

1 SAMUEL R. MAIZEL (Bar No. 189301)
samuel.maizel@dentons.com
2 TANIA M. MOYRON (Bar No. 235736)
tania.moyron@dentons.com
3 NICHOLAS A. KOFFROTH (Bar No. 287854)
nicholas.koffroth@dentons.com
4 DENTONS US LLP
601 South Figueroa Street, Suite 2500
5 Los Angeles, California 90017-5704
Tel: (213) 623-9300 / Fax: (213) 623-9924



6 Attorneys for the Post-Effective Date Debtors and
7 Special Counsel to the Liquidating Trustee

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

CHANGES MADE BY COURT

10 In re

Lead Case No. 2:18-bk-20151-ER

11 VERITY HEALTH SYSTEM OF
12 CALIFORNIA, INC., *et al.*,

Jointly Administered With:

13 Reorganized Debtors.

- Case No. 2:18-bk-20162-ER
- Case No. 2:18-bk-20163-ER
- Case No. 2:18-bk-20164-ER
- Case No. 2:18-bk-20165-ER
- Case No. 2:18-bk-20167-ER
- Case No. 2:18-bk-20168-ER
- Case No. 2:18-bk-20169-ER
- Case No. 2:18-bk-20171-ER
- Case No. 2:18-bk-20172-ER
- Case No. 2:18-bk-20173-ER
- Case No. 2:18-bk-20175-ER
- Case No. 2:18-bk-20176-ER
- Case No. 2:18-bk-20178-ER
- Case No. 2:18-bk-20179-ER
- Case No. 2:18-bk-20180-ER
- Case No. 2:18-bk-20181-ER

- 14 Affects All Debtors
- 15 Affects Verity Health System of
California, Inc.
- 16 Affects O'Connor Hospital
- 17 Affects Saint Louise Regional Hospital
- 18 Affects St. Francis Medical Center
- 19 Affects St. Vincent Medical Center
- 20 Affects Seton Medical Center
- 21 Affects O'Connor Hospital Foundation
- 22 Affects Saint Louise Regional Hospital/
Foundation
- 23 Affects St. Francis Medical Center of
Lynwood Foundation
- 24 Affects St. Vincent Foundation
- 25 Affects St. Vincent Dialysis Center, Inc.
- 26 Affects Seton Medical Center Foundation
- 27 Affects Verity Business Services
- 28 Affects Verity Medical Foundation
- Affects Verity Holdings, LLC
- Affects De Paul Ventures, LLC
- Affects De Paul Ventures - San Jose
Dialysis, LLC

Hon. Judge Ernest M. Robles

**ORDER GRANTING MOTION TO APPROVE
TERMS AND CONDITIONS OF A SALE OF
THE STOCK IN MARILLAC INSURANCE
COMPANY, LTD. TO RANDALL & QUILTER
II HOLDINGS LIMITED AND THE BACK-UP
BID OF ANNAPOLIS CONSULTING
GROUP/TCI HOLDINGS**

Reorganized Debtors.

Hearing:

Date: December 16, 2020

Time: 10:00 a.m.

Location: Courtroom 1568

255 E. Temple St., Los Angeles, CA

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300



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1 This matter came before the Court on the *Notice of Motion and Motion to Approve Terms*
2 *and Conditions of a Private Sale of Stock in Marillac Insurance Company, Ltd. (Cayman) to*
3 *Randall & Quilter II Holdings Limited* [Docket No. 6271] (the “Motion”),¹ filed by Verity Health
4 System of California, Inc. (“VHS”) and the above-referenced affiliated debtors, the Post-Effective
5 Date Debtors and debtors in possession in the above-captioned chapter 11 bankruptcy cases (the
6 “Sellers”), for the entry of an order, pursuant to §§ 105(a) and 363 of title 11 of the United States
7 Code (the “Bankruptcy Code”), Rules 2002, 6004, 9007, and 9014, and LBR 6004-1.² This order
8 (the “Sale Order”) relates to the sale of the stock of Marillac Insurance Company, Ltd. (Cayman)
9 (“Marillac”), the Sellers’ offshore captive insurance company (the “Purchased Stock”), pursuant to
10 the Stock Purchase Agreement dated December 17, 2020, attached as Exhibit A to this Sale Order
11 (the “SPA”).

12 The Court, having reviewed (i) the Motion and the Declarations of Lisa Wall and Peter C.
13 Chadwick attached thereto, (ii) the *Declaration of Service of the Sale Motion by Kurtzman Carson*
14 *Consultants, LLC Regarding Docket Numbers 6270 and 6271* [Docket No. 6290], (iii) Notice of
15 Exhibit B to the Sale Motion [Docket No. 6308], (iv) the objection filed by Annapolis Consulting
16 Group/TCI Holdings, Inc. (“ACG”) to the Sale Motion [Docket No. 6280]; (v) the response of the
17 Sellers and Howard Grobstein, Liquidating Trustee (the “Liquidating Trustee”) and supplemental
18 declaration of Lisa Wall attached thereto [Docket No. 6287]; (vi) the supplemental response filed
19 by the Debtors and the Liquidating Trustee [Docket No. 6309]; (vii) the declaration of Stewart
20 Ritchie regarding Section 363(m) submitted on behalf of the Buyer [Docket No. 6335]; *the*
21 *Supplement Re Auction and Motion to Approve Terms and Conditions of Sale of Equity Interests in*
22 *Marillac Insurance Company, Ltd.* [Docket No. 6334] (the “Supplement”); and (viii) the Docket
23 Entry on the hearing [Docket No. 6310]; and the Court having considered the statements,

24 _____
25 ¹ Unless otherwise defined herein, all capitalized terms have the definitions set forth in the Motion
or the SPA, as applicable.

26 ² Unless specified otherwise, all chapter and section references are to the Bankruptcy Code, 11
27 U.S.C. §§ 101-1532, all “Rule” references are to the Federal Rules of Bankruptcy Procedure, and
28 all “LBR” references are to the Local Bankruptcy Rules for the United States Bankruptcy Court for
the Central District of California.

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601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
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1 arguments, bids during the auction and representations of the parties made at the hearing on the
2 Motion (the “Sale Hearing”); and the entire record of these cases; and the Court, having determined
3 that the relief sought in the Motion as modified by the Court in its tentative ruling and on the record
4 at the Sale Hearing is in the best interests of the Sellers, the Liquidating Trustee, its beneficiaries
5 and other stakeholders in these cases, and that the legal and factual bases set forth in the Motion
6 and presented at the Sale Hearing establish just cause for the relief granted herein and for the
7 reasons set forth in the Court’s tentative ruling [**Docket No. 6310**], which the Court adopts as its
8 final ruling and which is incorporated herein by reference; **and the Court having found the *Motion***
9 ***of Annapolis Consulting Group, Inc. and TCI Holdings, Inc. to Reopen the Auction Conducted in***
10 ***Response to the Debtors’ Motion to Approve Terms and Conditions of a Private Sale of Equity***
11 ***Interests in Marillac Insurance Company, Ltd. to Randall & Quilter II Holdings Limited Pursuant***
12 ***to § 363 [Docket No. 6338] (the “Post-Hearing ACG Objection”) to be without merit for the reasons***
13 ***set forth in § L below***; and all objections to the Motion, if any, having been withdrawn, continued,
14 overruled, or settled by stipulation approved by the Court; and after due deliberation and sufficient
15 good cause appearing therefor:

16 **THE COURT HEREBY FINDS AND CONCLUDES THAT:³**

17 A. Jurisdiction and Venue. This Court has jurisdiction to hear and determine the
18 Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter relates to the administration of the
19 bankruptcy estates and is accordingly a core proceeding pursuant to 28 U.S.C. § 157(b) (2) (A),
20 (M), (N) and (O). Venue of these cases is proper in this District and in this Court pursuant to 28
21 U.S.C. §§ 1408 and 1409.

22 B. Statutory Predicates. The statutory predicates for the relief requested in the Motion
23 are (i) §§ 105(a), 363(b), (f), (k), (l) and (m), (ii) Rules 2002(a)(2), 2002(c)(1) and (d), 6004 (a),
24 (b), (c), (e), (f) and (h), 9006, 9007, 9013 and 9014, and (iii) LBR 6004-1 and 9013-1.

25
26 ³ The findings and conclusions set forth herein constitute the Court’s findings of fact and
27 conclusions of law pursuant to Rule 7052, made applicable to this proceeding pursuant to Rule
28 9014. To the extent that any of the following findings of fact constitute conclusions of law, they
are adopted as such. To the extent that any of the following conclusions of law constitute findings
of fact, they are adopted as such.

1 C. Notice. As evidenced by the affidavits of service previously filed with the Court,
2 the Liquidating Trustee has provided proper, timely, adequate and sufficient notice with respect to
3 the following: (i) the Motion and the relief sought therein, including the entry of this Sale Order
4 and the transfer and sale of the Purchased Stock, as set forth in the SPA and of the Back-Up SPA;
5 and (ii) the Sale Hearing and no further notice of the Motion, the relief requested therein or the Sale
6 Hearing is required. The Liquidating Trust has also complied with all obligations to provide notice
7 of the Sale Hearing. A reasonable opportunity to object and to be heard regarding the relief
8 provided herein has been afforded to parties-in-interest.

9 D. Title in the Purchased Stock. The Purchased Stock constitutes property of VHS as
10 Reorganized Debtor, which is the sole and lawful owner of the Purchased Stock.

11 E. Arm's Length Transaction. The SPA and other documents and instruments (the
12 "Transaction Documents") related to and connected with this transaction (the "Transaction") and
13 the consummation thereof were negotiated and entered into by the Sellers and Randall & Quilter II
14 Holdings Limited (the "Purchaser"), as Purchaser under the SPA without collusion, in good faith
15 and through an arm's length bargaining process. Neither the Purchaser nor any of its affiliates or
16 representatives is an "insider" of the Sellers or the Liquidating Trust, as that term is defined in §
17 101(31). None of the Sellers, the Liquidating Trust, the Purchaser or their respective
18 representatives engaged in any conduct that would cause or permit the Purchaser, any of the other
19 Transaction Documents or the Transaction to be avoided under § 363(n), or have acted in any
20 improper or collusive manner. The terms and conditions of the SPA and the other Transaction
21 Documents, including, without limitation, the consideration provided in respect thereof, are fair
22 and reasonable, and are not avoidable and shall not be avoided, and no damages may be assessed
23 against the Purchaser or any other party as set forth in § 363(n). The consideration provided by
24 Purchaser is fair, adequate and constitutes reasonably equivalent value and fair consideration under
25 the Bankruptcy Code and any other applicable laws of the United States or any of its jurisdictions
26 or subdivisions, including the State of California and the Cayman Islands.

27 F. Good Faith Purchaser. Purchaser has proceeded in good faith and without collusion
28 in all respects in connection with the sale process, in that: (i) Purchaser, in proposing and

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601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

1 proceeding with the Transaction in accordance with the SPA, recognized that the Sellers were free
2 to deal with other interested parties, subject to the provisions of the SPA; (ii) Purchaser agreed to
3 provisions in the SPA that would enable the Sellers to accept a higher and better offer; (iii) all
4 payments to be made by the Purchaser and other agreements entered into or to be entered into
5 between the Purchaser and the Sellers in connection with the Transaction have been disclosed; (iv)
6 the negotiation and execution of the SPA and related Transaction Documents were conducted in
7 good faith and constituted an arm's length transaction; (v) the Purchaser did not induce or cause
8 the chapter 11 filings by the Sellers; and (vi) the SPA was not entered into, and the Transaction
9 being consummated pursuant to and in accordance with the SPA is not being consummated, for the
10 purpose of hindering, delaying or defrauding creditors of the Sellers. The Purchaser is therefore
11 entitled to all of the benefits and protections provided to a good-faith purchaser under § 363(m).
12 Accordingly, the reversal or modification on appeal of the authorization provided herein to
13 consummate the Transaction shall not affect the validity of the Transaction, any terms or conditions
14 of the Transaction or the Purchaser's status as a "good faith" purchaser.

15 G. Justification for Relief. Good and sufficient reasons for approval of the SPA and
16 the other Transaction Documents and the Transaction have been articulated to this Court in the
17 Motion and at the Sale Hearing, and the relief requested in the Motion and set forth in this Sale
18 Order is in the best interests of the Liquidating Trust and its beneficiaries. The Sellers have
19 demonstrated through the Motion and other evidence submitted at the Sale Hearing both (i) good,
20 sufficient and sound business purpose and justification and (ii) compelling circumstances for the
21 transfer and sale of the Purchased Stock as provided in the SPA outside the ordinary course of
22 business, and (iii) such transfer and sale is an appropriate exercise of business judgment and in the
23 best interests of the Sellers and the Liquidating Trust and its beneficiaries.

24 H. Free and Clear. In accordance with §§ 105(a), 363(b), and 363(f), the consummation
25 of the Transaction pursuant to the Transaction Documents shall be a legal, valid, and effective
26 transfer and sale of the Purchased Stock and shall vest in the Purchaser, through the consummation
27 of the Transaction, all of the Sellers' right, title, and interest in and to the Purchased Stock, free and
28 clear of all liens, claims, interests, rights of setoff, recoupment, netting and deductions, rights of

1 first offer, first refusal and any other similar contractual property, legal or equitable rights, and any
2 successor or successor-in-interest liability theories (collectively, the “Encumbrances”). The Sellers
3 have demonstrated that one or more of the standards set forth in § 363(f)(1)-(5) have been satisfied.
4 Those holders of Encumbrances who did not object, or who withdrew their objections, to the sale
5 or the Motion are deemed to have consented pursuant to § 363(f)(2). Those holders of
6 Encumbrances who did object fall within one or more of the other subsections of § 363(f).

7 I. Prompt Consummation. The Sellers have demonstrated good and sufficient cause
8 to waive the stay requirement under Rule 6004(h). Time is of the essence in consummating the
9 Transaction, and it is in the best interests of the Sellers and the Liquidating Trust and its
10 beneficiaries to consummate the Transaction within the timeline set forth in the Motion and the
11 SPA. The Court finds that there is no just reason for delay in the implementation of this Order, and
12 expressly directs entry of judgment as set forth in this Order.

13 J. Highest and Best Offer. The Sellers solicited offers for the Purchased Stock. The
14 sale process was conducted in a non-collusive manner and the sale to the Purchaser is in the best
15 interests of the Sellers and the Liquidating Trust and its beneficiaries and other stakeholders in the
16 cases. There was extensive marketing of the Purchased Stock by Lockton since 2019 as well as in
17 2020. The Sellers properly consulted with the Liquidating Trustee, Wells Fargo as the indenture
18 trustee for the 2005 Bonds and the Committee⁴ prior to selecting the Purchaser’s bid as the highest
19 and best offer for the Purchased Stock. The transfer and sale of the Purchased Stock to the
20 Purchaser on the terms set forth in the SPA constitutes the highest and best offer for the Purchased
21 Stock after an auction conducted on the record at the Sale Hearing and will provide a greater
22 recovery for the Sellers and the Liquidating Trust and its beneficiaries than would be provided by
23 any other available alternative. The Sellers’ and Liquidating Trustee’s determination that the SPA

24 ⁴ Specifically, the constituents consulted by the Sellers include the Howard Grobstein as
25 Liquidating Trustee, the Post-Effective Date Official Committee of Unsecured Creditors and Wells
26 Fargo Bank National Association, as bond indenture trustee (“Wells Fargo”) under those certain
27 bond indentures, dated as of February 1, 2005, as amended and supplemented, supported by the
28 obligations arising in connection with those certain Loan Agreements, dated February 1, 2005,
between the Daughters of Charity Health System and California Statewide Communities
Development Authority for the benefit of the Series A, G and H Revenue Bonds (the “2005
Bonds”).

1 constitutes the highest or best offer for the Purchased Stock constitutes a valid and sound exercise
2 of their business judgment.

3 K. Legal and Factual Bases. The legal and factual bases set forth in the Motion and at
4 the Sale Hearing establish just cause for the relief granted herein.

5 L. The Post-Hearing ACG Objection is Overruled. For approximately nine hours on
6 December 17, 2020, it appeared that Purchaser might not close the Transaction. During this period,
7 Sellers engaged with ACG with the expectation that ACG, as the back-up bidder, would
8 consummate the Transaction in the event that Purchaser failed to close. Once it became clear that
9 Purchaser was willing to close the Transaction, Sellers promptly notified ACG that Sellers no
10 longer intended to proceed with ACG's back-up bid.

11 ACG argues that Sellers' conduct on December 17, 2020 constitutes an irregularity in the
12 auction process that warrants either (a) disqualification of Purchaser as a bidder and the reopening
13 of the auction or (b) a finding deeming ACG to be the winning bidder. ACG's argument is without
14 merit. A back-up bidder has no vested right to acquire the assets being sold. ACG's disappointment
15 that its back-up bid was not selected is not grounds to reopen the auction. And given that ACG's
16 bid is lower than Purchaser's bid, a finding deeming ACG as the winning bidder would contravene
17 the Court's obligation to conduct the auction in a manner yielding the highest recovery for creditors.

18 Further, now that the auction has concluded, ACG lacks standing to challenge the results.
19 "[T]he statutes governing the sale of assets of bankruptcy estates are intended to protect the
20 creditors of such estates and not prospective purchasers." *In re HST Gathering Co.*, 125 B.R. 466,
21 468 (W.D. Tex. 1991). A disappointed prospective purchaser, such as ACG, "is not within the 'zone
22 of interests intended to be protected' under the bankruptcy statutes and regulations." *Id.* Applying
23 this principle, the *HST Gathering* court upheld the bankruptcy court's refusal to accept a bid
24 tendered in connection with an auction. The court held that the disappointed bidder lacked standing
25 to appeal because he was "not a person whose interest was intended to be protected by the
26 bankruptcy statutes or regulations." *Id.*; see also *Kabro Assocs. v. Colony Hill Assocs. (In re Colony*
27 *Hill Assocs.)*, 111 F.3d 269, 273 (2d Cir. 1997) ("[A]n unsuccessful bidder—whose only pecuniary
28 loss is the speculative profit it might have made had it succeeded in purchasing property at an

1 auction—usually lacks standing to challenge a bankruptcy court’s approval of a sale transaction.”);
2 *Stark v. Moran (In re Moran)*, 566 F.3d 676, 682 (6th Cir. 2009) (“A frustrated bidder lacks
3 bankruptcy appellate standing when he merely alleges that he would have profited from his desired
4 purchase, and does not allege, for instance, that fraud or impropriety prevented the estate from
5 accepting his higher bid such that creditors would not receive as great a recovery as they would
6 have had the estate accepted the higher bid.”).

7 For these reasons, the Post-Hearing ACG Objection is **OVERRULED**, and no hearing on
8 the Post-Hearing ACG Objection shall take place. ACG’s request to stay entry of this Sale Order
9 pending a hearing on the Post-Hearing ACG Objection is **DENIED**.

10 **NOW THEREFORE, IT IS HEREBY ORDERED THAT:**

11 1. The relief requested in the Motion is **GRANTED** and **APPROVED** in all respects to
12 the extent provided herein.

13 2. All objections with regard to the relief sought in the Motion that have not been
14 withdrawn, waived, settled, or provided for herein, including any reservation of rights included in
15 such objections, are overruled on the merits with prejudice.

16 3. Notice of the Motion, the Sale Hearing, and the Sale was fair and equitable under
17 the circumstances and complied in all respects with §§ 102(1) and 363, and Rules 2002, 6004, 9006,
18 and 9007.

19 4. Pursuant to §§ 105(a), 363(b) and 363(f), the Transaction, including the transfer and
20 sale of the Purchased Stock to the Purchaser on the terms set forth in the SPA, is approved in all
21 respects, and the Liquidating Trust is authorized and directed to consummate the Transaction in
22 accordance with the SPA, including, without limitation, by executing all of the Transaction
23 Documents (and any ancillary documents or instruments that may be reasonably necessary or
24 desirable to implement the SPA or the Transaction) and taking all actions necessary and appropriate
25 to effectuate and consummate the Transaction (including the transfer and sale of the Purchased
26 Stock) in consideration of the Purchase Price (as set forth in Exhibit C to the SPA) upon the terms
27 set forth in the SPA. The Sellers and the Purchaser shall have the right to make any mutually
28 agreeable, non-material changes to the SPA, which shall be in writing signed by both parties,

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1 without further order of the Court provided, that after reasonable notice, the Post-Effective Date
2 Official Committee of Unsecured Creditors (the “Committee”) and Wells Fargo as indenture trustee
3 for the 2005 Bonds do not object to such changes. Any timely objection by the aforementioned
4 parties to any agreed non-material changes to the SPA may be resolved by the Court on shortened
5 notice.

6 5. As of the closing of the Transaction as set forth in the SPA (the “Closing”), the
7 Transaction set forth in the SPA shall effect a legal, valid, enforceable and effective transfer and
8 sale of the Purchased Stock to the Purchaser free and clear of all Encumbrances as further set forth
9 in the SPA and this Sale Order. Upon the execution of the SPA and subject to the terms and
10 conditions thereof, the Transaction shall be enforceable against and binding upon, and not subject
11 to rejection or avoidance by, the Sellers, any successor thereto including a trustee or estate
12 representative appointed in the Bankruptcy Cases, including, but not limited to, the Liquidating
13 Trust, the Sellers’ estates, all holders of any Claim(s) (as defined in the Bankruptcy Code) against
14 the Sellers, whether known or unknown, any holders of Encumbrances on all or any portion of the
15 Purchased Stock, and all other persons and entities.

16 6. Subject to the fulfillment of the terms and conditions of the SPA, this Sale Order
17 shall, as of the Closing, be considered and constitute for all purposes a full and complete general
18 assignment, conveyance, and transfer of the Purchased Stock and/or a bill of sale transferring all of
19 the Sellers’ rights, title and interest in and to the Purchased Stock to the Purchaser. Consistent with,
20 but not in limitation of the foregoing, each and every federal, state, and local governmental agency
21 or department, except as stated herein, is hereby authorized and directed to accept all documents
22 and instruments necessary and appropriate to consummate the transactions contemplated by the
23 SPA and approved in this Sale Order. A certified copy of this Sale Order may be filed with the
24 appropriate clerk and/or recorded with the appropriate recorder to cancel any Encumbrances of
25 record.

26 7. Any person or entity that is currently, or on the Closing Date may be, in possession
27 of some or all of the Purchased Stock is hereby directed to surrender possession of such Purchased
28 Stock either to (a) the Sellers before the Closing or (b) to the Purchaser or its designee upon the

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1 Closing, and to cooperate with the Sellers and the Purchaser in the Sellers' and the Purchaser's
2 fulfillment of their obligations hereunder and pursuant to the SPA.

3 8. The transfer of the Purchased Stock pursuant to the Transaction Documents shall be
4 a legal, valid, and effective transfer and shall, in accordance with, among other provisions, §§
5 105(a), 363(b), and 363(f), and upon consummation of the Transaction, including, without
6 limitation, payment of the Purchase Price to the Liquidating Trust, vest the Purchaser with all right,
7 title, and interest in the Purchased Stock, free and clear of all Encumbrances. Upon closing of the
8 Transaction, the Purchaser shall take title to and possession of the Purchased Stock as set forth in
9 the SPA. The transfer of the Purchased Stock from the Sellers to the Purchaser constitutes a transfer
10 for reasonably equivalent value and fair consideration under the Bankruptcy Code and the laws of
11 the State of California.

12 9. Following the Closing, no holder of any Encumbrance against the Sellers or the
13 Liquidating Trust or upon the Purchased Stock shall: (i) attempt to assert or enforce an
14 Encumbrance against the Purchased Stock or the Purchaser; and/or (ii) interfere with the
15 Purchaser's respective rights in, title to or use and enjoyment of the Purchased Stock. All persons
16 and entities are hereby forever prohibited and enjoined from taking any action that would adversely
17 affect or interfere with the ability of the Sellers to sell and transfer the Purchased Stock to the
18 Purchaser.

19 10. The Purchaser shall not be deemed, as a result of any action taken in connection
20 with, or as a result of the Transaction (including the transfer and sale of the Purchased Stock), to
21 the maximum extent permitted by law by reason of any theory of law or equity with respect to any
22 claims or liens against Sellers or the Purchased Stock, to: (i) be a successor, continuation or alter
23 ego (or other such similarly situated party) to or of the Sellers or their estates by reason of any
24 theory of law or equity, including, without limitation, any bulk sales law, doctrine or theory of
25 successor liability, or any theory or basis of liability, regardless of source of origin; or (ii) have, *de*
26 *facto* or otherwise, merged with or into the Sellers; or (iii) be a mere continuation, *alter ego*, or
27 substantial continuation of the Sellers. The Purchaser is not assuming any of the Sellers' debts.
28

1 11. This Sale Order (i) shall be effective as a determination that, on Closing, all
2 Encumbrances existing against the Purchased Stock before the Closing have been unconditionally
3 released, discharged and terminated, and that the transfers and conveyances described herein have
4 been effected, and (ii) shall be binding upon and shall govern the acts of all persons and entities.
5 If, following a reasonable written request made by the Sellers, any person or entity that has filed
6 financing statements or other documents or agreements evidencing any Encumbrances against the
7 Purchased Stock shall not have delivered to the Sellers for use at or in connection with Closing, in
8 proper form for filing and executed by the appropriate parties, termination statements, instruments
9 of satisfaction, releases of all Encumbrances which the person or entity has with respect to the
10 Purchased Stock, then the Purchaser and/or the Sellers are hereby authorized to execute and file
11 such statements, instruments, releases and other documents on behalf of the person or entity with
12 respect to such Purchased Stock.

13 12. In accordance with the SPA, concurrently with the Closing, the Purchaser shall pay
14 that portion of the Purchase Price due at Closing, by wire transfer of immediately available funds,
15 to the Liquidating Trust subject to the adjustments set forth in the SPA. Any direct expenses of the
16 Sale shall be disclosed by Sellers to the Liquidating Trustee, Wells Fargo as indenture trustee for
17 the 2005 Bonds and the Committee in advance of the Closing.

18 13. The terms and provisions of this Sale Order, as well as the rights granted under the
19 Transaction Documents, shall continue in full force and effect and are binding upon the Sellers, the
20 Liquidating Trust and any successor, or chapter 7 or chapter 11 trustee applicable to the Sellers,
21 notwithstanding any such conversion, dismissal or order entry. Nothing contained in the chapter 11 plan
22 in the Sellers' cases as confirmed by the confirmation order [Docket No. 5504], nor any order dismissing
23 the cases or converting the cases to a case under chapter 7, shall conflict with or derogate from the
24 provisions of the SPA, any documents or instruments executed in connection therewith, or the terms of
25 this Sale Order, provided however, that in the event of a conflict between this Sale Order and an express
26 or implied provision of the SPA, this Sale Order shall govern. The provisions of this Sale Order and any
27 actions taken pursuant hereto shall survive any conversion or dismissal of the cases and the entry of any
28

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1 other order that may be entered in the cases, including any order (i) converting the cases from chapter 11
2 to chapter 7; (ii) appointing a trustee or examiner in the cases; or (iii) dismissing the cases.

3 14. The Transaction contemplated by the SPA and other Transaction Documents are
4 undertaken without collusion and in “good faith,” as that term is defined in § 363(m). The Purchaser is
5 a good faith purchaser within the meaning of § 363(m) and, as such, is entitled to the full protections of
6 § 363(m). Accordingly, the reversal or modification on appeal of the authorization provided herein by
7 this Sale Order to consummate the Transaction shall not affect the validity of the sale of the Purchased
8 Stock free and clear of Encumbrances to the Purchaser. The SPA and the Transactions contemplated
9 thereby cannot be avoided under § 363(n).

10 15. The failure to specifically include any particular provision of the SPA or the other
11 Transaction Documents in this Sale Order shall not diminish or impair the effectiveness of such
12 provisions, it being the intent of the Bankruptcy Court that the Transaction, the SPA and the other
13 Transaction Documents be authorized and approved in their entirety. Likewise, all of the provisions of
14 this Sale Order are non-severable and mutually dependent.

15 16. This Order constitutes a final and appealable order within the meaning of 28 U.S.C.
16 § 158(a). Notwithstanding Rules 6004(h), 7062, or 9014, if applicable, or any other LBR or otherwise,
17 this Sale Order shall not be stayed for 14-days after the entry hereof, but shall be effective and enforceable
18 immediately upon entry pursuant to Rule 6004(h). Time is of the essence in approving the Transaction
19 (including the transfer and the sale of the Purchased Stock).

20 17. Unless otherwise provided in this Sale Order, to the extent any inconsistency exists
21 between the provisions of the SPA and this Sale Order, the provisions contained in this Sale Order shall
22 govern.

23 18. This Court shall retain exclusive jurisdiction to interpret, construe, and enforce the
24 provisions of the SPA and this Sale Order in all respects, and further, including, without limitation, to (i)
25 compel delivery of the Purchased Stock to the Purchaser free and clear of Encumbrances; (ii) compel the
26 delivery of the Purchase Price or performance of other obligations owed to the Sellers; (iii) interpret,
27 implement, and enforce the provisions of this Sale Order; and (iv) protect the Purchaser against (A)
28 claims made relating to any liabilities retained by Seller, (B) any claims of successor or vicarious liability

1 (or similar claims or theories) related to the Purchased Stock, or (C) any Encumbrances asserted on or
2 against the Purchaser or the Purchased Stock.

3 19. Notwithstanding anything to the contrary in the Motion, any Cure Notice or
4 assumption notice, any purchase agreement, or this Sale Order (i) none of the insurance policies or
5 any related agreements (collectively, the “Chubb Insurance Contracts”) issued at any time by
6 Federal Insurance Company, ACE American Insurance Company, Illinois Union Insurance
7 Company and each of their affiliates and successors (collectively, “Chubb”), or any rights, benefits,
8 claims, rights to payments and/or recoveries under the Chubb Insurance Contracts shall be sold,
9 assigned or otherwise transferred to the Purchaser in connection with the Sale; (ii) nothing shall
10 alter, modify or otherwise amend the terms or conditions of the Chubb Insurance Contracts; and
11 (iii) for the avoidance of doubt, the Purchaser is not, and shall not be deemed to be, an insured
12 under any of the Chubb Insurance Contracts; provided, however, that to the extent any claim with
13 respect to any Purchased Stock arises that is covered by the Chubb Insurance Contracts and the
14 proceeds of the applicable Chubb Insurance Contract would be payable to the Sellers (as opposed
15 to a third party claimant), the Sellers may pursue such claim in accordance with the terms of the
16 Chubb Insurance Contracts, and, if applicable, turn over to the Purchaser any such insurance
17 proceeds (each, a “Proceed Turnover”); provided, further, however, that the Chubb Companies
18 shall not have any duty to effectuate a Proceed Turnover or liability related to a Proceed Turnover.

19 20. The Post-Effective Date Debtors, the Liquidating Trust, the Committee and Wells Fargo
20 as indenture trustee for the 2005 Bonds rights, and their ability to participate and be heard at hearings
21 concerning the Sale, are hereby reserved. To the extent that the Liquidating Trust, Wells Fargo as
22 indenture trustee for the 2005 Bonds or the Committee desire to file pleadings related to such hearings,
23 their respective times for filing an objection or response shall be the same as granted to the Sellers
24 pursuant to the notice in each such instance.

25 21. The back-up Stock Purchase Agreement dated December 16, 2020 with ACG as
26 separately filed on this Court’s docket (the “Back-Up SPA”) is hereby approved as a back-up bid and all
27 findings herein relevant to the SPA and the Buyer shall be deemed to apply to the Back-Up SPA and
28 ACG in the event ACG closes as the back-up bidder.

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

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IT IS SO ORDERED.

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DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

Date: December 21, 2020



Ernest M. Robles
United States Bankruptcy Judge