

Robert Yaquinto, Jr.  
State Bar No. 22115750  
SHERMAN & YAQUINTO, L.L.P.  
509 N. Montclair Avenue  
Dallas, Texas 75208-5498  
214/942-5502 Fax: 214/946-7601  
ATTORNEYS FOR HARDIE'S FRUIT AND VEGETABLE CO. LP  
D/B/A HARDIE'S FRESH FOODS

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:

CCC WIND DOWN, INC. F/K/A CHRISTIAN  
CARE CENTERS, INC. and CHRISTIAN CARE  
CENTERS FOUNDATION, INC.  
*et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 22-80000-sgj11

Jointly Administered

**APPLICATION OF HARDIE'S FRUIT & VEGETABLE CO. LP D/B/A HARDIE'S  
FRESH FOODS FOR ALLOWANCE AND PAYMENT OF  
ADMINISTRATIVE EXPENSE CLAIMS UNDER §§ 503(b)(1)(A)**

ANY PARTY WISHING TO RESPOND TO THIS APPLICATION MUST FILE THE RESPONSE WITH THE U.S. BANKRUPTCY CLERK, ROOM 1254, 1100 COMMERCE STREET, DALLAS, TX 75242, AND SERVE A COPY ON ROBERT YAQUINTO, JR. AT 509 N. MONTCLAIR AVENUE, DALLAS, TX 75208, WITHIN 21 DAYS OF THE SERVICE OF THIS APPLICATION. IF A RESPONSE IS FILED AND SERVED TIMELY, A HEARING ON THE RESPONSE WILL BE SCHEDULED WITH A NOTICE TO THE RESPONDING PARTY ONLY.

IF NO RESPONSE IS FILED AND TIMELY SERVED ON ROBERT YAQUINTO, JR., THE COURT MAY DEEM THE RELIEF REQUESTED UNOPPOSED AND MAY ENTER AN ORDER GRANTING THE RELIEF REQUESTED WITHOUT FURTHER NOTICE TO ANY PARTY.

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are CCC Wind Down, Inc., f/k/a Christian Care Centers, Inc. (9664) and Christian Care Centers Foundation (3572). The Debtors' mailing address is 900 Wiggins Parkway, Mesquite TX 75150.

**COMES NOW**, Creditor Hardie’s Fruit & Vegetable Co. LP (“Hardie’s”), by and through its undersigned counsel, and hereby files this *Application for Allowance and Payment of Administrative Expense Claim Under §§ 503(b)(1)(A)* (the “Application”) pursuant to Section 503 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (as amended, the “Bankruptcy Code”) for allowance and payment of an administrative expense claim in the amount of \$8,807.10, and in support states as follows:

### **I. BACKGROUND**

1. On or about May 23, 2022 (the “Petition Date”), the Debtors each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

2. The Debtors continued to operate their business and manage their financial affairs as debtors-in-possession pursuant to Bankruptcy Code sections 1108 and 1109.

3. As applicable to this action, Hardie’s supplied food and foodservice related products to the Debtors before and after the Petition Date for use in the Debtors’ operations in the ordinary course of the Debtors’ business. Hardie’s has timely filed its Proof of Claim asserting its pre-petition general unsecured claim in the amount of \$17,721.39 and its administrative expense claim under 11 U.S.C. § 503(b)(9) in the amount of \$7,783.61. *See* Proof of Claim No. 10054.

4. Subsequent to the Petition Date, Hardie’s continued to service Debtors’ locations. Hardie’s is owed \$8,807.10, for these deliveries, which sum constitutes an administrative expense claim under 11 U.S.C. § 503(b)(1)(A). Hardie’s statement of account, is annexed hereto as Exhibit A.

5. As of the date of filing of this Application, Hardie’s has not received payment on the post-petition amount due of \$8,807.10 (the “Post-Petition Administrative Claim”).

6. The Debtors' First Amended Chapter 11 Plan of Liquidation [Dkt No. 404] ("Plan"), was confirmed by Order entered January 30, 2023 (the "Confirmation Order") [Dkt. No. 419]. Under the terms of the Confirmation Order, the deadline for filing an application for allowance and payment of an Administrative Claim<sup>2</sup> was set at March 16, 2023. Confirmation Order, p. 34 [Dkt. No. 419].

7. The Debtors agreed to pay for the food and foodservice related products under the invoice terms established with Hardie's, and to date no payment has been made by the Debtors for the amounts due for the goods covered by these invoices.

## **II. JURISDICTION & VENUE**

8. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

9. The venue of the bankruptcy case and this Motion are proper pursuant to 28 U.S.C. §§ 1408 and 1409.

## **III. RELIEF REQUESTED**

10. By this Application, Hardie's respectfully requests that the Court allow its Post-Petition Administrative Claim in the amount of \$8,807.10 and direct the immediate payment thereof.

## **IV. ARGUMENT**

11. Hardie's is entitled to a post-petition administrative claim against the Debtors' estate because the post-petition goods provided by Hardie's were actual and necessary costs and expenses incurred to preserve Debtors' estate. Further, these goods provided a benefit to Debtors' estate. Therefore, the Post-Petition Administrative Claim should be allowed in its full amount.

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<sup>2</sup> Unless otherwise defined herein, capitalized terms shall have the same meaning as in the Plan.

12. Section 503(b)(1)(A) of the Bankruptcy Code provides for the allowance of an administrative expense claim for “the actual, necessary costs and expenses of preserving the [debtor’s] estate . . . rendered after the commencement of the case.” 11 U.S.C. § 503(b)(1)(A). In *Toma Steel Supply, Inc. v. TransAmerican Nat. Gas Corp. (In re TransAmerican Nat. Gas Corp.)*, 978 F.2d 1409, 1416 (5th Cir. 1992), the Fifth Circuit noted that the purpose of this section is to encourage “third parties to provide necessary goods and services to the debtor-in-possession so that it can continue to conduct its business, thus generating funds from which prepetition creditors can be paid.” *In re TransAmerican Nat. Gas Corp.*, 978 F.2d at 1420. “[T]o qualify as an ‘actual and necessary cost’ under section 503(b)(1)(A), a claim against the estate must have arisen post-petition and as a result of actions taken by the trustee [or debtor-in-possession] that benefitted the estate.” *In re Jack/Wade Drilling, Inc.*, 258 F.3d 385, 387 (5th Cir. 2001). A “prima facie case under § 503(b)(1) may be established by evidence that (1) the claim arises from a transaction with the debtor-in-possession; and (2) the goods or services supplied enhanced the ability of the debtor-in-possession’s business to function.” *In re TransAmerican Nat. Gas Corp.*, 978 F.2d at 1416.

13. Hardie’s satisfies the requirements of section 503(b)(1)(A) of the Bankruptcy Code and the *TransAmerican* standard because (i) the amounts for which Hardie’s seeks allowance as an administrative expense claim arose in connection with goods Hardie’s provided to Debtors post-petition and (ii) these goods provided a benefit to Debtors’ estate.

14. As set forth in the documents attached as Exhibit A to this Application, the Post-Petition Administrative Claim relates to the post-petition goods provided by Hardie’s to Debtors. Therefore, the first prong of the *TransAmerican* test is satisfied.

15. The post-petition goods provided by Hardie’s to Debtors facilitated Debtors’ ability to continue operations and preserve its estate. Accordingly, Debtors’ estate benefitted

from Hardie's continued post-petition servicing of the Debtors' operations, and the second prong of the *TransAmerican* test is satisfied.

16. Hardie's has satisfied both prongs of the *TransAmerican* test. Accordingly, it is entitled to an allowed administrative expense claim pursuant to § 503(b)(1)(A) in the amount of \$8,807.10.

17. Hardie's Post-Petition Administrative Claim is not subject to any setoff or counterclaim.

18. Hardie's is entitled to immediate payment of the Post-Petition Administrative Claim.

**WHEREFORE**, Hardie's respectfully requests this Court enter an order, in the form attached hereto, (i) granting Hardie's an allowed administrative expense claim pursuant to section 503(b)(1)(A) of the Bankruptcy Code in the amount of \$8,807.10; and (ii) ordering the immediate payment of the Post-Petition Administrative Claim in the amount of \$8,807.10; and (iii) granting Hardie's such other and further relief as the Court deems just and proper.

Dated: March 15, 2023.

**SHERMAN & YAQUINTO, LLP**

/s/ Robert Yaquinto, Jr.

Robert Yaquinto, Jr. (No. 22115750)

509 North Montclair Avenue

Dallas, Texas 75208

Telephone: (214) 942-5502

Facsimile: (214) 946-7601

[rob@syllp.com](mailto:rob@syllp.com)

**CERTIFICATE OF SERVICE**

I, Robert Yaquinto, Jr., do hereby certify on this 15<sup>th</sup> day of March, 2023, a copy of the foregoing *Application for Allowance and Payment of Administrative Expense Claim Under §§ 503(b)(1)(A)* was served upon all counsel of record who have subscribed to the Court's CM/ECF system via electronic transmission.

By: /s/ Robert Yaquinto, Jr.  
Robert Yaquinto, Jr.

## EXHIBIT A



Phone: 214-426-5666  
 Fax: 214-421-2222  
 Accounting: 214-247-0409  
 Email: arsupport@hardies.com

## CUSTOMER STATEMENT

DATE  
 CUSTOMER CODE

03/14/23
CCC003
1 of 4

Remit to:

P.O. Box 671554, DALLAS, TX 75267-1554

Christian Care Centers, Inc (P)  
 Christian Care Communities  
 900 Wiggins Parkway  
 Mesquite, TX 75150

Amount Enclosed

INVOICE #	INVOICE DATE	CODE	DESCRIPTION	AMOUNT	BALANCE	FORWARD
<b>CCC003- Christian Care Centers, Inc (P)</b>						
05456150	02/08/23	I		220.42	220.42	220.42
U0003578	06/13/22	UA	ACH	(17.55)	(17.55)	202.87
U0003691	08/01/22	UA	ACH	(41.31)	(41.31)	161.56
U0003712	08/08/22	UA	ACH	(24.56)	(24.56)	137.00
U0003760	08/22/22	UA	ACH	(50.08)	(50.08)	86.92
U0003845	09/19/22	UA	ACH	(437.06)		(350.14)
	09/22/22	P	pymt offset per cust	394.16	(42.90)	44.02
U0003934	10/24/22	UA	ACH	(650.93)		(606.91)
	11/10/22	P	apply ua	628.79	(22.14)	21.88
U0003951	10/31/22	UA	ACH	(902.72)	(902.72)	(880.84)
U0004035	12/01/22	UA	ACH	(27.75)	(27.75)	(908.59)
U0004036	12/01/22	UA	ACH	(435.70)	(435.70)	(1,344.29)
U0004160	01/18/23	UA	ACH	(339.23)	(339.23)	(1,683.52)
<b>HPSI17- HPSI-SL CCC&amp;S Greenway Villa</b>						
05198499	06/18/22	I	P.O. 61822JP	686.09		(997.43)
	06/21/22	C	CM:00483322	(28.94)		(1,026.37)
<b>Current</b>	<b>1 - 30</b>	<b>31 - 60</b>	<b>61 - 90</b>	<b>91 - 120</b>	<b>Over 120</b>	<b>Statement</b>
CONT	CONT	CONT	CONT	CONT	CONT	<b>Total</b>
						<b>CONT</b>

## TERMS AND CONDITIONS

The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.

Interest at 10% added to unpaid balance. Interest and attorneys fees necessary to collect any balance due hereunder shall be considered sums owing in connection with this transaction under the PACA trust.

## CREDIT CODES

D=DR Memo I=Invoice F=Finance Charge  
 C=CR Memo P=Payment A=Discount Allowed  
 J=Adjustment

This statement may not represent all payments you have submitted as there could be payment which has not yet been posted to your account.





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CCC003
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Christian Care Centers, Inc (P)  
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 900 Wiggins Parkway  
 Mesquite, TX 75150

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 Amount Enclosed

INVOICE #	INVOICE DATE	CODE	DESCRIPTION	AMOUNT	BALANCE	FORWARD
05319865	07/12/22	P	ACH	(686.09)		(1,712.46)
	09/22/22	P	pymt offset per cust	12.41	(16.53)	(1,700.05)
	10/11/22	I		378.47		(1,321.58)
	11/15/22	P	ACH	(410.80)	(32.33)	(1,732.38)
<b>HPSI18- HPSI-SL CCC&amp;S Allen</b>						
05372779	11/23/22	I		345.67	345.67	(1,386.71)
05376661	11/29/22	I		887.97	887.97	(498.74)
05382311	12/03/22	I		411.06	411.06	(87.68)
05386972	12/07/22	I		985.49	985.49	897.81
05430061	01/17/23	I	1061	565.57		1,463.38
	02/27/23	P		(566.57)	(1.00)	896.81
05439874	01/25/23	I		473.15	473.15	1,369.96
05442413	01/27/23	I		592.05	592.05	1,962.01
<b>HPSI19- HPSI-SL CCC&amp;S Nursing &amp; Rehab</b>						
05442579	01/30/23	I	P.O. N&R	271.96	271.96	2,233.97
<b>HPSI20- HPSI-SL CCC&amp;S Lakewood Village</b>						
05361591	11/14/22	I		630.30		2,864.27
<b>Current</b>	<b>1 - 30</b>	<b>31 - 60</b>	<b>61 - 90</b>	<b>91 - 120</b>	<b>Over 120</b>	<b>Statement</b>
CONT	CONT	CONT	CONT	CONT	CONT	<b>Total</b>
						<b>CONT</b>

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INVOICE #	INVOICE DATE	CODE	DESCRIPTION	AMOUNT	BALANCE	FORWARD
	11/14/22	C	CM:00500479	(45.00)		2,819.27
	12/12/22	P	ACH	(630.30)	(45.00)	2,188.97
05372636	11/23/22	I		290.92	290.92	2,479.89
05373456	11/25/22	I		427.53	427.53	2,907.42
05374507	11/26/22	I		516.91	516.91	3,424.33
05377362	11/29/22	I		807.09	807.09	4,231.42
05402826	12/21/22	I		161.04	161.04	4,392.46
05419298	01/07/23	I		406.89	406.89	4,799.35
05425023	01/12/23	I		224.94	224.94	5,024.29
05425068	01/12/23	I		47.82	47.82	5,072.11
05428033	01/14/23	I		117.96	117.96	5,190.07
05428401	01/16/23	I		333.14	333.14	5,523.21
05432430	01/18/23	I		513.69	513.69	6,036.90
05434793	01/20/23	I		237.99	237.99	6,274.89
05436153	01/21/23	I		279.55	279.55	6,554.44
05437668	01/23/23	I		425.39	425.39	6,979.83
<b>Current</b>	<b>1 - 30</b>	<b>31 - 60</b>	<b>61 - 90</b>	<b>91 - 120</b>	<b>Over 120</b>	<b>Statement</b>
CONT	CONT	CONT	CONT	CONT	CONT	<b>Total</b>
						<b>CONT</b>

**TERMS AND CONDITIONS**

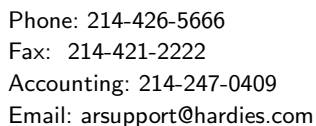
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03/14/23
CCC003
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Amount Enclosed

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