

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

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:
In re : Chapter 11
:
NEIGHBORS LEGACY HOLDINGS, INC., : Case No. 18-33836 (MI)
et al., :
:
Debtors.¹ : (Jointly Administered)
:
X

OBJECTION AND RESERVATION OF RIGHTS BY PHOENIX HAR INVESTMENTS LLC TO (i) THE DEBTORS’ NOTICE OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES SUBJECT TO POSSIBLE ASSUMPTION AND ASSIGNMENT AND PROPOSED CURE AMOUNTS (Dkt. 236) AND (ii) PROPOSED SALE OF ASSETS INCLUDING THE HARLINGEN LEASE (Dkt. 20, 235)

Phoenix HAR Investments LLC, (the “Landlord”) submits this Objection and Reservation of Rights of Phoenix HAR Investments LLC to (i) the Debtors’ Notice of Executory Contracts and Unexpired Leases Subject to Possible Assumption and Assignment and Proposed Cure Claims and (ii) Proposed Sale of Assets Including the Harlingen Lease (the “Objection”). In support of the Objection, the Landlord respectfully states as follows:

BACKGROUND

1. The Landlord is the owner of certain non-residential real property where the above-captioned debtors (the “Debtors”) lease and operate an emergency medical center pursuant to an unexpired lease of nonresidential real property (as may be modified or amended, the “Lease”) at a location in Harlingen, Texas.²

¹ Due to the large number of Debtors in these chapter 11 cases, a complete list of the Debtors and the last four digits of their tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ proposed claims and noticing agent at www.kccllc.net/neighbors. The location of Debtors’ principal place of business and the Debtors’ service address is: 10800 Richmond Avenue, Houston, Texas 77042.

² Pursuant to that certain General Assignment and Assumption dated effective as of December 5, 2016 between RKMS Harlingen LLC and the Landlord (the “Assignment”), the Landlord is the successor to RKMS Harlingen LLC under the Lease.



2. On July 12, 2018 and July 23, 2018 (collectively, the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in these jointly-administered cases (collectively, the “Chapter 11 Cases”). 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. No trustee or examiner has been appointed in the Chapter 11 Cases.

3. On July 12, 2018, the Debtors filed the Debtors’ Emergency Motion (I) For Entry Of an Order (A) Approving Auction and Bid Procedures, Including Bid Protections, and (B) Authorizing and Scheduling An Auction For The Sale Of The Debtors’ Assets; and (II) For Entry Of An Order (A) Approving the Sale of the Debtors’ Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests, and (B) Authorizing the Assumption and Assignment of Executory Contracts and Unexpired Leases (the “Bidding Procedures and Sale Motion”) [Docket No. 20], which this Court granted by order entered on August 8, 2018 (the “Bidding Procedures Order”) [Docket No. 203]. The Bidding Procedures Order establishes procedures relating to the proposed sale of certain of the Debtors’ unexpired leases, including the Lease. A hearing to approve the proposed sale pursuant to the Bidding Procedures and Sale Motion is currently scheduled for August 28, 2017, at 3:30 p.m. (the “Sale Hearing”); this is a day after the scheduled auction, and it appears there are several bidders that intend to present bids at the auction.³

4. On July 23, 2018, the Debtors filed the Debtors’ Notice of Designation of Stalking Horse Bidder for Their Non-Houston Locations (the “Stalking Horse Notice”) [Docket No. 89], pursuant to which the Debtors designated Fostre, Inc. (“Fostre”) as the stalking horse bidder for the

³ The Landlord lacks information regarding the number or identity of bidders and is not allowed to attend under the Bidding Procedures Order. The outcome of the auction, and the financial wherewithal and business capabilities of the ultimate prevailing bidder remains unknown. This Objection is lodged in the absence of information and the lack of time from the conclusion of the August 27 auction until the commencement of the sale hearing the next day. Given certain perceived inconsistencies in the procedure and timing by which the Landlord will know (i) who the successful bidder might be, (ii) whether the bidder intends to assume the obligations under the lease, and (iii) whether a decision to not assume the lease may still give the bidder rights in the property under certain recently amended language in the proposed form of APA, which also may be amended or altered throughout this process without specific inclusion of the Landlord in the evolution of terms, this Objection seeks to preserve the Landlord’s rights in toto.

Debtors' fourteen non-Houston locations. In connection with the proposed sale, the Debtors also filed a proposed asset purchase agreement with Fostre (as may be amended or modified, the "APA"). *See* Stalking Horse Notice at Ex. A. The APA and associated Bidding Procedures Order included timetables for addressing intentions to assume or reject leases and contracts.

5. On August 15, 2018, the Debtors filed the Notice of Executory Contracts and Unexpired Leases Subject to Possible Assumption and Assignment and Proposed Cure Claims (the "Cure Notice") [Docket No. 236]. The Cure Notice lists the Landlord's Lease as one of the unexpired leases the Debtors *may* seek to assume and assign as part of the proposed sale of the Debtors' non-Houston locations. *See* Cure Notice at p. 16. The Cure Notice asserts that the proposed cure claim for the Lease is \$0.00 (the "Proposed Cure Claim"), to which Landlord objects as described further herein.

6. Pursuant to the Order Extending the Time to File Schedules and Statements of Financial Affairs, (II) Authorizing the Debtors to File a Consolidated List of their 50 Largest Unsecured Creditors, and (III) Waiving the Requirement that Each Debtor File a List of Creditors (the "Schedules Extension") [Docket No. 40], the deadline for the Debtors to file schedules and statements of financial affairs is September 9, 2018, well after the conclusion of the Sale Hearing. The Landlord accordingly lacks information and disclosures sworn to by the Debtors of ascertainable claims or liabilities that may relate to the Harlingen location.

7. Charges continue to accrue under the terms of the Lease. While the Landlord concedes "base" rent is paid to date, there is no accounting nor inclusion in the Cure Notice of other amounts due under the terms of the Lease, including common area maintenance, taxes and charges accrued and payable in arrears, attorneys' fees, and other assessments, charges and claims that may exist under the indemnity provisions of the lease. *See, e.g.*, Lease at 7.2, 9.2, 12.01, 26.8, and 26.10. The Landlord asserts that all amounts due or otherwise accruing under the Lease as of the

date of closing any sale of the Debtors' assets (the "Actual Cure Claim") should be paid or otherwise reserved and accounted for, or fully assumed without limitation, to ensure the obligations under the Lease are satisfied in full as required under Section 365 of the Bankruptcy Code.

OBJECTION

A. If Not Rejected, The Lease Must Be Assumed and Assigned *Cum Onere*.

8. As an initial matter, the Landlord's defaults must be cured before the Lease can be assumed and assigned to a purchaser of the Debtors' assets. Section 365(b) of the Bankruptcy Code obligates the Debtors as follows:

(b) (1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default...

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

See 11 U.S.C. § 365(b)(1).

9. The Fifth Circuit Court of Appeals has explained that "Section 365(b)(1) essentially allows a debtor to continue in a beneficial contract provided, however, that the other party is made whole at the time of the debtor's assumption of said contract." *See In re National Gypsum Co.*, 208 F.3d 498 (5th Cir. 2000) (citations omitted). The Debtors bear the burden of showing that the requirements of Section 365 of the Bankruptcy Code have been met. *See In re Texas Health Enterprises Inc.*, 72 Fed.Appx. 122, 126 (5th Cir. 2003).

10. The Landlord respectfully submits that the Proposed Cure Claim is incorrect. While base rent is paid, there is no provision for the many other obligations arising under the Lease that must assuredly be accounted for under the Lease. As noted above, there are accruals that must be paid, not to mention to attorneys' fees incurred to ensure the terms of the Lease are honored, and further in the absence of any assurances to the contrary, indemnity must be provided for on account of any premises liability claims for which the Debtors would uniquely have notice. The estimated Actual Cure Claim as of the date of the filing of this Objection as compared to the Proposed Cure Claim is set forth in the attached **Exhibit A**⁴ and incorporated herein by reference. Moreover, under the terms of the Bid Procedures Order, there is proposed a "cut off" of the assignee's liabilities under the Lease, such that any liabilities or obligations that arise before the date of closing are somehow left with the liquidating Debtors, and not assumed by the buyer. The Bankruptcy Code requires the assignee to assume all obligations under the Lease; it cannot cut off rights associated with its assumption. Absent the Debtors' acceptance and cure of the Actual Cure Claim, the Cure Notice fails to meet the requirements of Section 365 of the Bankruptcy Code and the Lease cannot be assumed and assigned.

11. Pursuant to the Lease, the Debtors are responsible for paying, *inter alia*, base rent, percentage rent and/or gross rent, insurance, real estate taxes, utilities, common area maintenance costs, attorney's fees, interest, and various other charges. *See, e.g.*, Lease at 7.2, 9.2, 12.01, 26.8, and 26.10. The Debtors must promptly cure any and all defaults under the Lease pursuant to Section 365(b)(1)(A) of the Bankruptcy Code.

12. Further, the Debtors must assume the Lease subject to its terms; they cannot, nor can the proposed auction winning assignee, cherry pick or delegate between them parts of the

⁴ The Actual Cure Claim does not include charges billed or due after the filing of this Objection, including attorney's fees. The Landlord reserves the right to amend the Actual Cure Claim and the Objection to include later-billed amounts due under the Lease.

obligations under the Lease that are wanted, and parts not wanted, at least as to the Landlord. *See e.g., In re National Gypsum Co.*, 208 F.3d at 506 (“Where the debtor assumes an executory contract, it must assume the entire contract, *cum onere*—the debtor accepts both the obligations and the benefits of the executory contract.”) (citing *NLRB vb. Bildisco & Bildisco*, 465 U.S. 513, 531, (1984)); *United States, Dep’t of Air Force v. Carolina Parachute Corp.*, 907 F.2d 1469, 1472 (4th Cir. 1990) (“[A] debtor may not assume the favorable aspects of a contract...and reject the unfavorable aspects of the same contract.”) (citation omitted) (quotations omitted)).

13. Therefore, the Debtors are responsible for all accrued and accruing charges under the Lease. These charges include such pre-and post-petition amounts as common area maintenance (“CAM”) charges, property taxes, attorneys’ fees, and annual percentage rent, and related charges in arrears or not yet billed, estimated, or reconciled. More specifically, based on the current best estimate of the Landlord at this time, the Debtors are responsible for CAM fees payable in 2018 in an estimated amount of \$26,123 until December 31, 2018, based on 2017 charges. Similar amounts will inevitably be due for 2019.

14. The Debtors must also comply with the Lease’s indemnification obligations as well; this entails that any accrued liabilities owing must be cured if known, or otherwise assumed if not yet payable or known. *See In re Fleming Companies, Inc.*, 499 F.3d 300, 308 (3d Cir. 2007) (“The [debtor] ... may not blow hot and cold...If he receives the benefits [of the contract] he must adopt the burdens. He cannot accept one and reject the other.”) (quotations omitted) (citation omitted)). Any order approving the sale must provide that any assignee continues to be responsible for all such indemnification obligations regardless of when they arose.

15. The Debtors must also compensate the Landlord for any actual pecuniary loss suffered by the Landlord resulting from defaults under the Lease. *See* 11 U.S.C. § 365(b)(1)B). This includes attorneys’ fees, costs, and pursuant to Sections 26.8 and 26.10 of the Lease. *See In re*

Bullock, 17 B.R. 438, 439 (B.A.P. 9th Cir. 1982) (agreeing with bankruptcy court that lessor's attorney's fees should be paid as part of curing debtor's default on lease); *In re Crown Books Corp.*, 269 B.R. 12, 14-15 (Bankr. D. Del. 2001) (lessor entitled to recover attorney's fees incurred in prosecuting objections to debtors' motion to assume and assign lease); *In re Westview 74th Street Drug Corp.*, 59 B.R. 747, 756 (Bankr. S.D.N.Y. 1986) (same). The Lease is plain in Section 26.8 that by the Debtors bringing an "action" that includes matters impacting the Landlord's rights under the Lease, and by the sustained effort from the inception of the auction and sale process to seek to force or induce a substantial reduction in the obligations under the Lease, the Landlord's incurrence of attorney's fees to review, digest, address, negotiate and respond to efforts to impact its rights under the Lease are recoverable amounts, as part of the cure required. Moreover, even if the bankruptcy and the substantial process commenced to affect the Landlord's rights under the Lease do not comprise an "action," the Lease terms still make plain that attorneys' fees are properly payable as cure costs.

16. In addition to curing monetary defaults under the Lease, the Debtors must also cure or provide adequate assurance that they will promptly cure non-monetary defaults under the Lease. *See* 11 § 365(b)(1)(B). To the extent that non-monetary defaults exist or may arise under the Lease, the Landlord requests their prompt cure and adequate assurance of the continuing ability of the Debtors and proposed assignee to comply with the Lease's non-monetary obligations.

17. These obligations must survive the assumption and assignment of the Lease, and any order should make clear that any assignee will inherit the responsibility for all unbilled charges that may come due under the Lease. The Landlord disputes any provision in a confirmation order, plan, or final order that purports to release the Debtors and/or proposed assignee (or any successor) of liability under the Lease based upon payment of cure amounts and asserts that such release does not apply to the Debtors' obligations to pay amounts due or that come due under the Lease.

B. The Debtors and Any Proposed Assignee Must Also Show Adequate Assurance of Future Performance.

18. The Debtors also have an affirmative duty to demonstrate adequate assurance of future performance under the Lease. *See* 11 U.S.C. §§ 365(b)(1)(C), 365(f)(2). Absent the ability or willingness of the Debtors and proposed assignee to satisfy the requirements of Section 365 of the Bankruptcy Code in providing adequate assurance, the Court should not permit the assumption and assignment of the Lease. *See In re Rachels Industries, Inc.*, 109 B.R. 797, 802 (Bankr. W.D. Tenn. 1990); *see also Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1309 (5th Cir. 1985).

19. The Landlord has previously requested information on what adequate assurance of future performance can be supplied. To date it has not received anything on what any of the bidders propose to satisfy this important requirement. Under the Lease, the Debtors provided information and also corporate parent guarantees to back up future performance. The Landlord has no information on how any of the possible assignees are going to satisfy their obligations. Indeed, from what little uncorroborated information the Landlord currently has, there is no entity of substance that will provide any financial support to ensure the Lease is performed. This type of fulsome historical financial information, experience of management and staff to perform the obligations and make this location a success, and other types of assuring information is essential—in advance of the actual sale hearing. Factors the Fifth Circuit examines in assessing whether a debtor has provided adequate assurance of future performance include:

- a. Whether the debtor's [or in this case the sale assignee] financial data indicates its ability to generate an income stream sufficient to meet its obligations;
- b. The general economic outlook in the debtor's industry;
- c. The presence of a guarantee;
- d. The debtor's payment history;
- e. Presence of a security deposit;
- f. Evidence of profitability;
- g. Plan that would earmark money exclusively for the landlord; and
- h. Whether the unexpired lease is at, or below, the prevailing rate.

See In re Patriot Place, Ltd., 486 B.R. 773, 801 (Bankr. W. D. Tex. 2013) (citing *In re Texas Health Enterprises Inc.*, 72 Fed. Appx. 122, 126 (5th Cir.2003)) (citation omitted)).

20. To satisfy the adequate assurance of future performance burden, the Landlord must receive, at a minimum, the following:

- a. Audited financial statements and annual reports from each bidder, since the sale hearing is mere hours after the auction, for the past three (3) years, including all supplements or amendments thereto, to enable it to understand the source and basis for the assignee buyer's ability to perform in the future and to support operations;
- b. The proposed assignee's financial data as it relates to the proposed assignee's ability to (i) generate an income stream sufficient to pay base rent and additional rent in the amounts reserved in the Lease, (ii) satisfy the full amount of cure for the Lease, and (iii) satisfy all other ongoing obligations under the Lease;
- c. The proposed assignee's cash flow projections, and the assumptions that underpin it, and any competitive issues that are reasonably foreseeable from and after the date the Lease is assumed,
- d. The proposed assignee's most recent business plan, from which operating assumptions for this location, and the impact of affiliate locations operations that might be subsidized from this location, can be evaluated;
- e. All cash flow projection for the Leases subject to the assignment request, and any financial projections, calculations and/or pro-formas prepared in contemplation of purchasing the Lease;
- f. All documents and other evidence of the potential assignee's experience operating emergency centers, including proper licensing as applicable, and also staffing plans to the extent the Debtors' staff may not be available or willing to work for the assignee buyer.

To the extent the information has not been forthcoming, and the immediacy of the sale hearing timing prevents the Landlord from having an adequate time to review the information and determine what should be required, or if satisfactory, then the current timetable should be delayed to accord proper due process in regard to the Landlord's rights.

21. The Landlord requests again this type of information be immediately provided, herby supplementing its prior requests. Given the timing constraints, the Landlord reserves the right to request any other information it deems necessary to assess the ability of the Buyer to satisfy the requirements of Section 365.

22. As previewed by the inability to date to get its prior requests for adequate assurance information responded to, the Landlord is understandably concerned that the Debtors and its stalking horse bidder [Fostre] have failed to provide information demonstrating Fostre's [or any other winning bidder] ability to satisfy all Lease obligations. This is compounded by recently-filed provisions regarding the proposed process for assuming and rejecting the leases, which are imbedded in the newly amended APA. Specifically, on August 15, 2018, the Debtors amended Section 2.01(c) of the APA to provide:

(c) At any time prior to the date that is one (1) day prior to the Qualified Bid Deadline, Buyer may provide written notice to Sellers that Buyer has elected to (i) remove from the Transferred Assets up to three (3) Leased Real Properties (including the associated Real Property Leases) attributable to Subject Locations (the "Rejected Leased Real Properties") and (ii) designate such Rejected Leased Real Properties as Retained Assets. In the event that Buyer exercises its right under this Section 2.01(c), (i) all of the assets, properties, rights and interests of Sellers attributable to each Rejected Leased Real Property shall remain Transferred Assets, (ii) there shall be no change in the Purchase Price as a result of the designation of such Rejected Leased Real Properties as Retained Assets, and (iii) and Sellers shall be responsible for the closing costs attributable to shutting-down the operations at such Rejected Leased Real Properties.

See Notice of Filing of Amendments to Asset Purchase Agreements p. 14 at ¶ 3 [Docket No. 235]

23. This new change creates uncertainty for the Landlord regarding how its Lease will be treated, whether assumed and assigned or perhaps even if initially rejected. First, it shortens to a single day the already truncated time for designating assets from seven (7) days to one (1) day to know if its Lease will be assumed and assigned, or rejected. This creates peril for the Landlord

especially given the lack of information the Landlord has about the proposed sale and adequate assurance matters, as relayed previously. Moreover, Section 2.01(c) of the APA appears inconsistent when read in conjunction with Section 5.03(b) of the APA::

(b) By no later than one (1) week following the Execution Date, Buyer shall provide Sellers with Schedule 5.03 to this Agreement, which shall be a list of the 365 Contracts that, as of such date, Buyer desires to be assumed by the Sellers and assigned to Buyer (collectively, the “Desired 365 Contracts”). Not later than fifteen (15) days after the Petition Date, the Sellers shall provide Buyer with a schedule of the Cure Costs with respect to the 365 Contracts (including the Desired 365 Contracts) as of the Petition Date. At any time prior to three (3) days before the Qualified Bid Deadline, Buyer may (i) designate any 365 Contract that has not been rejected as a Desired 365 Contract and (ii) remove the designation of any 365 Contract as a “Desired 365 Contract,” in each case by providing the Sellers with an updated Schedule 5.03 clearly identifying such updated designation(s). Promptly upon Buyer being selected as the Winning Bidder, Buyer shall take all necessary action to effect the assumption of any Desired 365 Contract by Buyer in accordance with the Bankruptcy Code at the Closing, such assumption to be effective as of the Effective Time.

See APA § 5.03(b). On August 21 there was a filing made that creates further uncertainty, at least for the non Houston locations. Instead of there being previously filed a list of which if the 14 locations will be assumed, or perhaps rejected, like was done for the Houston locations, the list submitted shows only 3 locations, without any designation specifically if they are being assumed. There is a reference these are “desired” contracts, but there is lacking anything else, and the presence of only 3 locations instead of the 14 locations required to be assumed, less the option to give the purchaser a chance to drop three locations [see above], may raise the inference these 3 locations are actually being excluded. While some of the uncertainty was cleared up by another filing on August 22, 2018 [Docket 272] which appears to confirm the stalking horse bidder’s intent to try to assume the Lease, it still lists the cure at zero, and there remains an information vacuum on how adequate assurance will be provided, much less disagreement on the terms and amount of the cure needed.

24. In effect, the new language in the amendment seems to give more optionality to the buyer to actually not accept the Lease, yet to have all of its benefits without its burdens. Because the definition of Transferred Assets includes the Lease, efforts to construe the terms more narrowly do not really work. Although the Landlord has made attempts to have the Debtors reconcile or explain this language, it has not been able to obtain a satisfactory answer, and the disconnect remains. Moreover, given the Schedules Extension, the Landlord will be unable to review the Debtors' schedules and financial statements until well after the Sale Hearing, which prevents reliance on a sworn declaration regarding notice or lack of premises-related liabilities that may exist as of the Petition Date, requiring indemnity under the Lease. Such lack of information falls far short of what the Landlord needs to make an informed decision and provides no assurances that Fostre will be able to perform under the Lease, or any other buyer.

25. Any proposed assignee must provide some type of credit enhancement as part of its adequate assurance of future performance, such as a guaranty by an independently credit worthy affiliate to the buyer to assure future performance with respect to the Lease. Furthermore, pursuant to Section 365(l) of the Bankruptcy Code, the Landlord demands that any proposed assignee post either a letter of credit, or in the Landlord's sole discretion, a security deposit,⁵ equal to one (1) month's rent and additional rental charges under each Lease.

26. The obligation to comply with Sections 365(b) and (f) is unaffected by pursuing the assumption and assignment process through a sale under Section 363. *See Trak Auto Corp. v. West Town Ctr. LLC (In re Trak Auto Corp.)*, 367 F.3d 237, 243-44 (4th Cir. 2004) (denying debtor's motion to assume and assign shopping center lease because Section 365(f)(1) does not trump the specific protections granted to landlords in Section 365(b)). As such, the Landlord expressly

⁵ There is currently a security deposit being held by the Landlord pursuant to the terms of the Lease in the amount of \$42,011.63. With respect to this security deposit, the Landlord retains the right to offset any damages the Landlord incurs or may incur to the extent the Lease is rejected or the assuming and/or assigning party fails to full cure outstanding amounts due under the Lease.

objects to all provisions of any proposed sale order to the extent such provisions seek to impair, limit, and/or modify the Landlord's rights under the Lease, the Bankruptcy Code, and applicable law. The Landlord requests that the Court deny any request to assume and assign the Lease unless the terms of such sale provide for payment in full of the Actual Cure Claim.

JOINDER IN OBJECTIONS OF OTHER LANDLORDS

27. Landlord joins in any objections asserted by other landlords and contract counterparties to the extent such objections are not inconsistent with this Objection.

RESERVATION OF RIGHTS

28. The Landlord expressly reserves all of its rights to supplement, amend or modify this Objection, including, without limitation, supplementing objections to proposed cure claims and the adequate assurance of future performance of any purchaser of the Debtors' assets. Further the Landlord reserves all rights with respect to the proposed sale order and any further revisions thereto.

CONCLUSION

For the foregoing reasons, the Landlord respectfully requests that the Court: (i) deny the proposed assumption and assignment of the Lease unless the Actual Cure Claim is paid in full, and (ii) grant the Landlord such other legal and equitable relief to which it is entitled.

DATED: August 23, 2018

Respectfully submitted,

HAYNES AND BOONE, LLP

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**COUNSEL FOR PHOENIX HAR
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served by (i) electronic mail via the Court's ECF system to all parties authorized to receive electronic notice in this case and (ii) first class United States mail, postage prepaid and properly addressed and/or electronic mail, on all parties appearing on the attached Service List on August 23, 2018.

/s/ Patrick L. Hughes
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EXHIBIT A

Corrected Cure Amounts Due Under Lease

Landlord	NEC Entity	Agreement	Debtors' Proposed Cure Claim	Actual Cure Claim
Phoenix HAR Investments LLC	NEC Harlingen Emergency Center, LP	Lease Agreement and all amendments	\$0.00	<p>Estimated accruals as of the date of the filing of the Objection in the amount of \$17,912.28, though proration of the total [estimated at \$27,000].</p> <p>Attorneys' fees incurred through closing, currently estimated to be approximately \$20,000</p> <p>Indemnity for all premises related or other liabilities arising under the Lease</p>