

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE: GRUPO HIMA SAN PABLO, INC. DEBTOR (EIN #8245)	CASE No. 23-02510 ESL CHAPTER 11
IN RE: CENTRO MÉDICO DEL TURABO, INC. DEBTOR (EIN #5905)	CASE No. 23-02513 ESL CHAPTER 11

**DEBTOR’S MOTION FOR ENTRY OF AN ORDER
AUTHORIZING THE DEBTORS TO DESIGNATE AND
COMPENSATE PROFESSIONAL UTILIZED IN THE
ORDINARY COURSE OF BUSINESS**

FIRM/AGENT: SJU HEALTHCARE CONSULTING, LLC

TO THE HONORABLE COURT:

COMES NOW, GRUPO HIMA SAN PABLO, INC., (Debtor) appearing as the debtor in possession in this case, and hereby applies to the Court for the approval of SJU HEALTHCARE CONSULTING, LLC (“SJU” or “Firm” or “Agent”) to act as a duly authorized Collection Agent for Debtor and its affiliates and related parties (“Debtors”), and who respectfully states and prays as follows:

I. INTRODUCTION

1. Debtors filed their petition for relief under Chapter 11 of the Bankruptcy Code on August 15, 2023. The Debtors continue to operate their business as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. (Docket entry No. 1).

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2. As has been reiterated, the Debtors commenced the Chapter 11 Cases to facilitate a timely and efficient sale process aimed at maximizing the value of the Debtors' estates for the benefit of all stakeholders. At this time, all healthcare facilities once owned by the Debtors have been transferred to independent parties as further Ordered by the Court.
3. Following the cease of active operations of each medical facility and within the ordinary course of Debtors' healthcare business, the Debtors are now attempting to collect millions of dollars in outstanding receivables due from patients and insurance providers through different forums available for completing these recoveries for the benefit of the debtors, creditors and related parties.
4. In furtherance of complying with this operational requirement, Debtors have retained the services of SJU to assist in providing revenue cycle consulting, collection management strategies, and the initiation, implementation and/or management of collection and related actions on past due accounts owed to these debtors and bankruptcy estates. SJU is paid on a contingency basis from collection recoveries as is customary with collection agencies.
5. SJU will pay all of its operating costs, including professional fees and expenses for services it employs arising out of any required litigation or other actions for its collection efforts for Debtors from its funds and/or contingent fees, including all lawyers, experts or other professionals retained by SJU for the collection of receivables undertaken by SJU ("SJU Professionals"). It is the Debtors' duty to maximize the value of the estate and because these recovery transactions are a complex and crucial task of administration, the services provided by SJU are necessary to properly fulfill this bankruptcy process.
6. Now, within the recommendations received from SJU and given the reiterated delays on payment by some insurance companies and other parties, litigation, administrative and

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other enforcement actions either needs to resume or commence in judicial, administrative and governmental forums to force compliance with the contractual and other payment, repayment and/or reimbursement obligations and other debts owed to the debtors.

7. The services to be rendered by a collection agent were always necessary for the day-to-day operations of the Debtors business. Upon filing of the related bankruptcy petitions and the transfer of all business units Debtors request that the Honorable Court enters an order, substantially in the form attached hereto as **Exhibit A** (the “**Order**”): authorizing the Debtors to retain and compensate SJU on a post-petition basis in accordance with the terms and conditions proposed.

8. SJU has and/or seeks to employ, **at its expense as SJU Professionals**, the law offices of McCarthy Wilson, LLP, the law offices of Casellas, Alcover & Burgos, P.S.C., and Morales and Boscio Law Offices, P.S.C., to act as Counsel for SJU in service to Debtors through its requested agency appointment and agreement with Debtors for collection efforts. SJU intends to evaluate any and all local or federal actions against the insurance companies and liable parties, including but not limited to amounts owed, interest, penalties, bad faith claims, fraud claims, and to assess economic damages as a result of the insurance companies’ wrongful withholding of payments to HIMA, resulting in their lack of liquidity and subsequent bankruptcy. SJU chose these firms since they are experienced in these areas and well-qualified to perform the work required in this case.

9. SJU seeks to employ Galindez, LLC, **at its expense and as SJU Professionals**, for professional services, including consulting services, expert witness services and litigation support, in connection with any act required to assist all such collection actions, such as calculating and providing expert testimony as to all interest, penalties and economic harm,

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including but not limited to the collapse of Debtor's business operations. Specifically, all identified counsel and experts are being retained to assist the recovery from medical plans' outstanding claims due to the estate, including monies, property or any other amounts owed by insurance healthcare providers, affiliates or agents, as a result of contractual obligations, services provided, claims resolution, settlement agreements or any judgments obtained

II. SCOPE OF APPLICATION ON LITIGATION PROCEEDINGS

10. At the moment, the engagement will include (but not limited to) legal proceedings detailed below:

- CMT v. UTICORP, MOLINA, 18- BN-03-001/18-BN-09-067 (before ASES¹);
- CMT v. MOLINA et al, 21-V-06-734 (before ASES);
- CMT v. MOLINA et al, SJ2021CV03145; and,
- Molina Healthcare of Puerto Rico, Inc. v. ASES, SJ2021CV05150 (Intervenor).
- CMT v. TSS, TSA, SJ2022CV8183 (consolidated), pertaining to the collection of claims filed for the period 2018, and the collection complaints to be filed for the periods 2019-up to present;
- MSO of Puerto Rico, LLC/MMM Healthcare LLC ("MMM"), pertaining to the Claims asserted in the collection letter dated October 18, 2023, to Dr. Raul Maldonado, Outstanding Balances 2019-up to present

11. It is anticipated that this engagement will include the pursuit of other and additional legal matters, supplemented in the future with additional legal proceedings and other

¹ ASES is the Spanish acronym for the Puerto Rico Health Insurance Administration, the Medicaid agency charged with the administration of the Government Health Plan.

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actions entrusted to this Agent for initiation, implementation, management and/or collection.

III. GENERAL TERMS OF THE APPLICATION

12. The Debtors propose the following procedure for the retention and compensation of the SJU for the services to be rendered for the benefit of the Debtors:

13. SJU has executed in support for this retention a **Declaration of disinterestedness**, in the form annexed as **Exhibit B** (the “Declaration of Disinterestedness”), to be filed with the Court and served upon all interested parties.

14. Parties in interest shall have **14 days** after the date of filing of SJU Declaration of Disinterestedness (the “**Objection Deadline**”) to object to the retention or employment of the collection agent. The objecting party shall file any such objection and serve such objection upon the counsel for the Debtors and all interested parties on or before the Objection Deadline. If such objection cannot be resolved within the prescribed deadline, the matter shall be scheduled for hearing before the Court at the next regularly scheduled hearing date that is no less than 14 days from the date or on a date otherwise agreeable to the parties.

15. If no objection is received by the Objection Deadline with respect to SJU’s application, the Debtors shall be authorized to: retain or employ SJU as of the date SJU commenced providing services to the Debtors; and compensate SJU as set forth herein.

16. The Debtors shall be authorized to pay, without formal application to the Court, 100% of fees and disbursements to SJU upon submission to the Debtors of an appropriate invoice setting forth in reasonable detail the nature of the services rendered after the Petition Date and receipt by the Debtors of any reimbursement resulting from the services provided.

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17. The foregoing proposed ordinary course retention or employment and compensation procedures shall not apply to those professionals for whom the Debtors files or will file separate applications for approval of employment, such as the Debtor's proposed bankruptcy counsel and/or financial restructuring advisors.

BASIS FOR RELIEF

18. Section 327 of the Bankruptcy Code requires court approval for the employment of "professional persons," retained to represent or perform services of the estate. 11 U.S.C. § 327.

19. In determining whether an entity is a "professional" within the meaning of section 327 of the Bankruptcy Code and, therefore, must be retained by express approval of the court, the test courts generally consider is whether such entity is involved in the actual reorganization process, rather than the debtor's ongoing business operation. *See, e.g., Comm. of Asbestos-Related Litigants v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 619 (Bankr. S.D.N.Y. 1986) ("[T]he phrase 'professional persons,' as used in § 327(a), is a term of art reserved for those persons who play an intimate role in the reorganization of a debtor's estate."). In making this determination, courts often consider the following factors in determining whether an entity is a "professional" within the meaning of section 327 of the Bankruptcy Code:

- a. whether the entity controls, manages, administers, invests, purchases or sells assets significantly related to debtor's reorganization;
- b. whether the entity is involved in negotiating the terms of a plan of reorganization;
- c. whether the entity is directly related to the type of work carried out by the

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- debtor or to the routine maintenance of the debtor's business operation;
- d. whether the entity is given discretion or autonomy to exercise his or her own professional judgement in some parts of the administration of debtor's estate;
 - e. the extent of the entity's involvement in the administration of the debtor's estate; and
 - f. whether the entity's services involve some degree of special knowledge or skill, such that it can be considered a "professional" within the ordinary meaning of the term.

See, e.g., In re First Merchs. Acceptance Corp., No. 97-1500, 1997 WL 873551, at *3 (D. Del. Dec. 15, 1997) (listing factors); *In re Sieling Assocs. Ltd. P'ship*, 128 B.R. 721, 723 (Bankr. E.D. Va. 1991) (authorizing the debtor to retain an environmental consultant in the ordinary course of business); *In re Riker Indus., Inc.*, 122 B.R. 964, 973 (Bankr. N.D. Ohio 1990) (not requiring section 327 of the Bankruptcy Code approval of the fees of a management and consulting firm that performed only "routine administrative functions" and whose "services were not central to [the] bankruptcy case"); *In re Fretheim*, 102 B.R. 298, 299 (Bankr. D. Conn. 1989) (only those professionals involved in the actual reorganization effort, rather than debtor's ongoing business, require approval under section 327 of the Bankruptcy Code).

20. The foregoing factors must be considered as a whole when determining if an entity is a "professional" within the meaning of section 327 of the Bankruptcy Code. No factor alone is dispositive. See *First Merchs.*, 1997 WL 873551, at *3 ("In applying these factors, the Court stresses that no one factor is dispositive and that the factors should be weighed against each other and considered in total.").

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21. Upon consideration of all the factors, and because SJU will not be involved in the administration of these chapter 11 cases, the Debtors do not believe that SJU is a “professional” requiring formal retention under section 327 of the Bankruptcy Code. Instead, SJU will provide services in connection with the Debtors’ ongoing business operations, which services are ordinarily provided by non-bankruptcy professionals. Nevertheless, to provide clarity and an opportunity for oversight, the Debtors seek the relief requested herein to establish clear mechanisms for retention and payment of SJU pursuant to the procedures detailed herein and thereby avoid any subsequent controversy with respect thereto.

22. The Debtors represent that (a) the retention of the SJU is necessary for the day-to-day operations of the Debtors’ business, (b) expenses for SJU will be monitored, and (c) SJU will not perform substantial bankruptcy-related services without filing an application with the Court for separate retention as a non-ordinary course professional.

23. Moreover, in light of the significant costs associated with the preparation of retention applications for professionals who will receive relatively modest fees, the Debtors submit that it would be impractical, inefficient, and costly for the Debtors and their legal advisors to prepare and submit individual applications and proposed retention orders to SJU. Therefore, the Debtors submit that it is in the best interests of all creditors and parties in interest to avoid any disruption in the professional services that are required for the day-to-day operation of the Debtors’ business and retain SJU in accordance with the procedures herein detailed.

24. The Debtors do not believe that SJU has an interest materially adverse to the Debtors, their creditors, or other parties in interest. In any event, the procedures detailed herein

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include a requirement that any OCP file a Declaration of Disinterestedness before an OCP can be compensated.

25. The terms of the engagement of said firms agreed to by Debtors and SJU provides that all fees, compensation, and expenses incurred by SJU for its business operations, including all SJU Professionals hired by SJU for its collection work, will be paid by SJU from its own funds (which may include contingency fees paid by Debtors to SJU for its work in these matters), and not by Debtors or the bankruptcy estate. Separate engagement letters on such terms and compensation as provided herein have been executed by SJU and Debtor for these services.

WHEREFORE, the undersigned respectfully request that this Honorable Court authorize Debtor to employ the firm of SJU Healthcare Consulting, LLC, to act as its Collection Agent for this estate to assist in connection with the matters set forth herein, subject to further review and order of this Court.

NOTICE TO ALL PARTIES: within fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY: That on this same date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to: **US Trustee Office, (Monsita Lecaroz Arribas, Esq.)** at ustpre21.hr.ecf@usdoj.gov and to the participants appearing in said record.

I HEREBY CERTIFY: That on this same date a copy of the foregoing document has been mailed to the US Trustee Office, at its address of record.

RESPECTFULLY SUBMITTED

In Guaynabo, Puerto Rico, this 13th of May of 2024.

Lugo Mender Group, LLC

Attorney for Debtor
100 Carr. 165 Suite 501
Guaynabo, P.R. 00968-8052
Tel.: (787) 707-0404
Fax: (787) 707-0412
wluigo@lugomender.com

/S/ Wigberto Lugo Mender

Wigberto Lugo Mender
USDC-PR 212304
wigberto@lugomender.com

/S/ Alexis A. Betancourt

Vincenty
Alexis A. Betancourt
Vincenty
USDC-PR 301304
a.betancourt@lugomender.com

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Exhibit A
PROPOSED ORDER

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE:
GRUPO HIMA SAN PABLO, INC.
DEBTOR (EIN #8245)
IN RE:
CENTRO MÉDICO DEL TURABO, INC.
DEBTOR (EIN #5905)

CASE No. 23-02510 ESL

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**ORDER AUTHORIZING THE DEBTORS TO RETAIN AND COMPENSATE
PROFESSIONALS UTILIZED IN THE ORDINARY COURSE OF BUSINESS**

Upon the motion of the above-captioned debtors and debtors in possession (the “Debtors”) for entry of an order (the “Order”), authorizing the retention and compensation of SJU Healthcare Consulting, LLC (“SJU”) as a professional utilized in the ordinary course of the Debtors’ businesses (the “OCP”), without the necessity for submission of formal retention and fee applications for this entity, as more fully set forth in the Motion; and this court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and this court having found that the relief in the Motion is in the best interests of the Debtor’s estate, their creditors, and other parties in interest; and this Court having found that the Debtor’s notice of the Motion and opportunity for hearing on the Motion were appropriate under the circumstances and that no other notice need to be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefore, it is **HEREBY ORDERED THAT:**

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1. The Motion is granted as set forth in this Order.
2. The Debtors are authorized, but not directed, to retain and compensate the professionals identified as SJU Healthcare Consulting, LLC (“SJU”), pursuant to the following OCP Procedures:
 - a. SJU has caused a declaration of disinterestedness, in the form annexed as **Exhibit B** to the Order (the “Declaration of Disinterestedness”), which has been filed with the Court and served upon all interested parties.
 - b. Notice to parties shall have 14 days after the date of filing of SJU’s Declaration of Disinterestedness (the “Objection Deadline”) to object to the retention or employment of this firm and retention conditions has been provided and upon due notice served, no objection to this application for retention has been received.
 - c. The Debtors shall be authorized to: i.) retain or employ SJU as of the date such entity commenced providing services to the Debtors; and ii.) compensate SJU as set forth herein.
 - d. The Debtors shall be authorized to pay, without formal application to the Court by SJU, 100% of fees and disbursements to SJU retained or employed by Debtors pursuant to the OCP Procedures upon submission to the Debtors of an appropriate invoice setting forth in reasonable detail the nature of the services rendered after the Petition Date.
3. All invoices for fees or expenses submitted by SJU shall clearly state the entity or entities with which such fees or expenses are primarily related.
4. Nothing contained herein shall affect the Debtors’ or any appropriate party in interest’s ability to dispute any invoice submitted by SJU.
5. This Order shall not apply to any professional retained by the Debtors pursuant to a separate order of the Court.
6. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) are satisfied by such notice.

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7. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

9. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

In San Juan, Puerto Rico this ____ of _____ of 2024.

Enrique S. Lamoutte Inclan
U.S. Bankruptcy Judge

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Exhibit B
DECLARATION OF DISINTERESTEDNESS

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE:
GRUPO HIMA SAN PABLO, INC.
DEBTOR (EIN #8245)
IN RE:
CENTRO MÉDICO DEL TURABO, INC.
DEBTOR (EIN #5905)

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CHAPTER 11

**DECLARATION OF DISINTERESTEDNESS OF
PROPOSED ORDINARY COURSE PROFESSIONAL SJU HEALTHCARE
CONSULTING, LLC**

I, Marc. C. Ferrell, President, and CEO of SJU Healthcare Consulting, LLC, (“SJU” and/or “Firm”) declare under penalty of perjury, on behalf of SJU that:

1. SJU is a professional entity, located at 2760 Eisenhower Avenue, Suite 406, Alexandria, VA 22314.
2. Grupo Hima San Pablo, Inc., and its affiliates, as debtors in possession have requested that this firm provide revenue cycle consulting, collection management strategies, and the initiation, implementation and/or management of collection and related actions on past due accounts owed to these debtors and bankruptcy estates, as a Collection Agent to the Debtors, and the Firm has consented to provide such services.

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3. This firm may have performed services in the past, may currently perform services, and may perform services in the future in matters to these chapter 11 cases for persons that are parties in interest in the Debtor's chapter 11 cases. This firm, however, does not perform services for any such persons in connection with these chapter 11 cases, or have any relationship with any such person, their attorneys, or accountants that would be adverse to the Debtors' or their estates.
4. As part of its customary practice, this firm is retained in cases, proceedings, and transactions involving many different parties, some of whom may represent or be employed by the Debtors claimants and parties in interest in these chapter 11 cases.
5. Neither I nor any principal, partner, director, officer, [etc.] of, or professional employed by, this firm has agreed to share or will share any portion of the compensation to be received from the Debtors with any other person other than the principal and regular employees of the Firm.
6. Neither I nor any principal, partner, director, officer, [etc.] of, or professional employed by, the Firm, insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtors or their estates with respect to the matter(s) upon which the Firm is to be employed.
7. The Debtors owe the Firm \$0.00 for prepetition services, the payment of which is subject to limitations contained in title 11 of the United States Code.

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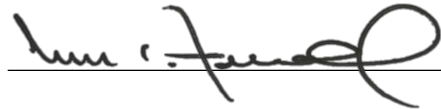
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8. As of the Petition Date, which was the date on which the Debtors commenced these chapter 11 cases, the Firm was not party to an agreement for indemnification with certain of the Debtors
9. The Firm is conducting further inquiries regarding its retention by any creditors of the Debtors, and upon conclusion of that inquiry, or at any time during the period of its employment, if the Firm should discover any facts bearing on the matters described herein, the Firm will supplement the information contained in this Declaration.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: 05/14/24

Respectfully submitted,



Marc C. Ferrell

SJU Healthcare Consulting, LLC