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ATTORNEYS FOR THE
TEXAS WORKFORCE COMMISSION

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

In re:	§	Chapter 11
	§	
VICTORY MEDICAL CENTER	§	Case NO. 15-42373-rfn-11
MID-CITIES, LP, <i>et al.</i> ,	§	
Debtors	§	Jointly Administered
	§	
Victory Medical Center Mid-Cities, LP,	§	Case No. 15-42373-rfn-11
and Victory Medical Center Mid-Cities	§	Case No. 15-42376-rfn-11
GP, LLC	§	
	§	Objection to Epiq Claims 33, 375
vs.	§	379, 382, 383, 384, and 385
	§	
Texas Workforce Commission Regulatory	§	Dates Filed 7/1/15, 8/13/15, 8/14/15,
Integrity Division – SAU, Claimant	§	8/17/15

TEXAS WORKFORCE COMMISSION’S RESPONSE TO
OBJECTION TO PROOF OF CLAIM AND NOTICE OF HEARING
(Relates to Doc. No. 1184)

The Texas Workforce Commission (“TWC”), appearing through the Texas Attorney General’s Office, responds to Neil Gilmour, Trustee of the Victory Parent Company, LLC Grantor Trust, and HPRH Investments, LLC’s (the “**Objecting Parties**”) Objection to Proof of Claim (the “**Objection**”)[Doc. No. 1184] as follows:

TWC CLAIMS

1. TWC filed claims against Victory Medical Center Mid-Cities, LP and Victory Medical Center Mid-Cities, GP, LLP (“**Debtors**”) as follows:

Priority Proof of Claim \$11,210.28 [Epiq Claim No. 33]
Priority Proof of Claim \$11,791.70 [Epiq Claim No. 375]
Amended Priority Proof of Claim \$11,791.70 [Epiq Claim No. 379]
Amended Priority Proof of Claim \$11,937.06 [Epiq Claim No. 382]
Second Amended Priority Proof of Claim \$11,937.06 [Epiq Claim No. 383]
Second Amended Priority Proof of Claim \$11,937.06 [Epiq Claim No. 384]
Third Amended Priority Proof of Claim \$11,937.06 [Epiq Claim No. 385]

2. Claim No. 385 amends and supersedes Claim Nos. 383, 379 and 33. TWC agrees to the disallowance of Claim Nos. 383, 379 and 33 so long as such disallowance is without prejudice to the allowance of Claim No. 385.

3. Claim No. 385 is based on Debtors’ underpayment of state employment taxes for the first and second quarters of 2015. The Debtors’ quarterly employment tax returns were underpaid because Debtors calculated their tax liability using an incorrect tax rate. Debtors used their 2014 tax rate of .95%. Debtor’s correct tax rate for 2015 was 2.75%.

4. Claim No. 384 amends and supersedes Claim Nos. 382 and 375. TWC agrees to the disallowance of Claim Nos. 382 and 375 so long as such disallowance is without prejudice to the allowance of Claim No. 384.

5. Claim No. 384 is based on Debtors’ underpayment of state employment taxes for the first and second quarters of 2015. Debtors’ quarterly employment tax returns were underpaid

because Debtors calculated their tax liability using an incorrect tax rate. Debtors used their 2014 tax rate of .95%. Debtors' correct tax rate for 2015 was 2.75%.

6. Claim Nos. 384 and 385 are for the joint and several liability incurred by the Debtors under TWC Account No. xx-xxx957-4. TWC is entitled to a singly recovery and is not seeking payment of both claims. However, TWC is entitled to assert both claims until the liability is paid in full.

RESPONSE TO CLAIM OBJECTION

7. Paragraph 1 is admitted.

8. Paragraph 2 is denied.

9. The first sentence of Paragraph 3 is admitted. TWC is without sufficient information to admit or deny the second sentence of Paragraph 3. To the extent Debtors' books and records reflect payments made on the 2015 taxes based on the 2014 tax rate, the payments do not cover the full amount of the 2015 tax liability because Debtors used the wrong tax rate.

LEGAL ARGUMENT

10. Under state law, TWC's tax assessment is *prima facie* evidence of the correctness of the assessment. Tex. Labor Code § 213.034. TWC's claim also has *prima facie* validity under the Federal Rules of Bankruptcy Procedure and a mere statement that a debtor does not owe the amount claimed is insufficient to rebut the *prima facie* validity of a filed proof of claim. Fed. Rule Bankr. Proc. 3001(f); *In re White*, 168 BR. 825, 829 (Bank. D. Conn. 1994) (mere allegation that full amount of claim is not owed is insufficient to rebut *prima facie* validity of claim); *In re Pan*, 209 BR. 152 (D. Mass. 1997) (same).

Wherefore, the TWC prays that the Court deny the Objection.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on July 15, 2016, a true copy of the foregoing was served by the method and to the following parties as indicated:

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