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VIA ECF AND E-MAIL chambers of rtl@njb.uscourts.gov

Hon. Raymond T. Lyons, U.S.B.J.
United States Bankruptcy Court
For the District of New Jersey
402 East State Street, 2nd Floor
Trenton, NJ 08608

Re: *In re Miller Health Care, LLC (the "Debtor")/Order To Show Cause Returnable January 9, 2012*
Case No. 11-28615 (RTL)
Our File No. 13548.57445

Dear Judge Lyons:

I write on behalf of myself and Porzio, Bromberg & Newman, with respect to the Court's Order To Show Cause why all professionals should not be discharged in the above referenced matter.

DEBT STRUCTURE

This case has zero secured debt, but prepetition unsecured debt, represented by the Committee, of over \$3,500,000.00. The Committee members make up approximately \$1,700,000 of this prepetition unsecured creditor body. The parties and the court have now become aware of unpaid post-petition payroll tax and other tax liabilities of \$293,393.00. Over the six-month course of the case, the Debtor has accrued approximately one month of post-petition payables, totaling \$486,000 as of November 30, 2011.

COMMITTEE STRATEGY/COMMITTEE PROFESSIONAL FEES

The Committee members themselves collectively have extensive experience in the nursing home (Long Term Care) industry. They recognized the Debtor's mismanagement prior to the petition date, and its unholy alliance with the landlord, but saw substantial value in the Chapter 11 case for unsecured creditors, provided that effort was expended to unlock that value. That required effort includes: (i) selling the Debtor's licensed long-term care facility and associated rights, a \$1,000,000 to \$2,500,000 value, and (ii) pursuing a fraudulent transfer claim against the landlord, whom it is virtually

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Debtor, without protest. As Your Honor knows, the vast majority of the work in pursuing both of these claims has already been completed, as evidenced in the Committee's pending motion for derivative standing. As Your Honor also knows, the Bankruptcy Code, recognizing the structurally subordinated position of unsecured creditors, grants unsecured creditors the ability to work through Committee and to have that Committee retain qualified professionals and compensate them for the "reasonable value" of their services. The Committee has a fiduciary duty to maximize the recovery of the estate's assets. See In re Iridium, 478 F.3d 452, 466 (2d Cir. 2007).

Porzio agrees that the significant value described above can be unlocked in this case, in an amount sufficient to pay post petition taxes, and other accrued payables, and make a sizeable distribution to unsecured trade. Our belief in this approach is evidenced by the fact that Porzio has proceeded completely "at risk" in this case to date, with zero payments made to it.

As described in pleadings recently filed with the court, Porzio, at the Committee's request, is willing to modify its retention application to convert its fee arrangement to a contingent one, not only for all future fees associated with the pursuit of recovery from the Debtor's landlord, but also for 50% of all fees already incurred through December 31, 2011.

CONCLUSION

We look forward to Your Honor continuing to provide the Committee the opportunity to fulfill its statutory mandate, perhaps working alongside a Chapter 11 Trustee. But a discharge of professionals and the conversion of the case to a Chapter 7 or dismissal will not be in the interests of the elderly patients the Debtor serves, the community, or most importantly, to the constituency this attorney serves, over \$3,500,000 in unsecured trade creditors who have suffered from the landlord's gouging and equity's continued cooperation in that gouging, virtually without protest.

Respectfully yours,


Warren J. Martin Jr.

WJM:sak

cc: John Leon, Esq.
Jeffrey Sponder, Esq.
Shining Hsu, Esq.
Carl Soranno, Esq.