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HEARING DATE: OCTOBER 15, 2021 AT 12:00 P.M. WEBEX VIRTUAL HEARING PARTICIPANTS CONTACT COURT FOR DETAILS INFORMATION ON PUBLIC ACCESS AVAILABLE AT WWW.COURTS.RI.GOV BUSINESS CALENDAR

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PROVIDENCE, SC	
PETER MUMMA, in his capacity)	
as Chief Executive Officer and)	
President of the Board of Directors)	
of Phoenix Houses of New England,)	
Inc.,	
Petitioner,	
v.) C.A. No. F	PM-2021-00006
PHOENIX HOUSES OF NEW)	
ENGLAND, INC.,	
Respondent.)	

PHOENIX HOUSES OF NEW ENGLAND INC.'S PETITION TO SELL ASSETS IN THE ORDINARY COURSE AND SPECIAL MASTER'S FIRST INTERIM REPORT AND FIRST REQUEST FOR FEES, COSTS, AND EXPENSES

NOW COME Phoenix Houses of New England, Inc. ("Phoenix House") and Jonathan N. Savage, Esq., permanent special master of Phoenix House ("Special Master"), and hereby (1) makes a report relative to Phoenix House, and (2) requests that the Court permit Phoenix House to sell certain of its assets in the ordinary course of business, specifically, (i) the real estate located at 3 Pierce Road, Dublin, New Hampshire ("NH Real Estate") and all assets on or within the NH Real Estate, to 4NH Homes, LLC ("4NH Homes") pursuant to the Asset Purchase Agreement attached hereto as **Exhibit A-1** ("APA"), and (ii) the real estate located at 240-242 Central Street, 5 Madison Avenue, and 130 Pine Street, Springfield, MA ("MA Real Estate") to Behavioral Health Network, Inc. ("BHN") pursuant to the Asset and Real Estate Purchase Agreement ("AREPA") attached hereto as **Exhibit A-2**. Additionally, the Special Master requests that the Court review, approve, and authorize payment of the Special Master's fees, costs, and expenses that have been

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incurred in connection with the administration of Phoenix House under the COVID-19 Business

Recovery Plan ("Business Recovery Plan"). In support hereof, Phoenix House and the Special

Master recite as follows:

BACKGROUND

1. Founded in 1967, Phoenix House is a substance use treatment organization.

2. With facilities and assets in Rhode Island, Massachusetts, New Hampshire, and

Vermont, Phoenix House operates a significant portfolio of CARF accredited (the Commission on

Accreditation of Rehabilitation Facilities) programs, serving approximately 3,500 people

throughout New England, including more than 800 Rhode Islanders.

3. Phoenix House's programs incorporate mental health, gender-specific, and trauma-

informed services for those members of the community who are in need. Its residential and

outpatient facilities provide safe and affordable substance use and behavioral health treatment, and

they are designed to provide positive, empowering, and healthy environments for recovery.

4. Over the past year, the COVID-19 pandemic has had a devastating impact on

Phoenix House's ability to operate—especially because it houses individuals in a congregate

setting. As a result of necessary social distancing requirements, a decline in individuals'

willingness to seek care, staff illness, and quarantine impacts, Phoenix House has experienced a

significant decline in its in-patient and out-patient censuses. Combined with its already slim

operating margin, the COVID-19 pandemic has decreased revenues and increased fixed costs as

well as those expenses associated with mitigating the effects of the pandemic.

5. Facing this COVID-19 induced financial crisis, on January 4, 2021, Phoenix House

sought and received the protection of the Rhode Island Superior Court, under the COVID-19

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Business Recovery Plan ("Special Mastership Proceeding"), which was established pursuant to

Administrative Order No 2020-04 ("Administrative Order").

6. The next day, on January 5, 2021, the Court entered an order ("Temporary Order")

that appointed the Special Master as temporary, non-liquidating special master of Phoenix House.

A copy of the Temporary Order is attached hereto as **Exhibit B**.

7. In accordance with the Temporary Order, the Special Master obtained and filed a

Bond of Special Master with the Court on January 6, 2021. A copy of the Bond is attached hereto

as **Exhibit** C.

8. The Special Master notified creditors known to him of the Temporary Order and

filed an affidavit of notice with the Court on January 15, 2021. Additionally, on January 18, 2021,

Phoenix House's attorney accepted service of the petition and citation in the Special Mastership

Proceeding. A copy of such acceptance of service is attached hereto as **Exhibit D**.

9. On January 22, 2021, the Temporary Order was published in *The Providence*

Journal. A copy of that publication is attached hereto as **Exhibit E**.

10. On January 25, 2021, Phoenix House filed its Proposed Operating Plan ("Operating

Plan") with the Court. A copy of the Operating Plan is attached hereto as **Exhibit F**. A hearing

on the Operating Plan was scheduled for February 11, 2021.

11. The Special Master, over the course of January 26, 2021 and January 27, 2021,

mailed the Operating Plan and notice of the hearing thereon to all creditors and parties in interest

known to him. On February 2, 2021, the Special Master filed an Affidavit of Notice relative to

such mailing.

12. On February 5, 2021, the Court held a hearing to consider converting the Special

Master's appointment to a permanent appointment. By order entered on March 1, 2021

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("Permanent Order"), the Court appointed the Special Master as Permanent Special Master of

Phoenix House and approved the Operating Plan. A copy of the Permanent Order is attached

hereto as **Exhibit G**.

THE OPERATING PLAN

13. The Operating Plan, as approved by the Court, was drafted by Phoenix House in

consultation with the Special Master. It, among other things, identified three categories of claims:

(1) pre-petition secured claims, of which there were none known to Phoenix House or the Special

Master; (2) pre-petition unsecured claims, which totaled approximately \$900,000; and (3) post-

petition/administrative claims.

14. In connection with those claims, the Operating Plan proposed to preserve cash flow

by suspending payment of any pre-petition claims, and paying only those post-petition expenses

that were essential to Phoenix House's operation, such as payroll, food, linen and janitorial, and

prescription and pharmacy costs.

15. According to the Operating Plan, preservation of cash flow was essential to allow

Phoenix House to identify other revenue sources and conduct stakeholder engagement, both of

which were deemed necessary for either a feasible exit plan or a sale of Phoenix House as a going

concern.

Other Revenue Sources

16. In or about March 2020, Congress passed, and the President signed into law, the

Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act").

17. Among other things, the CARES Act created the Paycheck Protection Program (the

"PPP"), which is administered by the SBA and extends funding to eligible recipients. See 15

U.S.C. § 636(a)(36).

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> 18. To assist with its revenue shortfalls, Phoenix House, in consultation with the

Special Master, applied for a second-round loan under the PPP through BankRI. In connection

with that application process, the Special Master consulted with members of the SBA to ensure

that (1) Phoenix House was eligible for a PPP loan given its involvement in the Special Mastership

Proceeding; and (2) revenue loss calculations were accurate.

19. Ultimately, the SBA approved Phoenix House's request for a second-round loan

under the PPP and Phoenix House received a loan of two million dollars from BankRI.

20. However, as discussed *infra*, Phoenix House has not utilized those funds because

the SBA has not yet determined that the loan is forgivable or that Phoenix House's participation

in the Special Mastership Proceeding does not make Phoenix House ineligible under the PPP.

Stakeholder Engagement

21. After entering the Special Mastership Proceeding, Phoenix House and the Special

Master engaged community and governmental stakeholders in an effort to find support for Phoenix

House's operations.

22. Part of Phoenix House's revenue losses are attributable to Medicaid reimbursement

rates that are lower than some of their competitors'. This is particularly important because Phoenix

House's patients are almost exclusively Medicaid payers, many of whom are referred to Phoenix

House through the State's prison diversion programs.

23. Further, Phoenix House is the only institution in the State offering both

detoxification and residential treatment services to a primarily Medicaid population.

¹ Prior to the Special Master's appointment, Phoenix House applied for and received a first round

loan under the PPP, which the SBA subsequently forgave.

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24. Phoenix House approached the State's Department of Behavioral Healthcare,

Developmental Disabilities and Hospitals and the State's Executive Office of Health and Human

Services (collectively, the "State Agencies") initially to assess the State healthcare system's ability

to absorb the loss of the operations at Phoenix House without depriving its patients of the

opportunity to receive treatment.

25. The State Agencies corroborated the Special Master and Phoenix House's

assessment that, should Phoenix House close, the patient capacity provided at Phoenix House

would be eliminated from the State healthcare system. Accordingly, the Special Master, Phoenix

House, and the State Agencies engaged in discussions and negotiations regarding the short term

infusion of liquidity to stabilize operations at Phoenix House.

26. As an initial matter, the Special Master submitted a request for \$1,140,000 in grant

funding intended to fund a projected operating shortfall through Q1 of 2021. Although the Special

Master received representations from the State that this grant request could be met, ultimately, the

State made an initial grant of \$235,754 at the end of January.

27. Immediately after that initial grant, the Special Master continued negotiations in an

effort to secure a grant representing the balance of the initial request. These efforts continued for

several months spanning two gubernatorial administrations.

28. Ultimately, after much negotiation, and facing an increasingly imminent need to

close the facilities, the State Agencies agreed to advance a \$500,000 loan ("Loan"), which would

accrue no interest, in immediate emergency funding. Notably, though, the Loan would be

converted into a grant so long as Phoenix House and the Special Master developed and proposed

a written plan of rehabilitation, to be approved by the State Agencies, that demonstrated a path to

long term sustainability (the "Plan").

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29. In consideration of the Loan, Phoenix House agreed to provide certain collateral to

the State Agencies, including a mortgage on the property located at 251 Main Street, Exeter, RI

02822.

30. The Loan was approved by the Court by an Order entered on May 11, 2021. A

copy of that Order is attached hereto as **Exhibit H**.

31. On or about July 22, 2021, the Special Master delivered the Plan to the State

Agencies' counsel, and the State Agencies have not rejected the Plan.

32. In addition to engaging with the State Agencies, counsel for the Special Master also

worked outside Rhode Island to identify potential sources of funds due to Phoenix House.

33. In one instance, during the summer of 2021, counsel for the Special Master learned

that Phoenix House was owed an outstanding balance for work performed under certain grant

agreements with the State of Vermont's Department of Corrections (the "VT DOC"). After

investigating the matter, counsel for the Special Master was further informed that the grant funding

was set to expire.

34. After reaching out to and working with representatives of the VT DOC, and

thereafter facilitating communications between the VT DOC and Phoenix House, these efforts

ultimately secured \$162,741 in funds due under those grant agreements.

35. Securing those funds permitted Phoenix House to successfully recoup payment in

connection with the work it had previously performed in Vermont, and the funding also allowed

Phoenix House, with the aid of the Special Master, to successfully resolve an outstanding balance

with one of Phoenix House's lessors.

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ESSENTIAL VENDOR MANAGEMENT

36. Phoenix House operates in four different states and, therefore, has a large vendor network. Since entering the Special Mastership Proceeding, and in accordance with the Operating Plan, Phoenix House, with the assistance of the Special Master and his counsel, has worked consistently to triage the payment of any post-petition, essential vendor services, in an effort to ensure continuity of service. The Special Master and his counsel assisted Phoenix House with these efforts due to the limited administrative bandwidth of Phoenix House due to employee resignations. Presenting an additional hurdle is the fact that Phoenix House, prior to the Special Mastership Proceeding, had no Chief Financial Officer, and during the Special Mastership Proceeding, Phoenix House's Controller resigned. In addition to the Special Master's assistance with vendors, Phoenix House, during the Special Mastership Proceeding, retained a temporary Chief Financial Officer from an accounting firm.

37. From the outset of the Special Mastership, counsel to the Special Master reached out to and responded to numerous vendors that provided various services to Phoenix House. The goal of these extensive communications was to, among other things: explain the background for and existence of the Business Recovery Plan; establish a clear line of communication regarding the Special Master's appointment; and ensure the continued provision of essential services consistent with the Operating Plan.

38. Some examples of these outreach efforts include: ensuring the continued provision of food at Phoenix House's facilities in Rhode Island and Massachusetts; ensuring that heating and oil services were maintained during the winter months, especially at the facilities located in New Hampshire and Vermont; facilitating the provision of essential pharmaceuticals for Phoenix House's programs in Rhode Island; maintaining the provision of electricity and other utilities at

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Phoenix House's facilities throughout New England; and maintaining the security and cleanliness

of Phoenix House's facilities by continuing trash/waste management and janitorial services. In

many of these cases, counsel for the Special Master was able to negotiate payment plans with

essential vendors and/or adjust Phoenix House's various net-payable terms, serving the best

interests of the special mastership estate, Phoenix House's creditors, and Phoenix House's

residents and patients.

OPERATIONS DURING THE SPECIAL MASTERSHIP PROCEEDING

39. Phoenix House, in consultation with the Special Master, also engaged in efforts to

organize its portfolio and stabilize its operations.

40. For instance, Phoenix House decided to consolidate its operations at Keene, New

Hampshire into its operations at its facility in Dublin, New Hampshire. Phoenix House had been

leasing its facility in Keene, but it owned its facility in Dublin. To reduce rental liability and to

ensure that its census was close to break-even levels, Phoenix House worked with the lessor of the

Keene facility to vacate and terminate its lease, and, thereafter, transitioned its patients at that

location to Dublin, resulting in cost savings.

41. Similarly, Phoenix House vacated two other leased facilities located, respectively,

at 46 Jones Ave and 160 Woodrow Ave, in Dorchester Massachusetts (the "Dorchester Facilities").

Before vacating, however, Phoenix House, by and through counsel to the Special Master,

successfully negotiated an initial decrease in payments for the use and occupancy of the Dorchester

Facilities through July 2021, resulting in a net savings to the special mastership estate. Counsel

for the Special Master engaged with these lessors and their Rhode Island counsel in an effort to

resolve issues as they arose and, ultimately, in July 2021, Phoenix House vacated the Dorchester

Facilities.

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42. Moreover, from the beginning of the present proceeding, the Special Master's

involvement in the day to day operations of Phoenix House has been focused on overseeing the

financial management of the business and triaging and approving certain operating expenses that

are essential to Phoenix House's ongoing operations.

43. When Phoenix House originally sought this Court's protection, it was estimated

that it had only two weeks of payroll in cash on hand. The Business Recovery Plan and the Special

Master's assistance has resulted in Phoenix House continuing to operate for an additional nine

months, during which time Phoenix House was able to assist thousands of patients, over 1,100 of

whom were treated in the Exeter, Rhode Island facility.

44. Maintaining the ongoing operations of Phoenix House has required the in depth

management and prioritization of payables. Because Phoenix House's day-to-day operating cash

has been so limited, the Special Master has had to carefully manage payments while identifying

and negotiating with potential sources of liquidity.

45. In order to facilitate this cash-management process, the Special Master has worked

extensively with Phoenix House leadership and the temporary Chief Financial Officer to develop

and employ cash reporting methodology, formats and procedures for requests for releases of

payments, projections for available cash, and models for operational changes that will realize short

term economic gains or mitigate short term economic losses. As noted above, the Special Master

has also made his counsel available to vendors and creditors in order to facilitate communications

and answer questions on an as-needed basis.

SBA LAWSUIT AND PPP LOAN FORGIVENESS

46. As discussed *supra*, Phoenix House applied for and received a \$2 million loan

under the second round of the PPP.

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> 47. However, during the application process, counsel to the Special Master

communicated with the SBA's District Director, who questioned Phoenix House's eligibility under

the PPP program due to its involvement in the Special Mastership Proceeding. The main issue

that was raised concerned whether a non-liquidating special mastership proceeding was a

"bankruptcy" under the PPP and the SBA's regulatory framework.

48. At counsel to the Special Master's request, the SBA's District Director escalated

that question to the SBA's District Counsel. In response, the District Counsel forwarded the

District Director an email from the SBA's Area Counsel, who had elevated the inquiry to the Office

of General Counsel at the SBA. In that email, however, the SBA did not answer or provide

guidance as to whether a non-liquidating special mastership proceeding was a "bankruptcy," and

stated, instead, that the SBA "does not provide eligibility determinations for specific applicants or

borrowers."

49. Due to the SBA's failure to respond to Phoenix House's eligibility inquiry, and the

effect that this problem would have on Phoenix House's day-to-day operations, namely, hindering

the Special Master's business judgment and disrupting Phoenix House's expected use of the PPP

funds, the Special Master, pursuant to an Ex Parte Emergency Petition for Instructions ("Petition

for Instructions") filed on April 5, 2021, sought the Court's approval to sue the SBA in the United

States District Court for the District of Rhode Island ("District Court"). A copy of the Petition for

Instructions is attached hereto as **Exhibit I**. The Court granted the Petition for Instructions by an

order entered on April 5, 2021. A copy of that order is attached hereto as **Exhibit J**.

50. On April 6, 2021, the Special Master and Business Recovery Plan's Program

Coordinator, Attorney Mark Russo ("Program Coordinator"), filed a complaint against the SBA,

seeking a declaratory judgment that the Business Recovery Plan, a non-liquidating receivership

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proceeding, was not a "bankruptcy" under the PPP's rules and regulations, and thus did not

disqualify Phoenix House for its second round PPP loan.²

51. Initially, the Special Master and Program Coordinator asked the District Court to

enter a temporary restraining order and preliminary injunction against the SBA, enjoining it from

finding that Phoenix House was not eligible for the PPP loan because it was in a "bankruptcy."

After a hearing, the District Court denied that request, but agreed to hear any dispositive motions

on an expedited basis.

52. As a result, the Special Master and Program Coordinator filed a Motion for

Summary Judgment ("MSJ") and the SBA further briefed its previously-filed Motion to Dismiss

("MTD").

53. Ultimately, the District Court granted the MTD and denied the MSJ, but, in doing

so, made several findings that were dispositive of the Special Master and Program Coordinator's

requested relief. Significantly, that Court found that "Phoenix House was not (and is not) involved

in bankruptcy—a fact that the SBA does not dispute." Savage v. United States Small Bus. Admin.,

No. 1:21-CV-0153-MSM-PAS, 2021 WL 3406387, at *3 (D.R.I. Aug. 4, 2021). The Court also

observed that "[t]he SBA also does not dispute that the [Business Recovery Plan] is not a

bankruptcy proceeding. Moreover, there is nothing in the CARES Act, the PPP, or the SBA's Final

Interim Rules for the PPP that states that a participant in a state court, non-liquidating special

mastership either does not qualify for PPP as an eligible entity or is in 'bankruptcy.'" Id. The

.

² The Special Master and Program Coordinator's lawsuit was docketed in the District Court as Jonathan N. Savage, Esq., solely in his capacity as Permanent Non-liquidating Special Master of Phoenix Houses of New England, Inc., and W. Mark Russo, Esq., solely in his capacity as Program Coordinator of the Rhode Island Superior Court COVID-19 Business Recovery Plan v. United States Small Business Administration, and Isabella Casillas Guzman, in her capacity as Administrator of the Small Business Administration (Case No. 1:21-cv-153-MSM-PAS).

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Court also noted the efforts of Phoenix House to obtain an eligibility determination from the SBA,

noting that the SBA's lack of assistance in that regard was "undoubtedly frustrating" and a

"seemingly unnecessary affair with a government body designed to assist [Phoenix House]." Id.

at *1.

54. Although the District Court ruled in favor of the SBA on procedural grounds, its

findings are dispositive of the question that the Special Master and Program Coordinator asked it

to decide: whether or not Phoenix House was in a "bankruptcy" when it applied for the PPP loan.

55. During the pendency of the lawsuit before the District Court, Phoenix House

applied for forgiveness of the PPP loan through its PPP lender. Unfortunately, in that process, the

SBA has pulled Phoenix House's application for forgiveness for SBA review. It is anticipated that

this review will delay or lengthen the time for a forgiveness determination. Phoenix House awaits

that determination.

SOLICITATION OF OFFERS TO PURCHASE ASSETS

56. During the Special Mastership Proceeding, the Special Master assisted Phoenix

House with attempting to sell certain assets as part of an ongoing effort to secure revenues needed

for sustainable operations. The Special Master and Phoenix House offered a sale of all or only

some of Phoenix House's assets.

57. To do so, the Special Master and Phoenix House created and continuously updated

electronic data rooms of due diligence materials for potential purchasers to review.

58. The Special Master initiated discussions through industry and community contacts

with dozens of entities and, ultimately, received twenty nondisclosure agreements in connection

with access to Phoenix House's data rooms.

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59. Upon receiving each nondisclosure agreement, the Special Master proceeded to

engage in a due diligence and negotiation process with each of the interested parties. This process

varied in intensity and duration from entity to entity, but often included site visits across the

programs in some or all of the four New England states, in depth review and discussion of financial

and operational information, and review of other organization data.

60. Over the course of this process, the Special Master or his team met, virtually or in

person, with the vast majority of interested parties, and ultimately engaged in extended

negotiations with several of them, for the purchase and sale of some or all of the assets of Phoenix

House.

61. As a result of these negotiations, the Special Master negotiated four letters of intent

with buyers interested in purchasing Phoenix House's assets.

62. One of those letters of intent was from a party interested in all Phoenix House's

assets, and, in connection with that letter of intent, delivered to Phoenix House a nonrefundable

deposit of \$200,000. Ultimately, that party did not proceed with the acquisition of all Phoenix

House's assets and, as a result, forfeited the \$200,000 ("Forfeited Deposit").

63. Relevant here, another offer received was from 4NH Homes, who offered to

purchase the NH Real Estate for \$750,000.

64. Additionally, BHN submitted an offer to purchase the MA Real Estate for

\$502,160.00.

SALE OF NH REAL ESTATE

65. 4NH Homes has offered to purchase the NH Real Estate and all of Phoenix House's

assets on or within the NH Real Estate (collectively, "NH Assets") for \$750,000 pursuant to the

APA.

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66. Aside from offers to purchase all of Phoenix House's assets, the Special Master

only received one other offer to purchase the NH Real Estate. 4NH Homes' proposed purchase

price is higher than the purchase price offered by the other offeror.

67. Additionally, 4NH Homes anticipated purchase structure will ensure the

continuation of services to Phoenix House's patients in the Dublin, New Hampshire area. 4NH

Homes is a company engaged in buying, selling, and leasing real estate. 4NH Homes plans to

acquire the NH Real Estate, and, in turn, lease it to another substance abuse facility, Live Free

Recovery Services ("Live Free").

68. Live Free successfully operates substance abuse, detox, and recovery facilities in

New Hampshire, including in Manchester and Keene. Accordingly, 4NH Homes appears to be

well suited to sustain substance abuse treatment and addition services to the Dublin, New

Hampshire area. Further, Phoenix House's patients admitted to the Dublin facility at the time of

Closing, will be transferred to Live Free, ensuring continuity of care for those patients.

69. Other than standard contingencies for clear title and a walk-through inspection, the

APA has no other contingencies for closing.

70. In connection with the proposed sale and pursuant to the APA, 4NH Homes has

delivered to the Special Master a deposit in the amount of \$25,000 ("Deposit").

71. Due to the proposed purchase price, the proposed lease to Live Free, and the

revenue resulting from the sale to satisfy creditor claims, the Special Master, in his business

judgment, believes a sale to 4NH Homes is in the best interests of the Special Mastership estate.

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SALE OF MA REAL ESTATE

72. BHN has offered to purchase the MA Real Estate and all of Phoenix House's assets

on or within the MA Real Estate (collectively, "MA Assets") for \$502,160.00 pursuant to the

AREPA.

73. Aside from offers to purchase all of Phoenix House's assets, the Special Master

received no other offer to purchase the MA Real Estate.

74. Additionally, BHN's proposed purchase will ensure continuity of services to

Phoenix House's patients in the Springfield, Massachusetts area. Upon closing of the sale, BHN

will transition Phoenix House's patients and programs to either existing BHN currently owned

facilities in the area, or to the facilities proposed to be sold to BHN.

75. BHN is a regional provider of comprehensive behavioral health services for adults,

children and families, and currently has facilities and locations in the Springfield area. It offers

similar—or the same—programs offered by Phoenix House, including, but not limited to addition

and recovery services, counseling and wellness services, and emergency services. BHN has

facilities throughout Massachusetts, with several in the Springfield area.

76. Notably, even after the proposed sale to BHN, Phoenix House is transitioning its

programs and patients from a location at 15 Mulberry Street, Springfield, MA ("Mulberry

Facility") to BHN. The Mulberry Facility is excluded from the proposed sale and will not be sold

to BHN. Accordingly, the Mulberry Facility represents another asset that Phoenix House can

liquidate after the transition of its patients and programs out of that facility to the other BHN

facilities that BHN is proposing to purchase in Springfield.

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77. Due to the proposed purchase price, the proposed continuity of services, and the

revenue resulting from the sale to satisfy creditor claims, the Special Master, in his business

judgment, believes a sale to BHN is in the best interests of the Special Mastership estate.

CASH ON HAND AND LIABILITIES

78. As of September 17, 2021, Phoenix House has cash on hand in the approximate

amount of \$2,768,000, which includes \$568,000 in operational cash; \$2,000,000 in cash from the

second round PPP loan; and \$200,000 from the Forfeited Deposit.³

79. Also as of September 17, 2021, Phoenix House has total liabilities of \$3.1 million,

including \$884,169 in pre-petition liabilities, \$1,767,463 in post-petition liabilities, \$138,904 in

unfunded pension liabilities, \$45,000 in unfunded vacation liabilities, and estimated administrative

expenses of \$380,000.⁴

REQUEST FOR FEES, COSTS, AND EXPENSES

80. As of October 4, 2021, the Special Master and members of the Special Master's

law firm have devoted a cumulative total of approximately 1,329.3 hours to this matter, and

incurred \$375,913 in legal fees. Attorneys were billed at rates between \$295.00 and \$425.00 per

hour, and paralegals were billed at rates between \$115.00 and \$145.00 per hour. The Special

Master confirms that those fees were incurred as necessary for the benefit of the Special Mastership

estate.

³ This amount does not include the Deposit from 4NH Homes.

⁴ All numbers are approximate.

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> Additionally, the Special Master incurred \$4,596.99 in out-of-pocket expenses, 81.

> which amount includes, among other things, the costs affiliated with publication costs, mailing

costs, and e-filing costs.⁵

82. Accordingly, the Special Master requests that the Court approve the Special

Master's legal fees and out-of-pocket costs and expenses in the amount of \$380,509.99, confirm

that such fees, costs, and expenses were incurred for the benefit of the Special Mastership estate.

The Special Master's invoice has been submitted to the Court for an *in camera* review. If so

authorized by the Court, the Special Master will present such invoice to any party.

83. While the Special Master requests approval of his fees, costs, and expenses in full,

he only requests authorization to pay \$250,000 of those fees, costs, and expenses.

CONTINUATION OF PROCEEDING

84. Subsequent to this Petition to Sell in the Ordinary Course of Business and First

Interim Report and Request for Fees, Costs, and Expenses ("Petition"), Phoenix House will

continue to operate under the Operating Plan.

85. Furthermore, the Special Master will continue to assist Phoenix House in, among

other things, vendor management and marketing additional assets for sale, to the extent necessary.

WHEREFORE, the Special Master respectfully requests that the Court:

A. Set this Petition down for hearing, and, after such hearing, approve this Petition;

B. Approve and authorize Phoenix House to sell the NH Real Estate and the NH Assets to

4NH Homes pursuant to the APA;

⁵ During this proceeding, the Special Master transitioned from Shechtman Halperin Savage, LLP ("SHS") to Savage Law Partners, LLP ("SLP"). The fees, costs, and expenses set forth herein

represent the cumulative fees costs and expenses for both SHS and SLP.

Filed in Providence/Bristol County Superior Court

Submitted: 10/4/2021 1:56 PM

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C. Approve and authorized Phoenix House to sell the MA Real Estate and the assets thereon or therein to BHN pursuant to the AREPA;

- D. Approves the Special Master's request for fees and out-of-pocket expenses in the amount of \$380,509.99;
- E. Authorizes the Special Master to pay a portion of his fees, costs, and expenses in the amount of \$250,000 from the Special Mastership estate;
- F. Approves, confirms, and ratifies all the acts, doings, and disbursements of the Special Master as of the filing of this Petition;
- G. Order that this Special Mastership Proceeding shall remain in full force and effect until further order of the Court; and
- H. Order any and all other relief as the Court deems necessary and just.

Filed in Providence/Bristol County Superior Court

Submitted: 10/4/2021 1:56 PM

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Respectfully Submitted By,

Jonathan N. Savage, Esq., solely in his capacity as Permanent Non-Liquidating Special Master of Phoenix Houses of New England, Inc.,

By his counsel,

/s/ Christopher J. Fragomeni

Christopher J. Fragomeni, Esq. (9476) Savage Law Partners, LLP 564 S. Water Street, Providence, RI 02903 P: (401) 238-8500 | F: (401) 648-6748 chris@savagelawpartners.com

Phoenix Houses of New England, Inc.,

By its counsel,

/s/ Brian Lamoureaux

Brian Lamoureaux, Esq. (6211)
Pannone Lopes Devereaux & O'Gara, LLC
Northwoods Office Park, Suite 215 N
1301 Atwood Avenue, Johnston, RI 02919
P: (401) 824-5100 | F: (401) 824-5123
bjl@pldolaw.com

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of October, 2021, I filed and served this document through the electronic filing system on all registered parties. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Christopher J. Fragomeni, Esq.

Case Number: PM-2021-00006 Filed in Providence/Bristol County Superior Court Submitted: 10/4/2021 1:56 PM

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PHOENIX HOUSES OF NEW ENGLAND INC.'S PETITION TO SELL ASSETS IN THE ORDINARY COURSE AND SPECIAL MASTER'S FIRST INTERIM REPORT AND FIRST REQUEST FOR FEES, COSTS, AND EXPENSES

EXHIBIT A-1

Case Number LPM-2021500006s/zmwP-rLy7-F2rx
Filed in Provide Received August 2000 PM

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Draft

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement is made and entered into effective as of the _____ day of _____, 2021 (the "Effective Date") by and among **PHOENIX HOUSES OF NEW ENGLAND, INC.**, a Rhode Island not-for-profit corporation ("Seller"), and **4NH Homes, LLC** ("Purchaser").

RECITALS

- A. Seller owns the real property listed on <u>Exhibit A</u> as owned property ("<u>Property</u>"), including all Improvements (hereinafter defined) and fixtures located thereon, in addition to all furniture and Equipment (hereinafter defined), other than those leased items identified on <u>Exhibit B</u>, located at the real property and identified on <u>Exhibit C</u> (the "<u>Assets</u>, or collectively with the "Property," "Owned Property"), upon which is located a certain substance abuse treatment facility listed on <u>Exhibit A</u> (the "Facility").
- B. Purchaser desires to purchase the Owned Property from Seller, and Seller desires to sell the Owned Property to Purchaser, subject to the approval of the Rhode Island Superior Court, all upon such terms and conditions as hereinafter set forth.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree as follows:

- **1. DEFINITIONS.** As used in this Agreement, the following terms shall have the meanings assigned below:
- "Agreement" shall mean this Asset Purchase Agreement.
- "Business Day" shall mean any day except a Saturday, Sunday or legal holiday observed by banks having their principal offices in the State of Rhode Island.
 - "Closing" shall have the meaning set forth in Section 8.1.
- "Closing Date" shall mean the Tuesday following the tolling of any applicable appeals periods relative to any Order by the Rhode Island Superior Court approving the transaction contemplated herein.
 - "Employees" shall mean all individuals employed by Seller at the Facility.
- "Encumbrance" shall mean any charge, claim, community or other marital property interest, condition, equitable interest, lien, option, pledge, security interest, mortgage, right of way, easement, encroachment, servitude, right of first option, right of first refusal or similar restriction, including any restriction on use, voting (in the case of any security or equity interest), transfer, receipt of income or exercise of any other attribute of ownership.
- "Equipment" shall mean all furniture, fixtures, equipment, machinery, vehicles, inventory, and other personal property now or hereafter attached to or appurtenant to and/or used in connection with the operation of the Facility and the Assets and owned by Seller.
 - "Escrow Agent" shall mean the Title Company.

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"Excluded Assets" shall mean those assets listed on **Exhibit B** that are owned by Seller with respect to the Facility but shall not be included in the Assets.

"Facility" shall have the meaning set forth in Paragraph A on page one of this Agreement.

"Governing Documents" shall mean, with respect to any particular entity, (a) if a corporation, the articles or certificate of incorporation and the bylaws; (b) if a general partnership, the partnership agreement and any statement of partnership; (c) if a limited partnership, the limited partnership agreement and the certificate of limited partnership; (d) if a limited liability company, the articles of organization or certificate of formation and operating agreement; (e) if another type of Person, any other charter or similar document adopted or filed in connection with the creation, formation or organization of the Person; (f) all equity holders' agreements, voting agreements, voting trust agreements, joint venture agreements, registration rights agreements or other agreements or documents relating to the organization, management or operation of any Person or relating to the rights, duties and obligations of the equity holders of any Person; and (g) any amendment or supplement to any of the foregoing.

"Government Authorizations" shall mean all licenses, permits, certifications, consents and other authorizations from any Governmental Body as are necessary to lawfully own and operate the Assets including, but not limited to, the Health Care Licenses.

"Governmental Body" shall mean any (a) federal, state, county or municipal government, or city, town, borough, village, district or other jurisdiction; (b) governmental or quasi-Governmental Body of any nature (including any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental or quasi-governmental powers); and (c) any body exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power.

"<u>Health Care Authorities</u>" shall mean any Governmental Body or quasi-Governmental Body or any agency, intermediary, board, authority or entity concerned with the ownership, operation, use or occupancy of the Facility as a substance abuse treatment facility.

"<u>Health Care Licenses</u>" shall mean all Medicaid provider agreements, certificates of need, if applicable, and any other material certifications, governmental licenses, permits, regulatory agreements or other agreements and approvals, including certificates of operation, completion and occupancy, and substance abuse treatment facility license or other licenses required by Health Care Authorities for the legal use, occupancy and operation of the Facility.

"Improvements" shall mean the buildings and all other improvements located on the Land, including, but not limited to, the improvements consisting of the substance abuse treatment facility located on the Land and all site improvements, landscaping and fixtures, now owned or leased in connection with the ownership and operation of the Facility or now or hereafter existing on the Land.

"<u>Legal Requirement</u>" shall mean any federal, state, local, municipal or other Order, constitution, law, ordinance, principle of common law, code, regulation, or statute.

"Order" shall mean any order, injunction, judgment, decree, ruling, assessment or arbitration award of any Governmental Body or arbitrator.

"Ordinary Course of Business" shall mean actions taken by a Person that:

(a) are consistent in nature, scope and magnitude with the past practices of such Person and are taken in the course of the normal, day-to-day operations of such Person;

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- **(b)** do not require authorization or consent by the board of directors, shareholders, members, partners or any other Person for such Person (or by any Person or group of Persons exercising similar authority) under such Person's Governing Documents and do not require any other separate or special authorization of any nature; and
- (c) are similar in nature, scope and magnitude to actions customarily taken, without any separate or special authorization, in the course of the normal, day-to-day operations of other Persons that are in the same line of business as such Person.

"Person" shall mean an individual, partnership, corporation, business trust, limited liability company, limited partnership, joint stock company, trust, unincorporated association, joint venture or other entity or a Governmental Body.

"Proceeding" shall mean any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body or arbitrator.

"Purchaser" shall have the meaning set forth in the introductory paragraph of this Agreement and/ or its assigns.

"<u>Purchaser's Knowledge</u>" shall mean any fact or matter that is known or should have been known by Purchaser or Purchaser's officers, directors or managers after reasonable due inquiry.

"Seller" shall have the meaning set forth in the introductory paragraph of this Agreement.

"Seller's Knowledge" shall mean any fact or matter that is known by Sellers or Sellers' officers, directors or managers after reasonable due inquiry.

"Surveys" shall mean as-built surveys of the Land and Improvements (or updates of an existing surveys or existing surveys accompanied by no change survey affidavits in form and substance acceptable to the Title Company and Purchaser) in each case accompanied by a certificate of a registered surveyor licensed in the state where the Facility is located, certified as directed by Purchaser in full ALTA form.

"Tax" shall mean any income, gross receipts, license, provider or "bed" tax, payroll, employment, excise, severance, stamp, occupation, premium, property, environmental, windfall profit, customs, vehicle, airplane, boat, vessel or other title or registration, capital stock, franchise, employees' income withholding, foreign or domestic withholding, social security, unemployment, disability, real property, personal property, sales, use, transfer, value added, alternative, add-on minimum and other tax, fee, assessment, levy, tariff, charge or duty of any kind whatsoever and any interest, penalty, addition or additional amount thereon imposed, assessed or collected by or under the authority of any Governmental Body or payable under any tax-sharing agreement or any other contract, including land gains tax and real estate withholding tax.

"<u>Title Commitment</u>" shall mean commitment of the Title Company to issue to Purchaser the Title Insurance Policy pursuant to the provisions of <u>Section 6.1.</u>

"Title Company" shall mean Summit Title Services, LLC.

"<u>Title Defect</u>" shall mean any title matter set forth in any Title Commitment or Survey which, in Purchaser's sole and absolute judgment, is not properly included as an exception to title to the Facility or adversely affect the marketability or valuation of the Facility and the Assets or is a requirement on the Title Commitments with which Sellers must comply in order for Purchaser to obtain the Title Insurance Policy.

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"Title Insurance Policy" shall mean an ALTA Owner's Extended Coverage Policies- 2006.

2. PURCHASE AND SALE OF OWNED PROPERTY.

2.1. Agreement to Sell and Purchase. Subject to the terms of this Agreement and subject to the entry of an Order by the Rhode Island Superior Court approving the transactions contemplated herein, at Closing, Seller shall sell, assign, transfer and convey to Purchaser, and Purchaser shall acquire from Seller, good and marketable title and interest in and to the Owned Property, free and clear of all Encumbrances of any nature.

2.2. Purchase Price; Allocation.

- (a)The purchase price for the Owned Property shall be Seven Hundred Fifty Thousand Dollars (\$750,000.00) ("Purchase Price"), subject to further adjustments, if any, as provided for in this Agreement.
- (b)Purchaser and Seller agree to use best efforts to allocate the Purchase Price between and among all of the Assets being conveyed in this transaction, including the Facility, as a going concern. Such allocations shall be used by the parties in preparing Form 8594, Asset Acquisition Statement, for Seller and Purchaser and all tax returns. Seller and Purchaser shall each file Form 8594, prepared in accordance with this Section 2.2(b), for the period which includes the Closing Date. All allocations made pursuant to this Section shall be binding on the parties hereto and upon each of their successors and assigns, and the parties hereto shall report the transactions contemplated by this Agreement in accordance with such allocations. If Purchaser and Seller cannot agree to the allocation of the Purchase Price prior to Closing, then Seller and Purchaser shall exchange with each other in writing their proposed allocation (each, an "Allocation Proposal") and each shall report for tax and other purposes the allocation in accordance with their own Allocation Proposal and for purposes of calculating and paying transfer taxes on the transfer of the Property, the amount allocated to the Property in Seller's Allocation Proposal shall be used.
- **2.3. Deposit.** On the Effective Date, Purchaser shall deliver to Seller a good faith cash deposit in the amount of Twenty Five Thousand Dollars (\$25,000.00) (the "Deposit").
 - 3. REPRESENTATIONS AND WARRANTIES OF SELLER. Seller does hereby make the following representations and warranties to Purchaser hereunder, all of which shall be true and correct on the Effective Date and as of the Closing Date (except that those representations and warranties that contain materiality qualifications and other qualifications based on the word "material" shall be true and correct in all respects as of the Effective Date and as of the Closing Date and not merely all material respects):
- **3.1.** Organization, Standing, Qualification. Seller is a not-for-profit corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of formation. Seller has all the requisite power and authority necessary to own the Owned Property.
- **3.2.**Enforceability; Authorization. This Agreement, subject to the approval of the Rhode Island Superior Court, constitutes a valid and legally binding obligation of Seller enforceable in accordance with its terms. Seller has the full right and power to enter into this Agreement and to transfer the Owned Property to Purchaser. Seller has taken, or will take prior to the Closing Date, all action required to authorize the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.
- **3.3.Licensed Beds.** Schedule 3.3 presents a true, correct and complete statement, as of a recent date, with respect to the Facility: (i) the licensed number of beds; (ii) the number of beds currently in use (which corresponds to the physical number of beds at the Facility); (iii) the type of

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facility; and (iv) whether the Facility is certified for participation under the applicable state Medicaid program and, if so, the number of beds so certified.

3.4.Title to Owned Property. Seller has, or will have at Closing, good and marketable title to all of the Owned Property free and clear of all Encumbrances. All rights, properties and assets used or necessary in the operation of the Facility are owned by Seller and are included in the Owned Property.

3.5. Health Care Representations.

- (a) Seller owns and/or possessed, and hold free from restrictions or conflicts with the rights of others, all material licenses, permits, certificates and other approvals required by a Governmental Body for the operation of the Facility as a substance abuse treatment facility and as necessary in order to enable it to conduct its business as now conducted, and will operate or cause the Facility to be operated in such a manner that such licenses shall remain in full force and effect.
- **(b)** The Facility is and shall be, as of 11:59 p.m. on the day prior to the Closing Date, licensed as a substance abuse treatment facility, with the same number and type of units as are operating at the Facility on Effective Date. Such licenses are and shall on the Closing Date be unrestricted, unconditional, in good standing and in full force and effect and subject to no material waivers or limitations.
- 4. REPRESENTATIONS AND WARRANTIES OF PURCHASER. Purchaser makes the following representations and warranties to Seller, all of which shall be true and correct as of the Effective Date and as of the Closing Date (except that those representations and warranties that contain materiality qualifications and other qualifications based on the word "material" shall be true and correct in all respects as of the Effective Date and as of the Closing Date and not merely all material respects), and which shall survive the Closing.
- **4.1.** Organization of Purchaser. Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of its applicable jurisdiction of formation, and is registered with the Rhode Island Secretary of State. Purchaser is legally entitled to own and lease its properties and to carry on its businesses as and in the places where such properties are now owned, leased or operated. This Agreement constitutes a valid and legally binding obligation of Purchaser enforceable in accordance with its terms, except to the extent that (i) enforcement may be limited by or subject to any bankruptcy, insolvency, reorganization, moratorium or similar law as is now or hereinafter in effect relating to creditors' rights generally and (ii) the remedy of specific performance and injunctive and other forms of equitable relief are subject to certain equitable defenses and to the discretion of the court or other authority or Person before which any Proceeding therefore may be brought.
- **4.2.** Authority. Purchaser has the full right and power to acquire the Owned Property from Seller without obtaining the consent of any other Person or Governmental Body. Purchaser has taken, or will take, all action required to authorize the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby. The execution and delivery of the Agreement and the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the terms and provisions hereof, do not, and will not: (a) violate any provision of, or result in the breach of or accelerate or permit the acceleration of the performance required by the terms of, any applicable law, rule or regulation of any Governmental Body having jurisdiction; or (b) conflict with or violate any of the provisions of the Governing Documents of Purchaser. There is no third party: (a) from whom Purchaser must obtain consent in order for it to validly and lawfully perform its obligations hereunder or pursuant to this Agreement; and (b) to whom notice must be given or from whom approval must be obtained in order for Purchaser to validly and lawfully perform its obligations hereunder.

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- **4.3.** Conflict or Default. Neither the execution nor the delivery of this Agreement nor the consummation of the transactions herein contemplated will conflict with, result in a breach by, constitute a default under or accelerate the performance provided by the terms of any Legal Requirement or Order to which Purchaser may be a party or by which Purchaser may be bound or affected.
- **4.4. Broker's Fee.** Purchaser has engaged anyone as Purchaser's broker with respect to the transaction contemplated by this Agreement, and Seller shall have any liability or otherwise suffer or incur any loss as a result of or in connection with any brokerage or finder's fee or other commission of any Person retained by Purchaser in connection with any of the transactions contemplated by this Agreement.
- **4.5.** Litigation. There are no claims, actions, suits, Proceedings or investigations pending or to Purchaser's Knowledge threatened by or against Purchaser with respect to this Agreement, or in connection with the transactions contemplated hereby or thereby, and to Purchaser's Knowledge, there is no other reason to believe there is a valid basis for any such claim, action, suit, Proceeding or investigation.

5. COVENANTS OF THE PARTIES.

- **5.1.***Cooperation.* Between the Effective Date and after the Closing Date, Seller shall reasonably cooperate with the Purchaser in connection with transferring any licenses of the Facility to the Purchaser.
- 5.2.Confidentiality. It is understood and agreed by Purchaser and Seller that the information, documents and instruments delivered by the parties are of a confidential and proprietary nature. Each party agrees that both prior and subsequent to Closing it will maintain the confidentiality of all such information, including this Agreement, except for steps necessary to obtain an Order from the Rhode Island Superior Court to approve the transaction contemplated herein, documents or instruments delivered in connection with the negotiation of this Agreement, documents obtained from the Facility and other provided information, and only disclose such to authorized officers, directors, representatives, assignees, attorneys, accountants, financial or other professional advisors, investors, and agents and, if Closing shall occur, to others as may be necessary for the ownership, leasing, and/or operation of the Facility. Purchaser and its representatives shall have the right to communicate with necessary Governmental Bodies with respect to this transaction. This Section 5.2 and associated obligations shall survive the Closing and, in the event Closing does not occur, this Section 5.2 and associated obligations will survive termination of this Agreement. Notwithstanding anything in this paragraph, the Parties hereby acknowledge and agree that this Agreement is not confidential, and acknowledge that it will be presented to the Rhode Island Superior Court, a public forum, for review and approval.

5.3. Covenants of Sellers.

- (a) Between the Effective Date and the earlier to occur of the date this Agreement is terminated in accordance with its terms or the Closing Date, Seller shall maintain and operate Facility in the Ordinary Course of Business, subject to any Order from the Rhode Island Superior Court.
- (b) Seller shall use best efforts to assist Purchaser in acquiring the corporate team, infrastructure, and executive team of Seller only as to the Facility as part of the Assets to ensure continuity.

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- (c) Seller will use its best efforts to assist Purchaser to promptly obtain, all Government Authorizations relative to the Facility.
- **5.4.** Covenants of Purchaser. Between the Effective Date and the earlier to occur of the date this Agreement is terminated or the Closing Date, Purchaser hereby covenants to Seller as follows:
 - (a) Purchaser will use its best efforts to promptly obtain all Government Authorizations, including, without limitation, by filing such applications as are necessary for Purchaser to obtain the requisite Health Care Licenses to operate the applicable Facility; provided, however, that Purchaser obtaining the requisite Health Care Licenses is not a condition to Closing.
 - **(b)** Purchaser shall use its best efforts to promptly perform the agreements, undertakings, obligations and covenants herein provided to be performed by it, and to enable the conditions to Closing to be satisfied.

6. TITLE, SURVEY, ENVIRONMENTAL REPORTS AND INSPECTION.

6.1. Title Commitments and Policies.

- (a) Purchaser shall obtain, at its own expense, current Title Commitments issued by the Title Company of the condition of title to the Property. Purchaser shall examine the Title Commitments and Surveys and to notify Sellers of any Title Defect as soon as reasonably practicable prior to the Effective Date pursuant to Section 6.1(b).
- Prior to the Closing, Purchaser shall notify Seller of its objection to any Title Defects. Any title or survey matter in existence as of the date of the Title Commitments to which Purchaser does not object in their title notice to Seller shall an exception hereunder. Seller shall have fourteen (14) days after its receipt of the title notice within which to advise Purchaser whether or not it is prepared to cure the same prior to the Closing (which cure may be effected by payment and discharge of the objectionable item or by causing the Title Company, at Seller's cost, to remove the same as an exception or affirmatively insure over such item). The failure of Seller to respond within said seven (7) day period shall be deemed to be an election by Seller not to cure. Seller shall discharge on or before Closing, whether or not Purchaser provides any objection notice to the same, any lien on the Property that was voluntarily incurred by the Seller, and any other liens that can be discharged by the payment of money (other than any liens that may arise as a result of any actions by Purchaser) and/or escrow for any such liens, as required by the Title Company. If Seller elects or is deemed to elect not to cure any Title Defect objected to in the Purchaser's title notice, or if Seller elects to cure any Title Defect objected to in Purchaser's title notice but are unable to cure the applicable Title Defects within a reasonable period of time following such election, then Purchaser, in its sole and absolute discretion, may elect to terminate this Agreement following good faith negotiations with Seller, and in that event this Agreement shall thereupon become null and void and of no further force and effect other than the provisions that expressly survive termination of this Agreement, and the Deposit plus any accrued interest shall be returned to Purchaser. The foregoing notwithstanding, all mortgages and ancillary mortgage documentation (included but not limited to the existence of regulatory agreements, assignments of leases and rents, subordination agreements and UCC financing statements), mechanics liens, tax or judgment liens against Sellers, lis pendens, and survey matters which result in the Title Company raising an exception relating to rights of others or adverse possession are hereby deemed Title Defects, and notice or objection by Purchaser is hereby made without further notice required.
- (c) Purchaser shall bear the cost of any Title Insurance Policy in the amount of the Purchase Price, to be delivered by Title Company to Purchasers at Closing.

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6.2.Survey. Purchaser may obtain, at Purchaser's expense, Surveys sufficient to cause the Title Company to delete the standard printed survey exception and to issue the Title Insurance Policies free from any survey objections or exceptions whatsoever, which Surveys shall comply with all ALTA requirements. In the event there is a Title Defect reflected by the Surveys, it shall be resolved as set forth in Section 6.1.

6.3.Inspection. Purchaser may, prior to September 21, 2021, conduct a walk-through inspection of the Property solely for the purpose of confirming that the physical condition of the Property has not materially worsened since the Purchaser last inspected the Property. In the event the Purchaser reasonably believes the condition of the Property has materially worsened, Purchaser shall present Seller with a written list of conditions that constitute this material worsening. Seller shall have fifteen (15) days to elect to commence repairs of the conditions included on the notice. If Seller does not elect to commence repairs of the listed conditions within the aforementioned time period, Purchaser's sole remedy shall be to terminate this Agreement. Upon the termination of the Agreement in connection with the preceding sentence, Seller shall return the Deposit to the Purchaser.

7. CONDITIONS PRECEDENT TO THE PARTIES' OBLIGATIONS.

- **7.1.***Conditions to Purchaser's Obligations.* The duties and obligations of Purchaser to close pursuant to the terms and provisions of this Agreement are and shall be expressly conditioned upon the following, which may be waived, in whole or in part, by Purchaser:
 - (a) Seller shall have delivered to Purchaser good and marketable title to all of the Owned Property free and clear of all Encumbrances.
 - **(b)** At the Closing, Seller shall deliver or cause to be delivered all of the Seller's closing documents required to be delivered by Seller under <u>Section 8.2</u> of this Agreement;
 - (c) Title shall be insured by Title Insurance Policy delivered to Purchaser, at Purchaser's sole expense, at Closing, with title as required hereunder, and Seller shall have provided, or caused to have been provided, the Title Company with customary lien waivers, indemnities or affidavits in a form reasonably required by the Title Company in order to insure title and delete the standard exceptions to the Title Insurance Policy;
- **7.2.**Conditions to Sellers' Obligations. The duties and obligations of Sellers under the terms and provisions of this Agreement are and shall be expressly conditioned upon the following, which may be waived, in whole or in part, by Sellers:
 - (a) At the Closing, Purchaser shall deliver or cause to be delivered to Escrow Agent for disbursement in accordance with the Closing Statement (as defined below) the Purchase Price, less the Deposit, and all of the Purchaser's closing documents required to be delivered by Purchaser under <u>Section 8.3</u> of this Agreement; and

7.3. Mutual Conditions.

(a) The duties and obligations of Purchaser and Seller under the terms and provisions of this Agreement are and shall be expressly conditioned upon the receipt of the following authorizations that Purchaser and Seller shall make best efforts to obtain and, which may be waived, in whole or in part, by mutual agreement of Purchasers and Seller. The following approvals shall have been obtained by the Purchaser or Seller, as necessary (i) all receivership related approvals, and (ii) the entry of an Order from the Rhode Island Superior Court, approving the transaction contemplated herein and the tolling of any applicable appeal period relative to such order.

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7.4.Parties' Rights on Failure of Conditions. In the event that any condition set forth in Section 7.1 or 7.2 is not satisfied by the Closing despite the best efforts of Purchaser and Seller, Purchaser and Seller shall each be entitled as their sole remedy to terminate this Agreement. In the event that such termination is due to a failure of Seller to deliver valid title to the Owned Property as required under Section 7.1(a), or a failure of the Governmental Authorizations to be obtained as required under Section 7.3(a), then Purchaser shall receive the Deposit. If this Agreement is terminated for any other reason, then Seller shall receive the Deposit. If either party elects to terminate this Agreement pursuant to this Section 7.4, upon return of the Deposit to Purchaser or Seller as provided by this Section 7.4, this Agreement shall be of no further force and effect, except for any provision that pursuant to the terms of this Agreement expressly survives termination.

8. CLOSING; CLOSING DELIVERIES.

- **8.1.**Closing Date. Subject to satisfaction or waiver of the conditions to closing set forth in the Agreement, the closing of the transaction contemplated herein (the "Closing") shall take place on the Closing Date. For the avoidance of doubt, the Closing shall not be conditioned on Purchaser's ability to secure financing for the transaction.
- **8.2.** *Seller's Closing Documents.* Seller shall deliver or cause to be delivered to Escrow Agent or Purchaser, as applicable, on the Closing Date the following documents:
 - (a) Limited Warranty Deeds or a receiver's deed, duly executed by Seller or a duly appointed receiver, conveying good and marketable fee simple title for all of the Land and Improvements of the Facility;
 - (b) One or more Bills of Sale or Receiver's Bill of Sale (each a, "Bill of Sale");
 - (c) An executed certification of non-foreign status from Seller;
 - **(d)** A closing statement setting forth in reasonable detail the financial transactions contemplated by this Agreement, including, without limitation the Purchase Price, all prorations, and the allocation of costs specified herein (the "<u>Closing Statement</u>");
 - **(e)** Any title affidavit, certificate, lien waiver or any other document reasonably required by Title Company in connection with the issuance of any Title Insurance Policy;
 - (f) A certificate of the secretary or other officer of Seller certifying that (i) the Governing Documents of Seller attached to such certificate are complete and correct copies of such Governing Documents as in effect on the date of such certification, (ii) the resolutions of Seller's governing body approving and authorizing the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein and (iii) certificates attesting to the good standing of each Seller in its state of domestic jurisdiction.
 - **(g)** Such other documents and instruments as Purchaser or Title Company may reasonably request to accomplish the transactions contemplated by this Agreement or to evidence compliance with the covenants and agreements of Seller contained in this Agreement.
- **8.3.***Purchaser's Closing Documents.* Purchaser shall deliver or cause to be delivered to Escrow Agent or Seller, as applicable, on the Closing Date the following documents:
 - (a) The Closing Statement;

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- (b) A certificate of the secretary or other officer of Purchaser certifying that (i) the Governing Documents of Purchaser attached to such certificate are complete and correct copies of such Governing Documents as in effect on the date of such certification, (ii) the resolutions of Purchaser's board of managers or other appropriate governing body approving and authorizing the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein and (iii) certificates attesting to the good standing of Purchaser in its state of domestic jurisdiction;
- (c) Such documents and instruments as Seller or Title Company may reasonably request to accomplish the transactions contemplated by this Agreement or to evidence compliance with the covenants and agreements of Purchaser contained in this Agreement.
- **8.4.Closing Costs.** Purchaser and Seller shall each pay the costs and fees of its respective counsel. Transfer taxes shall be split evenly by Purchaser and Seller. All recording fees on the deeds and the cost of the Title Insurance Policies and Surveys, shall be paid by Purchaser. All other closing fees and expenses shall be paid by Purchaser for the portion of such closing fees and expenses that are customarily paid by a seller in transactions of this nature.
- **8.5.**Prorations. The following items shall be apportioned at the Closing between periods prior to Closing and periods following Closing, as of the Closing Date, and the Purchase Price shall be increased in the amount of any such items that relate to periods following the Closing, and decreased in the amount of any such items that related to periods prior to the Closing:
 - (a) Real estate taxes (excluding, for the avoidance of doubt, property transfer tax, land gains tax, and real estate withholding tax), assessments (other than special assessments), personal property taxes, and water, vault and sewer charges, as well as any other governmental charges or taxes assessed on the Assets, based on the rates and assessed valuation applicable in the fiscal year for which assessed; provided that if the Closing shall occur before the real estate tax rate or personal property tax rate is fixed, the apportionment of said taxes shall be based one hundred percent (100%) of the most recently ascertainable real estate tax fiscal year (or such other amount as determined by the Title Company in accordance with local custom) and shall be re-prorated following receipt of the actual bill with respect to the applicable period. Allocation of real estate taxes billed with respect to the Assets to yearly periods shall be determined in accordance with local custom, as determined by the Title Company.
 - **(b)** All charges and payments for utility services; provided that if there is no meter or if the current bill for any of such utilities has not been issued prior to the Closing Date, then such charges shall be adjusted at the Closing on the basis of the charges for the prior period for which bills were issued and shall be further adjusted when the bills for the current period are issued; provided further, to the extent possible, Sellers shall terminate their accounts with the utility service providers and Purchaser shall establish its accounts with such utility service providers effective on the Closing Date, in which event, there shall be no proration for such utility services.
 - (c) The obligations of the parties hereto under this <u>Section 8.5</u> shall survive the Closing.
 - 9. RISK OF LOSS; CONDEMNATION. In the event there is any material damage, destruction or loss with respect to any of the Assets, whether by fire, theft, vandalism, condemnation or other cause or casualty, between the date hereof and the Closing Date, (i) Purchaser shall have the right to terminate this Agreement by giving Seller written notice of its intention to do so, such notice by Purchaser to Seller to be given not later than fifteen (15) Business Days after Purchaser shall have received the notice from Seller of such aforesaid occurrence (whereupon this Agreement shall terminate and be of no further force or effect

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whatsoever except with respect to those rights and obligations, if any, which specifically survive termination of this Agreement, and the Deposit plus any accrued interest shall be returned to Purchaser) or (ii) if Purchaser elects not to terminate this Agreement, then Seller shall assign the insurance proceeds or condemnation award, as applicable, on account of such damage or loss to Purchaser to the extent necessary to complete the repairs, and this transaction shall be closed without a reduction in the Purchase Price. For the purposes of this Section, "material damage, destruction or loss," shall mean damage to, or condemnation of, the Facility, the costs of repair for which exceeds ten percent (10%) of the allocated value to the Land and Improvements or which, in Purchaser's reasonable judgment, renders the Facility less than a functional structure to continue to operate the business at the Facility at least 90% of the licensed capacity.

10. MISCELLANEOUS

10.1. Assignability. This Agreement shall not be assigned by any party without the express written consent of the other parties (which consent may be withheld in such parties' sole discretion). Subject to the foregoing, any assignment of this Agreement shall be binding upon and inure to the benefit of the successor or assignee of the parties. Without limiting the generality of the foregoing, the Purchaser may assign the Agreement to a newly formed LLC which shall be an affiliate of Purchaser provided such assignment occurs prior to the submission of the Agreement for Court approval.

10.2. Governing Law. This Agreement and all matters arising out of or resulting from this Agreement shall be governed by and construed in accordance with the internal laws of the State of Rhode Island. With respect to any matter other than any dispute, claim or controversy arising out of or relating to this Agreement, each of the parties hereto (a) consents to submit itself to the personal jurisdiction of any federal court located in the State of Rhode Island or any Rhode Island state court in the event any dispute arises out of this Agreement or transaction, (b) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, and (c) agrees that it will not bring any action relating to this Agreement or transaction in any court other than a federal or state court sitting in the State of Rhode Island (and appropriate appellate courts therefrom).

10.3. Notice. All notices, requests, consents, approvals, waivers, demands and other communications required or permitted to be given or made under this Agreement shall be in writing and shall be deemed delivered to the parties (a) on the date of personal delivery transmission by facsimile transmission, with confirmation of completed transmission, or transmission by electronic mail, with confirmation from the recipient of the successful delivery of such transmission, (b) on the first Business Day following the date of delivery to a nationally recognized overnight courier service, or (c) on the third Business Day following the date of deposit in the United States Mail, postage prepaid, by certified mail, return receipt requested, in each case, addressed as follows, or to such other address, Person as any party may designate by notice to the others in accordance herewith:

If to Seller: Phoenix Houses of New England, Inc.

99 Wayland Ave, #100 Providence, RI 02906 Attn: Peter Mumma

Email: Pmumma@phoenixhousene.org

With a copy to: Savage Law Partners, LLP

564 S. Water Street Providence, RI 02903 Attn: Jeremy Savage

Email: Jeremy@savagelawpartners.com

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If to Purchasers:	
	Attn:
	Email:

- **10.4.** Section Headings. The Section headings of this Agreement are for convenience of reference only and do not form a part thereof and do not in any way modify, interpret or construe the intentions of the parties.
- 10.5. Waivers. Any waiver by any party of any violation of, breach of or default under any provision of this Agreement or any exhibit, schedule or other document referred to in this Agreement by any other party shall not be effective unless in writing signed by the party granting the waiver. Further, no such waiver shall be construed as or constitute a waiver of any subsequent violation, breach of, or default under that provision or any other provision of this Agreement, or any exhibit or schedule or other document referred to in this Agreement.
- **10.6.** Further Assurances. Each of the parties hereto shall, at any time and from time to time after the Closing, execute and deliver, or cause to be executed and delivered, such further consents, approvals, conveyances, assignments and other documents and instruments as any party shall reasonably request in order to carry out any and all of the terms and provisions of this Agreement.
- 10.7. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile or email transmission of any signed, original counterpart transmission shall be deemed the same as the delivery of an original. The parties agree and acknowledge that this Agreement may be kept in electronic form and that an electronic version of this Agreement will be just as valid and enforceable as the original.
- **10.8.** *Termination.* If either party is entitled to terminate this Agreement, this Agreement may be terminated in accordance with its terms by written notice by the party or its representative entitled to terminate the Agreement to the other. In the event this Agreement is terminated as aforesaid, all further obligations of the parties pursuant to this Agreement shall, except for those obligations that expressly survive the termination as specified herein to the contrary, likewise terminate and this Agreement shall thereafter be of no further force and effect.
- **10.9.** Attorney's Fees. Seller and Purchaser shall each bear their own direct and indirect attorney's fees and expenses incurred in connection with the negotiation and preparation of this Agreement and the consummation and performance of the transaction contemplated hereby.
- 10.10.Waiver of Jury Trial. EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION BROUGHT ON OR WITH RESPECT TO THIS AGREEMENT, INCLUDING TO ENFORCE OR DEFEND ANY RIGHTS HEREUNDER, AND AGREES THAT ANY SUCH ACTION SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.
- **10.11.** Construction. This Agreement shall be construed as the joint and equal work product of each party and shall not be construed more or less favorably on account of its preparation or drafting.
- **10.12.** *Third Parties.* Nothing in this Agreement, or in its schedules and exhibits, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement

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on any persons or entities other than the parties hereto and their respective legal representatives, successors and assigns. Nothing in this Agreement or its schedules and exhibits is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.

- **10.13. General Construction.** Whenever required by the context herein, the singular includes the plural and masculine includes the feminine or the neuter. The word "including" means "including without limitation." Words such as "herein," "hereof," "hereby" and "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular Section or Subsection of this Agreement.
- **10.14.** *Entire Agreement.* This Agreement, including all schedules, exhibits and all other documents executed in connection with and pursuant to the terms and conditions of this Agreement, shall constitute the entire contract between the parties and may not be modified except by an instrument in writing and signed by all parties.
- 10.15. Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any party or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefore in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to the parties or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability of such provision, or the application thereof, in any other jurisdiction.
- **10.16.** *Publicity.* The parties hereto shall consult with each other as to the form and substance of any press release or other public disclosure regarding the transactions provided for herein or contemplated hereby, and no party hereto shall make any public disclosure thereof prior to the Closing without the consent of the other parties hereto provided that nothing herein shall prohibit any party from making any public disclosure which it, with advice of counsel, deems reasonably necessary to comply with laws applicable to it.
- **10.17.** Calculation of Time Periods. Unless otherwise specified, in computing any period of time described herein, the day of the act or event on which the designated period of time begins to run shall not be included and the last day of the period so computed shall be included, unless such last day is a Saturday, Sunday or legal holiday, in which event the period shall run until the next day which is not a Saturday, Sunday or a legal holiday. Further, unless otherwise specified, any reference to a specified number of days shall be deemed to refer to calendar days.
- **10.18.***No Liability of Special Master*. Purchaser hereby acknowledges and agrees that no event of default under this Agreement shall cause or impose any liability on any Court-appointed Receiver or Special Master of Seller, either in that capacity or individually._
- **10.19.** Subject to Court Approval. This Agreement and the transaction contemplated herein is subject to the entry of an Order by the Rhode Island Superior Court that approves this Agreement and the transaction contemplated herein.
- **10.20.** Exclusivity. Upon the Effective Date, Seller shall not negotiate or enter into any other definitive agreement regarding the sale, lease or management of the Owned Property for a period of fifteen (15) days from the Effective Date. Without limiting the generality of the foregoing, Seller shall not furnish additional due diligence information relating specifically to the Owned Property to any interested potential purchaser during the aforementioned period.

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IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first written.

SELLER:

PHOENIX HOUSES OF NEW ENGLAND, INC. a Rhode Island not-for-profit corporation

By Pet Myrra MCMBA

Name: Pete Mumma, MS MBA
Title: President & CEO

PURCHASER:

4NH Homes, LLC

Mike Gallo dotloop verified 09/14/21 11:01 AM EDT 88XC-HCXN-FCHL-YG9J

Name: Title:

[Signature Pages Continued on Following Page]

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EXHIBIT A

REAL ESTATE: FACILITY:

3 PIERCE ROAD, DUBLIN, NH 03444 **DUBLIN CENTER** Case Number: PM-2021600006s/zmwP-rLy7-F2rx Filed in Providence/Bristol County Superior Court Submitted: 10/4/2021 1:56 PM

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EXHIBIT B

EXCLUDED ASSETS

- All leased equipment, including the following:

 (i) B&W copier A.

 - (ii)
 - Color copier 2019 Ford Transit (iii)
 - (iv) 2020 Ford Transit
 - (v) Dishwasher
 - (vi) Filter water machine
 - Postage machine (vii)
 - (viii) Leased telephones

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EXHIBIT C

ASSETS

- B. All fixtures, furniture, and Equipment, beds, kitchen equipment, appliances, maintenance equipment, computers, phones, and network equipment at the Property;
- C. Seller's license to operate the Facility;
- D. Seller's web address solely for the portion of Seller's website related to the Facility;
- E. All phone numbers for the Facility;
- F. Employees of the Facility, as determined by Purchaser;

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> PHOENIX HOUSES OF NEW ENGLAND INC.'S PETITION TO SELL ASSETS IN THE ORDINARY COURSE AND SPECIAL MASTER'S FIRST INTERIM REPORT AND FIRST REQUEST FOR FEES, COSTS, AND EXPENSES

> > EXHIBIT A-2

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ASSET AND REAL PURCHASE AGREEMENT

BW Draft: 9/29/21

This Asset and Real Estate Purchase Agreement (the "Agreement") is made and entered into effective as of the _____ day of ______, 2021 (the "Effective Date") by and among PHOENIX HOUSES OF NEW ENGLAND, INC., a Rhode Island not-for-profit corporation ("Seller"), and BEHAVIORAL HEALTH NETWORK, INC. ("Purchaser").

RECITALS

- A. Seller owns the real property listed on <u>Exhibit A</u> as owned property (the "<u>Property</u>" or "Land"), including all Improvements (hereinafter defined) and fixtures located thereon, in addition to all furniture and Equipment (hereinafter defined), other than those leased items located at the Property (the "<u>Assets</u>, or collectively with the "Property," "Owned Property"), upon which are located certain substance abuse treatment facilities listed on <u>Exhibit A</u> (the "<u>Owned Facilities</u>").
- B. Seller operates two other substance abuse treatment facilities which are located upon certain properties that are not being transferred in connection with this Agreement (the "Other Facilities", together with the Owned Facilities, the "Facilities"). The Other Facilities are those listed on **Exhibit C**. The Assets shall include the furniture and Equipment located at the Other Facilities.
- C. Purchaser desires and intends to purchase the Owned Property and the Facilities from Seller, and Seller desires to sell the Owned Property and Facilities to Purchaser, subject to the approval of the Rhode Island Superior Court, all upon such terms and conditions as hereinafter set forth.
- D. Purchaser intends to operate the programs currently operated at the Facilities and listed on Exhibits A and C and further desires to make offers of employment to 100% of staff currently employed by the Seller and working at the Facilities, subject to acceptable interviews and Massachusetts Criminal Offender Record Information results.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree as follows:

 DEFINITIONS. As used in this Agreement, the following terms shall have the meanings assigned below:

"Agreement" shall mean this Asset Purchase Agreement.

"Business Day" shall mean any day except a Saturday, Sunday or legal holiday observed by banks having their principal offices in the State of Rhode Island.

"Closing" shall have the meaning set forth in Section 8.1.

"Closing Date" shall mean the Tuesday following the tolling of any applicable appeals periods relative to any Order by the Rhode Island Superior Court approving the transaction contemplated herein.

"Employees" shall mean all individuals employed by Seller at the Facilities.

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"Encumbrance" shall mean any charge, claim, community or other marital property interest, condition, equitable interest, lien, option, pledge, security interest, mortgage, right of way, easement, encroachment, servitude, right of first option, right of first refusal or similar restriction, including any restriction on use, voting (in the case of any security or equity interest), transfer, receipt of income or exercise of any other attribute of ownership.

"Equipment" shall mean all furniture, fixtures, equipment, machinery, vehicles, inventory, and other personal property now or hereafter attached to or appurtenant to and/or used in connection with the operation of the Facilities and the Assets and owned by Seller.

"Escrow Agent" shall mean the Title Company.

"Excluded Assets" shall mean those assets listed on **Exhibit B** that are owned by Seller with respect to the Facilities but shall not be included in the Assets.

"Facilities" shall have the meaning set forth in Paragraph A on page one of this Agreement.

"Governing Documents" shall mean, with respect to any particular entity, (a) if a corporation, the articles or certificate of incorporation and the bylaws; (b) if a general partnership, the partnership agreement and any statement of partnership; (c) if a limited partnership, the limited partnership agreement and the certificate of limited partnership; (d) if a limited liability company, the articles of organization or certificate of formation and operating agreement; (e) if another type of Person, any other charter or similar document adopted or filed in connection with the creation, formation or organization of the Person; (f) all equity holders' agreements, voting agreements, voting trust agreements, joint venture agreements, registration rights agreements or other agreements or documents relating to the organization, management or operation of any Person or relating to the rights, duties and obligations of the equity holders of any Person; and (g) any amendment or supplement to any of the foregoing.

"Government Authorizations" shall mean all licenses, permits, certifications, consents and other authorizations from any Governmental Body as are necessary to lawfully own and operate the Assets including, but not limited to, the Health Care Licenses.

"Governmental Body" shall mean any (a) federal, state, county or municipal government, or city, town, borough, village, district or other jurisdiction; (b) governmental or quasi-Governmental Body of any nature (including any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental or quasi-governmental powers); and (c) any body exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power.

"Health Care Authorities" shall mean any Governmental Body or quasi-Governmental Body or any agency, intermediary, board, authority or entity concerned with the ownership, operation, use or occupancy of the Facilities as a substance abuse treatment facility.

"Health Care Licenses" shall mean all Medicaid provider agreements, certificates of need, if applicable, and any other material certifications, governmental licenses, permits, regulatory agreements or other agreements and approvals, including certificates of operation, completion and occupancy, and substance abuse treatment facility license or other licenses required by Health Care Authorities for the legal use, occupancy and operation of the Facilities.

"Improvements" shall mean the buildings and all other improvements located on the Land, including, but not limited to, the improvements consisting of the substance abuse treatment facility located

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> on the Land and all site improvements, landscaping and fixtures, now owned or leased in connection with the ownership and operation of the Facilities or now or hereafter existing on the Land.

> "Legal Requirement" shall mean any federal, state, local, municipal or other Order, constitution, law, ordinance, principle of common law, code, regulation, or statute.

"Order" shall mean any order, injunction, judgment, decree, ruling, assessment or arbitration award of any Governmental Body or arbitrator.

"Ordinary Course of Business" shall mean actions taken by a Person that:

- (a) are consistent in nature, scope and magnitude with the past practices of such Person and are taken in the course of the normal, day-to-day operations of such Person;
- (b) do not require authorization or consent by the board of directors, shareholders, members, partners or any other Person for such Person (or by any Person or group of Persons exercising similar authority) under such Person's Governing Documents and do not require any other separate or special authorization of any nature; and
- (c) are similar in nature, scope and magnitude to actions customarily taken, without any separate or special authorization, in the course of the normal, day-to-day operations of other Persons that are in the same line of business as such Person.

"Person" shall mean an individual, partnership, corporation, business trust, limited liability company, limited partnership, joint stock company, trust, unincorporated association, joint venture or other entity or a Governmental Body.

"Proceeding" shall mean any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body or arbitrator.

"Purchaser" shall have the meaning set forth in the introductory paragraph of this Agreement and/or its assigns.

"Purchaser's Knowledge" shall mean any fact or matter that is known or should have been known by Purchaser's officers, directors or managers after reasonable due inquiry.

"Seller" shall have the meaning set forth in the introductory paragraph of this Agreement.

"Seller's Knowledge" shall mean any fact or matter that is known by Sellers or Sellers' officers, directors or managers after reasonable due inquiry.

"Surveys" shall mean as-built surveys of the Land and Improvements (or updates of an existing surveys or existing surveys accompanied by no change survey affidavits in form and substance acceptable to the Title Company and Purchaser) in each case accompanied by a certificate of a registered surveyor licensed in the state where the Facilities is located, certified as directed by Purchaser in full ALTA form.

"Tax" shall mean any income, gross receipts, license, provider or "bed" tax, payroll, employment, excise, severance, stamp, occupation, premium, property, environmental, windfall profit, customs, vehicle, airplane, boat, vessel or other title or registration, capital stock, franchise, employees' income withholding,

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foreign or domestic withholding, social security, unemployment, disability, real property, personal property, sales, use, transfer, value added, alternative, add-on minimum and other tax, fee, assessment, levy, tariff, charge or duty of any kind whatsoever and any interest, penalty, addition or additional amount thereon imposed, assessed or collected by or under the authority of any Governmental Body or payable under any tax-sharing agreement or any other contract, including land gains tax and real estate withholding tax.

"<u>Title Commitment</u>" shall mean commitment of the Title Company to issue to Purchaser the Title Insurance Policy pursuant to the provisions of <u>Section 6.1.</u>

"Title Company" shall mean First American Title Insurance Company.

"<u>Title Defect</u>" shall mean any title matter set forth in any Title Commitment or Survey which, in Purchaser's sole and absolute judgment, is not properly included as an exception to title to the Facilities or adversely affect the marketability or valuation of the Facilities and the Assets or is a requirement on the Title Commitments with which Sellers must comply in order for Purchaser to obtain the Title Insurance Policy.

"Title Insurance Policy" shall mean an ALTA Owner's Extended Coverage Policies- 2006.

2. PURCHASE AND SALE OF OWNED PROPERTY.

2.1 Agreement to Sell and Purchase. Subject to the terms of this Agreement and subject to the entry of an Order by the Rhode Island Superior Court approving the transactions contemplated herein, at Closing, Seller shall sell, assign, transfer and convey to Purchaser, and Purchaser shall acquire from Seller, good and marketable title and interest in and to the Owned Property, free and clear of all Encumbrances of any nature.

2.2 Purchase Price; Allocation.

- (a) The purchase price for the Owned Property shall be Five Hundred Two Thousand One Hundred Sixty Dollars (\$502,160.00) ("Purchase Price"), subject to further adjustments, if any, as provided for in this Agreement.
- between and among all of the Assets being conveyed in this transaction, including the Facilities, as a going concern. Such allocations shall be used by the parties in preparing Form 8594, Asset Acquisition Statement, for Seller and Purchaser and all tax returns. Seller and Purchaser shall each file Form 8594, prepared in accordance with this Section 2.2(b), for the period which includes the Closing Date. All allocations made pursuant to this Section shall be binding on the parties hereto and upon each of their successors and assigns, and the parties hereto shall report the transactions contemplated by this Agreement in accordance with such allocations. If Purchaser and Seller cannot agree to the allocation of the Purchase Price prior to Closing, then Seller and Purchaser shall exchange with each other in writing their proposed allocation (each, an "Allocation Proposal") and each shall report for tax and other purposes the allocation in accordance with their own Allocation Proposal and for purposes of calculating and paying transfer taxes on the transfer of the Property, the amount allocated to the Property in Seller's Allocation Proposal shall be used.
- **2.3 Deposit.** On the Effective Date, Purchaser shall deliver to Seller a good faith, cash deposit in the amount of Twenty-Five Thousand Dollars (\$25,000.00) (the "Deposit"), refundable in accordance with the terms and conditions of this Agreement, as set forth below.

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- 3. REPRESENTATIONS AND WARRANTIES OF SELLER. Seller does hereby make the following representations and warranties to Purchaser hereunder, all of which shall be true and correct on the Effective Date and as of the Closing Date (except that those representations and warranties that contain materiality qualifications and other qualifications based on the word "material" shall be true and correct in all respects as of the Effective Date and as of the Closing Date and not merely all material respects):
- 3.1 Organization, Standing, Qualification. Seller is a not-for-profit corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of formation. Seller has all the requisite power and authority necessary to own the Owned Property.
- 3.2 Enforceability; Authorization. This Agreement, subject to the approval of the Rhode Island Superior Court, constitutes a valid and legally binding obligation of Seller enforceable in accordance with its terms. Seller has the full right and power to enter into this Agreement and to transfer the Owned Property to Purchaser. Seller has taken, or will take prior to the Closing Date, all action required to authorize the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby. In the event that the required final and non-appealable approval of the Rhode Island Superior Court is not received prior to the Closing Date, the Deposit shall be immediately refunded to the Purchaser.
- 3.3 Licensed Beds. Schedule 3.3 presents a true, correct and complete statement, as of a recent date, with respect to the Facilities: (i) the licensed number of beds (if applicable); (ii) the number of beds currently in use (which corresponds to the physical number of beds at the Facilities); (iii) the type of facility; and (iv) whether the Facilities is certified for participation under the applicable state Medicaid program and, if so, the number of beds so certified.
- 3.4 Title to Owned Property. Seller has, or will have at Closing, good and marketable title to all of the Owned Property free and clear of all Encumbrances.. All rights, properties and assets used or necessary in the operation of the Facilities are owned by Seller and are included in the Owned Property.

3.5 Health Care Representations.

- (a) Seller owns and/or possessed, and hold free from restrictions or conflicts with the rights of others, all material licenses, permits, certificates and other approvals required by a Governmental Body for the operation of the Facilities in a manner that is consistent with their present uses and as necessary in order to enable it to conduct its business as now conducted, and will operate or cause the Facilities to be operated in such a manner that such licenses shall remain in full force and effect.
- **(b)** The Facilities are and shall be, as of 11:59 p.m. on the day prior to the Closing Date, licensed in accordance with their present uses with the same number and type of units as are operating at the Facilities on Effective Date. Such licenses are and shall on the Closing Date be unrestricted, unconditional, in good standing and in full force and effect and subject to no material waivers or limitations.
- 4. REPRESENTATIONS AND WARRANTIES OF PURCHASER. Purchaser makes the following representations and warranties to Seller, all of which shall be true and correct as of the Effective Date and as of the Closing Date (except that those representations and warranties that contain materiality qualifications and other qualifications based on the word "material" shall be true and correct in all respects as of the Effective Date and as of the Closing Date and not merely all material respects), and which shall survive the Closing.

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- 4.1 Organization of Purchaser. Purchaser is nonprofit duly organized, validly existing and in good standing under the laws of its applicable jurisdiction of formation, and is registered with the Massachusetts Secretary of State. Purchaser is legally entitled to own and lease its properties and to carry on its businesses as and in the places where such properties are now owned, leased or operated. This Agreement constitutes a valid and legally binding obligation of Purchaser enforceable in accordance with its terms, except to the extent that (i) enforcement may be limited by or subject to any bankruptcy, insolvency, reorganization, moratorium or similar law as is now or hereinafter in effect relating to creditors' rights generally and (ii) the remedy of specific performance and injunctive and other forms of equitable relief are subject to certain equitable defenses and to the discretion of the court or other authority or Person before which any Proceeding therefore may be brought.
- 4.2 Authority. Purchaser has the full right and power to acquire the Owned Property from Seller without obtaining the consent of any other Person or Governmental Body. Purchaser has taken, or will take, all action required to authorize the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby. The execution and delivery of the Agreement and the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the terms and provisions hereof, do not, and will not: (a) violate any provision of, or result in the breach of or accelerate or permit the acceleration of the performance required by the terms of, any applicable law, rule or regulation of any Governmental Body having jurisdiction; or (b) conflict with or violate any of the provisions of the Governing Documents of Purchaser. There is no third party: (a) from whom Purchaser must obtain consent in order for it to validly and lawfully perform its obligations hereunder or pursuant to this Agreement; and (b) to whom notice must be given or from whom approval must be obtained in order for Purchaser to validly and lawfully perform its obligations hereunder.
- 4.3 Conflict or Default. Neither the execution nor the delivery of this Agreement nor the consummation of the transactions herein contemplated will conflict with, result in a breach by, constitute a default under or accelerate the performance provided by the terms of any Legal Requirement or Order to which Purchaser may be a party or by which Purchaser may be bound or affected.
- 4.4 Broker's Fee. Purchaser has not engaged anyone as Purchaser's broker with respect to the transaction contemplated by this Agreement, and Seller shall not have any liability or otherwise suffer or incur any loss as a result of or in connection with any brokerage or finder's fee or other commission of any Person retained by Purchaser in connection with any of the transactions contemplated by this Agreement.
- 4.5 Litigation. There are no claims, actions, suits, Proceedings or investigations pending or to Purchaser's Knowledge threatened by or against Purchaser with respect to this Agreement, or in connection with the transactions contemplated hereby or thereby, and to Purchaser's Knowledge, there is no other reason to believe there is a valid basis for any such claim, action, suit, Proceeding or investigation.

COVENANTS OF THE PARTIES.

- 5.1 Cooperation. Between the Effective Date and after the Closing Date, Seller shall reasonably cooperate with the Purchaser in connection with transferring any licenses of the Facilities to the Purchaser.
- 5.2 Confidentiality. It is understood and agreed by Purchaser and Seller that the information, documents and instruments delivered by the parties are of a confidential and proprietary nature. Each party agrees that both prior and subsequent to Closing it will maintain the confidentiality of all such information, including this Agreement, except for steps necessary to obtain an Order from the

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Rhode Island Superior Court to approve the transaction contemplated herein, documents or instruments delivered in connection with the negotiation of this Agreement, documents obtained from the Facilities and other provided information, and only disclose such to authorized officers, directors, representatives, assignees, attorneys, accountants, financial or other professional advisors, investors, and agents and, if Closing shall occur, to others as may be necessary for the ownership, leasing, and/or operation of the Facilities. Purchaser and its representatives shall have the right to communicate with necessary Governmental Bodies with respect to this transaction. This Section 5.2 and associated obligations shall survive the Closing and, in the event Closing does not occur, this Section 5.2 and associated obligations will survive termination of this Agreement. Notwithstanding anything in this paragraph, the Parties hereby acknowledge and agree that this Agreement is not confidential, and acknowledge that it will be presented to the Rhode Island Superior Court, a public forum, for review and approval.

5.3 Covenants of Sellers.

- (a) Between the Effective Date and the earlier to occur of the date this Agreement is terminated in accordance with its terms or the Closing Date, Seller shall maintain and operate Facilities in the Ordinary Course of Business, subject to any Order from the Rhode Island Superior Court.
- (b) Seller shall use best efforts to assist Purchaser in acquiring the corporate team, infrastructure, and executive team of Seller only as to the Facilities as part of the Assets to ensure continuity.
- (c) Seller will use its best reasonable efforts to assist Purchaser to promptly obtain, all Government Authorizations relative to the Facilities.
- 5.4 Covenants of Purchaser. Between the Effective Date and the earlier to occur of the date this Agreement is terminated or the Closing Date, Purchaser hereby covenants to Seller as follows:
- (a) Purchaser will use its best efforts to promptly obtain all Government Authorizations, including, without limitation, by filing such applications as are necessary for Purchaser to obtain the requisite Health Care Licenses to operate the applicable Facilities; provided, however, that Purchaser obtaining the requisite Health Care Licenses is not a condition to Closing.
- (b) Purchaser shall use its best efforts to promptly perform the agreements, undertakings, obligations and covenants herein provided to be performed by it, and to enable the conditions to Closing to be satisfied.
- (c) The Assets shall include all records pertaining to the facility and Purchaser shall use its best efforts to comply with all regulatory and statutory requirements for the preservation and security of those records as if it was the Seller.

6. TITLE, SURVEY, ENVIRONMENTAL REPORTS AND INSPECTION.

6.1 Title Commitments and Policies.

(a) Purchaser shall obtain, at its own expense, current Title Commitments issued by the Title Company of the condition of title to the Property. Purchaser shall examine the Title Commitments and Surveys and to notify Sellers of any Title Defect prior to the expiration of the fourteen (14) day due diligence period, set forth in §6.1 (b) below.

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- Within fourteen (14) days of the Effective Date, Purchaser shall notify Seller of its objection to any Title Defects. Any title or survey matter in existence as of the date of the Title Commitments to which Purchaser does not object in their title notice to Seller shall an exception hereunder. Seller shall have fourteen (14) days after its receipt of the title objection notice within which to advise Purchaser whether or not it is prepared to cure the same prior to the Closing (which cure may be effected by payment and discharge of the objectionable item or by causing the Title Company, at Seller's cost, to remove the same as an exception or affirmatively insure over such item). The failure of Seller to respond within said fourteen (14) day period shall be deemed to be an election by Seller not to cure. Seller shall discharge on or before Closing, whether or not Purchaser provides any objection notice to the same, any lien on the Property that was voluntarily incurred by the Seller, and any other liens that can be discharged by the payment of money (other than any liens that may arise as a result of any actions by Purchaser) and/or escrow for any such liens, as required by the Title Company. If Seller elects or is deemed to elect not to cure any Title Defect objected to in the Purchaser's title notice, or if Seller elects to cure any Title Defect objected to in Purchaser's title notice but are unable to cure the applicable Title Defects within a reasonable period of time following such election, but in no event more than thirty (30) days, then Purchaser, in its sole and absolute discretion, may elect to terminate this Agreement following good faith negotiations with Seller, and in that event this Agreement shall thereupon become null and void and of no further force and effect other than the provisions that expressly survive termination of this Agreement, and the Deposit plus any accrued interest shall be immediately returned to Purchaser. The foregoing notwithstanding, all mortgages and ancillary mortgage documentation (included but not limited to the existence of regulatory agreements, assignments of leases and rents, subordination agreements and UCC financing statements), mechanics liens, tax or judgment liens against Sellers, lis pendens, and survey matters which result in the Title Company raising an exception relating to rights of others or adverse possession are hereby deemed Title Defects, and notice or objection by Purchaser is hereby made without further notice required.
- (c) Purchaser shall bear the cost of any Title Insurance Policy in the amount of the Purchase Price, to be delivered by Title Company to Purchasers at Closing.
- 6.2 Survey. Purchaser may obtain, at Purchaser's expense, Surveys sufficient to cause the Title Company to delete the standard printed survey exception and to issue the Title Insurance Policies free from any survey objections or exceptions whatsoever, which Surveys shall comply with all ALTA requirements. In the event there is a Title Defect reflected by the Surveys, it shall be resolved as set forth in Section 6.1.

7. CONDITIONS PRECEDENT TO THE PARTIES' OBLIGATIONS.

- 7.1 Conditions to Purchaser's Obligations. The duties and obligations of Purchaser to close pursuant to the terms and provisions of this Agreement are and shall be expressly conditioned upon the following, which may be waived, in whole or in part, by Purchaser:
- (a) At the Closing, Seller shall deliver or cause to be delivered to Purchaser good and marketable title, to all of the Owned Property free and clear of all Encumbrances.
- (b) At the Closing, Seller shall deliver or cause to be delivered all of the Seller's closing documents required to be delivered by Seller under Section 8.2 of this Agreement;
- 7.2 Conditions to Sellers' Obligations. The duties and obligations of Sellers under the terms and provisions of this Agreement are and shall be expressly conditioned upon the following, which may be waived, in whole or in part, by Sellers:

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(a) At the Closing, Purchaser shall deliver or cause to be delivered to Escrow Agent for disbursement in accordance with the Closing Statement (as defined below) the Purchase Price, less the Deposit, and all of the Purchaser's closing documents required to be delivered by Purchaser under Section 8.3 of this Agreement.

7.3 Mutual Conditions.

- (a) The duties and obligations of Purchaser and Seller under the terms and provisions of this Agreement are and shall be expressly conditioned upon the receipt of the following authorizations that Purchaser and Seller shall make best efforts to obtain and, which may be waived, in whole or in part, by mutual agreement of Purchaser and Seller. The following approvals shall have been obtained by the Purchaser or Seller, as necessary (i) all receivership related approvals, and (ii) the entry of a final non-appealable Order from the Rhode Island Superior Court, approving the transaction contemplated herein and the tolling of any applicable appeal period relative to such order.
- 7.4 Parties' Rights on Failure of Conditions. In the event that any condition set forth in Section 7.1 or 7.2 is not satisfied by the Closing despite the best efforts of Purchaser and Seller, Purchaser and Seller shall each be entitled as their sole remedy to terminate this Agreement. In the event that such termination is due to a failure of Seller to deliver valid title to the Owned Property as required under Section 7.1(a), or a failure of the Governmental Authorizations to be obtained as required under Section 7.3(a), then Purchaser shall be entitled to the immediate return of the Deposit. If this Agreement is terminated for any other reason, then Seller shall be entitled to retain the Deposit. If either party elects to terminate this Agreement pursuant to this Section 7.4, upon return of the Deposit to Purchaser or Seller as provided by this Section 7.4, this Agreement shall be of no further force and effect, except for any provision that pursuant to the terms of this Agreement expressly survives termination.

8. CLOSING; CLOSING DELIVERIES.

- 8.1 Closing Date. Subject to satisfaction or waiver of the conditions to closing set forth in Section 7 of the Agreement, the closing of the transaction contemplated herein (the "Closing") shall take place on the Closing Date. For the avoidance of doubt, the Closing shall not be conditioned on Purchaser's ability to secure financing for the transaction.
- **8.2** Seller's Closing Documents. Seller shall deliver or cause to be delivered to Escrow Agent or Purchaser, as applicable, on the Closing Date the following documents:
- (a) Limited Warranty Deeds or a receiver's deeds, duly executed by Seller or a duly appointed receiver, conveying good, and marketable fee simple title for all of the Land and Improvements of the Facilities;
 - (b) One or more Bills of Sale or Receiver's Bill of Sale (each a, "Bill of Sale");
 - (c) An executed certification of non-foreign status from Seller:
- (d) A closing statement setting forth in reasonable detail the financial transactions contemplated by this Agreement, including, without limitation the Purchase Price, all prorations, and the allocation of costs specified herein (the "Closing Statement"):
- (e) Any title affidavit, certificate, lien waiver or any other document reasonably required by Title Company in connection with the issuance of any Title Insurance Policy;

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- (f) A certificate of the secretary or other officer of Seller certifying that (i) the Governing Documents of Seller attached to such certificate are complete and correct copies of such Governing Documents as in effect on the date of such certification, (ii) the resolutions of Seller's governing body approving and authorizing the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein and (iii) certificates attesting to the good standing of each Seller in its state of domestic jurisdiction.
- (g) Such other documents and instruments as Purchaser, or Title Company may reasonably request to accomplish the transactions contemplated by this Agreement or to evidence compliance with the covenants and agreements of Seller contained in this Agreement.
- **8.3** *Purchaser's Closing Documents.* Purchaser shall deliver or cause to be delivered to Escrow Agent or Seller, as applicable, on the Closing Date the following documents:
 - (a) The Closing Statement;
- (b) A certificate of the secretary or other officer of Purchaser certifying that (i) the Governing Documents of Purchaser attached to such certificate are complete and correct copies of such Governing Documents as in effect on the date of such certification, (ii) the resolutions of Purchaser's board of managers or other appropriate governing body approving and authorizing the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein and (iii) certificates attesting to the good standing of Purchaser in its state of domestic jurisdiction;
- (c) Such documents and instruments as Seller or Title Company may reasonably request to accomplish the transactions contemplated by this Agreement or to evidence compliance with the covenants and agreements of Purchaser contained in this Agreement.
- 8.4 Closing Costs. Purchaser and Seller shall each pay the costs and fees of its respective counsel. Transfer taxes shall be split evenly by Purchaser and Seller. All recording fees on the deeds and the cost of the Title Insurance Policies and Surveys, shall be paid by Purchaser. All other closing fees and expenses shall be paid by Purchaser for the portion of such closing fees and expenses that are customarily paid by a seller in transactions of this nature.
- **8.5** *Prorations*. The following items shall be apportioned at the Closing between periods prior to Closing and periods following Closing, as of the Closing Date, and the Purchase Price shall be increased in the amount of any such items that relate to periods following the Closing, and decreased in the amount of any such items that related to periods prior to the Closing:
- (a) Real estate taxes (excluding, for the avoidance of doubt, property transfer tax, land gains tax, and real estate withholding tax), assessments (other than special assessments), personal property taxes, and water, vault and sewer charges, as well as any other governmental charges or taxes assessed on the Assets, based on the rates and assessed valuation applicable in the fiscal year for which assessed; provided that if the Closing shall occur before the real estate tax rate or personal property tax rate is fixed, the apportionment of said taxes shall be based one hundred percent (100%) of the most recently ascertainable real estate tax fiscal year (or such other amount as determined by the Title Company in accordance with local custom) and shall be re-prorated following receipt of the actual bill with respect to the applicable period. Allocation of real estate taxes billed with respect to the Assets to yearly periods shall be determined in accordance with local custom, as determined by the Title Company.
- (b) All charges and payments for utility services; provided that if there is no meter or if the current bill for any of such utilities has not been issued prior to the Closing Date, then such

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charges shall be adjusted at the Closing on the basis of the charges for the prior period for which bills were issued and shall be further adjusted when the bills for the current period are issued; provided further, to the extent possible, Sellers shall terminate their accounts with the utility service providers and Purchaser shall establish its accounts with such utility service providers effective on the Closing Date, in which event, there shall be no proration for such utility services.

(c) The obligations of the parties hereto under this <u>Section 8.5</u> shall survive the Closing.

9. RISK OF LOSS; CONDEMNATION. In the event there is any material damage, destruction or loss with respect to any of the Assets, whether by fire, theft, vandalism, condemnation or other cause or casualty, between the date hereof and the Closing Date, (i) Purchaser shall have the right to terminate this Agreement by giving Seller written notice of its intention to do so, such notice by Purchaser to Seller to be given not later than fifteen (15) Business Days after Purchaser shall have received the notice from Seller of such aforesaid occurrence (whereupon this Agreement shall terminate and be of no further force or effect whatsoever except with respect to those rights and obligations, if any, which specifically survive termination of this Agreement, and the Deposit plus any accrued interest shall be immediately returned to Purchaser) or (ii) if Purchaser elects not to terminate this Agreement, then Seller shall assign the insurance proceeds or condemnation award, as applicable, on account of such damage or loss to Purchaser to the extent necessary to complete the repairs, and this transaction shall be closed without a reduction in the Purchase Price. For the purposes of this Section, "material damage, destruction or loss," shall mean damage to, or condemnation of, the Facilities, the costs of repair for which exceeds ten percent (10%) of the allocated value to the Land and Improvements or which, in Purchaser's reasonable judgment, renders the Facilities less than a functional structure to continue to operate the business at the Facilities at least 90% of the licensed capacity.

10. MISCELLANEOUS

- 10.1 Assignability. This Agreement shall not be assigned by any party without the express written consent of the other parties (which consent may be withheld in such parties' sole discretion). Subject to the foregoing, any assignment of this Agreement shall be binding upon and inure to the benefit of the successor or assignee of the parties. Without limiting the generality of the foregoing to the contrary, the Purchaser may assign the Agreement to a newly formed legal entity which shall be an affiliate of Purchaser provided such assignment occurs prior to the submission of the Agreement for Court approval.
- this Agreement shall be governed by and construed in accordance with the internal laws of the State of Rhode Island. With respect to any matter other than any dispute, claim or controversy arising out of or relating to this Agreement, each of the parties hereto (a) consents to submit itself to the personal jurisdiction of any federal court located in the State of Rhode Island or any Rhode Island state court in the event any dispute arises out of this Agreement or transaction, (b) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, and (c) agrees that it will not bring any action relating to this Agreement or transaction in any court other than a federal or state court sitting in the State of Rhode Island (and appropriate appellate courts therefrom).
- 10.3 Notice. All notices, requests, consents, approvals, waivers, demands and other communications required or permitted to be given or made under this Agreement shall be in writing and shall be deemed delivered to the parties (a) on the date of personal delivery transmission by facsimile transmission, with confirmation of completed transmission, or transmission by electronic mail, with confirmation from the recipient of the successful delivery of such transmission, (b) on the first Business Day following the date of delivery to a nationally recognized overnight courier service, or (c) on the third Business Day following the date of deposit in the United States Mail, postage prepaid, by certified mail,

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return receipt requested, in each case, addressed as follows, or to such other address, Person as any party may designate by notice to the others in accordance herewith:

If to Seller: Phoenix Houses of New England, Inc.

99 Wayland Ave, #100 Providence, RI 02906 Attn: Peter Mumma

Email: Pmumma@phoenixhousene.org

With a copy to: Savage Law Partners, LLP

564 S. Water Street Providence, RI 02903 Attn: Jeremy Savage

Email: Jeremy@savagelawpartners.com

If to Purchasers: Behavioral Health Network, Inc.

417 Liberty Street Springfield, MA 01104

Attn: Steven Winn, President and CEO Email: Steven.winn@bhninc.org

- 10.4 Section Headings. The Section headings of this Agreement are for convenience of reference only and do not form a part thereof and do not in any way modify, interpret or construe the intentions of the parties.
- 10.5 Waivers. Any waiver by any party of any violation of, breach of or default under any provision of this Agreement or any exhibit, schedule or other document referred to in this Agreement by any other party shall not be effective unless in writing signed by the party granting the waiver. Further, no such waiver shall be construed as or constitute a waiver of any subsequent violation, breach of, or default under that provision or any other provision of this Agreement, or any exhibit or schedule or other document referred to in this Agreement.
- 10.6 Further Assurances. Each of the parties hereto shall, at any time and from time to time after the Closing, execute and deliver, or cause to be executed and delivered, such further consents, approvals, conveyances, assignments and other documents and instruments as any party shall reasonably request in order to carry out any and all of the terms and provisions of this Agreement.
- 10.7 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile or email transmission of any signed, original counterpart transmission shall be deemed the same as the delivery of an original. The parties agree and acknowledge that this Agreement may be kept in electronic form and that an electronic version of this Agreement will be just as valid and enforceable as the original.
- 10.8 Termination. If either party is entitled to terminate this Agreement, this Agreement may be terminated in accordance with its terms by written notice by the party or its representative entitled to terminate the Agreement to the other. In the event this Agreement is terminated as aforesaid, all further obligations of the parties pursuant to this Agreement shall, except for those obligations that expressly survive the termination as specified herein to the contrary, likewise terminate and this Agreement shall thereafter be of no further force and effect.

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- 10.9 Attorney's Fees. Seller and Purchaser shall each bear their own direct and indirect attorney's fees and expenses incurred in connection with the negotiation and preparation of this Agreement and the consummation and performance of the transaction contemplated hereby.
- 10.10 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION BROUGHT ON OR WITH RESPECT TO THIS AGREEMENT, INCLUDING TO ENFORCE OR DEFEND ANY RIGHTS HEREUNDER, AND AGREES THAT ANY SUCH ACTION SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.
- 10.11 Construction. This Agreement shall be construed as the joint and equal work product of each party and shall not be construed more or less favorably on account of its preparation or drafting.
- 10.12 Third Parties. Nothing in this Agreement, or in its schedules and exhibits, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons or entities other than the parties hereto and their respective legal representatives, successors and assigns. Nothing in this Agreement or its schedules and exhibits is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.
- 10.13 General Construction. Whenever required by the context herein, the singular includes the plural and masculine includes the feminine or the neuter. The word "including" means "including without limitation." Words such as "herein," "hereof," "hereby" and "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular Section or Subsection of this Agreement.
- 10.14 Entire Agreement. This Agreement, including all schedules, exhibits and all other documents executed in connection with and pursuant to the terms and conditions of this Agreement, shall constitute the entire contract between the parties and may not be modified except by an instrument in writing and signed by all parties.
- 10.15 Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any party or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefore in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to the parties or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability of such provision, or the application thereof, in any other jurisdiction.
- 10.16 Publicity. The parties hereto shall consult with each other as to the form and substance of any press release or other public disclosure regarding the transactions provided for herein or contemplated hereby, and no party hereto shall make any public disclosure thereof prior to the Closing without the consent of the other parties hereto provided that nothing herein shall prohibit any party from making any public disclosure which it, with advice of counsel, deems reasonably necessary to comply with laws applicable to it.
- 10.17 Calculation of Time Periods. Unless otherwise specified, in computing any period of time described herein, the day of the act or event on which the designated period of time begins to run

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shall not be included and the last day of the period so computed shall be included, unless such last day is a Saturday, Sunday or legal holiday, in which event the period shall run until the next day which is not a Saturday, Sunday or a legal holiday. Further, unless otherwise specified, any reference to a specified number of days shall be deemed to refer to calendar days.

- 10.18 No Liability of Special Master. Purchaser hereby acknowledges and agrees that no event of default under this Agreement shall cause or impose any liability on any Court-appointed Receiver or Special Master of Seller, either in that capacity or individually.
- 10.19 Subject to Court Approval. This Agreement and the transaction contemplated herein is subject to the entry of a final non-appealable Order by the Rhode Island Superior Court that approves this Agreement and the transaction contemplated herein.
- 10.20 Exclusivity. Upon the Effective Date, Seller shall not negotiate or enter into any other definitive agreement regarding the sale, lease or management of the Owned Property for the period commencing on the Effective Date through the Closing Date, unless this agreement is otherwise terminated as provided herein. Without limiting the generality of the foregoing, Seller shall not furnish additional due diligence information relating specifically to the Owned Property to any interested potential purchaser during the aforementioned period.

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IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first written.

SELLER:

PHOENIX HOUSES OF NEW ENGLAND, INC. a Rhode Island not-for-profit corporation

By:	
Name:	
Title:	

PURCHASER:

BEHAVIORAL HEALTH NETWORK, INC., a Massachusetts not-for-profit corporation

Name: Stewart Jostin

Title: CFO

[Signature Pages Continued on Following Page]

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EXHIBIT A

REAL ESTATE:

FACILITIES:

Name	Address	Service Onsite	Max Operating Beds	Max Physical Beds
Springfield Ctr	240 Central St., Springfield MA	Women's residential	14	14
CSS	5 Madison Ave., Springfield, MA	Mens Residential	35	35
TSS-	130 Pine St, Holyoke, MA	Mens Residential	24	27

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EXHIBIT B

EXCLUDED ASSETS

A. All leased equipment. Case Number: PM-2021-00006 Filed in Providence/Bristol County Superior Court Submitted: 10/4/2021 1:56 PM Envelope: 3311013 Reviewer: Jaiden H.

EXHIBIT C

OTHER FACILITIES

Name	Address	Service	Max Operational Beds	Max Physic Beds
Mulberry St	15 Mulberry St, Springfield, MA	Western Mass Outpatient and Admin Offices	0	16
Dorchester Center, Women and Children	90 Cushing Avenue Dorchester, MA	Residential Treatment (rooms are billable units, not beds)	14	15

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PHOENIX HOUSES OF NEW ENGLAND INC.'S PETITION TO SELL ASSETS IN THE ORDINARY COURSE AND SPECIAL MASTER'S FIRST INTERIM REPORT AND FIRST REQUEST FOR FEES, COSTS, AND EXPENSES

EXHIBIT B

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STATE OF RHODE ISLAND PROVIDENCE, SC

SUPERIOR COURT

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)
PETER MUMMA, in his capacity as Chief)
Executive Officer and President of the	
Board of Directors of Phoenix Houses of	
New England, Inc.,)
Petitioner,)
)
v.) C.A. No. PM-2021-00006
)
PHOENIX HOUSES OF NEW	
ENGLAND, INC.,)
Respondent.)
	_)

ORDER APPOINTING TEMPORARY NON-LIQUIDATING SPECIAL MASTER

The above-captioned matter came before the Honorable Brian P. Stern on January 4, 2021 on a Verified Petition for the Appointment of a Receiver ("Petition"). After consideration, it is hereby

ORDERED, ADJUDGED, AND DECREED

- 1. That Jonathan N. Savage, Esq., of Shechtman Halperin Savage, LLP, 1080 Main Street, Pawtucket, Rhode Island, is appointed as Temporary Non-Liquidating Special Master, with all the powers of a receiver ("Special Master"), of Phoenix Houses of New England, Inc. ("Respondent").
- 2. That said Special Master shall, no later than five (5) days from the date hereof, file a bond in the sum of \$10,000.00 (Ten Thousand) with any surety company authorized to do business in the State of Rhode Island as surety thereon, conditioned that the Special Master will well and truly perform the duties of said office and duly account for all monies and property that may come

Filed in Providence/Bristol County Superior Court

Submitted: 10/4/2021 1:56 PM

Envelope: 3311013

Reviewer: Jaiden H.

into the Special Master's hands and abide by and perform all things which the Special master will

be directed to do by this Court.

3. Upon the appointment of the Special Master as set forth in Paragraph 1 above, until

further Order of this Court, the Respondent's business operations shall proceed as follows:

a. Respondent's management ("Management") shall continue to

Respondent's business on a day-to-day basis pending the entry of an Order

establishing an Approved Operating Plan (defined below). Management shall not

make expenditures and/or dispose of, or encumber, assets of the Non-Liquidating

Special Mastership Estate outside the ordinary course of business absent notice to

and approval by the Court. The Special Master shall not have any liability for the

administration of the day-to-day operations of Respondent unless and until the

Court so orders;

b. No later than ten days from the date of entry of this order, the Petitioner and

Respondent shall present an operating plan ("Operating Plan") to the Special

Master. Prior to presenting the Operating Plan, the Petitioner and Respondent shall

consult with the Special Master as to the contents of the Operating Plan. The

Special Master shall then review and revise the Operating Plan as necessary.

c. As part of any proposed Operating Plan, the Petitioner and Respondent shall

address providing the following monthly documentation certified by the Petitioner

and Respondent as true, accurate and complete (collectively, the "Reporting

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Submitted: 10/4/2021 1:56 PM

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Information"), to the best of the Respondent's knowledge, information, and belief

and to the extent available or able to be provided to the Special Master:

i. balance sheet, statement of income and expenses, statement of cash flows,

cash flow forecast addressing the remaining calendar year, and budget

versus actual comparison report; an aged payables report and an aged

receivables report; a capital expenditures report; and bank statements with

monthly reconciliations. The Petitioner and Respondent shall deliver the

Reporting Information no later than the 15th day of each month for the

previous month to the Special Master. The Special Master shall have the

right to audit any of the Reporting Information.

d. Upon completion of the Operating Plan, the Special Master shall then submit the

Operating Plan to the Superior Court for approval (the "Recommended Operating

Plan"). The Recommended Operating Plan shall address the requirements set forth

in Superior Court Administrative Order 2020-04 ("Administrative Order").

Notwithstanding anything to the contrary herein, upon appointment the Special 4.

Master shall have the following powers and duties:

a. Within five (5) days of entry of this order, the Special Master shall use all good

faith efforts to provide notice and a copy of the Petition and the instant Order to

any and all known claimants and creditors of the Respondent;

b. The Special Master shall be authorized to contact the creditors and stakeholders of

the Respondent at any time;

c. Pending Court-approval of an Operating Plan, the Petitioner and/or Respondent

shall provide the Special Master with monthly bank statements and financial

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reports, which shall include a reconciliation of itemized cash receipts and

expenditures, as well as current cash on hand balances in a format approved by the

Special Master;

d. The Special Master retains the authority, with notice to the Superior Court, to take

control of all operations and assets of the Respondent if the Special Master

determines that either action is being taken to remove assets of the Respondent from

the supervision of the Court, or action is being taken which in the Special Master's

discretion creates an unreasonable risk to the operations and/or assets of

Respondent. In such event, the Special Master shall immediately petition the Court

for further instructions;

e. The Special Master shall provide notice and a copy of the Recommended Operating

Plan to all known creditors, stakeholders, and potential claimants of the Non-

Liquidating Special Mastership by electronic mail (where possible) or first-class

mail;

f. In providing notice of the Recommended Operating Plan on all known creditors,

stakeholders, and potential claimants of the Non-Liquidating Special Mastership

Estate, the Special Master will establish a ten (10) day comment period for creditors

and/or potential claimants to comment on, or object to, the Recommended

Operating Plan;

g. In addition, service of the Recommended Operating Plan on all known creditors,

stakeholders, and potential claimants shall establish a hearing date for any

objections to a Recommended Operating Plan that cannot be resolved by the

Special Master. The date for the hearing shall be set forth in the notice to all known

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creditors and potential claimants enclosing the Recommended Operating Plan and

establishing the ten (10) day comment period for creditors and potential claimants

to comment on, or object to, the Recommended Operating Plan. The hearing date

for approval of the Recommended Operating Plan shall be scheduled no later than

fifteen (15) days after service of the Recommended Operating Plan on creditors and

potential claimants; and

5. That, pursuant to and in compliance with Rhode Island Supreme Court Executive

Order No. 95-01, this Court finds that the designation of the aforesaid person for appointment as

Special Master is warranted and required because of the Special Master's specialized expertise and

experience.

6. Nothing in this Order shall prevent the Court from entering any further orders in

the instant proceeding to address specific matters that may arise upon request of the Petitioner, the

Respondent, the Special Master, or any other party in interest upon such notice as the Court may

require under the circumstances.

7. Absent prior approval from this Court, in connection with which the Special Master

shall be entitled to prior notice as the Court may require and an opportunity to be heard, the

following are hereby restrained and enjoined for the duration of the appointment of the Special

Master:

a. The commencement or continuation, including the issuance or employment of

process, of a judicial, administrative, or other action or proceeding against the

Respondent that was, or could have been, commenced before the commencement

Filed in Providence/Bristol County Superior Court

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of the special mastership, or to recover a claim against the Respondent that arose

before the commencement of the special mastership;

b. The enforcement, against the Respondent or against property of the special

mastership estate, or a judgment obtained before the commencement of the special

mastership;

c. Any act to obtain possession of property of, or from, the special mastership estate

or to exercise control over any property of the special mastership estate;

d. Any act to create, perfect, or enforce any lien against property of the special

mastership estate;

e. Any act to create, perfect, or enforce against property of the Respondent any lien

to the extent that the lien secures a claim that arose before the commencement of

the special mastership;

f. Any act to collect, assess, or recover a claim against the Respondent that arose

before the commencement of the special mastership;

g. The setoff of any debt owing to the Respondent that arose before the

commencement of the special mastership against any claim against the Respondent;

h. Furthermore, if the Respondent is the recipient of funds pursuant to the CARES

Act, the Respondent is restrained and enjoined from using such funds in any manner

other than as provided in the CARES Act.

8. That a citation be issued to said Respondent, returnable to the Superior Court sitting

at Providence County, Rhode Island on ______ February 5 __, 2021, at ____1:00 ___a.m.

at which time and place this cause is set down for Hearing on the prayer for the Appointment of a

Non-Liquidating Special Master; that the Clerk of this Court shall give Notice of the pendency of

Filed in Providence/Bristol County Superior Court

Submitted: 10/4/2021 1:56 PM

Envelope: 3311013 Reviewer: Jaiden H.

the Petition herein by publication in *The Providence Journal* on or before ______ January 22__, 2021, so long as the Special Master's Bond has been filed; which publication shall provide in part as follows:

a. PLEASE NOTE: THE RESPONDENT CONTINUES TO OPERATE ITS
BUSINESS AND INTENDS TO USE THIS NON-LIQUIDATING SPECIAL
MASTERSHIP PROCEEDING TO MAINTAIN AND RESTORE ITS
ONGOING BUSINESS OPERATIONS AS A RESULT OF THE COVID-19
PANDEMIC. PLEASE CONTACT COUNSEL TO THE TEMPORARY NONLIQUIDATING SPECIAL MASTER AT

CFRAGOMENI@SHSLAWFIRM.COM FOR FURTHER INFORMATION
REGARDING THE RESPONDENT'S ONGOING BUSINESS OPERATIONS.

9. The Court shall retain jurisdiction to appoint a liquidating receiver if the Respondent is not able to effectively satisfy the operating protocols approved by the Court in accord with an Operating Plan.

ENTERED, as an Order of this Court this ____5th__day of January, 2021.

BY ORDER: ENTER:

Brian P. Stern, J.

January 5, 2021

Presented by:

Counsel to the Special Master,

/s/ Christopher J. Fragomeni

Christopher J. Fragomeni, Esq. (9476) Shechtman Halperin Savage, LLP 1080 Main Street, Pawtucket, RI 02860 P: 401-272-1400 | F:401-272-1403

cfragomeni@shslawfirm.com

/s/ Carin Miley Deputy Clerk I

Clerk, Superior Court January 5, 2021 Case Number: PM-2021-00006 Filed in Providence/Bristol County Superior Court Submitted: 10/4/2021 1:56 PM

Envelope: 3311013 Reviewer: Jaiden H.

> PHOENIX HOUSES OF NEW ENGLAND INC.'S PETITION TO SELL ASSETS IN THE ORDINARY COURSE AND SPECIAL MASTER'S FIRST INTERIM REPORT AND FIRST REQUEST FOR FEES, COSTS, AND EXPENSES

> > EXHIBIT C

Case Number: PM-2021-00006 Filed in Providence/Bristol County Superior Court Submitted: 106/2/022112:56 PM

Envelope: 2902943 Reviewer: Zanidae 16 H.

Bond No. **B 1239812**

PETER MUMMA, in his capacity as Chief Executive Officer and President of the Board of Directors of Phoenix Houses of New England, Inc.,

Petitioner

Vs.

PHOENIX HOUSES OF NEW ENGLAND, INC.,

Respondent

BOND OF SPECIAL MASTER

KNOW ALL BY THESE PRESENTS: That we	Jonathan N. Savage
As Principal (s), and Selective Insurance Company	of America a New Jersey corporation
authorized to transact surety business in the State of RI	node Island, as Surety, are held and firmly bound
unto the Superior Court of the County of Provi	dence State aforesaid, as Obligee in the
penal sum of <u>Ten Thousand Dollars (\$10,000.00)</u>	, lawful money of the United States of
America, for the payment of which, well and truly to be	e made, we bind ourselves, our heirs, legal
representatives, successors and assigns, jointly and seven	erally, firmly by these presents.
WHEREAS, by an order of the Superior _ Cou	rt of the County of Providence
State aforesaid, duly made on01/05/2021	_, in the above titled action, the above bounden
Jonathan N. Savage	
Was appointed Special Master therein, and he was orde	red before entering upon the discharge of his
duties as such Receiver, to execute a bond according to	law in the said sum of \$ 10,000.00
NOW THE DECORE THE COMPUTANCE THE	ODI ICATION ICATION TO
NOW THEREFORE, THE CONDITION OF THIS Jonathan N. Savage as	
	s such Special Master, shall faithfully discharge
his duties in this action and obey the orders of the Cour otherwise to remain in force and effect.	t therein; then this obligation shall be void,
otherwise to remain in force and effect.	
SIGNED AND SEALED this 6th day of	January . 2021
<u> </u>	Junuary , <u>2021</u>
	Jonathan N. Savage
	By
	Principal
	Selective Insurance Company of America
	0 1 8 4
	By A i'
	Attorney in Fact
	Andrew P. Troy

CERTIFIED COPY

Filed in Providence/Bristol County Superior Court

Envelope: 2902943 Reviewer: Zanidae 6.H.



Selective Insurance Company of America 40 Wantage Avenue Branchville, New Jersey 07890 BondNo.B 1239812 973-948-3000

POWER OF ATTORNEY

Special Master

SELECTIVE INSURANCE COMPANY OF AMERICA, a New Jersey corporation having its principal office at 40 Wantage Avenue, in Branchville, State of New Jersey ("SICA"), pursuant to Article VII, Section 1 of its By-Laws, which state in pertinent part:

> The Chairman of the Board, President, Chief Executive Officer, any Executive Vice President, any Senior Vice President or any Corporate Secretary may, from time to time, appoint attorneys in fact, and agents to act for and on behalf of the Corporation and they may give such appointee such authority, as his/her certificate of authority may prescribe, to sign with the Corporation's name and seal with the Corporation's seal, bonds, recognizances, contracts of indemnity and other writings obligatory in the nature of a bond, recognizance or conditional undertaking, and any of said Officers may, at any time, remove any such appointee and revoke the power and authority given him/her.

does hereby appoint Andrew P. Troy

, its true and lawful attorney(s)-in-fact, full authority to execute on SICA's behalf fidelity and surety bonds or undertakings
and other documents of a similar character issued by SICA in the course of its business, and to bind SICA thereby as fully
as if such instruments had been duly executed by SICA's regularly elected officers at its principal office, in amounts or
penalties not exceeding the sum of: Ten Thousand Dollars (\$10,000.00)

Signed	this	6th	day of	January , 2021	
_			_ ′		_

SELECTIVE INSURANCE COMPANY OF AM

Its SVP, Strategic Business Units, Commercial

STATE OF NEW JERSEY:

:ss. Branchville

COUNTY OF SUSSEX

On this 6th day of January 2021 before me, the undersigned officer, personally appeared Brian G. Sarisky, who acknowledged himself to be the Sr. Vice President of SICA, and that he, as such Sr. Vice President, being author Ect 3010 do, executed the foregoing instrument for the purposes therein contained, by signing the name of the comparation by him as Sr. Vice President and that the same was his free act and deed and the free act and deed of SICA.

> Charlene Kimble **Notary Public of New Jersey** My Commission Expires 6/2/2021

The power of attorney is signed and sealed by facsimile under and by the authority of the following Resolution advocted by

the Board of Directors of SICA at a meeting duly called and held on the 6th of February 1987, to wit:

"RESOLVED, the Board of Directors of Selective Insurance Company of America authorizes and approves the use of a facsimile corporate seal, facsimile signatures of corporate officers and notarial acknowledgements thereof on powers of attorney for the execution of bonds, recognizances, contracts of indemnity and other writing obligatory in the nature of a bond, recognizance or conditional undertaking."

CERTIFICATION

I do hereby certify as SICA's Corporate Secretary that the foregoing extract of SICA's By-Laws and Resolution force and effect and this Power of Attorney issued pursuant to and in accordance with the By-Laws is valid

Signed this 6th day of January, 2021 Michael H. Lanza, SICA Corporate Secretary SEAL

Important Notice: If the bond number embedded within the Notary Seal does not match the number in the upper right-hand corner of this Power of Attorney, contact us at 973-948-3000.

B91 (4-14)

Filed in Providence/Bristol County Superior Court

Submitted: 1/06/42/202112:56 PM

Envelope: 2902943 Reviewer: Zanidae 6.H.

SELECTIVE **INSURANCESM**

Selective Insurance Company of America 40 Wantage Avenue Branchville, New Jersey 07890 973-948-3000

BondNo.B 1239812

Special Master

STATEMENT OF FINANCIAL CONDITION

I hereby certify that the following information is contained in the Annual Statement of Selective Insurance Company of America ("SICA") to the New Jersey Department of Banking and Insurance as of December 31, 2019:

ADMITTED ASSETS (in thousands)		LIABILITIES AND SURPLUS (in th	ousands)
Bonds	\$1,822,293	Reserve for losses and loss expenses	\$1,119,532
Preferred stocks at convention value	15,960	Reserve for unearned premiums Provision for unauthorized	434,068
Common stocks at convention values Subsidiary common stock at	63,288	reinsurance Commissions payable and	588
convention values	0	contingent commissions	32,565
Short-term investments Mortgage loans on real estate	109,584	Other accrued expenses	33,869
(including collateral loans)	21,163	Other liabilities	395,608
Other invested assets	121,112	Total liabilities	2,016,230
Interest and dividends due or accrued	14,561		600,000
Premiums receivable	407,001	Surplus as regards policyholders	<u>680,090</u>
Other admitted assets	121,358	Total liabilities and surplus as	
Total admitted assets	<u>2,696,320</u>	regards policyholders	2,696,320

I further certify that the following is a true and exact excerpt from Article VII, Section 1 of the By-Laws of SICA, which is still valid and existing.

The Chairman of the Board, President, Chief Executive Officer, any Executive Vice President, any Senior Vice President or any Corporate Secretary may, from time to time, appoint attorneys in fact, and agents to act for and on behalf of the Corporation and they may give such appointee such authority, as his/her certificate of authority may prescribe, to sign with the Corporation's name and seal with the Corporation's seal, bonds, recognizances, contracts of indemnity and other writings obligatory in the nature of a bond, recognizance or conditional undertaking, and any of said Officers may, at any time, remove any such appointee and revoke the power and authority given him/her.

IN WITNESS WHEREOF, I hereunto subscribe my name and affix the seal of SICA day of 17 Orch 2020.

Michael H. Lanza

SICA Corporate Secretary

STATE OF NEW JERSEY:

:ss. Branchville

COUNTY OF SUSSEX

On this day of war 2020, before me, the undersigned officer, personally appeared Michael H. Lanza, who acknowledged himself to be the Corporate Secretary of SICA, and that he, as such Corporate Secretary, being authorized to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation

himself as Corporate Secretary.

My Commission Expires:

Charlene Kimblé Notary Public of New Jerse

My Commission Expires 6/2/2021

Case Number: PM-2021-00006 Filed in Providence/Bristol County Superior Court Submitted: 10/4/2021 1:56 PM

Envelope: 3311013 Reviewer: Jaiden H.

PHOENIX HOUSES OF NEW ENGLAND INC.'S PETITION TO SELL ASSETS IN THE ORDINARY COURSE AND SPECIAL MASTER'S FIRST INTERIM REPORT AND FIRST REQUEST FOR FEES, COSTS, AND EXPENSES

EXHIBIT D

Filed in Providence/Bristol County Superior Court

Submitted: 10/8/2021 1:58 PM

Envelope: 2919692 Reviewer: WaidteniaHH

STATE OF RHODE ISLAND PROVIDENCE

SUPERIOR COURT

PETER MUMMA, in his	
Capacity as Chief Executive Officer and)
President of the Board of Directors of)
Phoenix Houses of New England, Inc.)
)
Petitioner,)
)
V.	PC-2021-0000
PHOENIX HOUSES OF NEW)
ENGLAND, INC.,)
)
Respondent)

ACCEPTANCE OF SERVICE OF RECEIVERSHIP/SPECIAL MASTERSHIP CITATION

In the above matter, the following entry may be made:

The undersigned, Brian Lamoureux, Esquire does hereby accept service of the attached Receivership/Special Mastership Citation issued in the above-captioned matter on behalf of Respondent, Phoenix Houses of New England, Inc. Said acceptance of service of the Citation shall have the same force and effect as if the service had been personally made upon the Respondent pursuant to applicable laws of the Superior Court Rules of Civil Procedure. The undersigned has authority to accept such service on Respondent's behalf.

Dated this _____ day of January 2021.

Respectfully submitted:

/s/ Brian J. Lamoureux

Brian J. Lamoureux, Esq. (6211)

Pannone Lopes Devereaux & O'Gara LLC

1301 Atwood Avenue

Suite 215N

Johnston, RI 02919

(401) 824-5100

bjl@pldolaw.com

Submitted: 10/8/2021 1:58 PM

Envelope: 2919692 Reviewer: WaiothamiaH:

CERTIFICATE OF SERVICE

I hereby certify that, on the 18th day of January 2021:

XX I filed and served this document through the electronic filing system on the following parties:

Brian Lamoureux, Esq.

William O'Gara, Esq.

The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

I served this document through the electronic filing system on the following parties:

The document electronically served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

I mailed or hand-delivered this document to the attorney for the opposing party and/or the opposing party if self-represented, whose name is

at the following address

/s/ Christopher J. Fragomeni

Filed in Providence/Bristol County Superior Court

Submitted: 10/8/2021 1:56 PM

Envelope: 2919692 Reviewer: WaidteniaH.



RECEIVERSHIP CITATION

Office of the Clerk of the Superior Court To the Sheriffs of our Several Counties, or to their Deputies,

PM	2021-00006
	You are hereby required to notify:
	PHOENIX HOUSES OF NEW ENGLAND, INC.
	Respondent(s)
of	the filing in this office of a petition by
	. PETER MUMMA, in his capacity as Chief Executive Officer and President of the Board of Directors of
	Phoenix Houses of New England, Inc
	Petitioner(s)
	representing, among other things, that the respondent corporation is insolvent in that it is unable to meet its obligations as they mature in the ordinary course of business and
	that the appointment of a Receiver is advisable to conserve and protect the assets and effects
	AND PRAYING.
	That the Court appoint a receiver for Respondent Corporation

Hereof fail not and make true return of this writ with your doings thereon.

Witness, the Seal of our SUPERIOR COURT, this 15th day of January, 2021 A.D



.../s/ SUSAN M DIGGINS..., CLERK

Submitted: 10/8/2021 1:56 PM

Envelope: 2919692 Reviewer: Waiothemia H.

STATE OF RHODE ISLAND AND



Civil Action File Number

SUPERIOR COURT

PETER MUMMA, in his capacity as Chief Executive Officer and President of the Board of Directors of Phoenix Houses of New England, Inc.,	PM-2021-00006	
Petitioner(s)		
vs		
PHOENIX HOUSES OF NEW ENGLAND, INC.,		
Respondent(s)		
PROOF OF SERVICE		
I hereby certify that on the date below I served a copy of the Citation	dated 1/18/2021 received	
herewith upon the Defendant, Phoenix Houses of New England, Inc.	,by delivering or leaving said	
papers in the following manner:	CER III-ONOT	
	CE OF SERVICE FROM BRIAN J.	
☐ With the Defendant personally. LAMOUREUX, ESQUIRE ON	BEHALF OF RESPONDENT.	
☐ At the Defendant's dwelling house or usual place of abode with then residing therein.	a person of suitable age and discretion	
Name of person of suitable age and discretion		
Address of dwelling house or usual place of abode		
Age		
Age	ots:	
AgeRelationship to the Defendant	ots:	
Age		
AgeRelationship to the Defendant		

Case Number: PM-2021-00006 Filed in Providence/Bristol County Superior Court Submitted: 10/4/2021 1:56 PM

Envelope: 3311013 Reviewer: Jaiden H.

> PHOENIX HOUSES OF NEW ENGLAND INC.'S PETITION TO SELL ASSETS IN THE ORDINARY COURSE AND SPECIAL MASTER'S FIRST INTERIM REPORT AND FIRST REQUEST FOR FEES, COSTS, AND EXPENSES

> > **EXHIBIT E**

Submitted: 10/4/2021 1:56 PM Envelope: 3311013 Reviewer: Jaiden H. RHODE ISLAND SUPERIOR COURT

PROVIDENCE, SC

ORDER APPOINTING

TEMPORARY

tion, it is hereby
ORDERED, ADJUDGED,
AND DECREED

spondent")

property that may come into the Special M

providing the following month-

15th day of each month for the

NOTICE OF

MORTGAGEE'S SALE

74 Bent Road,

East Providence, Rhode Island

the Mortgage listed below will be sold, subject to all encum-

Avon, Trustee of the Cherissa

ital Investments, LLC, record-

ed in the Land Evidence Re-cords of the City of East Prov-

tions of said Mortgage having

check or bank check will be

ding. Other terms and condi-

tions will be announced at the

Clavell & Associates, P.C.

New Bedford, MA 02740

Attorney for the Holder

of the Mortgage

355 Union Street

The property described in

Master:

PETER MUMMA, in his

LEGALS

shall have the right to audit any of the Reporting Informad. Upon completion of the Operating Plan, the Special Master shall then submit the pacity as Chief Executive Offi-

Operating Plan to the Superior Court for approval (the "Recommended Operating Plan"). The Recommended Operating Plan shall address the requirecer and President of the Board of Directors of Phoenix Hous-es of New England, Inc., PHOENIX HOUSES OF NEW ENGLAND, INC., ments set forth in Superior Court Administrative Order Respondent. C.A. No. PM-2021-00006 2020-04 ("Administrative Or-

der").

4. Notwithstanding anything to the contrary herein, upon appointment the Special Master shell have the follow SPECIAL MASTER
The above-captioned mat-Master shall have the following powers and duties: ter came before the Honorable

a. Within five (5) days of entry of this order, the Special Brian P. Stern on January 4, 2021 on a Verified Petition for the Appointment of a Receiver ("Petition"). After considera-Master shall use all good faith efforts to provide notice and a copy of the Petition and the instant Order to any and all known claimants and creditors of the Respondent; b. The Special Master shall

1. That Jonathan N. Savage, Esq., of Shechtman Halperin Savage, LLP, 1080 be authorized to contact the Paymorary Non-Liquidating with all the creditors and stakeholders of the Respondent at any time; c. Pending Court-approval

of an Operating Plan, the Petitioner and/or Respondent shall powers of a receiver ("Special Master"), of Phoenix Houses of New England, Inc. ("Reprovide the Special Master with monthly bank statements and financial reports, which shall include a reconciliation of itemized cash receipts and 2. That said Special Master shall, no later than five (5) days from the date hereof, file expenditures, as well as current cash on hand balances in a bond in the sum of \$ 10,000 (Ten Thousand) with any surea format approved by the Special Master:

d. The Special Master retains the authority, with notice to the Superior Court, to take control of all operations and ty company authorized to do business in the State of Rhode Island as surety thereon, condi-tioned that the Special Master will well and truly perform the duties of said office and duly assets of the Respondent if the Special Master determines that either action is being takaccount for all monies and en to remove assets of the Reinto the Special Master's hands and abide by and perform all things which the Spespondent from the supervision of the Court, or action is being taken which in the Special Master's discretion creates an unreasonable risk to the operacial master will be directed to do by this Court.

3. Upon the appointment of the Special Master as set forth tions and/or assets of Respondent. In such event, the Special in Paragraph 1 above, until fur-ther Order of this Court, the Master shall immediately petition the Court for further in-Respondent's business operastructions; tions shall proceed as follows: e. The Special Master shall

provide notice and a copy of the Recommended Operating a. Respondent's management ("Management") shall continue to operate Responden-Plan to all known creditors, continue to operate responden-yi's business on a day-to-day basis pending the entry of an Order establishing an Ap-proved Operating Plan (de-fined below). Management shall not make expenditures stakeholders, and claimants of the potential Non-Liquidating Special Mastership by electronic mail (where possible) or first-class mail;

f. In providing notice of the Recommended Operating Plan and/or dispose of, or encumber, assets of the Non- Liquiall known creditors, stakeholders, and potential claimants of the Nondating Special Mastership Estate outside the ordinary Liquidating Special Master-ship Estate, the Special Master-will establish a ter (10) course of business absent notice to and approval by the Court. The Special Master will establish a ten (10) day comment period for creditors and/or potential claimants to shall not have any liability for the administration of the dayto-day operations of Respondcomment on, or object to, the Operating ent unless and until the Court Recommended so orders; b. No later than ten days

g. In addition, service of the Recommended Operating from the date of entry of this Plan on all known creditors, stakeholders, and potential claimants shall establish a hearing date for any objecorder, the Petitioner and Respondent shall present an operating plan ("Operating Plan") to the Special Master. Prior to presenting the Operating Plan, the Petitioner and Respondent tions to a Recommended Operating Plan that cannot be reshall consult with the Special solved by the Special Master. The date for the hearing shall be set forth in the notice to all Master as to the contents of the Operating Plan. The Special Master shall then review known creditors and potential and revise the Operating Plan claimants enclosing the Recas necessary.

c. As part of any proposed ommended Operating Plan and establishing the ten (10) day comment period for cred-Operating Plan, the Petitioner and Respondent shall address itors and potential claimants to comment on, or object to, the documentation certified by Recommended Operating Plan. The hearing date for apthe Petitioner and Respondent proval of the Recommended Operating Plan shall be sched-uled no later than fifteen (15) as true, accurate and complete (collectively, the "Reporting Information"), to the best of the Respondent's knowledge, days after service of the Recinformation, and belief and to the extent available or able to ommended Operating Plan on creditors and potential claim-

be provided to the Special ants; and
5. That, pursuant to and in compliance with Rhode Island i. balance sheet, statement of income and expenses, state-Supreme Court Executive Orment of cash flows, cash flow der No. 95-01, this Court finds that the designation of the aforesaid person for appointforecast addressing the remaining calendar year, and budget versus actual comparison re-port; an aged payables report ment as Special Master is war-ranted and required because of and an aged receivables re-port; a capital expenditures rethe Special Master's special-

ized expertise and experience.
6. Nothing in this Order shall prevent the Court from port; and bank statements with monthly reconciliations. The Petitioner and Respondent shall deliver the Reporting Inentering any further orders in the instant proceeding to address specific matters that formation no later than the may arise upon request of the Petitioner, the Respondent, the previous month to the Special Master. The Special Master Special Master, or any other

party in interest upon such notice as the Court may require under the circumstances.

with which the Special Master shall be entitled to prior notice as the Court may require and an opportunity to be heard, the following are hereby restrained and enjoined for the duration of the appointment of the Special Master: a. The commencement

continuation, including the issuance or employment of process, of a judicial, administra-tive, or other action or proceeding against the Respondent that was, or could have been, commenced before the commencement of the special mastership, or to recover a claim against the Respondent that arose before the commencement of the special masterb. The enforcement, against

the Respondent or against property of the special master-ship estate, or a judgment obtained before the commence-ment of the special masterc. Any act to obtain posses-

sion of property of, or from, the special mastership estate or to exercise control over any property of the special mastership estate; d. Any act to create, perfect, or enforce any lien against

property of the special mastership estate; e. Any act to create, perfect, or enforce against property of the Respondent any lien to the extent that the lien secures a claim that arose before the

commencement of the special

mastership; f. Any act to collect, assess. or recover a claim against the Respondent that arose before the commencement of the special mastership;
g. The setoff of any debt ow-

ing to the Respondent that arose before the commencement of the special mastership against any claim against the Respondent: h. Furthermore, if the Re-

spondent is the recipient of funds pursuant to the CARES Act, the Respondent is restrained and enjoined from using such funds in any manner other than as provided in the CARES Act. 8. That a citation be issued

to said Respondent, returnable to the Superior Court sitting at Providence County, Rhode Island on February 5, 2021, at 11:00 a.m. at which time and place this cause is set down for Hearing on the prayer for the Appointment of a Non-Liquidating Special Master; that the Clerk of this Court shall give Notice of the pendency of the Petition herein by publication in The Providence Journal on or before January 22, 2021, so long as the Special Master's Bond has been filed; which publication

shall provide in part as fol-

PLEASE NOTE: THE RESPONDENT CONTIN-UES TO OPERATE ITS BUSINESS AND INTENDS TO USE THIS NON-LIQUIDATING SPECIAL MASTERSHIP PROCEED-ING TO MAINTAIN AND RESTORE ITS ONGOING BUSINESS OPERATIONS AS A RESULT OF THE COVID-19 PANDEMIC. PLEASE CONTACT COUN-SEL TO THE TEMPORARY NON- LIQUIDATING SPE-CIAL MASTER AT CFRAG OMENI@SHSLAWFIRM.C OM FOR FURTHER INFOR-MATION REGARDING THE RESPONDENT'S ON-GOING BUSINESS OPERA-

9. The Court shall retain ju-9. The Court shall retain jurisdiction to appoint a liquidating receiver if the Respondent is not able to effectively satisfy the operating protocols approved by the Court in accord with an Operating Plan.

ENTERED, as an Order of the Court in the Court is the feature of the Court in the Court in the Court is the Court in the Co

this Court this 5th day of Janu-ENTER

Brian P Stein, Associate Justice BY ORDER: Susan M Diggins Clerk, Superior Court

NOTICE OF MORTGAGEE'S SALE

and all prior liens and encum-

brances, at public auction on January 29, 2021 at 10:00 AM

Local Time, on the premises by virtue of the Power of Sale

contained in the certain Mort-gage Deed made and executed

by KQA 3217 LLC dated June 25, 2018 and recorded in

be announced at time of sale.

Marinosci Law Group, P.C.

Attorney for the present Holder of the Mortgage MLG File # MLG 20-05296

INVITATION TO BID

Assistance Team, West Greenwich, RI is seeking bids

for a Security Camera System,

Alarm System upgrade and Electronic Lock System up-grade. Bid documents may be

obtained by emailing Chris

Hiener chiener@ridmat or 401-385-3911 x105. Bids must be received as stated in the bid documents prior to 12pm January 29, 2021.

Search for legal notices in-paper and online 24/7 on

providencejournal.com/legals

To advertise call: 401.277.7788

The RI Disaster Medical

275 West Natick Road, Suite 500

STATE OF RHODE ISLAND PROBATE COURT OF THE TOWN OF NORTH PROVIDENCE 30-32 Ledge Street Central Falls, Rhode Island NOTICE OF MATTERS PENDING Assessor's Plat 5-181 Will be sold, subject to any

brances, prior liens and such matters which may constitute WILL BE IN SESSION AT after sale, at public auction, on February 8, 2021 at 11:00am on the Premises by virtue of the Power of Sale contained in TOWN HALL ON THE DATES SPECIFIED IN NO-TICES BELOW AT 2:00 Montella, Phyllis 9286 -

AND FOR HEARING IN SAID COURT THE COURT

a Mortgage Deed, Security Agreement and Assignment of Co- Guardians First and Final Account; for hearing February 1, 2021. Leases and Rents made by Carolyn A. Avon, Trustee of Autieri, Anthony 9887 -

Maureen Autieri of Rhode Island has been appointed Administratrix; creditors must file their claims in the office the Avon Living Trust dated 7/31/07 and Cherissa Ann Ann Avon Living Trust dated 2/21/2008 dated February 4, 2019 in favor of Resmini Capof the Probate Clerk within the time required by law beginning January 22, 2021.

Antoniou, Olga 9795 - Stephen Antoniou of MA and heep appointed Executor, and the stephen appointed Executor, and the stephen appointed Executor, and the stephen appointed Executor and

idence in Book 4105, Page 251 (the Mortgage having been appointed Executor; and David R. Petrarca Jr. Esq. of been assigned to the current Holder of the Mortgage via an Rhode Island is appointed Resident Agent; creditors assignment recorded in Book 4337, Page 205), the condimust file their claims in the office of the Probate Clerk within the time required by law beginning January 22, 2021. been broken. A deposit of \$5,000 to be paid via certified D'Amico, Jamie Nichols

9897- Petition for Adult Adoption; for hearing Februrequired to be delivered at the time and place of sale in order to bid. The successful bidder will be required to execute the Mortgage Holder's form of Memorandum of Sale imme-diately after the close of bid-Barone, Ida Jean 9900 -Petition for Probate of Will;

for hearing February 1, 2021. Individuals requesting interpreter services for the hearing

impaired must notify the of-fice of the Probate Clerk at 232-0900 (Ext. 213) 72 hours in advance of the hearing date. MaryAnn DeAngelus, Town Clerk

Search for legal notices 24/7 on providencejournal.com/legals

STATE OF RHODE ISLAND PROVIDENCE, S.C. SUPERIOR COURT 7. Absent prior approval from this Court, in connection

REBECCA BRADY and COPPER TODD, LLC d/b/a HOMETOWN POKÉ Plaintiffs TIFFANY TING Defendant C.A. No. PC-2020-05607

SPECIAL MASTERSHIP NOTICE Please take notice that on January 5, 2021, an Order Appointing Temporary Special Master was entered by the Providence County Superior Court in the above-captioned matter. Said Order appointed Harmony Conti Bodurtha,

Esquire, of the law firm Orson & Brusini, Ltd. as Temporary Special Master (the "Special Master") of Copper Todd, cial master) of Copper Todd, LLC d'b'a Hometown Poke ("Copper Todd"), and speci-fied that said Special Master was to give a Surety Bond in the amount of \$10,000.00, with respect to the faithful performance of the duties con-terred upon said Special Mas-

ferred upon said Special Mas-ter by said Order.
Said Order, the original of which, is on file in the Office of the Clerk of the Providence County Superior Court, and which Order is incorporated herein by reference as if it were set forth in full in this Special Mastership Notice, contains, inter alia, the following provisions:

'6. That the commencement, prosecution, or continu-ance of the prosecution of any action, suit, arbitration ceeding, hearing, or any fore-closure, reclamation or repos-session proceeding, both judicial and non-judicial, or any other proceeding, in law or in equity, under any statute or otherwise, against said Copper Todd or any of its property, in any Court, agency, tribunal or elsewhere, or before any arbitrator or otherwise, by any creditor, stockholder, corporation, partnership or any other person, or the levy of any attachment, execution or other process upon or against any property of said Copper Todd, or the taking or attempting to take into possession any property in the possession of the Copper Todd or of which Copper Todd has the right to possession, or the cancellation at any time during the Special Mastership proceeding herein of any insurance policy, lease or other contract with Copper Todd, by any of such parties as aforesaid, other than the Special Master designated as aforesaid, or the termination of telephone, electric, gas or other utility service to Copper Todd by any public utility, without prior approval thereof from this Honorable Court, in

and enjoined until further Order of this Court. 7. The foregoing paragraph does not stay the exercise of rights of a party to a swap agreement, securities contact, repurchase agreement, commodity contract, forward contract or master netting agreement, as those terms are defined in the federal Bankrupt-cy Code, to the extent that a court would not have the power to stay the exercise if De-

which connection said Special

Master shall be entitled to pri-

or notice and an opportunity to

be heard, are hereby restrained

fendant were a debtor under the Bankruptcy Code. 8. That a citation be issued said Copper Todd, returnable to the Superior Court sitting at Providence, Rhode Island on February 5, 2021 at 10:00 a.m. at which time and place this cause is set down for Hearing on the prayer for the Appointment of a Perma-nent Special Master; that the Clerk of this Court shall give Notice of the pendency of the Petition herein by publishing the annexed Special Mastership Notice once in The Providence Journal on or before January 22, 2021, so long as the Special Master's Bond has been filed, and the Special Master shall give furspecial Master shall give further notice by mailing, on or before January 22, 2021, a copy of this Order Appointing Temporary Special Master to each of the Copper Todd's creditors, stockholders, and/or problem whose whose special Master to each of the Copper Todd's creditors, stockholders, and/or problem. members whose address is known, or may become known, to the Special

Master."
ENTERED at Providence, Rhode Island on this 5th day of January, 2021.

Brian P. Stern

Associate Justice Per Order: Susan M Diggins Clerk

Book 936 at Page 65, et seq. with the Records of Land Evidence of the City/Town of STATE OF RHODE ISLAND
PROBATE COURT
OF THE TOWN Central Falls. County of Providence, State of Rhode Island, the conditions of said Mort-gage Deed having been bro-ken. TEN THOUSAND DOLLARS (\$10,000.00)

OF GLOCESTER NOTICE OF MATTERS PENDING AND FOR HEARING IN SAID COURT

down payment in cash, bank check or certified check at During the Probate Session held on January 12, 2021: DeCicco, Evelyn, N. quali-fied as Executrix for the estate time of sale; other terms will of DeCicco, Anthony, Estate #2567 Pinto, Michael, A. quali-Warwick, RI 02886

fied as Administrator for the estate of Pinto, Juliette, O., Estate #2566 Creditors must file their claims within the time required by law beginning January 22, 2021

Notice is hereby given that on January 12, 2021 the name of Minervino, Maggie Yuluo was changed to Minervino, Maxwell Yuluo Jean M. Fecteau, CMC Probate Clerk

Individuals requiring inter-preter services for the hearing impaired must notify the Town Clerk at (401) 568-6206 not less than 48 hours in advance of the meeting date. (TDD 401-568-1422)

STATE OF RHODE ISLAND Probate Court of the City of Providence
NOTICE OF MATTERS
PENDING AND FOR
HEARING IN SAID COURT

The Court will be held virtually until further notice on the dates specified in the notices below at 10:00 a.m. for hearing said matters.

ANTONI, JR., HENRY

CEORGE Setted Nitrals 1

GEORGE – estate Nicholas B. Antoni has qualified as administrator; creditors must file their claims in the office of the probate clerk within the time required by law beginning January 15, 2021.

FERNÁNDEZ, JUAN F. estate Adam B. Brindis has qualified as administrator; creditors must file their claims in the office of the probate clerk within the time required by law beginning January 15, FERNANDEZ

TURA, ARANZA – MI-NOR Appointment of guardifor hearing February 2, an; 1

HARSCH, alias Sandy Harsch – non-resident estate Geraldine Scully (Doris J. Licht, 100 Westminster Street, Suite 1500, Providence, Rhode Island, Agent) has qualified as executrix in Rhode Island; creditors must file their claims in the office of the probate clerk within the time required by law beginning January 15, MANNEY, THOMAS ALAN – estate Karen Grota

administratrix; creditors must file their claims in the office of the probate clerk within the

qualified

ary 2, 2021.

MCNUTT, ALTON –

FULL AGE Appointment of guardian; for hearing February 2. 2021

described; for hearing Febru-

PALMER VENTURA, AMAURIS ANGEL – MI-NOR Appointment of guardi-an; for hearing February 2, 2021 TOWNSEND, JANET ELIZABETH, alias Janet E.

Townsend - estate Nicholas

William Townsend (Charles Greenwood, 127 Dorrance Greenwood, 127 Dorrance Street, Suite 8, Providence, Rhode Island, Agent) has qualified as executor; creditors must file their claims in the office of the probate clerk within the time required by law beginning January 15, WINN, FRANK ALLEN

- estate Joseph R. Winn has
qualified as executor; credqualified as executor; creditors must file their claims in

the office of the probate clerk within the time required by law beginning January 15, 2021 Probate Court will be held virtually through Zoom. Please contact Probate Clerk's

office at (401) 680-5304 for information on how to attend. PAUL V. JABOUR, PROBATE CLERK

CITY OF PROVIDENCE INVITATION TO BID SEALED PROPOSALS will be received by the De partment of CITY CLERK CITY HALL, PROVIclock P.M. on MONDAY, FEBRUARY 1, 2021, a which time they will be pub icly opened and read aloud the Zoom Platforn while operating under COVID-19 restrictions, for the following

HEALTHY COMMUNITIES

OFFICE
BEHAVIORAL
HEALTH DIVERSION
PLANNING SERVICES. DEPARTMENT OF

PARKS
CRANSTON STREET
TOT LOT FENCING IMPROVEMENTS. REPLACEMENT VESDA FIRE DETECTION SYSTEMS. WATER SUPPLY **BOARD**

THE PURCHASE OF ONE (1) SERVICE ONE TRUCK.

TRUCK.
FURNISH AND DELIVERY 3-PART WATER METER COUPLINGS - SIZE
1.5" AND 2.0" (EXPIRES
JUNE 30, 2022 WITH A 2YEAR OPTION.
WATER BILL LASER
PRINTING AND MAILING SERVICES (EXPIRES JUNE 30, 2024)
WITH A 2-YEAR OPTION.

MAINTENANCE OF MILLIPORE WATER SYS OF TEM (BLANKET PIRES JUNE 30, 2025).

and date at 2:15 o'clock

er services for the hearing

mpaired, please contact the

Mayor's Center for City Services at (401) 680-522

not less than 48 hours in ad

Shawn Selleck

City Clerk

vance of the meeting.
Jorge O. Elorza

Mayor and Chairman

City Council.

The City of Providence re 270 Farmington Avenue, Ste. 151 serves the right to reject any and all bids in the best interest of the City. An Equal Opportunity Employer and Minimum Wage Rates to be

Minority Business Enter-prises and Women Business The Housing Authority of City of Woonsocket, the City of Woonsocket, Rhode Island invites bids for Enterprises are encouraged o submit bids. By Order of the Board of Contract and Supply, which will meet on the above day maintenance staff.

.M. in the Chambers of the Authority, Attn: Susan Castrataro, 679 Social Street, Woonsocket, RI Offices and City Council Chambers are accessible to individuals with disabilities 02895. Facilities are accessible to people with disabilities. If you are in need of interpret-

nsockethousing.org in Bid Op-portunities under the Procurement heading. Questions regarding this IFB may be directed to Susan Castrataro at S castrataro@woonsockethousin g.org. Robert Moreau

Executive Director "An Equal Employment Opportunity/Affirmative Action Employer" TDD 1-800-745-6575

Legal Notice of National Grid's Filing of Residential and Commercial Retail Prices for the Period April 2021 through September 2021 and Industrial Retail Prices for the Period April 2021 through June 2021 RIPUC Docket No. 4978 On January 20, 2021, The Narragansett Electric Company

on January 20, 2021, The Narragansett Electric Company d/b/a National Grid ("Company") filed with the Rhode Island Public Utilities Commission ("PUC") its Last Resort Service ("LRS") rates for the Residential and the Commercial Groups for the period April 2021 through September 2021, and LRS rates for the Industrial Group for the period April 2021 through June 2021. These prices were submitted pursuant to the Company's LRS Procurement Plan for 2021 ("Plan"), which the PUC approved in Docket No. 4978. The Company's Plan is designed to procure energy supply to meet the requirements of LRS custo procure energy supply to meet the requirements of LRS cus-The proposed schedule of LRS rates is below. These rates in-

clude the current Standard Offer Service/Last Resort Service Adjustment Factors, Standard Offer Service/Last Resort Service Administrative Cost Factors, and the Renewable Energy Standard Charge. These additional rates took effect on April 1, 2020. New factors designed to recover or refund any over- or under-recoveries incurred in calendar year 2020 will be proposed in filings to be submitted in mid-February 2021, with a proposed effective date of April 1, 2021. As a result, the LRS rates listed below will change: Last Resort Rate Class/Effective Date Service Rate

Residential Group (Rates A-16, A-60) April 2021 through September 2021 8.039¢ per kWh

Variable Price Option

The impact on a typical residential customer using 500 kWh per month is a decrease of \$12.14 per month, or 10.1%.

Commercial Group (Rates C-06, G-02, S-05, S-06, S-10, S-

April 2021: May 2021: 7.834¢ per kWh 7.184¢ per kWh 6.466¢ per kWh 6.722¢ per kWh June 2021: July 2021: August 2021: September 2021: 6.586¢ per kWh 6.470¢ per kWh Fixed Price Option

April 2021 through September 2021 6.851¢ per kWh Note: The Fixed Price Option will be the customary option

for customers served under rate C-06. The Variable Price Option will be customary option for customers served under rates

of the probate clerk within uncommon of the provided by law beginning January 15, 2021.

MCDONNELL, DELIA

LUCY — estate Sale of real estate in Providence for pure feath in petition of law provided by the pr land or on the Commission's website at http://www.ripuc.org/e

ventsactions/docket/4978page.html. This notice is given pursuant to the provisions of R.I. Gen. Laws § 39-3-11. National Grid UNITED STATES OF AMERICA FEDERAL ENERGY REGULATORY COMMISSION

Project No. 3063-021

Blackstone Hydro Associates

NOTICE OF AVAILABILITY OF ENVIRONMENTAL ASSESSMENT (January 14, 2021)
In accordance with the National Environmental Policy Act

of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380, the Office of Energy Projects has reviewed the application for a subsequent li-cense for the Central Falls Hydroelectric Project No. 3063 (Project No. 3063), located on the Blackstone River in Providence County, Rhode Island, and has prepared an Environmental Assessment (EA) for the project.

The EA contains staff's analysis of the potential environmental impacts of the project and concludes that licensing the project ect, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the EA via the Internet through the Commission's Home Page (http://www.ferc.gov) using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. At this time, the Commission has suspended access to the Com-At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC Online Support at FERCOnline Support@ferc.gov or toll-free at (866) 208-3676, or for TTY, (202) 502-8659.

You may also register online at https://ferconline.ferc.gov/esubscription.esvi.os.p. notificat in the proclamation of the proclamatical forms and the support of the proclamatical forms of the commission of the proclamatical forms of the commission of the proclamatical forms of the commission of the commission of the proclamation of the commission of the proclamation of the commission of the proclamation of the commission of the commission

Subscription aspx to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the date

of this notice.

The Commission strongly encourages electronic filing.

Please file comments using the Commission's Filing system at https://ferconline.ferc.gov/eFiling.aspx. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at https://ferconline.ferc.go v/QuickComment.aspx. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P-3063-021.

For further information, contact John Baummer at (202) 502-6837, or at John.Baummer@ferc.gov.

Kimberly D. Bose,

LEGAL NOTICES

in-paper and

online 24/7

MORTGAGEE'S SALE ASSESSOR'S PLAT 70 LOT 558 AND LOT 560 107 - 111 Donelson Street Providence, Rhode Island

The premises described in The premises described in the mortgage will be sold subject to all encumbrances and prior liens on February 01, 2021 at 12:00 PM on the premises by virtue of the Power of Sale in said mortgage made by Madeline A. Grant and Wanda Grant dated January 6 2006, and recorded in ary 6, 2006, and recorded in Book 7808 at Page 94, et seq. of the Providence Land Evidence Records, the conditions of said mortgage having been broken: \$5,000.00 by bank check or certified check at time of

sale is required to bid; other terms will be announced at time of sale Bendett & McHugh General Partnership

Farmington, CT 06032 Attorney for the present Holder of the Mortgage INVITATION FOR BIDS

Uniform Services for our Bids will be received until 2:00 p.m., February 23, 2021 at the Woonsocket Housing

The IFB package will be available on line at www.woo

To advertise call: 401.277.7700

Journal

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS ENVIRONMENTAL MANAGEMENT OFFICE OF WATER RESOURCES PUBLIC NOTICE OF INTENT TO ISSUE A CATEGORICAL

EXCLUSION
Whereas, the Director of the Rhode Island Department of Environmental Management has reviewed for approval a request for a Categorical Exclusion determination for the Old and New Canal Pump Stations Flood Retaining Wall Resiliency Project, proposed by the Town of Westerly, under the authority of Chapters 42-17.1 and 46-12 of the General Laws of Rhode Island,

1956, as amended, and has de-

termined there are no significant environmental impacts associated with the project, Therefore, the Director of the Rhode Island Department of Environmental Management is hereby giving notice of intent to issue a Categorical Exclusion for the aforementioned contract pursuant to the requirements and authority set forth in Chapter 46-12.2 of the General Laws of Rhode Island, 1956, as amended, and the "Rules and Regulations for the State Revolving Loan Fund (SRF) Program", dated

In accordance with Chap-r 42-35-3 of the Rhode Island General Laws, DEM has determined the projects identified for the Categorical Exclusion will not result in significant adverse economic impact on small businesses or cities and towns.

Copies of the Categorical Exclusion can be obtained by calling 277-3961 weekdays from 8:30 a.m. to 4:00 p.m., downloaded from the internet at http://www.state.ri.us/dem/ programs/benviron/water/fina nce/srf/index.htm or by writing to the Office of Water Resources, 235 Promenade Street, Providence, RI 02908-5767. All material submitted for review is available for public inspection during the above hours at the above location. Written comments on the Categorical Exclusion should be sent to the Office of Water Resources within thirty (30) days of the date of this notice.

A public hearing on the Categorical Exclusion will be

held if DEM receives such requests from twenty-five (25) people, a governmental agen-cy or subdivision, or an association having not less than twenty-five (25) members. If a public hearing is held, a public notice will be published announcing the date, time, and place of such hearing. A stenographic record of the hearing will be made and the public record will be kept open for seven (7) days fol-lowing the conclusion of the public hearing to allow additional time for the submission of written comments. The location of the public hearing will be accessible to the handicapped. Interpreter services for the hearing impaired or audiotapes for the vision impaired will be made available. Signed this 19 day of January, 2021.

Susan Kiernan, Deputy Administrator Office of Water Resources

MORTGAGEE'S SALE Courtiana Providence, RI Plat 32, Lot 503

ject to all encumbrances and prior liens on February 10, 2021 at 9:00 AM on the premises, by virtue of the power of sale contained in a mortgage by Ivy Nimley dated August 30, 2006 and recorded in the City of Providence Land Evidence Records in Book 8254, Page 23, the conditions of said mortgage having been broken. \$10,000.00 in cash, certi-

fied or bank check is required to bid. Other terms will be announced at the sale HARMON LAW OFFICES,

> Attorney for the Holder of the Mortgage 150 California Street Newton, MA 02458 (617) 558-0500 2011050095

NOTICE OF INFORMATIONAL WORKSHOP & PUBLIC COMMENT HEARING ON A MEDICAL WASTE January 11, 2021 In accordance with 23-19.12 of the Rhode Island General Laws, the Department

of Environmental manage-ment ("Department") announces its intent to issue a new li-cense to Medrecycler-RI, Inc. at 1600 Division Road, West Warwick, Rhode Island to treat medical waste. A public informational workshop on this facility's li-

MANAGEMENT

cense application will be held on Zoom at the link below on January 25th at 4PM.

https://us02web.zoom.us/j/
87132811510, Meeting ID:
871 3281 1510 by phone at: 1-

929-205-6099 Representatives of the Department will be available to

discuss the proposed facility, the type and quantity of wastes to be processed, a sum-mary for the basis of the draft license, proposed conditions to be placed on the license, and a description of the procedures for reaching a final decision on the license application. The discussion of administrative procedures shall also include the beginning and end-ing period for public com-ment, the address where comments will be received, information on the public comment hearing, the procedures by which the public may particinate in the final decision, and the contact person for further information. The application can be viewed at http://www.d em.ri.gov/programs/wasteman agement/. Additional draft documents may also be reviewed, upon appointment, at the following address:

Department of Environmental Management Office of Land Revitalization and Sustainable Materials Management 235 Promenade Street,

Providence, RI 02908 Tel. (401) 222-2797 Attention: Filomena DaSilva The formal public com-ment hearing will be held for the license application on zoom at 4:00 PM on Monday, March 15, 2021 at the follow-

Join Zoom Meeting https:// us02web.zoom.us/i/52113831 16, Meeting ID: 521 138 3116 by phone at: 1-929-205-6099 After the public hearing, the Department will continue to accept written comments from all interested parties on

the application for an additional thirty (30) days following the close of the hearing (until April 14, 2021), at the following address: Department of Environmental

Management
Office of Land Revitalization
and Sustainable Materials Management, 235 Promenade Street, Providence, RI 02908 (401)222-2797.

Attention: Yan Li

Email: yan.li@dem.ri.gov
The Department's final decision on the application will be made within ninety (90) days after the close of the public comment period. Leo Hellested, P.E.,

Administrator
Office of Land Revitalization and Sustainable Materials Management

MORTGAGEE'S SALE 61 Rose Hill Drive Cranston, RI Plat 15, Lot 926 The premises described in

The premises described in the mortgage will be sold subject to all encumbrances and prior liens on February 3, 2021 at 11:00 AM on the premises, by virtue of the power of sale contained in a mortgage by Cynthia D'Atti-lio, William D'Attilio dated June 3, 2005 and recorded in the City of Cranston Land Evidence Records in Book 3024, Page 238, the conditions of said mortgage having been

roken. \$5,000.00 in cash, certified or bank check is required to bid. Other terms will be announced at the sale.
HARMON LAW

OFFICES, P.C. Attorney for the Holder of the Mortgage 150 California Street Newton, MA 02458 (617) 558-0500 14168

@ providencejournal.com/marketplace **Providence Help Wanted**

FITTER/WELDER

FITTERWELDER
Assemble from shop drawings,
stairs, rails. platforms made out
of steel. Also if you work on
stainless steel a plus but not
necessary. If you have some
experience will teach. Good
work ethics and attitude. A negative COVID-19 test is required
prior to any in-person meetingrecapco Steel Erection Company
Providence, RI 02903
mjcaparco@capcoerectors.com
or fax (401) 383-9051.

Automobiles For Sale Mercedes Benz 2007 C230 Sport Sedan Automatic Leather Moon Roof Gorgeous \$4975 401-263-5023 Lic#578

Autos/Trucks Wanted

JUNK CARS WANTED \$CASH PAID\$ from \$200 up to \$1000. 401-418-4521, Lic. 61 www.bigbucksjunkcars.com The Highest CASH Payouts In CT/MA/RI No Title/keys OK Free Pick Up 401-648-9300

One-stop for the buyer and seller. providencejournal.com/

Local jobs for local people in-paper and online 24/7 on providencejournal.com/ jobs LOANS-QUICK SHORT TERM PRIVATE INVESTOR. o appraisal or bank fees. 1st ortgage only. **401-943-6838**

Money To Lend

Pets

LABRADOODLE PUPPIES
2 Females, 1 Male. Stunningly
beautiful! Hypoallergenic. Minimal shedding. Family raised,
loves people, sure to win your
heart! 1st shots, vet exams, 2 yr

health guarantee, ready to go 1/28. Personal delivery availa-ble. \$2,900. Hoosick Falls, NY 802-282-2232 call/text.

FOSTER Gambrel Colonial situated 300' off road! 1326 sq ft, 3 beds, 2 baths, vinyl siding, 6.89 acres, \$325,000. Long Realty 401-647-5454 SCITUATE Waterfront on Pawluxet River! Circa 2004 Col-onial. 2464 Sq. ft, 7 rooms, 3 baths, granite kitchen, cathedral family room, formal dining, cen-tral afc, 2 car garage, 6/10 acre, \$489,900 Long Really 647-5454

County

Burrillville, Cumberland,

Foster, Glocester, Lincoln, No. Smithfield, Scituate,

Smithfield, Woonsocket

SCITUATE Working Horse Farm! Circa 1785 Cape, totally redone in 2010, 8 rooms, 2 baths, 2 car garage, 4 barns in-cluding 2 in 2019, 40 x 110 ligh ed riding area, 43 acres with large area of fenced pasture, great area, 5700,000. Long Realty 401-647-5454.

SMITHFIELD / Greenville! Attractive 1184 sq ft raised ranch, plus 576 sq ft in lower level, 3 beds, 2 baths, fireplace, update kitchen, screened porch, 2 car garage, asphalt drive, whole house generator, \$379,900. Long Realty 401-647-5454

Search for your dream home in-paper and online 24/7 on providencejournal.com/homes

Announce birthdays in Celebrations moments are worth celebrating

Case Number: PM-2021-00006 Filed in Providence/Bristol County Superior Court Submitted: 10/4/2021 1:56 PM

Envelope: 3311013 Reviewer: Jaiden H.

PHOENIX HOUSES OF NEW ENGLAND INC.'S PETITION TO SELL ASSETS IN THE ORDINARY COURSE AND SPECIAL MASTER'S FIRST INTERIM REPORT AND FIRST REQUEST FOR FEES, COSTS, AND EXPENSES

EXHIBIT F

Filed in Providence/Bristol County Superior Court

Submitted: 1025/2021 6:68 PM

Envelope: 2931698 Reviewer: Raidbel III.

STATE OF RHODE ISLAND PROVIDENCE

SUPERIOR COURT

PETER MUMMA, in his capacity as Chief Executive Officer and President of the Board of Directors of Phoenix Houses of New England, Inc.

Petitioner

v. PM-2021-00006

PHOENIX HOUSES OF NEW ENGLAND, INC.

Respondent

PROPOSED OPERATING PLAN

Petitioner Peter Mumma, in his capacity as Chief Executive Officer and President of the Board of Directors of Respondent Phoenix Houses of New England, Inc. ("Phoenix House") and Respondent Phoenix House respectfully submit their Operating Plan as required by the Court's January 5, 2021 order and Administrative Order 2020-04.

I. INTRODUCTION

Phoenix House, founded in 1967, is a substance use treatment organization. It operates a broad range of CARF (the Commission on Accreditation of Rehabilitation Facilities) accredited and other programs that currently serve approximately 1,000 men and women through 20 programs in Rhode Island, Massachusetts, Vermont, and New Hampshire. Phoenix House's programs incorporate mental health, gender-specific, and trauma-informed services for those in need. Its facilities provide safe, affordable substance use treatment and behavioral health treatment in both residential and outpatient settings, and are designed to provide positive and healthy environments that create an empowering and healing space for recovery. Each individual's treatment plan is designed with their mental, physical, and emotional wellness in mind.

Submitted: 1025/2021 6:68 PM

Envelope: 2931698 Reviewer: Raidbel H.

The COVID-19 pandemic has had a devastating impact on Phoenix House and its ability

to operate, particularly as a congregate setting. Due to social distancing requirements, staff illness

and quarantine impacts, clients' perceptions of COVID-19 health risks that impede their

willingness to seek care, and the challenges with inflows and outflows of clients in any congregate

setting during a pandemic, Phoenix House has suffered an unrelenting drop in its census across

its facilities. As a result, Phoenix House is experiencing a, presumably temporary, decline in

revenues, unavoidable fixed costs, and increased expenses associated with mitigating the effects

of the pandemic in and upon its operations.

Compounding matters, even prior to the pandemic, Phoenix House was operating on thin

margins due to its heavy Medicaid-based client mix, rising costs of care, and significant fixed costs.

It has also experienced serious challenges in tracking and reporting its financial data in a reliable

and dependable fashion. Accordingly, weathering the the pandemic is likely not sufficient to

ensure the long-term survival of Phoenix House. This plan, although preliminary in nature,

anticipates the development and execution of short, medium and long-term strategies to ensure

that Phoneix House will emerge from this proceeding stronger and better equipped to continue

its critical community functions.

Phoenix House fills a critical role in the four states in which it operates. Its experienced

and dedicated team of providers and caregivers serve a fragile population in dire need of its

services and without viable alternatives for those needs, and offers a critical diversion opportunity

for individuals suffering the effects and consequences of substance abuse.

In the State of Rhode Island, Phoenix saves the State millions of dollars annually that the

State would otherwise have to pay either caring for Phoenix House's patients in unnecessarily

Submitted: 1025/2021 6:68 PM

Envelope: 2931698 Reviewer: Raidbel III.

> higher levels of acute care settings, such as in hospitals or emergency departments, or towards less effective and more expensive addiction related outcomes and costs, including those costs of law enforcement, crime, ambulance costs, child protective and other social services agencies, and most significantly, incarceration. Therefore, Phoenix House, the State and all of its many other stakeholders share the same aligned goal: to keep Phoenix House sustainably operating as a true safety net service provider for years to come. The need for these community resources that Phoenix House offers is at a historical zenith. Under normal circumstances, the loss of this critical institution would be devastating to the Rhode Island community, but in light of the heightened

II. PRE-PETITION FINANCIAL SUMMARY

derived from every possible effort to prevent it.¹

need created by the COVID-19 pandemic, this loss would be unconscionable and this plan is

Prior to filing its Petition, Phoenix House was operating at a net loss. As of January 4, 2021 (the "Petition Date"), Phoenix House had approximately \$566,000 in unrestricted cash on hand with an additional \$414,000 in restricted grant funding from the State of Rhode Island. As of the Petition Date, Phoenix House projected having \$49,000 in unrestricted cash on hand, \$264,000 in restricted grant funds and \$900,000 in payables following its next payroll pull date of January 8, 2021. In addition, between April and June 30, 2020, Phoenix House generated an approximate net operating loss of \$375,000 per month.

¹ Mental Health, Substance Use, and Suicidal Ideation During the COVID-19 Pandemic — United States, June 24-30, 2020 https://www.cdc.gov/mmwr/volumes/69/wr/mm6932a1.htm (last visited, January 5, 2021) (emphasis added).

Submitted: 1025/2021 6:68 PM

Envelope: 2931698 Reviewer: Raidbel H.

III. PROPOSED OPERATING PLAN/CATEGORIES OF CLAIMS

Phoenix House's cash position and ability to pay its ongoing bills is tenuous.. Therefore, time is of the essence and this Operating Plan is intended to address the reality of Phoenix House's urgent and pressing cash situation.

The below plan will address treatment of the following claims:

A. Pre-petition secured claims: There are no known pre-petition claims that are secured by collateral.

B. Pre-petition unsecured claims: As identified above, Phoenix House has accrued prepetition payables in the approximate amount of \$900,000. All of those payables are unsecured claims without any known collateral obligations.

C. Post-Petition/Adminstrative claims: During the pendency of this proceeding, Phoenix House will continue to operate and accrue administrative claims.

The below plan is primarily focused on stabilizing Phoenix House's cash position, which will enable it to continue to meet its payroll obligations while it weathers the revenue dip caused by the COVID-19 pandemic and to engage in high-level and accelerated discussions with its key stakeholders to determine if any local, State, or private funding is available. To accomplish that goal, Phoenix House proposes to (1) preserve its cash flow; (2) identify other sources of funding; and (3) engage in stakeholder collaboration.

Α. **Preservation of Cashflow**

Under the guidance and with the approval of the Special Master, Phoenix House proposes to immediately hold on paying all pre-petition payables, and payment of only essential postpetition vendors pending the stabilization of its cash position.

> i. Payroll.

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Envelope: 2931698 Reviewer: Raidbel III.

> ii. Holding pre-petition payables is perhaps most important to preserve liquid

> > cash resources for the payment of payroll costs to ensure a sustainable

employment base. Over the past couple weeks, this approach has already

proven successful. At the time of the filing of the Peition, Phoenix House

had only enough cash to ensure payment of payroll due on January 8, 2020;

however, after preserving cash that would otherwise be paid to pre-petition

debt, Phoenix House was able to meet its payroll obligations on January 20,

2021 and anticipates being able to meet its payroll obligations on February

2, 2021.

iii. Other expenses. Prior to and during the term of this proposed plan,

Phoenix House will work with its vendors to manage and pay only those

adminstrative, post-petition payables that are essential in nature.

addition to payroll and staffing expenses, other examples of essential

expenses are those costs related to food services; cleaning and linen

services; prescription, pharmacy, and controlled substance services; and

programmatic expenses, such as psychiatric evaluation and physician

consultation.

This proposed payment method is anticipated to preserve cash to maximize the possibility of

continued operations. In fact, Phoenix House and the Special Master, at the time of the filing of

this proposed operating plan, have been successful in negotiation post-petition payment terms

with many vendors. Notably, many of those vendors hold pre-petition debt, but have agreed to

continue serve on terms agreeable to Phoenix House and the Special Master. This approach is

necessary to preserve the current cash position until additional liquidity sources are secured (as

Submitted: 1025/2021 6:68 PM

Envelope: 2931698 Reviewer: Raidbel H.

> discussed below). The continued operations, and payment of post-petition debt on the terms

above propose a likelihood of either (1) stabilization and exit from the program; or (2) sale as a

going concern—each of which holds a higher possibility of paying pre-petition debt than an

immediate liquidation of assets.

В. Other Revenue Identification

The proposed plan to preserve cash for the payment of essential expenses, like payroll,

has provided time for Phoenix House to identify ways to supplement its top-line revenue during

the continuing census crisis caused by COVID-19. Phoenix House has been successful in securing

a commitment from the State of Rhode Island for an immediate grant disbursement of \$235,754

to support Rhode Island operations and is hopeful that it will be able to secure approximately

\$900,000 in additional funding from the State in the coming weeks. Additionally, by taking

advantage of a second-draw Paycheck Protection Program loan, and other COVID-19 grant

programs and evaluating other, more traditional, financing options or possible State subsidies,

Phoenix House anticipates being able to access sufficient liquidity to emerge from the COVID-

19 pandemic and the corresponding revenue shortage caused by decreased census.

C. Stakeholder Engagement

In order to ensure the long term success and survival of Phoenix House, the Special Master

will engage with key stakeholders and critical community and government leaders to attempt to

address the viability of the organization through legislative or administrative action. This path,

which represents the long-term solution for Phoenix House, will require significant and ongoing

discussions with these key leaders to underscore and protect the vital community interests

represented by Phoneix House.

Filed in Providence/Bristol County Superior Court

Submitted: 1025/2021 6:68 PM

Envelope: 2931698 Reviewer: Raidbel III.

D. Exit Plan

The success of this proceeding will be measured in large part by the speed and depth of engagement and follow-through by Phoenix House's key stakeholders and the continuing effects of the pandemic on Phoenix House's operations.² Phoenix House intends to work closely with the Special Master to move quickly to implement this Proposed Plan.

III. CONCLUSION

WHEREFORE, Petitioner and Respondent respectfully request that the Court approve this Operating Plan.

/S/Peter Mumma

Peter Mumma, his capacity as Chief Executive Officer and member of the Board of Directors of Phoenix Houses of New England, Inc.

Kefe Mumme

For example, if Phoenix House's staff and clients were to be vaccinated in an early phase of vaccination roll-outs, it is possible that Phoenix House's census might begin to recover in the first quarter of 2021.

Submitted: 1025/2021 6:68 PM

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CERTIFICATE OF SERVICE

I hereby certify that, on the 25th day of January, 2021:

✓ I filed and served this document through the electronic filing system on the following parties: (other than the undersigned firms, there are no service contacts listed on the portal).

Brian Lamoureux and William O'Gara at bjl@pldolaw.com and wogara@pldolaw.com

The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

o I served this document through the electronic filing system on the following parties:

The document electronically served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

I emailed or hand-delivered this document to the attorney for the opposing party and/or the

opposing party if self-represented, whose name is

/s/ Christopher J. Fragomeni Christopher J. Fragomeni, Esq. (9476) Case Number: PM-2021-00006 Filed in Providence/Bristol County Superior Court Submitted: 10/4/2021 1:56 PM

Envelope: 3311013 Reviewer: Jaiden H.

PHOENIX HOUSES OF NEW ENGLAND INC.'S PETITION TO SELL ASSETS IN THE ORDINARY COURSE AND SPECIAL MASTER'S FIRST INTERIM REPORT AND FIRST REQUEST FOR FEES, COSTS, AND EXPENSES

EXHIBIT G

Filed in Providence/Bristol County Superior Court

Submitted: 20/9/2021 4:56 PM

Envelope: 2969943 Reviewer: Jaiden H.

STATE OF RHO	DE ISLAND
PROVIDENCE, S	SC

SUPERIOR COURT

PETER MUMMA, in his capacity as Chie	f)	
Executive Officer and President of the)	
Board of Directors of Phoenix Houses of)	
New England, Inc.,)	
Petitioner,)	
)	
v.)	C.A. No. PM-2021-000
)	
PHOENIX HOUSES OF NEW)	
ENGLAND, INC.,)	
Respondent.)	
)	

ORDER APPOINTING PERMANENT NON-LIQUIDATING SPECIAL MASTER AND ORDER APPROVING OPERATING PLAN

The above-captioned matter came before the Honorable Brian P. Stern on February 5, 2021, on the request for Appointment of a Permanent Non-Liquidating Special Master, and on February 11, 2021, on the Court's consideration of the Petitioner's proposed Operating Plan submitted to the Court [Envelope No.: 2931898] (the "Operating Plan") and after hearings thereon, it is hereby:

ORDERED, ADJUDGED, AND DECREED THAT:

- 1. Jonathan N. Savage, Esq., of Shechtman Halperin Savage, LLP, 1080 Main Street, Pawtucket, Rhode Island, is hereby appointed as the Permanent Non-Liquidating Special Master ("Special Master") of Phoenix Houses of New England, Inc. ("Respondent") for the duration of the administration of the Operating Plan, with all the powers of a non-liquidating receiver pursuant to Administrative Order No. 2020-04;
- 2. All of the acts, doings and disbursements of the Temporary Non-Liquidating Special Master are hereby approved, confirmed and ratified;

Filed in Providence/Bristol County Superior Court

Submitted: 20/9/2021 4:56 PM

Envelope: 2969943 Reviewer: Jaiden H.

> 3. That said Special Master has already obtained a bond in the amount of \$10,000 with

corporate surety thereon authorized to do business in the State of Rhode Island conditioned that

the Special Master will well and truly perform the duties of said office, and such bond shall remain

in full force and effect until further order of the Court;

4. That this permanent appointment Special Master is made in succession to the

appointment of Temporary Non-Liquidating Special Master heretofore made by order of this

Court, and the Permanent Special Master shall be vested with all authority previously granted to

the Temporary Non-Liquidating Special Master;

5. The Operating Plan submitted to the Court in this matter is hereby approved;

6. The approved Operating Plan has to the Court's satisfaction addressed following:

a. Protocols for the Mastership Business to operate and pay its debts as they

become due in the usual course of business during the duration of the Non-

Liquidating Special Mastership proceedings;

b. Pre-petition debts; and

c. The Mastership Businesses' operating plan to successfully exit the Non-

Liquidating Special Mastership;

7. In fulfillment of the reporting requirements set forth in Rule 66 (e) of the R.I. Sup.

Ct. R. Civ. P., and Administrative Order No. 2020-04, the Approved Operating Plan shall be

updated through reports of the Special Master to the Superior Court on thirty (30) day intervals,

until and unless the Court orders otherwise. Reports shall be noticed for hearing with notice to all

creditors and claimants in accord with the same procedures applicable to liquidating special

mastership proceedings;

Filed in Providence/Bristol County Superior Court

Submitted: 20/9/2021 4:56 PM

Envelope: 2969943 Reviewer: Jaiden H.

8. In addition, the Special Master shall file with the Court, on or before May 1 and

October 1 of each year, a Control Calendar Report.

9. The Petitioner shall continue operating a Mastership Business on a day-to-day basis

in accordance with the Approved Operating Plan and shall not make expenditures and/or dispose

of, or encumber, assets of the Non-Liquidating Mastership Estate outside the ordinary course of

business as established by the Approved Operating Plan, absent notice to and approval by the

Superior Court.

10. The Non-Liquidating Special Master shall not have any liability for the

administration of the Approved Operating Plan;

11. The Mastership Business shall report to the Special Master at intervals and in a

manner established by the Special Master to ensure that the Mastership Business is operating in

accord with the approved Operating Plan;

12. The Mastership Business shall be required to secure Court approval after notice to

all known creditors and claimants and a hearing thereon, through an amendment of the Approved

Operating Plan, for all expenditures and the disposal, sale or encumbrance of any assets outside

the normal course of Mastership Business operations established by the approved Operating Plan;

13. The Special Master, with notice to the Superior Court, is authorized to take control

of day-to-day business operations to the extent necessary to ensure that actions are taken by the

Mastership Business are in compliance with the approved Operating Plan. In the event such action

is necessary, the Special Master shall immediately petition the Superior Court for further

instructions pursuant to Sections 5 and 6 of Administrative Order No. 2020-04;

14. The Special Master retains the authority, with notice to the Superior Court, to take

control of all operations and assets of the Mastership Business if the Non-Liquidating Special

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Submitted: 20/9/2021 4:56 PM

Envelope: 2969943 Reviewer: Jaiden H.

Master determines that action is being taken to remove assets of the Mastership Business from the

supervision of the Superior Court. The Special Master shall immediately petition the Superior

Court for further instructions pursuant to Sections 5 and 6 of Administrative Order No. 2020-04.

15. Absent prior approval from this Court, in connection with which the Special Master

shall be entitled to prior notice as the Court may require and an opportunity to be heard, the

following are hereby restrained and enjoined for the duration of the Non-Liquidating Mastership

Proceedings:

a. The commencement or continuation, including the issuance or employment of

process, of a judicial, administrative, or other action or proceeding against the

Respondent that was, or could have been, commenced before the commencement

of the special mastership, or to recover a claim against the Respondent that arose

before the commencement of the Special Mastership;

b. The enforcement, against the Respondent or against property of the Special

Mastership Estate, or a judgment obtained before the commencement of the Special

Mastership;

c. Any act to obtain possession of property of, or from, the Special Mastership Estate

or to exercise control over any property of the Special Mastership Estate;

d. Any act to create, perfect, or enforce any lien against property of the Special

Mastership Estate;

e. Any act to create, perfect, or enforce against property of the Respondent any lien

to the extent that the lien secures a claim that arose before the commencement of

the Special Mastership;

Submitted: 20/9/2021 4:56 PM

Envelope: 2969943 Reviewer: Jaiden H.

f. Any act to collect, assess, or recover a claim against the Respondent that arose

before the commencement of the Special Mastership;

The setoff of any debt owing to the Respondent that arose before the

commencement of the Special Mastership against any claim against the

Respondent;

h. Furthermore, if the Respondent is the recipient of funds pursuant to the CARES

Act, the Respondent is restrained and enjoined from using such funds in any manner

other than as provided in the CARES Act.

16. The foregoing paragraph 15 does not stay the exercise of rights of a party to a swap

agreement, securities contract, repurchase agreement, commodity contract, forward contract or

master netting agreement, as those terms are defined in the Federal Bankruptcy Code, to the extent

that a court would not have the power to stay the exercise if Respondents were a debtor under the

Bankruptcy Code.

17. Upon conclusion of the administration of the approved Operating Plan, the Special

Master shall report to the Court with regard to establishing protocols to conclude the instant Non-

Liquidating Mastership proceedings.

18. Nothing in this Order shall prevent the Court from entering any further orders in

the instant proceeding to address specific matters that may arise upon request of the Petitioner, the

Respondent, the Special Master, or any other party in interest upon such notice as the Court may

require under the circumstances.

19. The Court shall retain jurisdiction to appoint a liquidating Receiver if the

Respondent is not able to effectively satisfy the operating protocols approved by the Court in

accord with an Operating Plan.

Submitted: 20/9/2021 4:56 PM

Envelope: 2969943 Reviewer: Jaiden H.

20. This Order is entered by virtue of and pursuant to this Court's equity powers.

ENTERED, as an Order of this Court this ____ day of February, 2021. March 1, 2021

BY ORDER:

ENTER:

Brian P. Stern, J.

March 1, 2021

/s/ Carin Miley Deputy Clerk I

Clerk, Superior Court March 1, 2021

Submitted by:

Counsel to the Special Master,

/s/ Christopher J. Fragomeni

Christopher J. Fragomeni, Esq. (9476) Shechtman Halperin Savage, LLP 1080 Main Street, Pawtucket, RI 02860 P: (401) 272-1400 | F: (401) 272-1403

cfragomeni@shslawfirm.com

CERTIFICATION OF SERVICE

I certify that on the 19th day of February, 2021, the within document was electronically filed and electronically served through the Rhode Island Judiciary Electronic Filing System, on all parties registered to receive electronic service in this matter. The document is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Christopher J. Fragomeni

Filed in Providence/Bristol County Superior Court Submitted: 10/4/2021 1:56 PM

Envelope: 3311013 Reviewer: Jaiden H.

PHOENIX HOUSES OF NEW ENGLAND INC.'S PETITION TO SELL ASSETS IN THE ORDINARY COURSE AND SPECIAL MASTER'S FIRST INTERIM REPORT AND FIRST REQUEST FOR FEES, COSTS, AND EXPENSES

EXHIBIT H

Filed in Providence/Bristol County Superior Court

Submitted: 5/6/2/2022110:56 RM

Envelope: 3988653 Reviewer: Jaiden H.

STATE OF RHODE ISLAND PROVIDENCE, SC.

SUPERIOR COURT

PETER MUMMA, in his capacity as Chief
Executive Officer and President of Boards
of
Directors of Phoenix Houses of New
England, Inc.

Plaintiff

vs.

PHOENIX HOUSES OF NEW
ENGLAND,
INC.

Defendant

C.A. No. PM2021-00006

ORDER

This matter came before the Court on May 4, 2021 upon Rhode Island Executive of Health and Human Services and the Rhode Island Department of Behavioral Healthcare, Developmental Disabilities and Hospital's Petition for Approval of a Loan to the Phoenix Houses of New England (the "Petition"), it is hereby

ORDERED, ADJUDGED, AND DECREED as follows:

- 1. That the Petition is approved;
- 2. That the Special Master may incur debt from Rhode Island Executive Office of Health and Human Services and the Rhode Island Department of Behavioral Healthcare, Developmental Disabilities and Hospital in the principal amount of Five Hundred Thousand and 00/100 (\$500,000.00) Dollars subject to the terms of the Loan and secured by the Phoenix Security Assets, as defined in the Petition; and,
- 3. That the State is authorized to record any and all security documents to perfect the State's security interest the Phoenix Security Assets, as defined in the Petition.

Submitted: 506/4/202110:56 RM

Envelope: 3988653 Reviewer: Jaiden H.

ENTERED as an Order of this Court this 11th day of May, 2021.

ENTERED:

Brian P. Stern Associate Justice

Associate Justice May 11, 2021

BY ORDER:

/s/ Carin Miley Deputy Clerk

Clerk, Superior Court May 11, 2021

Order Submitted by:

RI Department of Behavioral Healthcare, Developmental Disabilities and Hospitals And Executive Office of Health and Human Services By its attorney,

/s/ Giovanni La Terra Bellina, Esq.
Theodore Orson, Esq. (#3871)
Giovanni La Terra Bellina (#6700)
Orson and Brusini Ltd.
144 Wayland Avenue
Providence, RI 02906
T: (401) 223-2100
F: (401) 861-3103

torson@orsonandbrusini.com jlaterrra@orsonandbrusini.com

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of May, 2021, I electronically filed and served this document through the court's electronic filing system. The document is available for viewing and/or downloading from the Rhode Island Judiciary's electronic filing system.

/s/ Deborah Cahill

Case Number: PM-2021-00006 Filed in Providence/Bristol County Superior Court Submitted: 10/4/2021 1:56 PM

Envelope: 3311013 Reviewer: Jaiden H.

PHOENIX HOUSES OF NEW ENGLAND INC.'S PETITION TO SELL ASSETS IN THE ORDINARY COURSE AND SPECIAL MASTER'S FIRST INTERIM REPORT AND FIRST REQUEST FOR FEES, COSTS, AND EXPENSES

EXHIBIT I

Filed in Providence/Bristol County Superior Court

Submitted: 4/5/2/2021/19:12:26ARM

Envelope: 3837615 Reviewer: Zaide CH.

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

	 ,	
PETER MUMMA, in his capacity as Chi	ef)	
Executive Officer and President of the)	
Board of Directors of Phoenix Houses	of)	
New England, Inc.,)	
Petitioner,)	
)	
v.)	C.A. No. PM-2021-00006
)	
PHOENIX HOUSES OF NEW)	
ENGLAND, INC.,)	
Respondent.)	
)	

EX PARTE EMERGENCY PETITION FOR INSTRUCTIONS

NOW COMES Jonathan N. Savage, Esq. (the "Special Master"), solely in his capacity as Permanent Non-Liquidating Special Master of Phoenix Houses of New England, Inc. ("Phoenix House"), and hereby moves, on an *ex parte*, emergency basis for an order authorizing the Special Master to file a lawsuit against the United States Small Business Administration (the "SBA") and its Administrator, in her official capacity, in the United States District Court for the District of Rhode Island. In support hereof, the Special Master states as follows:

- 1. Phoenix House is a substance use treatment organization, serving hundreds of people throughout New England.
- 2. As the Court is aware, Phoenix House operates on thin margins; it is a nonprofit that relies heavily on grant funding and a consistent level of incoming census to its facilities.
- 3. Recently, Phoenix House, by and through the Special Master, applied for a second draw under the Paycheck Protection Program (the "PPP"), which it has received in the amount of two million dollars (the "Second Draw Funds").

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Envelope: 3837615 Reviewer: ZzaiidzenCH.

> 4. The Second Draw Funds are currently held in a segregated bank account and have

not been used for any purpose.

5. The Special Master has, though his counsel, sought an advisory opinion from the

SBA, through the Rhode Island District Office District Director, that Phoenix House was eligible

to receive the Second Draw Funds and that it complied with PPP regulations and guidelines

pertaining to its compliance with the requisite revenue reduction calculations.

To date, despite the efforts of the Special Master, the SBA has yet to issue such an

opinion.

6.

7. Unless and until there is a opinion or determination that Phoenix House was eligible

to receive the Second Draw Funds, and therefore be eligible for loan forgiveness, the Special

Master cannot approve or allow Phoenix House to access and use the Second Draw Funds. If it is

later determined that Phoenix House was ineligible to receive the PPP loan, but the Second Draw

Funds were used, it will have created a significant obligation on the part of the special mastership

estate to the material detriment of Phoenix House's creditors.

8. Moreover, given the impact of COVID-19 on Phoenix House's finances, it has

become clear to the Special Master that absent access to the Second Draw Funds, Phoenix House

will be unable to comply with the Court-approved Operating Plan, resulting in a likely conversion

of this proceeding to a liquidation and the subsequent closure of Phoenix House's programs.

9. Absent approval as to Phoenix House's eligibility under the PPP, the harm to the

special mastership estate, to Phoenix House, and its creditors, employees, and clients, will be

immense and irreparable.

10. Although the SBA has, through the promulgation of several Interim Final Rules,

determined that debtors in a bankruptcy proceeding ineligible for PPP loans, this proceeding is a

Filed in Providence/Bristol County Superior Court

Submitted: 4/5/42/2021/19:12:26ARM

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non-liquidating special mastership, overseen pursuant to this Court's COVID-19 Business

Recovery Plan.

11. To date, there is nothing in the PPP legislation, the amendments thereto, or the

SBA's Interim Final Rules that prohibit operating entities, like Phoenix House, who enjoy the non-

liquidating, equitable supervision of the Court, from being deemed ineligible for loan forgiveness.

12. To prevent the irreparable harm to Phoenix House's creditors, among others, it is

necessary to seek a declaration that Phoenix House is not excluded from eligibility under the PPP

solely due to its participation in the Rhode Island Superior Court's COVID-19 Business Recovery

Plan.1

13. Accordingly, given the irreparable harm at stake in this matter, the filing of a

lawsuit against the SBA and its agents seeking declaratory and injunctive relief as to Phoenix

House's eligibility under the PPP is, in the Special Master's business judgment, in the best interest

of the special mastership estate.

14. In connection with the filing of that lawsuit, the Special Master also requests that

the order entered on this Petition for Instructions amend Phoenix House's Operating Plan to set

forth the specific purposes for which the Second Draw Funds will be utilized. This will ensure a

first layer of Court-supervision as to the use of the Second Draw Funds.

15. Moreover, after the federal matter is opened in the United States District Court for

the District of Rhode Island, the Special Master will request that such lawsuit remain open as an

active matter, providing yet another layer of Court-supervision. In the federal matter, and

throughout the course of this special mastership, the Special Master can report to the federal court,

¹ In addition to the Special Master, the Business Recovery Plan's Program Coordinator, W. Mark Russo, Esq., intends join in the federal lawsuit as the eligibility of operating entities in the COVID-

19 Business Recovery Plan also have a stake in the outcome of the case.

Filed in Providence/Bristol County Superior Court

Submitted: 4/5/2/2021/19:12:26ARM

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as well as the SBA in a federal forum, regarding the use of the Second Draw Funds. Thus, if a

dispute arises as to use and forgiveness of those funds, the parties will have an efficient forum for

resolution.

WHEREFORE, the Special Master respectfully requests that the Court enter an order:

1. Authorizing the Special Master, jointly with the COVID-19 Business Recovery

Plan's Program Coordinator, to file an action in the United States District Court for

the District of Rhode Island against the SBA, its Administrator, and its

agents/employees, seeking (a) declaratory relief regarding Phoenix House's

eligibility under the PPP and as to the forgiveness of Phoenix Houses' second draw

under the PPP; (b) injunctive relief enjoining the SBA, its Administrator, and its

agents/employees from denying Phoenix House's eligibility under the PPP and/or

deeming Phoenix House and its second draw under the PPP ineligible for

forgiveness; and (c) any related relief related to Second Draw Funds;

2. Amending the Court-approved Operating Plan to set forth the specific purposes for

which the Second Draw Funds will be utilized, pursuant to the language of the PPP;

and

3. Approving of all the acts and doings of the Special Master relative to this petition

for instructions.

Filed in Providence/Bristol County Superior Court

Submitted: 4/56/42/2022/19:12:26/ARM

Envelope: 3037015 Reviewer: Zaiide © H.

Jonathan N. Savage, Esq., solely in his capacity as Permanent Special Master of Phoenix Houses of New England, Inc., By His Counsel,

/s/ Christopher J. Fragomeni
Christopher I. Fragomeni Fsa (947)

Christopher J. Fragomeni, Esq. (9476) Edward D. Pare III, Esq. (9698) Savage Law Partners, LLP 39 Pike Street Providence, RI 02903

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Dated: April 5, 2021

Case Number: PM-2021-00006 Filed in Providence/Bristol County Superior Court Submitted: 10/4/2021 1:56 PM

Envelope: 3311013 Reviewer: Jaiden H.

PHOENIX HOUSES OF NEW ENGLAND INC.'S PETITION TO SELL ASSETS IN THE ORDINARY COURSE AND SPECIAL MASTER'S FIRST INTERIM REPORT AND FIRST REQUEST FOR FEES, COSTS, AND EXPENSES

EXHIBIT J

Filed in Providence/Bristol County Superior Court

Submitted: 4/5/42/2021/9:1256ARM

Envelope: 3837835 Reviewer: Zajidæ CH.

STATE OF RHODE ISLAND PROVIDENCE, SC

SUPERIOR COURT

PETER MUMMA, in his capacity as Chief
Executive Officer and President of the
Board of Directors of Phoenix Houses of
New England, Inc.,
Petitioner,

V.

C.A. No. PM-2021-00006

PHOENIX HOUSES OF NEW
ENGLAND, INC.,
Respondent.

Respondent.

ORDER

The above-captioned matter came before the Honorable Brian P. Stern on the *ex parte* emergency request (the "Petition for Instructions") of Jonathan N. Savage, Esq. (the "Special Master"), solely in his capacity as Permanent Non-Liquidating Special Master of Phoenix Houses of New England, Inc. ("Phoenix House"), for an order authorizing the Special Master to file a lawsuit against the United States Small Business Administration (the "SBA") and its Administrator, in her official capacity, in the United States District Court for the District of Rhode Island.

ORDERED, ADJUGED, AND DECREED

- 1. That the relief requested in the Special Master's Petition for Instructions is GRANTED;
- 2. That the Special Master, in conjunction with the COVID-19 Business Recovery Plan Program Coordinator, is hereby authorized to file a lawsuit against the SBA and its Administrator seeking declaratory and injunctive relief, as described in the Petition for Instructions;

Filed in Providence/Bristol County Superior Court

Submitted: 4/5/2/2021/9:1256ARM

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> 3. That Phoenix House shall submit an Amended Operating Plan which sets forth the specific purposes for which the second draw Paycheck Protection Program funds will be used;

That upon approval of the Amended Operating Plan, the Special Master is

authorized and directed to provide notice of the use of the second draw Paycheck Protection

Program funds to the United States District Court for the District of Rhode Island and the SBA;

and

4.

5. That all the Special Master's acts and doings relative to the Petition for Instructions

are approved, confirmed, and ratified.

ENTERED as an order of this Court of this 5th day of April, 2021.

ENTERED:

BY ORDER:

Brian P. Stern, J. Stern, J.

Date: April ____5____, 2021

/s/ Carin Miley Deputy Clerk I

Deputy Clerk, Superior Court Date: April _____5____, 2021

Respectfully Presented By, Jonathan N. Savage, Esq., solely in his capacity as Permanent Special Master of Phoenix Houses of New England, Inc., By His Counsel,

/s/ Christopher J. Fragomeni

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