

xxi. Such other matters as the Court deems appropriate.

ORDERED that the examiner shall prepare and file with the Court a report detailing the conduct and results of such investigation by a date later set by the Court; and it is further

ORDERED that the examiner is authorized to retain legal and financial professionals to be retained and compensated as estate professionals under 11 U.S.C. §§ 327 and 330; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

END OF ORDER # #

Submitted by:

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