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

In re:

GENESIS HEALTHCARE, INC., *et al.*,<sup>1</sup>

Debtors.

)  
) Chapter 11  
)  
) Case No. 25-80185 (SGJ)  
)  
) (Jointly Administered)  
)  
) Related to Docket Nos. 117, 685, 1692, 1757

**DEBTORS' BRIEF STATEMENT IN SUPPORT OF DEBTORS' PROPOSED  
SALE OF SUBSTANTIALLY ALL ASSETS TO SUCCESSFUL BIDDER**

Genesis Healthcare, Inc. ("Genesis") and certain of its affiliates and subsidiaries, as debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the "Debtors"), hereby file this statement (the "Statement") in support of the Debtors' proposed sale (the "Sale")

<sup>1</sup> The last four digits of Genesis Healthcare, Inc.'s federal tax identification number are 4755. There are 299 Debtors in these chapter 11 cases, which are being jointly administered for procedural purposes only. 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' claims and noticing agent at <https://dm.epiq11.com/Genesis>. The location of Genesis Healthcare, Inc.'s corporate headquarters and the Debtors' service address is 101 East State Street, Kennett Square, PA 19348.

of substantially all of the Debtors' Assets<sup>2</sup> to CPE 88988 LLC, the Stalking Horse Bidder, as the Successful Bidder based on the results of the Auction set forth in the *Notice of Results of Auction and Successful Bidder* [Docket No. 1692] (the "Notice of Successful Bidder") and the revised Stalking Horse APA [Docket No. 1757] (the "Revised Stalking Horse APA").

The Debtors incorporate herein by reference the following declarations (collectively, the "Sale Declarations") filed in support of the Sale:

- (i) *Declaration of Jonathan F. Foster in Support of Debtors' Proposed Sale of Substantially All Assets to the Successful Bidder* [Docket No. 1803] (the "Foster Declaration");
- (ii) *Declaration of William K. Snyder in Support of Debtors' Proposed Sale of Substantially All Assets to the Successful Bidder* [Docket No. 1804] (the "Snyder Declaration");
- (iii) *Declaration of Jeffrey Finger in Support of Debtors' Proposed Sale of Substantially All Assets to the Successful Bidder* [Docket No 1807] (the "Finger Declaration"); and
- (iv) *Declaration of Louis E. Robichaux IV in Support of Debtors' Proposed Sale of Substantially All Assets to the Successful Bidder* [Docket No. 1808] (the "Robichaux Declaration").

### **BRIEF STATEMENT IN SUPPORT**

1. The Debtors hesitate to add to the deluge of filings already made since the Special Restructuring Committee's unanimous decision regarding the selection of the Successful Bidder. However, the Official Committee of Unsecured Creditors (the "Committee"), numerous groups of tort claimants, certain senators, and two jilted bidders would have this Court believe—through

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the *Order (I) Approving Bidding Procedures and Expense Reimbursement, (II) Approving the Debtors' Entry Into the Stalking Horse APA, (III) Scheduling Certain Dates and Deadlines, (IV) Approving the Form and Manner of Notice Thereof, (V) Establishing Notice and Procedures for the Assumption and Assignment of Contracts and Leases, (VI) Authorizing the Assumption and Assignment of Assumed Contracts, and (VII) Authorizing the Sale of Assets* [Docket No. 685] (the "Bidding Procedures Order"), the Sale Declarations, or the Notice of Successful Bidder, as applicable.

impassioned pleas, innuendo, and in some cases, gross misrepresentations—that the Debtors’ decision-making process was flawed in every respect.<sup>3</sup> They are wrong, and the Debtors feel compelled to succinctly respond to correct the record and refocus the Court.

2. To the contrary, the Special Restructuring Committee directed a methodical, deliberate, and informed analysis because they knew that these objecting parties would obfuscate the truth and engage in *ad hominem* warfare. This process is *precisely* why the Special Restructuring Committee exists: to ensure an impartial, informed, and unbiased decision free from the shackles of emotion and self-interest that plague the objecting parties.

3. Importantly, nowhere in the Committee’s version of the “facts” is what should be front page news for its own constituents—the Revised Stalking Horse Bid reflects ***over \$100 million*** in incremental value higher than the original Stalking Horse bid, and most of that value flows directly to unsecured creditors.<sup>4</sup> Put simply, by every measure, the Auction was a success.

4. Yet, the Committee and others would have this Court believe that the Auction failed, principally because Genie 3 Partners, LLC (“Genie 3”) was not the winning bidder. Genie 3 even seeks standing to raise such arguments through the purchase *just yesterday* of a \$1,220 unsecured claim previously held by the Mid Maine Chamber of Commerce. *See* Docket No. 1781.

5. The Committee, its members, and tort claimants that it represents have flooded the docket with, among other things, (a) a motion for standing, (b) a combined motion to appoint an examiner and continue the Sale Hearing, (c) an objection to the secured lenders’ liens and claims,

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<sup>3</sup> As noted in the Notice of Successful Bidder, the Debtors are now focused principally, if not exclusively, on the sale objections filed by the Committee and the tort claimants. In the interests of efficiency, other sale objections will be preserved and addressed prior to any closing of the Sale. These include cure objections, adequate assurance of future performance objections, and other limited objections.

<sup>4</sup> This assumes, of course, that such value is not eaten up by exorbitant and unnecessary professional fees incurred to further agendas and personal vendettas.

(d) at least ten declarations, (e) a 60+ page sale objection (among many others), and (f) an objection to the Debtors' first request to extend their exclusive periods to file and solicit a chapter 11 plan. They filed all those pleadings with the goals of (a) overwhelming the Debtors and (b) confusing and convincing this Court that their alternative path of scorched-earth, speculative, and high-risk litigation should be preferred to closing certainty and implementation. The Committee (comprising principally litigants) now continues to recklessly spend its own constituents' recoveries on this warpath through a barrage of objections, depositions, and discovery.<sup>5</sup>

6. The Committee's tactics betray a deep hypocrisy—the Committee has complained repeatedly to the Court without evidence that the Stalking Horse Bidder is unscrupulous and should not be chosen. Yet, the bidder the Committee would have the Debtors select (Genie 3) is demonstrably unsuited for selection and was appropriately rejected by the Special Restructuring Committee for many reasons. For one, *Genie 3 hid from the Debtors* that one of its principals—one of the '3' genies in Genie 3—and a primary negotiating representative at the Auction entered into a settlement agreement with the Department of Justice in 2023 concerning serious matters of fraud and dishonesty relating to ownership of skilled nursing facilities. That settlement agreement bars this principal from participating, in any capacity, in Medicare or Medicaid programs for ten years.<sup>6</sup>

7. As will be demonstrated at the Sale Hearing, the Special Restructuring Committee took this issue very seriously, as it creates a substantial, and unquantifiable, risk to Genie 3's

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<sup>5</sup> With each deposition, document request, subpoena, objection, etc. filed by the Committee, the increased recoveries to its own constituents made possible by the Revised Stalking Horse Bid irrevocably diminish.

<sup>6</sup> Unsurprisingly, after the Debtors discovered and raised the issue—Genie 3 did not disclose the issue to the Debtors—Genie 3 switched positions and advised the Debtors that the prior principal was only a consultant all along and would have no further involvement with Genie 3. Although the Debtors are still digesting the pleadings and declarations filed last evening, it appears Genie 3's story has changed yet again.

overall transaction proposal. After all, Genie 3's principal was accused of, and admitted to, misrepresenting ownership and involvement in skilled-nursing facilities, which provides ample support for the Debtors' decision not to select Genie 3—hence why it was not even selected as a Back-Up Bidder. Since the Debtors discovered Genie 3's secret, Genie 3 has changed its story time and time again on this topic, further undermining its own credibility.

8. Actions have consequences. The Debtors are a highly regulated healthcare business dependent on the receipt of federal and state healthcare funding. The Debtors cannot and will not roll the dice with residents' lives, taking a gamble that closing is delayed or thwarted entirely, regulatory approvals are compromised, or, in the worst-case scenario, the healthcare funding on which the Debtors almost entirely rely is impacted.

9. Genie 3 claims that Mr. Schwartz has been removed from its equity ownership and will not hold any other direct role with “this matter,” but the Debtors will never truly know (a) if that is true and (b) if that is enough to satisfy the Department of Justice. To be clear, Genie 3 also provided the Debtors, in furtherance of its bid, evidence that Mr. Schwartz is a “guarantor and key principal” and “equity partner” of Genie 3. Even after he allegedly was no longer involved, the Debtors discovered *on their own* a document he signed as “Of: Genie 3 Partners LLC.” Given potential material adverse consequences to the closing of this sale and the go-forward business, the Special Restructuring Committee determined, in consultation with its advisors (including special regulatory counsel), that it could not ignore the totality of these actions when deciding what was best for the estates and all stakeholders, despite repeated assurances from the Committee and Genie 3 that there was “nothing to see here.”

10. Although the exclusion issue alone was sufficient to reject Genie 3's proposal, the Special Restructuring Committee also wrestled with other major flaws in the Genie 3 Bid. **First**,

the Stalking Horse Bidder has committed financing and no financing closing condition, while Genie 3 does not and its bid remains subject to financing conditions and commitments from multiple lenders, including the Debtors' asset-based lender (White Oak). If Genie 3 does not obtain this financing by its own "Outside Date," it has the option to terminate the asset purchase agreement and receive its \$25 million deposit back in full. Said differently, Genie 3 has a free option.

11. **Second**, the Genie 3 Bid requires litigation success to (a) provide a path toward a confirmable plan of reorganization or liquidation—and administrative solvency on a cash basis—and (b) realize any potential upside recovery for unsecured creditors. This litigation includes, without limitation, (a) potential contested proceedings regarding DIP events of default and continued use of cash collateral, (b) objections to the secured claims of Welltower and Omega, (c) challenges to the WAX/MAO secured claims, (d) challenges to the WAX/MAO and ReGen unsecured claims, (e) affirmative causes of action against Welltower, and (f) causes of action against other parties, including Mr. Landau's entities. Failure to achieve success (and collect) on indisputably lengthy, expensive, and uncertain litigation could lead to the Debtors' inability to satisfy administrative and priority claims, resulting in little to no proceeds for general unsecured creditors.

12. **Third**, the principal difference in the Special Restructuring Committee's quantitative evaluation of the bids is the unsecured cash-flow "hope note" provided by the Genie 3 Bid, payable over four years. To fully collect on that note on a current basis, Genie 3 must outperform the Debtors' reasonable projections by more than \$170 million over the next five years. Non-payment of even a small fraction of the Genie 3 promissory note could reduce unsecured creditor recoveries far below those contemplated by the Stalking Horse Bid.

13. **Fourth**, each of the Debtors’ secured creditors (Welltower, Omega, and White Oak) support the Stalking Horse Bid over the Genie 3 Bid.<sup>7</sup> They collectively believe that the Stalking Horse Bid is more likely to close on the timetable required, has less closing risk, and otherwise presents a more certain path toward repayment.

14. Other factors weigh heavily in favor of approval of the Sale to the Stalking Horse Bidder, as discussed more fully in the Sale Declarations and as will be presented at the Sale Hearing. Of significant importance, however, is that among the extensive marketing done by Jefferies over more than four months, Jefferies (alongside the Special Investigation Committee’s independent counsel, Katten) marketed the very causes of action that the Committee contends are worth hundreds of millions of dollars. And yet, after numerous calls with such potential purchasers and providing additional diligence regarding the causes of action, the Debtors received only one non-binding offer to purchase the causes of action for \$5 million. This indisputable fact belies the Committee’s fanciful, unsupported theories and allegations about those causes of action. It is well-known that a market test is superior to a desktop valuation, whether the assets are skilled nursing facilities or causes of action.

15. The final point is the most important: this proposed Sale is not, as the Committee and other objecting parties would have this Court believe, a “tainted insider transaction.” Far from it. The Special Restructuring Committee comprises three independent, experienced, estate fiduciaries (Mr. Jonathan Foster, Ms. Elizabeth LaPuma, and Mr. William Snyder). Collectively, they have **sole and absolute** decision-making authority on all restructuring transactions involving the Debtors and any related parties, including the Stalking Horse Bidder, subject only to this

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<sup>7</sup> To support its position, the Committee attempts to characterize White Oak as “neutral”—in doing so, the Committee mischaracterizes White Oak’s position with respect to Genie 3.

Court's approval. Inherent in the Bankruptcy Code is the concept of a debtor's (not creditors') business judgment. It was the Special Restructuring Committee alone that oversaw and directed the entire sale process and exercised the Debtors' business judgment pursuant to bidding procedures previously approved by this Court.

16. The Debtors have been transparent from the first day of these Chapter 11 Cases about the role of the Stalking Horse Bidder in their proposed sale efforts and its affiliations.<sup>8</sup> That transparency will continue at the Sale Hearing, where Mr. Foster and Mr. Snyder will testify regarding the determination made by the Special Restructuring Committee to select the Successful Bidder, and this Court will be able to determine for itself whether the Special Restructuring Committee is somehow biased or otherwise tainted.

17. At the conclusion of the Auction, the Special Restructuring Committee was presented with two best and final bids—one from the Stalking Horse Bidder and one from Genie 3. Cognizant of the importance of this decision and the desire to make the best decision for the Debtors' estates and the stakeholders, the Special Restructuring Committee spent days reviewing both bids, convening on six separate occasions, investigating the exclusion issue, analyzing various quantitative and qualitative factors and the merits of each bid, and seeking input from the Debtors' management and advisors.

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<sup>8</sup> See *Declaration of Louis E. Robichaux IV in Support of Chapter 11 Petitions and First Day Pleadings* [Docket No. 18] ("In the weeks and months prior to the Petition Date, the Company engaged directly with affiliates of ReGen—with the support of the Prepetition Term Loan Leners—on potential sale transaction structures and ultimately agreed on the current structure embodied in the binding Stalking Horse Term Sheet, pursuant to which CPE 88988 LLC (the "Stalking Horse Bidder") would be the purchaser of substantially all of the Debtors' assets (subject to higher and better bids)."); Hr'g Tr. 27:22-25, *In re Genesis Healthcare, Inc.*, Case No. 25-80185 (SGJ) (Bankr. N.D. Tex. July 11, 2025) (D. Simon: "We also recognize, and we're not burying the lead, this is a related party transaction that is proposed, that proposes to purchase the assets of the company, including causes of action."); *id.*, at 40:7-10 (D. Simon: "The stalking horse bidder is an affiliate of ReGen, which is a significant investor in Genesis, and therefore is a, quote/unquote, related party of the Debtors.").



18. All told, the independent directors left no proverbial stone unturned, no box unchecked, and when all was said and done, the Special Restructuring Committee selected the Stalking Horse Bidder as the Successful Bidder. In so doing, the Debtors, through the Special Restructuring Committee, exercised sound business judgment consistent with Fifth Circuit authority and the Bidding Procedures Order. The Special Restructuring Committee's business judgment should not be supplanted with the reasoning of others guided solely by their own self-interests, as that is neither the applicable governing standard nor appropriate here.

19. Given the facts and circumstances and the choices presented to the Special Restructuring Committee, the Debtors submit that the proposed Sale to the Stalking Horse Bidder represents a sound exercise of the Debtors' reasonable business judgment and is unequivocally in the best interests of the Debtors' estates and stakeholders. Indeed, the Revised Stalking Horse Bid is the successful culmination of the Debtors' efforts to maximize the value of their Assets for the benefit of the Debtors' estates and all stakeholders, while simultaneously paving the way for a smooth wind-down of the chapter 11 cases through a confirmed plan of liquidation, which will now contemplate significant unsecured creditor recoveries. Accordingly, the Debtors submit that the Special Restructuring Committee's selection of the Revised Stalking Horse Bid as the highest or otherwise best bid should be approved.

*[Remainder of Page Intentionally Left Blank]*

**WHEREFORE**, the Debtors respectfully request that the Court overrule the objections, including those lodged by the Committee and Genie 3, and enter the Sale Order, granting the relief in the Bidding Procedures and Sale Motion, and such other and further relief as may be just and proper.

Dated: December 9, 2025  
Dallas, Texas

**MCDERMOTT WILL & SCHULTE LLP**

/s/ Marcus A. Helt

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**CERTIFICATE OF SERVICE**

I hereby certify that on this date a true and correct copy of the foregoing Statement was served by the Court's CM/ECF system on all counsel of record registered in these Chapter 11 Cases through CM/ECF. The Debtors' claims and noticing agent will be filing a supplemental certificate of service on the docket to reflect any additional service of the foregoing Statement.

Dated: December 9, 2025  
Dallas, Texas

**MCDERMOTT WILL & SCHULTE LLP**

/s/ Marcus A. Helt

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