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September 2, 2022

VIA OVERNIGHT DELIVERY AND E-MAIL to Heidi.Lehrman@doj.ca.gov

Heidi Lehrman, Esq.
Deputy Attorney General
1300 I Street, Suite 125
Sacramento, CA 944255

Re: Retirement Housing Foundation - Asset Sales – Response to 8/29 Information Request

Dear Ms. Lehrman:

This letter is in response to your email dated August 29, 2022 requesting elaboration of some of the items and explanations we sent you on August 24, 2022 regarding the sale of the assets of various subsidiaries of Retirement Housing Foundation ("RHF").

- 1) **Copies of all documents relating or referring to the reasons why any potential transferee was excluded from further consideration as a potential transferee for any of the health facilities or facilities that provide similar health care that are the subject of the agreement or transaction.**

We provided you with two matrices that Ziegler prepared, comparing the proposals received during Rounds 1 and 2 of the bidding process. You requested more evidence of why Pacifica was selected over the other bidders. See **Attachment 1** for a narrative description of Ziegler's analysis during Rounds 1 and 2, which formed the basis of its recommendation to proceed with a sale to Pacifica. We also sent you various board resolutions. See item 3) below regarding the sellers' board deliberations.

- 2) **Copies of all Requests for Proposal sent to any potential transferee and all responses received thereto.**

You requested all responses to the RFPs. I confirmed during an August 30 telephone call with you and Neli Palma that the eight proposals submitted to Ziegler represent the recipients' responses.

- 3) **All documents reflecting the deliberative process used by the applicant and any related entity in selecting the transferee as the entity to participate in the proposed agreement or transaction.**

You requested more evidence of my client's deliberative process than you could glean from the board minutes and related reports we provided. See **Attachment 2** for a statement by the sellers' Chief Executive Officer regarding the deliberative process.

- 4) **Copies of each Proposal received by the applicant from any potential transferee suggesting the terms of a potential transfer of applicant's health facilities or facilities that provide similar health care, and any analysis of each such Proposal.**

You asked whether we had submitted all proposals that were received. I confirmed on August 30 that we previously provided you with all the proposals that Ziegler received.

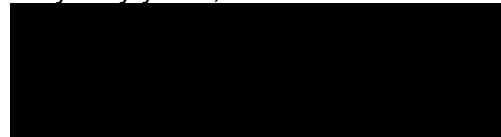
- 5) **The applicant's prior two annual audited financial statements:**

You noted that for Cathedral Pioneer Church Homes, the most recent audited financial statements were for the years ended September 30, 2020 and 2019. You asked when the statements for the years ended September 30, 2021 and 2020 would be available. The delay in preparing the more current statements is attributable to a change in audit firms. My client anticipates receiving the final statements on or about October 31, 2022.

As always, please do not hesitate to contact me if you have any questions or require additional information. I look forward to our call on September 7.

Thank you for your time and attention to this matter.

Very truly yours,



Pamela S. Kaufmann
Partner

PSK

Enclosures (Attachments 1 and 2)

cc: Stuart Hartman
Robert Amberg, Esq.
Laura Fox Buchan
Frank Rossello
Brian Magnone
David Napierskie
Joyce Chang O'Brien
Johanna Williams

Attachment 1

Client's Objectives

Through multiple discussions with RHF's senior management, Ziegler understood that RHF's objectives for selling the portfolio of properties included:

- Maximum price. Proceeds must cover all debt.
- Minimal or no financing contingency – This requires substantial equity from a buyer since the portfolio does not generate enough cash flow to support meaningful debt.
- Familiarity with California approval process and licensing requirements.
- Ability to close quickly to stop operating losses.
- "Execution Certainty" (i.e. certainty to close) – Desire to avoid a buyer that changes its mind later or backs out, prolonging sales process and increasing operating losses.

Round 1 Proposal Discussion:

Ziegler received eight proposals, summarized below and in the Round 1 Matrix. Its rationale for recommending that certain bidders proceed to Round 2 is described below.

- Pacifica
 - \$200 million offer.
 - Achieves client's objectives described above.
 - Bidder is an owner and operator, which creates a higher execution certainty than for a non-operator which must identify a third-party operator.
 - Offered the highest cash deposit (\$1,500,000).
 - ***Ziegler recommended proceeding to Round 2 and providing tours of buildings.***
- MED Healthcare
 - \$200 million offer.
 - Achieves most of client's objectives, but bidder does not own or operate facilities in California and is thus unfamiliar with approval and licensing requirements.
 - ***Ziegler recommended proceeding to Round 2 and providing tours of buildings.***
- Comprehensive Care Capital
 - \$195 million offer. \$5 million less than two highest offers.
 - Achieves most of client's objectives, but bidder does not own or operate facilities in California and is thus unfamiliar with approval and licensing requirements.
 - ***Ziegler recommended proceeding to Round 2 and providing tours of buildings.***
- Aurora Health Networks
 - \$162,500,000 offer, substantially below top three offers.
 - Not an owner/operator, thus has a lower execution certainty than an owner/operator.
 - Does not fulfill client's key objectives.
 - ***Ziegler recommended not proceeding to Round 2.***

Proposals 5-8 in Round 1 were to acquire only a subset of the 16-property portfolio. They included:

- Westmont Living
- Aspen Skilled Healthcare
- DiNapoli Partners
- Greystone & Co. (AbleHearts Healthcare Foundation)

These subset proposals would greatly complicate the transaction and would be inconsistent with the client's objectives described above. Ziegler recommended rejecting these offers because:

- 1) Buildings would be on different timelines, complicating paying off RHF's obligated group debt;
- 2) Buying a subset of the portfolio would leave the client with the worst performing buildings, which would continue to generate losses as buyers "cherry picked" the best performing buildings;
- 3) Multiple transactions would create more opportunities for buyers to back out;
- 4) Multiple transactions would increase legal costs by introducing multiple law firms, multiple purchase agreements, different Attorney General notices, etc.; and
- 5) Multiple transactions would substantially increase client's time negotiating with multiple buyers and transitioning buildings to multiple buyers rather than completing these tasks with one buyer.

In short, these four "subset offers" did not fulfill the client's objectives. Ziegler therefore recommended that these four offers not proceed to Round 2.

Round 2 "Best and Final" Proposal Discussion

Three bidders proceeded to Round 2. They were asked to make their "best and final" offers after preliminary diligence and tours of the property. The key terms of these offers are contained in the Round 2 Matrix. Ziegler's rationale for recommending proceeding with Pacifica and rejecting the other offers is described below.

- Pacifica
 - \$202 million cash offer, no financing contingencies.
 - Achieves client's objectives: highest price, no financing contingency, familiarity with California approval and licensing processes, ability to move quickly.
 - Offered the highest cash deposit (\$2,000,000).
 - ***Determined to be the winning bid.***
- MED Healthcare
 - \$202 million offer.
 - Offer had a financing contingency, including "a combination of equity capital and either commercial bank debt or bond financing." Debt financing would be difficult to achieve due to portfolio's lack of cash flow to service debt. It would also delay closing.
 - Lender's appraisals could be less than purchase price, reducing execution certainty.
 - For the reasons above, this proposal was determined to be inferior to Pacifica's proposal. ***The offer was therefore rejected.***
- Comprehensive Care Capital
 - \$200 million offer.
 - Offer was \$2 million less than the two offers described above.
 - ***The offer was therefore rejected.***

Presentations to Client

Ziegler reported its findings to the RHF executive team on October 15, 2021 regarding the Round 1 offers, and on November 22, 2021 regarding the Round 2 offers. On November 9, 2022, Ziegler made a detailed presentation to the RHF board to describe the offers received, share its recommendations and rationale, and answer questions.

Attachment 2



This statement describes our deliberative process in determining which offer to accept for the purchase of our sixteen-property senior care and housing portfolio.

Once we selected Ziegler to market the portfolio, we identified our key concerns and goals. They can be summarized as follows:

1. The purchase price needed to cover all existing debt on the properties, including, to the greatest extent possible, funds to repay RHF's loans to the communities.
2. We sought an all-cash deal to reduce the time to close and to avoid the risk that a loan would not be approved.
3. We had a strong preference for a buyer that was already licensed in California to provide residential care and skilled nursing care and had a good relationship with the regulatory agencies.
4. We also preferred a buyer that had previously participated in the Attorney General sale approval process.
5. A fast close was critical given ongoing operating losses that in California alone, are about \$1 million per month.
6. We wanted to sell the entire portfolio to one buyer for three essential reasons: (a) some of our properties had debt that was cross-collateralized (through an obligated group); (b) we feared that buyers would "cherry pick" the best properties and leave us with the lowest performing properties; (c) we wanted to avoid the expense, inefficiency, and likely delays of dealing with multiple lawyers, agreements, and timelines.
7. Based on our prior experience of selling three skilled nursing communities, it was best to have one buyer that was familiar with the sales process and operations transfer agreements and had the ability to move quickly.

Ziegler initiated a sale process that yielded eight offers during the first round. On October 15, 2021, Dan Revie, Managing Director at Ziegler Investment Banking, shared with our executive team a matrix summarizing these offers. We participated in a call in which Mr. Revie offered his candid assessment of the various offers. As price and a cash offer were our highest priorities, we strongly favored the three highest offers, which were at \$200 million, \$200 million, and \$195 million, respectively. We also observed that Pacifica had the advantages of having a presence in California and having been through the Attorney General approval process before.

After these three offers, the bids dropped precipitously in price; the next highest bid was \$162.5 million. In addition, four of the eight offers included only selected properties. We rejected those offers based on our desire to sell the entire portfolio, as described above. Mr. Revie suggested inviting the three highest bidders to enhance their bids; we agreed that this was a good strategy.

During Round 2, the three top bidders, Pacifica, MED Healthcare, and Comprehensive Care Capital, made their "final best" bids after touring the facilities and engaging in some diligence. Mr. Revie again shared a comparison matrix with us (and added the fourth highest bid for comparison purposes). On November 22, 2022, our executive team again met with Mr. Revie and discussed our options. The top two offers, from Pacifica and MED Healthcare, were for the same dollar amount (\$202 million); however, Pacifica had no financing contingency and offered the largest cash deposit. We also derived comfort from the fact that it had experience operating SNFs and RCFEs in California and had been through the Attorney General approval process before.

On November 9, 2021, Mr. Revie was invited to our board meeting to describe the marketing process, the results, and his recommendations. (In fact, earlier the same day, two of his colleagues met with our board to describe senior care and housing trends and challenges generally.) Mr. Revie spent an hour and ten minutes presenting his analysis in great detail; our board members were invited to and did ask several questions about the bidders and the process. Mr. Revie and his colleagues were then excused from the meeting.

After a break, the board chair opened the floor to discussion regarding the proposed sale. To assure that every director had a voice in the proposed sale, the board chair called on individual board members separately so they could ask any questions. Some board members compared Pacifica's and MED Healthcare's offers and stated their preference for Pacifica due to its all-cash offer, a critical feature given the portfolio's continuing operating losses. Some also expressed a preference for Pacifica given its familiarity with California senior care regulation and with the Attorney General approval process, believing this would facilitate a fast close.

As noted above, the board was very focused on price because it was essential to discharge the debt on the properties and to the greatest extent possible, repay RHF for past loans and advances. Instead of selecting a particular buyer, I proposed establishing a price floor for the board to approve to enable our executive team to negotiate and close the sale. The Board agreed on a floor of \$195,000,000. Following discussion, a resolution to this effect was adopted. We then advised Mr. Revie to proceed with the best offer (made by Pacifica).

I would be pleased to answer any follow-up questions about this process.

Stuart Hartman, CEO