TOGUT, SEGAL & SEGAL LLP
Conflicts Counsel for Debtors
and Debtors in Possession
One Penn Plaza, Suite 3335
New York, New York 10119
Telephone: (212) 594-5000
Facsimile: (212) 967-4258
Frank A. Oswald
Brian F. Moore
David M. Smith

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: SAINT VINCENTS CATHOLIC MEDICAL CENTERS OF NEW YORK, *et al.* Debtors.	Chapter 11 Case No. 10-11963(CGM) (Jointly Administered)
SAINT VINCENTS CATHOLIC MEDICAL CENTERS OF NEW YORK, *et al.* Plaintiffs, v. HEALTHCARE MANAGEMENT SOLUTIONS LLC, Defendant(s).	Adversary Proceeding No. 12 - _____ (CGM)

COMPLAINT TO: (I) AVOID TRANSFERS PURSUANT TO 11 U.S.C. §§ 547 AND 548; (II) RECOVER PROPERTY TRANSFERRED PURSUANT TO 11 U.S.C. § 550; AND (III) DISALLOW CLAIMS PURSUANT TO 11 U.S.C. § 502(d)

Saint Vincents Catholic Medical Centers of New York and certain of its subsidiaries and affiliates, as debtors and debtors in possession in the above-captioned cases (collectively, the "Debtors" or "Plaintiffs"), as and for their complaint to avoid and recover transfers against Healthcare Management Solutions LLC ("Defendant"), and in support thereof alleges upon information and belief that:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

2. This adversary proceeding is brought pursuant to Rule 7001, *et seq.* of the Federal Rules of Bankruptcy Procedure and 11 U.S.C. (the "Bankruptcy Code") §§ 502(d), 547, 548 and 550.

3. Venue in this Court is proper pursuant to 28 U.S.C. § 1409 because this adversary proceeding arises under and in connection with a case under 11 U.S.C. § 101, *et seq.*

4. This Adversary Proceeding is a "core" proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A), (B), (F) and (O).

PRELIMINARY STATEMENT

5. Plaintiffs bring this adversary proceeding for an Order and Judgment of the Court against Defendant: (a) avoiding and directing the return of the avoidable transfers identified in Exhibit "1" (the "Transfers") made by Plaintiffs during the ninety (90) days prior to the Petition Date (defined below) (the "Preference Period"), that were made by one or more of Plaintiffs to Defendant in payment of antecedent debts; (b) avoiding and directing the return of the Transfers that constitute fraudulent transfers; and (c) disallowing any claims filed by Defendant in the Debtors' bankruptcy cases (the "Claims") unless and until the Transfers are remitted to the Trustee.

PROCEDURAL BACKGROUND

6. On April 14, 2010 (the "Petition Date") the Debtors each commenced a case by filing a voluntary petition for relief in this Court under chapter 11 of the Bankruptcy Code (collectively, the "Chapter 11 Cases").

7. On April 16, 2010, the Court entered an order authorizing the joint administration of the Chapter 11 Cases for procedural purposes pursuant to Bankruptcy Rule 1015(b) [Docket No. 36]. The Chapter 11 Cases were jointly administered as Case Number 10-11963 (CGM).

THE PARTIES

8. The Debtors are legal entities which provided health care services through the Petition Date. The Debtors' principal offices were in and subject to the laws of the State of New York.

9. Defendant is a corporation or other legal entity.

FACTUAL BACKGROUND

10. Founded by the Sisters of Charity in 1849, the Debtors as of the Petition Date and immediately prior, were an acute care hospital network in New York City.

11. As of the Petition Date and immediately prior to the Petition Date, the Debtors operated St. Vincents Hospital in Manhattan and provided numerous other health care services, including a behavioral health facility, nursing homes, continuing health facilities, a hospice, a home health agency and a military health plan serving active duty dependants, retirees and their families. Additionally, the Debtors operated certain physician related affiliates, provided specialized care across fourteen (14) clinical departments, and were affiliated with eighteen (18) licensed behavioral health and

community medicine programs and six (6) ambulatory care providers in Manhattan, including the Comprehensive Cancer Center, an HIV center and a wound care center.

12. Saint Vincent's Catholic Medical Centers of New York and its then debtor and non debtor affiliates emerged from Chapter 11 in the summer of 2007 subject to over $1 billion of liabilities. After emergence, management attempted to increase their revenue, improve their operations and reduce costs. Despite these efforts the Debtors' revenue remained constant and the Debtors incurred operating losses of approximately $49 million in 2008 and approximately $116 million in 2009.

13. The Debtors' cash management system was an integrated network of bank accounts organized to collect, concentrate and transfer funds generated by the Debtor, as well as to disburse funds to satisfy the obligations of the Debtors. The Debtors maintained several bank accounts, including disbursement accounts and operating accounts maintained at TD Bank, JPMorgan Chase Bank, Amalgamated Bank and Bank of America[92] (the "Disbursement Accounts"). The Debtors made payments to their vendors, tax jurisdictions and customers from the Disbursement Accounts.

14. In the ordinary course of their businesses, the Debtors, as providers of health care services, maintained business relationships with various entities, through which the Debtors regularly purchased, sold, received, or delivered goods and services.

15. As providers of health care services, the Debtors regularly purchased goods from various entities, including vendors, creditors, suppliers and

---

[92] For a full description of the Debtors' cash management system and listing of the accounts involved in the cash management system see Motion of Debtors for Interim and Final Orders (A) Authorizing Continued Use of Existing Cash Management Systems; (B) Honoring Certain Prepetition Obligations of the Debtors Related to the Cash Management System; (C) Maintaining the Existing Bank Accounts; (D) Continuing Use of Existing Business Forms; (E) Waiving Investment and Deposit Guidelines of Bankruptcy Code Section 345(b); and (F) Scheduling a Final Hearing and Exhibit B thereto.

distributors. The Debtors, as providers of health care services, also regularly paid for services used to facilitate their business.

16. During the ninety (90) days before the Petition Date, that is between January 14, 2010 and April 14, 2010 (the "Preference Period"), the Debtors continued to operate their business affairs, including the transfer of property, either by checks, cashier checks, wire transfers, direct deposit or otherwise to certain entities.

17. During the course of their relationship, the Debtors and Defendant entered into agreements, which are evidenced by invoices, communications and other documents (collectively, the "Agreements"). The details of each of the Agreements paid for during the Preference Period are set forth on Exhibits "1" and "2".

18. The Debtors and Defendant conducted business with one another up to and through the Petition Date pursuant to the Agreements.

19. As identified in the Agreements, the Debtors purchased goods and/or services from Defendant.

20. Plaintiffs have completed an analysis of all readily available information of the Debtors and are seeking to avoid all of the transfers of an interest of the Debtors' property made by the Debtors to Defendant within the Preference Period.

21. Plaintiffs have determined that the Debtors made transfers of an interest of the Debtors' property to or for the benefit of Defendant during the Preference Period as set forth on Exhibit "1" (the "Transfers").

22. During the course of this proceeding, Plaintiffs may learn (through discovery or otherwise) of additional transfers made to Defendant during the Preference Period. It is Plaintiffs' intention to avoid and recover all transfers made by the Debtors of an interest of the Debtors in property and to or for the benefit of Defendant or any other transferee. Plaintiffs reserve their right to amend this original

Complaint to include: (i) further information regarding the Transfers, (ii) additional transfers, (iii) modifications of and/or revisions to Defendant's name, (iv) additional defendants, and/or (v) additional causes of action (e.g., but not exclusively, Bankruptcy Code sections 542, 544, 545, 548 and/or 549) (collectively, the "Amendments"), that may become known to Plaintiffs at any time during this adversary proceeding, through formal discovery or otherwise, and for the Amendments to relate back to this original Complaint.

23. Plaintiffs acknowledge that some of the Transfers might be subject to defenses under Bankruptcy Code section 547(c), for which Defendant bears the burden of proof under Bankruptcy Code section 547(g).

COUNT I
(Avoidance of Preferential Transfers)

24. Plaintiffs repeat, re-allege and incorporate by reference the allegations contained in paragraphs 1 through 23 of this Complaint as if fully re-alleged herein.

25. During the Preference Period, Plaintiffs that are identified in Exhibit "1" annexed hereto made, or caused to be made, the Transfers to Defendant. Each Transfer was paid from the Disbursement Accounts described *supra*.

26. During the Preference Period, Defendant was a creditor at the time of each Transfer by virtue of supplying goods and/or services for which the identified Plaintiffs were obligated to pay in accordance with the Agreements. *See* Exhibit "2."

27. The Transfers were transfers of an interest in the Plaintiffs' property.

28. Each Transfer was to or for the benefit of a creditor within the meaning of Bankruptcy Code section 547(b)(1) because each Transfer either reduced or

fully satisfied a debt or debts then owed by the Debtor(s) identified on Exhibit "2". *See* Exhibit "2."

29. The Debtors made, or caused to be made, each Transfer for, or on account of, antecedent debt(s) that were owed to Defendant by one or more of the Debtors prior to the dates on which the Transfers were made (the "Debt") as asserted by Defendant and memorialized in the Agreements, each of which constituted a "debt" or "claim" (as those terms are defined in the Bankruptcy Code) of Defendant prior to being paid by the Debtor(s). *See* Exhibit "2".

30. Each Transfer was made while the Debtors were insolvent. Plaintiffs are entitled to the presumption of insolvency for each Transfer made during the Preference Period pursuant to Bankruptcy Code section 547(f). Further, as evidenced by the Debtors' schedules filed with the Debtors' Chapter 11 petition, as well as the proofs of claim that have been received to date by the Debtors, the Debtors' liabilities exceed their assets. It is estimated that general unsecured creditors will receive less than full value on account of their claims against the Debtors.

31. The Transfers enabled Defendant to receive more than it would have received if: (i) the Bankruptcy Cases were administered under chapter 7 of the Bankruptcy Code; (ii) the Transfers had not been made; and (iii) Defendant had received payment of the Debt to the extent provided by the Bankruptcy Code.

32. Defendant was the initial transferee of the Transfers, or the entity for whose benefit the Transfers were made, or was the immediate or mediate transferee of the initial transferee receiving the Transfers.

33. Based upon the foregoing, the Transfers constitute avoidable preferential transfers pursuant to Bankruptcy Code section 547(b).

COUNT II
(Avoidance of Fraudulent Transfer)

34. Plaintiffs repeat, re-allege and incorporate by reference the allegations contained in paragraphs 1 through 33 of this Complaint as if fully re-alleged herein.

35. The Transfers were made within two (2) years prior to the Petition Date.

36. The Transfers were to, or for the benefit of, the Defendant.

37. Subject to proof, Plaintiffs plead, in the alternative, that to the extent one or more of the Transfers as identified in Exhibit "1" were not on account of an antecedent debt or a prepayment for goods and/or services subsequently received, Plaintiffs did not receive reasonably equivalent value in exchange for such transfer(s) (the "Potentially Fraudulent Transfers"), either (a) because the services and/or goods were in fact less in value than the transfer(s) or (b) because the listed Plaintiffs were not the Debtor incurring the debt and Plaintiffs were: (i) insolvent on the date(s) of the Transfer(s) or became insolvent as a result of the Transfer(s); and/or (ii) engaged in business or a transaction for which any property remaining with Plaintiffs was an unreasonably small capital at the time of, or as a result of, the Transfers; and/or (iii) the Plaintiffs intended to incur, or believed that the Debtors would incur, debts that would be beyond Plaintiffs' ability to pay as such debts matured.

38. In accordance with the foregoing, the Potentially Fraudulent Transfers are avoidable pursuant to Bankruptcy Code section 548(a)(1)(B).

COUNT III
(Recovery of Avoided Transfers)

39. Plaintiffs repeat, re-allege and incorporate by reference the allegations contained in paragraphs 1 through 38 of this Complaint as if fully re-alleged herein.

40. Plaintiffs are entitled to avoid the Transfers pursuant to Bankruptcy Code section 547(b), and any Potentially Fraudulent Transfers pursuant to Bankruptcy Code section 548. The Transfers, and any Potentially Fraudulent Transfers are collectively referred to herein as "All Avoided Transfers."

41. Defendant was the initial transferee of the All Avoided Transfers or the immediate or mediate transferee of such initial transferee or the person for whose benefit All Avoided Transfers were made.

42. Pursuant to Bankruptcy Code section 550(a), Plaintiffs are entitled to recover from Defendant All Avoided Transfers, plus interest thereon to the date of payment and the costs of this action.

COUNT IV
(Disallowance of Claims)

43. Plaintiffs repeat, re-allege and incorporate by reference the allegations contained in paragraphs 1 through 42 of this Complaint as if fully re-alleged herein.

44. Defendant is a transferee of All Avoided Transfers avoidable under Bankruptcy Code sections 547 and 548.

45. Defendant is an entity from which property is recoverable under Bankruptcy Code section 550.

46. Defendant has not paid the amount of the All Avoided Transfers, or turned over such property, for which Defendant is liable under Bankruptcy Code section 550.

47. Based upon the foregoing and pursuant to Bankruptcy Code section 502(d), any and all Claims of Defendant and/or its assignee, against the Debtors' chapter 11 estates must be disallowed until such time as Defendant pays to Plaintiff an amount equal to the aggregate amount of All Avoided Transfers, plus interest thereon and costs.

48. Based on the foregoing and pursuant to Bankruptcy Code section 502(j), any and all Claims of Defendant, and/or its assignee, against the Debtors' chapter 11 estates previously allowed by the Debtors, must be reconsidered and disallowed until such time as Defendant pays to Plaintiff an amount equal to the aggregate amount of all the All Avoided Transfers.

WHEREFORE, Plaintiffs request that this Court grant them the following relief against Defendant:

As to Counts I through IV, that the Court enter a judgment against Defendant:

a. That All Avoided Transfers avoidable under Bankruptcy Code sections 547 and/or 548 be avoided;

b. That All Avoided Transfers, to the extent that they are avoided pursuant to Bankruptcy Code sections 547and/or 548, be recovered by Plaintiff pursuant to Bankruptcy Code section 550;

c. Disallowing, in accordance with Bankruptcy Code section 502(d), any Claims held by Defendant and/or its assignee until Defendant satisfies the judgment;

d. Disallowing, in accordance with Bankruptcy Code section 502(j), any Claims held by Defendant and/or its assignee until Defendant satisfies the judgment;

e. Awarding pre judgment interest at the maximum legal rate running from the date of each All Avoided Transfers to the date of judgment herein;

f. Awarding post judgment interest at the maximum legal rate running from the date of judgment herein until the date the judgment is paid in full, plus costs;

g. Requiring Defendant to pay forthwith the judgment amount awarded in favor of Plaintiffs; and

h. Granting Plaintiffs such other and further relief as the Court deems just and proper.

DATED: New York, New York
April 10, 2012

SAINT VINCENTS CATHOLIC
MEDICAL CENTERS OF NEW YORK,
et al.,
the Debtors and Debtors in Possession,
By their Conflicts Counsel,
TOGUT, SEGAL & SEGAL LLP
By:

/s/Frank A. Oswald
FRANK A. OSWALD
BRIAN F. MOORE
DAVID M. SMITH
One Penn Plaza, Suite 3335
New York, New York 10119
(212) 594-5000

EXHIBIT "1"

SAINT VINCENTS CATHOLIC MEDICAL CENTERS OF NEW YORK, *et al.*

vs.

Healthcare Management Solutions LLC

Date of Transfer	Check or Wire No.	Transfer Amount	Transfer Type	Debtor
1/25/2010	159758	$29,601.00	Check	Saint Vincents Catholic Medical Centers of New York
1/29/2010	159836	$9,487.50	Check	Saint Vincents Catholic Medical Centers of New York
3/10/2010	161384	$16,318.50	Check	Saint Vincents Catholic Medical Centers of New York
4/8/2010	163153	$14,916.79	Check	Saint Vincents Catholic Medical Centers of New York
4/8/2010	163154	$9,867.00	Check	Saint Vincents Catholic Medical Centers of New York

TOTAL: $80,190.79

EXHIBIT "2"

SAINT VINCENTS CATHOLIC MEDICAL CENTERS OF NEW YORK, *et al.*
vs.

Healthcare Management Solutions LLC

Check or Wire No.	Invoice Paid Amount	Invoice Date	Invoice No.
159758	$4,680.50	12/28/2009	SVCMC-1147
159758	$7,590.00	12/28/2009	SVCMC-1148
159758	$17,330.50	12/14/2009	SVCMC-1146
159836	$9,487.50	1/25/2010	SVCMC-1149
161384	$6,831.00	2/17/2010	SVCMC-1151
161384	$9,487.50	2/3/2010	SVCMC-1150
163153	$14,916.79	3/18/2010	SVCMC-1153
163154	$9,867.00	3/3/2010	SVCMC-1152

TOTAL: $80,190.79