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Hearing Date: January 21, 2014 @ 11:00 a.m.
Objection Deadline: January 14, 2014 @ 5:00 p.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	**Chapter 11**
ST. FRANCIS' HOSPITAL, POUGHKEEPSIE, NEW YORK, *et al.*,[1]	:	**Case No. 13-37725 (CGM)**
Debtors.	:	**(Jointly Administered)**

DEBTORS' MOTION FOR ENTRY OF AN ORDER PURSUANT TO BANKRUPTCY CODE SECTIONS 105(a), 327, 328, AND 330 FOR AUTHORIZATION TO EMPLOY PROFESSIONALS UTILIZED IN ORDINARY COURSE OF BUSINESS

[1] The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number include: St. Francis' Hospital, Poughkeepsie, New York (8503), Saint Francis Home Care Services Corporation (3842), SFH Ventures, Inc. (0024), Saint Francis Health Care Foundation, Inc. (5066), and Saint Francis Hospital Preschool Program (1079).

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

St. Francis' Hospital, Poughkeepsie, New York ("St. Francis") and its affiliated debtors, as debtors in possession (collectively, the "Debtors"), respectfully represent:

BACKGROUND

General

1. On December 17, 2013 (the "Petition Date"), the Debtors commenced voluntary cases under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in this Court. The Debtors continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On December 23, 2013, the United States Trustee appointed an Official Committee of Unsecured Creditors (the "Committee").

3. The Debtors chapter 11 cases were consolidated for procedural purposes only and jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

The Debtors' Business

4. Founded in 1914, St. Francis has been dedicated to serving the healthcare needs of the residents of the Hudson Valley for a century.

5. The Debtors serve more than 125,000 patients annually (excluding added homecare patients) and employ approximately 2,000 full and part-time employees. In 2012, the Debtors serviced approximately 8,000 inpatient discharges, 32,000 emergency room visits, 38,000 home care visits, and 150,000 outpatient visits. The hospital has 333 beds and the capability to serve patients with various physical and mental health issues. In 2012, the Debtors had gross revenues of almost $150 million and an operating loss of approximately $7.7 million.

6. The Debtors provide a wide array of medical service to their community, including:

A. Emergency Treatment: The Debtors are the home to the area's only Level II Trauma center that provides lifesaving care to severely injured patients. Over 9,000 trauma victims are cared for annually, making St. Francis' Level II Trauma center the busiest Level II Trauma Center in New York State.

B. Mental Health and Addiction Services: The Debtors are the region's recognized leader in providing mental health services. In addition, the Turning Point at St. Francis is a comprehensive not-for-profit chemical dependency treatment program that provides inpatient medically-managed detoxification from alcohol and all other types of substances, inpatient and outpatient rehabilitation, and a variety of specialized intensive outpatient programs, outpatient counseling, and support groups.

C. Robotic Surgery: The Center for Robotic Surgery offers patients an array of minimally-invasive surgical approaches through the use of the da Vinci surgical system. Robotic surgery is available for patients undergoing a wide variety of thoracic, urological, gynecological and oncological procedures.

D. Physical and Occupational Therapy: The Debtors' Physical and Occupational Therapy program treats a whole spectrum of diagnoses, including: neck pain, back pain, knee pain, foot and ankle pain, hand and wrist pain, shoulder pain, pre-surgical and post-surgical therapy needs, auto accidents and sports injuries, fractures, dizziness/light-headedness, balance problems, weakness, cancer related problems and stroke.

E. Cancer Treatment: The Herb & Sue Ann Redl Center for Cancer Care offers advanced treatments for all major cancers including breast, lung, colon, and other digestive tract, prostate, bladder, lymphoma and melanoma.

F. Home Care: The Debtors provide home health services, including nursing care, physical therapy, occupational therapy and speech therapy to patients in the comfort of their homes.

G. Special Needs Preschool: The Debtors also run a Special Needs Preschool Program and Center for Communication Disorders, which are regional leaders in providing language-based rehabilitation services to children and adults. The special needs preschool program serves children from 18 months to 5 years that have been diagnosed with developmental disabilities. It is the county's only program for autistic preschool-aged children and also provides early intervention services for children under 3 years of age, in addition to evaluation and treatment for speech, language, hearing and swallowing. The center is also a Center for Communication Disorders satellite site serving adults and children with speech, hearing and swallowing disorders.

7. The "CREST of Values" serves as the guiding principles for the Debtors' mission. Each member of the Debtors' team works individually and collaboratively to make their core values of Compassionate Care, Respect, Excellence, Service and Teamwork present in all internal dealings within the hospital community and in their interactions with those the Debtors are privileged to serve.

8. Beginning in September 2012, the Debtors implemented a series of new comprehensive information systems in an effort to increase the Debtors' operational efficiency. By October 2012, the Debtors determined that the implementation of the software had failed.

9. The failure of the software implementation under previous management and governance had a significant impact on the Debtors' financial reporting and revenue cycle functions. The implementation failed because, among other things, the Debtors' medical records department and patient billing and collection department were understaffed and underperforming. In addition, material aspects of the customer defined tables in the software were inadequate.

10. In an effort to rectify these issues, the Debtors engaged several consulting organizations during late 2012 and early 2013. Unfortunately, not enough of the previous and rapidly aging accounts receivable were collected. In addition, ongoing billing issues during later 2012 and early 2013 further strained cash flow.

11. As a result of the failed software implementation, increasing operational costs, increasingly regulated environment, and decreasing admittance levels, the Debtors were forced to explore their restructuring options, including the sale of substantially all of their assets. Ultimately, the Debtors determined that the filing of these chapter 11 cases was in the best interests of their creditors, patients, and other parties in interest.

JURISDICTION

12. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

13. By this Motion, the Debtors request authorization, pursuant to sections 105(a), 327, 328, and 330 of the Bankruptcy Code, to retain professionals utilized in the ordinary course of business (the "Ordinary Course Professionals") without the submission of separate employment applications and without the issuance of separate retention orders for each professional as listed on Exhibit 1 annexed to the proposed order, *nunc pro tunc* to the Petition Date.

14. The Debtors desire to continue to employ the Ordinary Course Professionals to render a variety of professional services to these estates in the same manner and for the same purposes as the Ordinary Course Professionals did prior to the Petition Date. In the past, these professionals have rendered a range of professional services including but not limited to litigation, regulatory, real estate, and employment related matters. It is essential that the employment of these Ordinary Course Professionals, many of which are already familiar with the Debtors' businesses and financial affairs, be continued to avoid disruption of the Debtors' normal business operations and the cost, expense, and delay of securing replacement professionals.

15. The Debtors submit that the proposed employment of the Ordinary Course Professionals and the payment of monthly compensation on the basis set forth below are in the best interests of their estates and creditors. The relief requested will save the estates the substantial expenses associated with applying separately for the employment of each Ordinary Course Professional. Further, the relief requested will avoid the incurrence of additional fees relating to the preparation and prosecution of interim fee applications.

16. The Debtors propose that as promptly as possible following (i) the entry of an order granting this Motion or (ii) the date on which the Ordinary Course Professional commences services for the Debtors, if later, each Ordinary Course Professional shall provide to the Debtors' attorneys: (a) a declaration, substantially in the form annexed the proposed order as Exhibit 2 (the "Ordinary Course Professional Declaration"), certifying that the professional does not represent or hold any interest adverse to the Debtors or their estates with respect to the matter on which the professional is to be employed and (b) a completed retention questionnaire substantially in the form annexed the proposed order as Exhibit 3 (the "Retention Questionnaire").

17. The Debtors propose to then file the Ordinary Course Professional Declaration and Retention Questionnaire with the Court and serve a copy thereof upon (i) the U.S. Trustee and (ii) attorneys for the statutory committee of unsecured creditors appointed in these chapter 11 cases (together with the Debtors, the "Reviewing Parties"), which parties would then have ten (10) days following service of such documents (the "Objection Deadline") to notify the Debtors, the other Reviewing Parties, and the relevant Ordinary Course Professional in writing of any objection to the retention based upon the contents of the Ordinary Course Professional Declaration or Retention Questionnaire. If, after the Objection Deadline, no objection is filed, the retention, employment, and compensation of such Ordinary Course Professional would be deemed approved, without further order of the Court. If an objection is filed and cannot be resolved within twenty (20) days, the matter would be set for a hearing before the Court.

18. The Debtors propose that it be permitted to pay each Ordinary Course Professional, without a prior application to the Court by such professional, 100% of the fees and disbursements incurred, if the Debtors approve an appropriate invoice submitted by such

professional that sets forth in reasonable detail the nature of the services rendered and disbursements actually incurred; provided, however, that, if any amount owed for an Ordinary Course Professional's fees and disbursements based on monthly service dates were to exceed a total of $50,000 per month per professional, then the payments to such professional for such excess amounts would be subject to the prior approval of the Court as set forth below. In addition, the Debtors proposes to cap payments to each Ordinary Course Professional at $300,000 for the entire period in which these chapter 11 cases are pending, subject to further order of the Court. In the event that an Ordinary Course Professional seeks more than $50,000 per month or $300,000 for the entire period in which these chapter 11 cases are pending, that professional will be required to file a fee application for the full amount of its fees and expenses for that month, notwithstanding the receipt of the $50,000 for such month (up to the case cap), in accordance with sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules for the Southern District of New York (the "Local Rules"), the Fee Guidelines promulgated by the United States Trustee, and any and all orders of the Court. The Debtors reserve the right to amend the monthly compensation limitations set forth in this paragraph upon notice to parties in interest.

19. Annexed to the proposed order as Exhibit 1 is an initial list of the Ordinary Course Professionals identified by the Debtors as of the date of this Motion. The Debtors reserve the right to retain additional Ordinary Course Professionals from time to time during these cases, as the need arises. In such event, the Debtors propose to file the Ordinary Course Retention Declarations and the Retention Questionnaires for each additional Ordinary Course Professional. Once the Ordinary Course Retention Declaration and the Retention Questionnaire have been filed with the Court, the retention of the additional Ordinary Course Professional will be deemed

authorized. The Debtors further propose that the procedures and deadlines for Reviewing Parties to object to the retention, employment, or compensation of the additional Ordinary Course Professionals be the same as those set forth above for the Ordinary Course Professionals listed on Exhibit 1.

BASIS FOR THE RELIEF REQUESTED

20. Section 327(a) of the Bankruptcy Code provides that:

> Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.

11.U.S.C. § 327(a). Section 327(e) of the Bankruptcy Code further provides that "with the court's approval" a debtor may employ:

> for a specified special purpose, other than to represent the trustee in conducting the case, an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

11.U.S.C. § 327(e).

21. Section 328(a) of the Bankruptcy Code provides, in pertinent part, that the trustee "with the court's approval, may employ or authorize the employment of a professional person under section 327 or 1103 of this title, as the case may be, on any reasonable terms and conditions of employment." 11.U.S.C. § 328(a). Section 330 of the Bankruptcy Code further provides, in pertinent part:

> After notice to the parties in interest and the United States Trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a . . . professional person employed under section 327 or 1103—

> (A) reasonable compensation for actual,
> necessary services rendered . . . by the professional person,
> or attorney and by any paraprofessional person employed by
> any such person; and
> (B) reimbursement for actual, necessary expenses.

11.U.S.C. § 330.

22. Section 105(a) of the Bankruptcy Code provides:

> The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

11.U.S.C. § 105(a).

23. The Debtors submit that, in light of the additional costs associated with the preparation of employment applications for professionals who will receive relatively modest fees, it is impractical and costly for the Debtors to submit individual applications and proposed retention orders for each Ordinary Course Professional as required by Bankruptcy Rules 2014 and 2016. Accordingly, the Debtors request that this Court dispense with the requirement of individual employment applications and retention orders with respect to each Ordinary Course Professional.

23. Although certain of the Ordinary Course Professionals may hold unsecured claims against the Debtors for prepetition services rendered to the Debtors, the Debtors do not believe that any of the Ordinary Course Professionals have an interest materially adverse to the Debtors or their estates with respect to the matters as to which they are to be employed.

24. This Court and others have routinely granted the same or similar relief to chapter 11 debtors in other large chapter 11 cases. *See, e.g.*, *In re Ziff.Davis Media Inc.*, Case No. 08-

10768 (BRL) (Bankr. S.D.N.Y. March 31, 2008); *In re Calpine Corp.*, Case No. 05-60200 (Bankr. S.D.N.Y. Jan. 25, 2006); *In re Tower Auto., Inc.*, Case No. 05-10578 (Bankr. S.D.N.Y. Mar. 16, 2005); *In re NRG Energy, Inc.*, Case No. 03-13024 (Bankr. S.D.N.Y. May 20, 2003); *In re Allegiance Telecom, Inc.*, Case No. 03-13057 (Bankr. S.D.N.Y. Jun. 13, 2003); *In re WorldCom, Inc.*, Case No. 02-13533 (Bankr. S.D.N.Y. Sept. 4, 2002); *see also In re Movie Gallery, Inc.*, Case. No. 07-33849 (Bankr. E.D. Va. Oct. 19, 2007); *In re Dura Auto. Sys., Inc.*, Case No. 06-11202 (Bankr. D. Del. Nov. 20, 2006); *In re J.L. French Auto. Castings, Inc.*, Case No. 06-10119 (Bankr. D. Del. Mar. 3, 2006).

NOTICE

24. No trustee or examiner has been appointed in these chapter 11 cases. The Debtors have provided notice of this Motion in accordance with the *Order Pursuant to Bankruptcy Code Section 105(a) and Bankruptcy Rules 1015(c) and 9007 to Implement Certain Notice and Case Management Procedures* [Dkt. No. 38].

25. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE, the Debtors respectfully request entry of an order granting the relief requested herein and such other and further relief as is just.

Dated: January 3, 2014
New York, New York

___/s/ Christopher M. Desiderio_____

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