

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

-----X
In re: Case No. 18-33836 (MI)

NEIGHBORS LEGACY HOLDINGS, INC.,
et al, Chapter 11

Debtors (Jointly Administered)
-----X

**OBJECTION OF SIGNATURE FINANCIAL LLC
TO DEBTORS' PROPOSED CURE AMOUNT**
[Related to Docket Nos. 236 and 255]

Signature Financial LLC ("Signature") by its attorneys, Moritt Hock & Hamroff LLP ("MH&H"), and Shackelford, Bowen, McKinley & Norton, LLP hereby objects to the cure amounts set forth in the Notice of Executory Contracts and Unexpired Leases Subject to Possible Assumption and Assignment and Proposed Cure Amounts served on August 15, 2018 [Dkt. No. 236], as amended on August 17, 2018 [Dkt. No. 255] (together, the "Cure Notice"), by the above-referenced debtors (collectively, the "Debtors"). In support of this Objection, Signature respectfully states as follows:

RELEVANT BACKGROUND

Master Lease 501 and the Lubbock Schedule

1. On or about July 15, 2016, one of the Debtors, Neighbors Global Holdings LLC ("Neighbors Global"), as Lessee, and All Points Solution, Inc. dba 3i International ("3i"), as Lessor, entered into that certain Master Equipment Lease Agreement No. 41395501 ("Master Lease 501"), pursuant to the terms of which 3i leased to Neighbors certain equipment to be more fully identified on equipment schedules to be executed from time to time in connection therewith.



2. Consistent with the terms of Master Lease 501, on or about September 15, 2016, Neighbors Global, as Lessee, NEC Lubbock Emergency Center, LP ("Lubbock"), as Co-Lessee, and 3i, as Lessor, entered into Equipment Schedule No. 41421656 (the "Lubbock Schedule") pursuant to the terms of which Neighbors Global and Lubbock leased equipment and 3i provided the financing for the assets identified in the equipment schedule.

3. Pursuant to a Master Purchase Agreement & Assignment of Leases between 3i and Everbank dated on or about July 20, 2015 (the "3i to Everbank Assignment"), 3i assigned to Everbank all of its rights and remedies in and to Master Lease 501 and the Lubbock Schedule. Pursuant to a Master Assignment Agreement between Everbank and Signature dated on or about May 23, 2012 (the "Everbank to Signature Assignment") and a specific Assignment and Specification of Assigned Interest dated October 13, 2016, Everbank assigned the Lubbock Schedule (which incorporated the terms of Master Lease 501) to Signature.¹

Master Lease 960, the Porter Schedule, the Brownsville Schedule, the McAllen Schedule, the Texarkana Schedule, the 967 Bellaire Schedule, and the 964 Bellaire Schedule

4. On or about September 14, 2015, one of the Debtors, Neighbors Health System, Inc., as Lessee, and 3i, as Lessor, entered into that certain Master Equipment Lease Agreement No. 41261960 ("Master Lease 960"), pursuant to the terms of which 3i leased to Neighbors Health System, Inc. certain equipment to be more fully identified on equipment schedules to be executed from time to time in connection therewith.

5. On or about November 6, 2015, Neighbors Health System, Inc., as Lessee, and 3i, as Lessor, entered into an Amendment to Master Lease 960 changing "Neighbors Health System, Inc." to "Neighbors Legacy Holdings, Inc. f/k/a Neighbors Health System, Inc." ("Neighbors

¹ Copies of the 3i to Everbank Assignment and the Everbank to Signature Assignment have been provided to the Debtors' representatives.

Legacy") and adding one of the Debtors, "Neighbors Health System, LLC" as co-lessee ("Neighbors Health").

6. Consistent with the terms of Master Lease 960, Neighbors Legacy, Neighbors Health, and others entered into a number of equipment schedules, including but limited to those identified below:

A. On or about February 14, 2016, Neighbors Legacy, as Lessee, Neighbors Health, as Co-Lessee, NEC Porter Emergency Center, LP ("Porter"), as Co-Lessee, and 3i, as Lessor, entered into Equipment Schedule No. 41325108 (the "Porter Schedule") pursuant to the terms of which Neighbors Legacy, Neighbors Health, and Porter leased equipment and 3i provided the financing for the assets identified in the equipment schedule.

B. On or about February 14, 2016, Neighbors Legacy, as Lessee, Neighbors Health, as Co-Lessee, NEC Brownsville Emergency Center, LP ("Brownsville"), as Co-Lessee, and 3i, as Lessor, entered into Equipment Schedule No. 41325111 (the "Brownsville Schedule") pursuant to the terms of which Neighbors Legacy, Neighbors Health, and Brownsville leased equipment and 3i provided the financing for the assets identified in the equipment schedule.

C. On or about February 14, 2016, Neighbors Legacy, as Lessee, Neighbors Health, as Co-Lessee, NEC McAllen Emergency Center, LP ("McAllen"), as Co-Lessee, and 3i, as Lessor, entered into Equipment Schedule No. 41325115 (the "McAllen Schedule") pursuant to the terms of which Neighbors Legacy, Neighbors Health, and McAllen leased equipment and 3i provided the financing for the assets identified in the equipment schedule.

D. On or about April 1, 2016, Neighbors Legacy, as Lessee, Neighbors Health, as Co-Lessee, NEC Texarkana Emergency Center, LP ("Texarkana"), as Co-Lessee, and 3i, as Lessor, entered into Equipment Schedule No. 41336625 (the "Texarkana Schedule") pursuant to the terms of which Neighbors Legacy, Neighbors Health, and Texarkana leased equipment and 3i provided the financing for the assets identified in the equipment schedule.

E. On or about May 1, 2016, Neighbors Legacy, as Lessee, Neighbors Health, as Co-Lessee, NEC Bellaire Emergency Center, LP ("Bellaire"), as Co-Lessee, and 3i, as Lessor, entered into Equipment Schedule No. 41343967 (the "967 Bellaire Schedule") pursuant to the terms of which Neighbors Legacy, Neighbors Health, and Bellaire leased equipment and 3i provided the financing for the assets identified in the equipment schedule.

F. On or about May 1, 2016, Neighbors Legacy, as Lessee, Neighbors Health, as Co-Lessee, Bellaire as Co-Lessee, and 3i, as Lessor, entered into Equipment Schedule No. 41343964 (the "964 Bellaire Schedule") pursuant to the terms of which Neighbors Legacy, Neighbors Health, and Bellaire leased equipment and 3i provided the financing for the assets identified in the equipment schedule.

7. Pursuant to the 3i to Everbank Assignment, 3i assigned to Everbank its rights and remedies in and to Master Lease 960, the Porter Schedule, the Brownsville Schedule, the McAllen Schedule, the Texarkana Schedule, the 967 Bellaire Schedule, and the 964 Bellaire Schedule.

8. Pursuant to the Everbank to Signature Assignment and a specific Assignment and Specification of Assigned Interest dated May 29, 2016, Everbank assigned the Porter Schedule,

the Brownsville Schedule, and the McAllen Schedule (each of which incorporated the terms of Master Lease 960) to Signature.²

9. Pursuant to the Everbank to Signature Assignment and a specific Assignment and Specification of Assigned Interest dated July 7, 2016, Everbank assigned the Texarkana Schedule, the 967 Bellaire Schedule, and the 964 Bellaire Schedule (each of which incorporated the terms of Master Lease 960) to Signature.

10. As confirmed above, the Lubbock Schedule, the Porter Schedule, the Brownsville Schedule, the McAllen Schedule, the Texarkana Schedule, the 967 Bellaire Schedule, and the 964 Bellaire Schedule (collectively, the "Signature Schedules") have all been assigned to Signature.

11. Neighbors Global, Neighbors Legacy, Neighbors Health, Lubbock, Porter, Brownsville, McAllen, Texarkana, and Bellaire (collectively, "Neighbors") agreed that if it failed to pay the rent as specified in Master Lease 501 and/or Master Lease 960, as applicable, within three days of its due date, 3i (then Everbank, then Signature, pursuant to the assignments identified above) was entitled to impose a late charge of 10% of the amount of the late payment or \$20.00 whichever amount is greater.

12. Neighbors also agreed that if it failed to pay the rent as specified in the Lubbock Schedule, the Porter Schedule, the Brownsville Schedule, the McAllen Schedule, the Texarkana Schedule, the 967 Bellaire Schedule, and the 964 Bellaire Schedule, commencing 30 days after such payment was due, 3i (then Everbank, then Signature, pursuant to the assignments identified above) was entitled to assess interest on each late rent payment until paid at a default rate of 1.5% per month (18% per annum).

² A copy of this Assignment has also been provided to the Debtors.

13. Neighbors also agreed pursuant to Master Lease 501 and/or Master Lease 960, as applicable, to pay 3i (then Everbank, then Signature, pursuant to the assignments identified above) all costs and expenses incurred by 3i (then Everbank, then Signature, pursuant to the assignments identified above) in enforcing its rights and remedies following the occurrence of a default, including, without limitation, reasonable attorney's fees.

BANKRUPTCY BACKGROUND

14. On July 12, 2018 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

15. Post-petition, the Debtors filed a Motion for Entry of an Order (A) Authorizing and Scheduling an Auction for the Sale of the Debtors' Assets and (B) Approving Auction and Bidding Procedures, Including Payment of Bid Protections [Dkt. No. 20] (the "Motion").

16. On August 8, 2018, the Court entered an order [Docket No. 208-2] (the "Bidding Procedures Order") granting certain of the relief sought in the Motion, including, among other things, approving: (a) the bidding procedures (the "Bidding Procedures") for the Sales of the Assets; and (b) procedures for the assumption and assignment of the Contracts (the "Assumption Procedures").

17. As noted above Signature has received the Cure Notice and has reviewed the same.

18. Signature does not agree with the cure amounts proposed by the Debtors. Rather a chart reflecting the proposed Cure amounts just for the Signature Schedules is annexed hereto as Exhibit A (the "Signature Cure Chart"). The Signature Cure Chart reflects both the amount proposed by the Debtors and the amount Signature believes that it is due under the respective Signature Schedules. (Given that the proposed Cure Schedules filed by the Debtors have changed

several times, in abundance of caution, Signature has included cure amounts for all of the remaining Signature Schedules). Signature asserts a total of \$168,243.22 is open and past due under the Signature Schedules.

19. Signature further objects to Cure Notice and the Debtors' proposed cure amount as it does not include late fees totaling \$8,345.02, as provided for under the terms of Master Lease 501 and Master Lease 960 and the Signature Schedules and required to be paid in connection with any assumption of the agreements in accordance with Section 365 of the Bankruptcy Code. Thus, Signature hereby asserts that the cure amount is not less than \$176,588.24.

20. Section 365(b) of the Bankruptcy Code provides in relevant part that the Debtors "may not assume such contract or lease unless, at the time of assumption of such contract or lease [the Debtors] (A) cures or provides adequate assurance that the trustee will promptly cure such default; (B) compensates, or provide adequate assurance that he [debtors] will promptly compensation, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default." 11 U.S.C. § 365(b). The Master Lease 501 and Master Lease 960 expressly provides for the recovery of late fees and attorneys' fees and these amounts are properly included as part of Signature's cure claim. *See* Master Lease 501 and Master Lease 960, §19.

21. Signature does not object to the assumption of the agreements provided that all defaults under the leases are fully cured as required by Section 365 of the Bankruptcy Code, and any successful bidder provides adequate assurance of future performance.

22. Signature continues to investigate this issue and reserves the right to modify, supplement and/or amend this objection as further information becomes available, as well as

object to the assumption and/or assignment of the lease agreements and the sale of assets, including any objections to any assignee and any proposed adequate assurance.

23. Signature the right to amend or supplement this objection at any time up to and including any hearing to consider the Motion and/or at confirmation of the Plan.

[Remainder of this page has been intentionally left blank.]

WHEREFORE, Signature respectfully requests that the cure amount for the Signature Schedules under Master Lease 960 and 501 be increased to at least \$176,588.24.

Dated: August 22, 2018

/s/ Frances A. Smith

Frances A. Smith
Texas State Bar No. 24033084
SHACKELFORD, BOWEN, MCKINLEY
& NORTON, LLP
9201 N. Central Expressway, 4th Floor
Dallas, Texas 75231
Telephone: 214.780.1400
Facsimile: 214.780.1401
Email: fsmith@shackelfordlaw.net

**LOCAL COUNSEL FOR SIGNATURE
FINANCIAL LLC**

Leslie A. Berkoff
Moritt Hock & Hamroff LLP
400 Garden City Plaza
Garden City, NY 11530
Telephone: 516-873-2000
Facsimile: 516-873-2010

Signature Cure Chart

Equipment Schedule No.	Date of Equipment Schedule	Entity Description	Debtor's Proposed Cure (Per Doc. No. 236)	Debtor's Proposed Cure (Per Doc. No. 255)	Debtor's Proposed Cure (Per Doc. No. 266)	Past Due Payments	Late Charges	Total Cure
41343964	5-1-16	Bellaire	\$0.00 (Doc. 236 at P.5)	\$0.00 (Doc. 255-1 at P.4)	\$0.00 (Doc. 266-1 at P.5 with "reject" notation)	\$76,726.35	\$2,660.00	\$79,386.35
41343967	5-1-16	Bellaire	(Not Reflected in Doc. 236)	\$0.00 (Doc. 255-1 at P.4)	\$0.00 (Doc. 266-1 at P.4 with "reject" notation)	\$1,541.46	\$526.25	\$2,067.71
41325111	2-14-16	Brownsville	\$419.31 (Doc. 236 at P.14)	\$419.31 (Doc. 255-2 at P.6)	(Not Reflected in Doc. 266)	\$1,541.17	\$75.22	\$1,616.39
41421656	9-15-16	Lubbock	\$65,816.00 (Doc. 236 at P.17)	\$65,816.00 (Doc. 255-2 at P.12)	(Not Reflected in Doc. 266)	\$76,164.06	\$1,710.00	\$77,874.06
41325115	2-14-16	McAllen	\$1,181.70 (Doc. 236 at P.18)	\$1,181.70 (Doc. 255-2 at P.14)	(Not Reflected in Doc. 266)	\$1,541.17	\$300.88	\$1,842.05
41297201	12-14-15	Neighbors Practice Management, LLC	(Not Reflected in Doc. 236)	(Not Reflected in Doc. 255)	(Not Reflected in Doc. 266)	\$7,636.67	\$2,244.96	\$9,881.63
41325108 (*In Doc. No. 236, 255-1, and 266 the Debtors refer to this as 41235108)	2-14-16	Porter	\$0.00 (Doc. 236 at P.10)	\$0.00 (Doc. 255-1 at P.14)	\$0.00 (Doc. 266-1 at P.14 with "reject" notation)	\$1,541.17	\$413.71	\$1,954.88
41336625	4-1-16	Texarkana	\$1,181.71 (Doc. 236 at P.25)	\$1,181.71 (Doc. 255-2 at P.28)	(Not Reflected in Doc. 266)	\$1,541.17	\$413.71	\$1,964.88



Signature Cure Chart