

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re:)	
)	Case No. 09-40795
FORUM HEALTH, <u>et. al.</u> , ¹)	Jointly Administered
)	
Debtors.)	Chapter 11
)	
)	Judge Kay Woods
)	

LIQUIDATING TRUSTEE’S MOTION TO AMEND ORDER GRANTING THE LIQUIDATING TRUSTEE’S THIRTY-THIRD OMNIBUS OBJECTION TO CERTAIN SCHEDULED CLAIMS (SATISFIED SCHEDULED CLAIMS)

Dalton T. Edgecomb, the Liquidating Trustee of the Forum Health Liquidating Trust (the “Liquidating Trustee”)², hereby moves the Court for an amendment to the Order Granting the Liquidating Trustee’s Thirty-Third Omnibus Objection to Certain Scheduled Claims (Satisfied Scheduled Claims), Docket No. 1971, entered by the Court on February 8, 2012 (the “33rd Order”).

In support of this Motion, the Liquidating Trustee states as follows:

Background

1. On March 16, 2008, the above-captioned debtors (collectively, the “Debtors”) each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

¹ The Debtors include: Forum Health (31-1560189), Forum Health Diagnostics Co. (34-1773672), Forum Health Enterprises Co. (34-1368151), Forum Health Outreach Laboratories, Inc. (34-1437294), Forum Health Ventures Co. (34-1489491), Forum Health Pharmacy Services Co. (34-1754092), Forum Health Rehabilitative Services Co. (31-1581767), Forum Health Services Co. (34-1461044), Western Reserve Care System (34-1454933), Dacas Nursing Support Systems, Inc. (34-1482591), Dacas Nursing Systems, Inc. (34-1456983), Beeghly Oaks (31-1196072), PrideCare, Inc. (34-1490425), Trumbull Memorial Hospital (34-1461049), Comprehensive Psychiatry Specialists, Inc. (34-1697739) and Visiting Nurse Association and Hospice of Northeast Ohio (34-0714388).

² The Liquidating Trustee, as of the Effective Date, as defined in the Debtors’ Amended Plan of Liquidation (the “Plan”), Docket No. 1642, has full right, power, and discretion to manage the affairs of the Forum Health Liquidating Trust, consistent with the terms of the Forum Health Liquidating Trust Agreement and the Plan.

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2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and 157. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of the Debtors' chapter 11 cases and this Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409 and Local Bankruptcy Rules.

3. On July 21, 2011, this Court entered the Order Confirming the Debtors' Plan, Docket No. 1730 (the "Confirmation Order").

4. The Effective Date, as defined in the Plan, occurred on August 17, 2011, at which time the Liquidating Trust was formally established.

5. Pursuant to the terms of the Plan, as of the Effective Date, Dalton T. Edgecomb was appointed the Liquidating Trustee. The Plan and the Confirmation Order, among other things, vested and transferred all remaining assets of the Debtors, including the right of the Liquidating Trustee to "make and file objections" to Claims. Section 6.2.2 of the Plan states "[o]n or after the Effective Date, the Liquidating Trustee will have the sole authority, to File, settle, compromise, withdraw or litigate to judgment objections to Claims, subject to the requirements to obtain Bankruptcy Court authority for certain actions in accordance with Section 3.9 of this Plan."

Request to Amend the 33rd Order

6. The 33rd Order, among other things, expunged and reduced certain scheduled claims, against the Debtors.

7. Pursuant to the 33rd Order, the Liquidating Trustee had sought to expunge and disallow the scheduled claims of Natural Public Finance Guarantee Corporation ("NPFC")³ in the amounts of \$33,831,000 for each of the following Debtors: Beeghly Oaks, Dacas Nursing Systems, Inc., Forum Health, Forum Health Rehabilitative Services Co., Forum Health Services Co., Trumbull

³ NPFC purchased the scheduled claims of JPMorgan Chase Bank National Association.

Memorial Hospital and Western Reserve Care System (collectively, the “NPFC Scheduled Claims”).

The Liquidating Trustee has determined that he has inadvertently requested the NPFC Scheduled Claims be expunged and disallowed. Accordingly, the Liquidating Trustee requests that the Court enter an amended order amending Exhibit A to the 33rd Order to exclude the NPFC Scheduled Claims.

8. In addition, pursuant to the 33rd Order, the Liquidating Trustee had sought not to reduce and expunge the scheduled claim of First Place Bank (“First Place”) in the amount of \$576,516.56 (the “First Place Scheduled Claim”). The Liquidating Trustee has determined that he has inadvertently requested not to expunge and disallow the First Place Scheduled Claim. Accordingly, the Liquidating Trustee requests that the Court enter an amended order amending Exhibit A to the 33rd Order to include the First Place Scheduled Claim.

9. All other terms of the 33rd Order are unchanged and are restated in the proposed order attached hereto as Exhibit A.

NOTICE

10. Notice of this Motion has been given to the following parties or, in lieu thereof, to their counsel, if known: (i) the United States Trustee; (ii) the District Director of the Internal Revenue Service; (iii) the Office of the Attorney General; (iv) the Pension Benefit Guaranty Corporation; (v) all parties requesting notice in the Debtors’ chapter 11 cases; (vi) NPFC; and (vii) First Place. The Liquidating Trustee submits that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREAS, the Liquidating Trustee respectfully requests the Court enter an order substantially in the form attached hereto as Exhibit A: (a) amending the 33rd Order to exclude the

NPFC Scheduled Claims; (b) amending the 33rd Order to expunge and disallow the First Place Scheduled Claim; and (c) granting such other and further relief as the Court may deem proper.

February 16, 2012

Respectfully submitted,

/s/ Manju Gupta
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COUNSEL FOR THE LIQUIDATING TRUSTEE

EXHIBIT A

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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:)	
)	Case No. 09-40795
FORUM HEALTH, <u>et. al.</u> , ¹)	Jointly Administered
)	
Debtors.)	Chapter 11
)	
)	Judge Kay Woods
)	

**ORDER GRANTING THE LIQUIDATING TRUSTEE’S MOTION TO AMEND
ORDER GRANTING THE LIQUIDATING TRUSTEE’S THIRTY-THIRD
OMNIBUS OBJECTION TO CERTAIN SCHEDULED CLAIMS (SATISFIED
SCHEDULED CLAIMS)**

This matter is before the Court on The Liquidating Trustee’s Motion to Amend Order Granting the Thirty-Third Omnibus Objection to Certain Scheduled Claims (Satisfied Scheduled

¹ The Debtors include: Forum Health (31-1560189), Forum Health Diagnostics Co. (34-1773672), Forum Health Enterprises Co. (34-1368151), Forum Health Outreach Laboratories, Inc. (34-1437294), Forum Health Ventures Co. (34-1489491), Forum Health Pharmacy Services Co. (34-1754092), Forum Health Rehabilitative Services Co. (31-1581767), Forum Health Services Co. (34-1461044), Western Reserve Care System (34-1454933), Dacas Nursing Support Systems, Inc. (34-1482591), Dacas Nursing Systems, Inc. (34-1456983), Beeghly Oaks (31-1196072), PrideCare, Inc. (34-1490425), Trumbull Memorial Hospital (34-1461049), Comprehensive Psychiatry Specialists, Inc. (34-1697739) and Visiting Nurse Association and Hospice of Northeast Ohio (34-0714388).

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Claims), Docket No. 1901 (the “Motion”), filed by Dalton T. Edgecomb, the Liquidating Trustee of the Forum Health Liquidating Trust (the “Liquidating Trustee”)²; the Court having reviewed the Motion; and the Court finding that: (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and reference from the District Court for the Northern District of Ohio pursuant to 28 U.S.C. § 157; (b) notice of the Motion was sufficient under the circumstances; and (c) the legal and factual bases set forth in the Motion establish just cause for the relief granted herein.

IT IS HEREBY ORDERED THAT:

1. The Motion shall be, and hereby is, GRANTED.
2. Capitalized terms used, but not otherwise defined herein, shall have the meanings given to them in the Motion.
3. The NPFC Scheduled Claims have been indefeasibly satisfied in full and thus, shall be stricken from the claims register, but shall not be deemed expunged and disallowed.
4. Except as otherwise provided herein, each of the Claims identified on Exhibit A of this Order under “Treatment of Claim”, shall be, and hereby is, disallowed and expunged in its entirety.
5. Nothing herein shall prejudice the Liquidating Trustee or any other party in interest from asserting further objections to claims filed against the Debtors on any and all factual or legal grounds.
6. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.
7. This Order is effective immediately upon entry.

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² The Liquidating Trustee, as of the Effective Date, as defined in the Debtors’ Second Amended Plan of Liquidation (the “Plan”), Docket No. 1642, has full right, power, and discretion to manage the affairs of the Forum Health Liquidating Trust, consistent with the terms of the Forum Health Liquidating Trust Agreement and the Plan.

Prepared by:

/s/ Manju Gupta

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COUNSEL FOR THE LIQUIDATING TRUSTEE

EXHIBIT A

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Index No	Name	ScheduleAmt	Nature	DebtorName	Objection Basis	Treatment of Claim
1	Associates in Anesthesiology	\$9,211.29	General Unsecured	Western Reserve Care System	Satisfied Scheduled Claim	Expunge & Disallow
4	First Place Bank	\$576,516.56	General Unsecured	Trumbull Memorial Hospital	Satisfied Scheduled Claim	Expunge & Disallow
5	First Place Bank	\$320,653.55	General Unsecured	Western Reserve Care System	Satisfied Scheduled Claim	Expunge & Disallow
6	Mahoning County Treasurer	\$66,917.13	Priority	Forum Health Services Co.	Satisfied Scheduled Claim	Expunge & Disallow
21	Olympus America Inc Financial Services	\$2,128.00	Secured	Trumbull Memorial Hospital	Satisfied Scheduled Claim	Expunge & Disallow
22	Phillips Medical Capital LLC	\$17,577.00	Secured	Trumbull Memorial Hospital	Satisfied Scheduled Claim	Expunge & Disallow
23	Phillips Medical Capital LLC	\$36,069.00	Secured	Trumbull Memorial Hospital	Satisfied Scheduled Claim	Expunge & Disallow
46	Xerox	\$3,294.00	Secured	Forum Health	Satisfied Scheduled Claim	Expunge & Disallow
47	Xerox	\$4,232.00	Secured	Forum Health	Satisfied Scheduled Claim	Expunge & Disallow

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