

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	X	
	:	Chapter 11
In re:	:	
	:	Case No. 21-11336 (KBO)
GULF COAST HEALTH CARE, LLC, <i>et al.</i> , ¹	:	
	:	Jointly Administered
Debtors.	:	
	:X	Related to Docket Nos. 14, 166, 187, 226, 262, 263, 264, 266, 269, 273, 274, 276, 281 316

NEW ARK CAPITAL, LLC’S STATEMENT IN SUPPORT OF THE DEBTORS’ DIP MOTION AND MOTA APPROVAL MOTION, AND JOINDER TO THE DEBTORS’ OMNIBUS REPLY TO OBJECTIONS FILED THERETO

New Ark Capital, LLC (“New Ark”) files this statement in support of the Debtors’ DIP Motion [Docket No. 14] and MOTA Approval Motion [Docket No. 166] and hereby joins in the *Debtors’ Omnibus Reply to Objections of Various Parties to (I) the DIP Motion, and (II) the MOTA Approval Motion* [Docket No. 316] (the “Reply”), and respectfully states as follows:

As described in the DIP Motion and the Debtors’ supporting declarations,² New Ark and the Omega DIP Lender are, collectively, providing up to \$25 million in new money plus consent to the Debtors’ use of tens of millions of dollars of cash collateral to enable the Debtors to continue to provide for the health and safety of their more than 2200 residents, and fund their post-petition administrative expenses.

¹ There are 62 Debtors in these chapter 11 cases. A complete list of the Debtors and the last four digits of their federal tax identification numbers are not provided herein. A complete list of such information may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://dm.epiq11.com/GulfCoastHealthCare>.

² See Declaration of M. Benjamin Jones in Support of Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief [Docket No. 15] (the “DIP Declaration”) and the Declaration of M. Benjamin Jones in Support of Chapter 11 Petitions and First Day Pleadings [Docket No. 16] (the “First Day Declaration”). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the DIP Declaration or the First Day Declaration, as applicable.

New Ark's commitment, as more fully set forth in the DIP Term Sheet and Financing Orders, includes consent to the Debtors' use of up to \$7 million of New Ark's cash collateral to fund the Debtors' operations prior to the implementation of the MOTAs related to the Omega Facilities (which must be repaid upon the MOTA transfer date, and by no later than December 3, 2021), plus up to an additional \$8 million of its cash collateral to fund professional fees and other process costs associated with the Debtors' chapter 11 bankruptcy cases through confirmation of a plan, all on a junior basis to the Omega DIP Lender. New Ark is providing this funding (the "New Ark Financing") even though the Debtors have stated that the projected recovery to the Omega DIP Lender (which is senior to the New Ark Financing) remains uncertain. *See* DIP Declaration at ¶ 12. In other words, it is highly likely that the New Ark Financing will not be repaid in full.

Given the substantial, ongoing, operating losses at the Debtors' skilled nursing facilities, and the lack of any viable alternatives, the Debtors must promptly transfer the Omega Facilities and the MOTA must be approved. Without such approval and a timely transition, the Debtors simply do not have the funding necessary to continue to operate these facilities and fund their chapter 11 cases.

Therefore, New Ark supports the DIP Motion and the MOTA Motion, and joins in the Debtors' Reply. While New Ark will not revisit the arguments made by the Debtors in the Reply, New Ark is compelled to address certain unfounded allegations made by the Official Committee of Unsecured Creditors (the "Committee") in their omnibus objection [Docket No. 226] (the "Committee Objection").

In a transparent attempt to "poison the well" with respect to the Debtors' chapter 11 cases, the Committee provides a grossly misleading summary of two prior bankruptcy cases involving affiliates of certain of the Equity Parties – the Louisiana Holdings Case and the 4 West Case (as

those terms are defined in the Committee Objection) (collectively, the “Prior Bankruptcy Cases”).³ See Committee Objection at 15-21. In its attempt to advance a false narrative, the Committee contends that certain of the Equity Parties have engaged in a “strategy to strip value from skilled nursing homes at the expense of unsecured creditors” both here and in the Prior Bankruptcy Cases, and are “well-versed in using the chapter 11 process to benefit themselves at the expense of unsecured creditors.” Committee Objection at ¶¶ 15, 19.

However, a quick review of the dockets in the Prior Bankruptcy Cases tells a markedly different story. Notably, that:

- the plan confirmed in the Louisiana Holdings Case was jointly proposed by the Debtors **and the Official Committee of Unsecured Creditors**. See First Amended Joint Plan of Liquidation Proposed by the Debtors and the Official Committee of Unsecured Creditors, as Modified (the “Louisiana Holdings Consensual Plan”) [Louisiana Holdings Case, Docket No. 1290];
- 100% of creditors voting for the Louisiana Holdings Consensual Plan voted in favor of that plan. See *Report and Certification Regarding Ballots on First Amended Joint Plan of Liquidation for New Louisiana Holdings, LLC, et al., Proposed by the Debtors and the Official Committee of Unsecured Creditors* [Louisiana Holdings Case, Docket No. 1274];
- the plan confirmed in the 4 West Case likewise enjoyed broad creditor support. [4 West Case, Docket No. 1258] (Ballot Report showing class of General Unsecured Creditors voting in favor of plan, 73% in number and 80% in amount); and
- in the 4 West Case, the assets and purported “insider claims” were purchased for an aggregate purchase price of \$227 million (subject to certain adjustments) plus assumption of additional liabilities, after a competitive marketing process. [4 West Case, Docket No. 1041].

Thus, contrary to the Committee’s characterization, if the Prior Bankruptcy Cases demonstrate anything, it is the ability to work collaboratively with stakeholders to build consensus for confirmed plans that enjoyed broad (and in the Louisiana Holdings Case, unanimous) support

³ *In re New Louisiana Holdings, LLC et al.*, Case No. 14-50756 (Bankr. W.D. La.) and *In re 4 West Holdings, Inc., et al.*, Case No. 18-30777 (HDH) (Bankr. N.D. Tex.).

from general unsecured creditors. The Committee should hope for a similar result in the Debtors' chapter 11 cases, as does New Ark.

In the interim, however, the Court should overrule any remaining objections and approve the DIP Motion and MOTA Approval Motion.

Dated: November 21, 2021
Wilmington, Delaware

Respectfully submitted,

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