

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

-----X
IN RE: :
 : CHAPTER 7
FAIRVIEW RETIREMENT COMMUNITY, INC., :
 : CASE NO. 1-98-bk-03222
Debtor. :
-----X

**INDENTURE TRUSTEE'S MOTION
FOR AN ORDER REOPENING
BANKRUPTCY CASE PURSUANT TO BANKRUPTCY
CODE SECTION 350(b) FOR LIMITED PURPOSE OF AUTHORIZING
COMMENCEMENT AND PROSECUTION OF ADVERSARY PROCEEDING**

Bank of America (f/k/a Fleet National Bank), as indenture trustee (the "Indenture Trustee"), by and through its undersigned counsel, hereby files this motion for an order, pursuant to Bankruptcy Code section 350(b), reopening the Chapter 7 bankruptcy case of debtor Fairview Retirement Community, Inc. (d/b/a Woodland Center for Nursing) (the "Debtor"), for the limited purpose of authorizing the Indenture Trustee to commence and prosecute an adversary proceeding against Pennsylvania Department of Public Welfare ("DPW"), and in support thereof respectfully represents as follows:

FACTUAL BACKGROUND

1. The Debtor was a not-for-profit corporation that operated a nursing care facility (the "Facility") in Fairview Township, Pennsylvania.
2. In 1993, \$7.5 million of revenue bonds were issued to fund certain costs and expenses associated with the Facility. The bonds were secured by substantially all of the Debtor's assets. To date, the bondholders, who are represented by the Indenture Trustee, have recovered only approximately 7% of their investment.

3. On June 30, 1998, the Debtor filed with this Court a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

4. In late 2003, the Debtor undertook an orderly shut-down of the Facility, which was accomplished with state oversight.

5. Pursuant to a stipulation approved by this Court on March 19, 2004, the Debtor transferred to the Indenture Trustee substantially all of its assets, including certain claims against DPW for reimbursement under Pennsylvania's Medicaid program.

6. The stipulation and the corresponding order entered by this Court provided, among other things, that those reimbursement claims were transferred free and clear of any set-off rights or claims.

7. On May 6, 2004, the Debtor's case was converted to a case under Chapter 7 of the Bankruptcy Code.

8. On January 24, 2006, the Indenture Trustee and DPW entered into a settlement agreement pursuant to which DPW agreed to pay the Indenture Trustee \$121,000 on account of the Indenture Trustee's reimbursement claims.

9. On May 23, 2006, this Court entered a final decree closing the Debtor's Chapter 7 case and discharging the Chapter 7 trustee of his duties.

10. In a letter dated June 5, 2006, DPW stated that it intended to offset \$426,227.53 that the Debtor allegedly owed DPW against the \$121,000 owed to the Indenture Trustee, and therefore, no payment would be made to the Indenture Trustee.

11. Subsequent negotiations between the parties were unsuccessful and, to date, DPW has not paid the the Indenture Trustee any portion of the \$121,000.

RELIEF REQUESTED

12. The Indenture Trustee seeks to reopen this case for the limited purpose of commencing and prosecuting an adversary proceeding against DPW by which it would seek (1) a declaration that the stipulation and the corresponding order bar DPW from exercising set-off rights or offsetting claims against the \$121,000 and (2) damages against DPW in the amount of \$121,000, plus interest, for breach of the settlement agreement. A copy of the complaint (the “Complaint”) the Indenture Trustee would file is substantially in the form attached hereto as Exhibit 1.

BASIS FOR REQUESTED RELIEF

13. Bankruptcy Code section 350(b) provides that “[a] case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause.”

14. In addition, Bankruptcy Rule 5010 provides that “[a] case may be reopened on motion of the debtor or other party in interest pursuant to § 350(b) of the Code. In a chapter 7, 12, or 13 case a trustee shall not be appointed by the United States trustee unless the court determines that a trustee is necessary to protect the interests of creditors and the debtor or to insure the efficient administration of the case.” L.B.R. 5010 provides that “[a] motion to reopen a case . . . may be granted summarily.”

15. Courts have broad discretion to reopen a bankruptcy case after it has been administered. Zinchiak v. CIT Small Bus. Lending Corp. (In re Zinchiak), 406 F.3d 214, 223 (3d Cir. 2005).

16. There is cause to reopen this case to allow the Indenture Trustee to file the Complaint and prosecute the adversary proceeding.

17. First, the Indenture Trustee is likely to succeed in the adversary proceeding. The Complaint seeks a determination that DPW is barred from exercising set-off rights or offsetting claims against the \$121,000 owed to the Indenture Trustee. The Indenture Trustee's position is supported by Third Circuit law, which holds that assets sold pursuant to Bankruptcy Code section 363 are sold free and clear of set-off rights. See Folger Adam Sec., Inc. v. DeMatteis/MacGregor, JV, 209 F.3d 252, 263 (3d Cir. 2000) (sale of accounts receivable was free and clear of setoff rights, unless the setoff was actually taken pre-petition); Shaw Group, Inc., and Shaw Env't, Inc. v. Bechtel Jacobs Co., LLC (In re The IT Group, Inc.), 2006 WL 2708006, at *4 (Bankr. D. Del. Sept. 21, 2006) (same).

18. Second, any recoveries generated by the adversary proceeding would inure to the benefit of a wide group of creditors, the bondholders, rather than a particular creditor. Accordingly, prosecution of the adversary proceeding would benefit the Debtor's estate.

19. Third, this Court is in the best position (1) to consider Bankruptcy Code section 363 and related case law and (2) to interpret the stipulation transferring the Debtor's assets and its order approving that stipulation, which form the basis of the Complaint.

20. Fourth, because DPW did not formally refuse to pay the Indenture Trustee the \$121,000 until after this case had been closed, the Indenture Trustee did not have an opportunity to commence an adversary proceeding against DPW while the case was open.

21. Finally, courts, including those in this District, frequently reopen cases to allow a party to commence an adversary proceeding. See, e.g., N.J. Higher Educ. Assistance Authority v. Zierden (In re Zierden), 249 B.R. 65, 67 (M.D. Pa. 2000) (bankruptcy court permitted debtor to reopen case to file adversary proceeding); IRS v. Pierchoski (In re Pierchoski), 243 B.R. 267, 269 (W.D. Pa. 1999) (same); Kish v. Verniero (In re Kish), 212 B.R.

808, 811 (D. N.J. 1997) (same); Laroche Industries, Inc. v. Orica Nitrogen LLC (In re Laroche Industries, Inc.), 312 B.R. 249, 252 (Bankr. D. Del. 2004) (same).

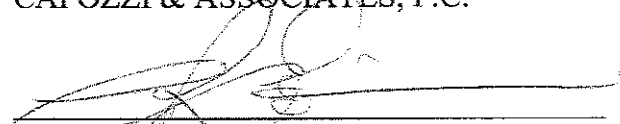
CONCLUSION

WHEREFORE, the Indenture Trustee respectfully requests that this Court enter an order, substantially in the form attached hereto as Exhibit 2, reopening the Debtor's Chapter 7 bankruptcy case for the limited purpose of authorizing the Indenture Trustee to commence and prosecuting an adversary proceeding against DPW, as described herein, and granting such other and further relief as may be just and appropriate under the circumstances.

Dated: April 12, 2007

Respectfully submitted,

CAPOZZI & ASSOCIATES, P.C.



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4/18/07

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

-----X	:	
IN RE:	:	
	:	CHAPTER 7
FAIRVIEW RETIREMENT COMMUNITY, INC.,	:	
	:	CASE NO. 1-98-bk-03222
Debtor.	:	
-----X	:	
BANK OF AMERICA	:	
(f/k/a FLEET NATIONAL BANK),	:	
AS INDENTURE TRUSTEE,	:	
	:	
Plaintiff	:	COMPLAINT SEEKING
	:	DECLARATORY RELIEF AND
vs.	:	DAMAGES FOR BREACH OF
	:	CONTRACT
PENNSYLVANIA DEPARTMENT	:	
OF PUBLIC WELFARE,	:	
	:	ADVERSARY NO. ___ - ___ -ap- ____
Defendant.	:	
-----X	:	

**COMPLAINT SEEKING (1) DECLARATORY RELIEF AND (2) DAMAGES FOR
BREACH OF CONTRACT PURSUANT TO BANKRUPTCY CODE
SECTIONS 105(a) AND 363 AND BANKRUPTCY RULES 7001 AND 7004**

Bank of America (f/k/a Fleet National Bank), as indenture trustee (the "Plaintiff"), by and through its undersigned counsel, for its complaint against defendant Pennsylvania Department of Public Welfare (the "Defendant"), alleges as follows:

Nature of the Action

1. Pursuant to a stipulation approved by this Court on March 19, 2004, debtor Fairview Retirement Community, Inc. (d/b/a Woodland Center for Nursing) (the "Debtor"), transferred to the Plaintiff certain claims against the Defendant for reimbursement under Pennsylvania's Medicaid program.

2. The stipulation and the corresponding order entered by this Court

provided, among other things, that those reimbursement claims were transferred free and clear of any set-off rights or claims.

3. The Plaintiff and the Defendant subsequently entered into a settlement agreement pursuant to which the Defendant agreed to pay the Plaintiff \$121,000 on account of the Defendant's reimbursement claims.

4. The Defendant has refused to pay the Plaintiff under the settlement agreement, however, asserting that it is entitled to offset \$426,227.53 that the Debtor allegedly owes the Defendant against the \$121,000.

5. By this adversary proceeding, the Plaintiff seeks (1) a declaration that the stipulation and the corresponding order bar the Defendant from exercising set-off rights or offsetting claims against the \$121,000 and (2) damages against the Defendant in the amount of \$121,000, plus interest, for breach of the settlement agreement.

Jurisdiction, Venue, and Statutory Predicates for Relief Requested

6. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. § 157, 28 U.S.C. § 1334, paragraph 25 of the Transfer Stipulation (as defined below), and the Transfer Order (as defined below). This is a core proceeding under 28 U.S.C. § 157(b)(2).

7. Venue of this adversary proceeding lies in this District pursuant to 28 U.S.C. § 1409.

8. The statutory predicates for the relief requested herein are Bankruptcy Code sections 105(a) and 363 and Bankruptcy Rules 7001 and 7004.

Reopening of the Debtor's Bankruptcy Case

9. On June 30, 1998, the Debtor filed with this Court a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

10. On May 6, 2004, the Debtor's case was converted to a case under Chapter 7 of the Bankruptcy Code.

11. On May 23, 2006, this Court entered a final decree closing the Debtor's Chapter 7 case and discharging the Chapter 7 trustee of his duties.

12. On _____, 2007, this Court entered an order reopening the Debtor's case for the limited purpose of authorizing the Plaintiff to commence and prosecute this adversary proceeding.

The Debtor and the Parties

13. The Debtor, a not-for-profit corporation, operated a nursing care facility (the "Facility") in Fairview Township, Pennsylvania until late 2003.

14. The Plaintiff, one of the nation's leading financial institutions, is the successor trustee under an indenture, dated as of July 1, 1993, pursuant to which \$7.5 million of revenue bonds were issued to fund certain costs and expenses associated with the Facility. The bonds were secured by substantially all of the Debtor's assets. The Plaintiff represents bondholders who, to date, have recovered only approximately 7% of their investment.

15. The Defendant is Pennsylvania's largest state agency and is responsible, among other things, for administering Pennsylvania's Medicaid assistance program.

Factual Background

The Medicaid Reimbursement Claims

16. Under Pennsylvania's Medicaid assistance program, healthcare providers are entitled to reimbursement from the Defendant for certain services provided and expenditures made.

17. The Defendant made certain adjustments that reduced the amount of the Debtor's reimbursement for various periods between 1990 and 1995.

18. The Debtor contested those reductions (the "Medicaid Reimbursement Claims") through twelve separate appeals before the Department of Public Welfare Bureau of Hearings and Appeals (the "BHA").

19. Those appeals were pending when the Debtor filed for Chapter 11 protection on June 30, 1998.

The Transfer of the Medicaid Reimbursement
Claims to the Plaintiff Free and Clear of Set-Off Rights and Claims

20. In late 2003, the Debtor undertook an orderly shut-down of the Facility, which was accomplished with state oversight.

21. In connection therewith, the Debtor, the Plaintiff, and certain other parties entered into a stipulation, dated as of November 23, 2003 (the "Transfer Stipulation"), pursuant to which the Debtor agreed to transfer substantially all of its assets, including the Medicaid Reimbursement Claims, to the Plaintiff for the benefit of the bondholders. A true and correct copy of the Transfer Stipulation is attached hereto as Exhibit A and is incorporated herein by reference.

22. On March 19, 2004, this Court entered an amended order (the "Transfer Order") approving the Transfer Stipulation. A true and correct copy of the Transfer Order is attached hereto as Exhibit B and is incorporated herein by reference.

23. The Transfer Stipulation and the Transfer Order each provided for the transfer of the Medicaid Reimbursement Claims to the Plaintiff:

free and clear of any and all claims, encumbrances, deeds of trust, liens, including liens for taxes due governmental authorities, pledges, **offsets**, **set-offs**, recoupments, charges, successor, environmental, tax, and other

liabilities (whether secured or unsecured, contingent, or absolute, liquidated or unliquidated, perfected or unperfected, choate or inchoate, filed or not filed, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded), taxes, security interests, mortgages, restrictions, indentures, loans, credit agreements, other agreements, instruments, contracts, judgments, and orders of any court or governmental department, commission, board, agency, or instrumentality, domestic or foreign, and any actions and proceedings of any kind or nature

Transfer Stipulation, ¶ 6 (emphasis added); Transfer Order (emphasis added).

24. The Transfer Stipulation also enjoined parties from asserting claims against the Assets (including the Medicaid Reimbursement Claims):

All persons holding liens, claims, or encumbrances against or in the Debtor, its estate, officers, directors, shareholders, or any of its assets, including the Facility and the Assets (including the Receivables), of any kind or nature whatsoever are forever barred, banned, estopped, and permanently enjoined from asserting, prosecuting, or otherwise pursuing such liens, claims, or encumbrances against the Facility, or the Assets (including the Receivables), [the Plaintiff], any of the Bondholders, their respective property, or their respective successors and assigns, as alleged successors or otherwise, with respect to such liens, claims, or encumbrances, and no holder of any such lien, claim, or encumbrance shall interfere with [the Plaintiff's] title to, or use and enjoyment of, the Facility or the Assets (including the Receivables).

Transfer Stipulation, ¶ 14.

25. Following the satisfaction of certain conditions in the Transfer Stipulation, the Medicaid Reimbursement Claims were transferred to the Plaintiff by quitclaim deed.

The Medicaid Reimbursement Claims Settlement

26. On January 24, 2006, the Plaintiff (which had received a copy of the Transfer Stipulation) and the Defendant entered into a stipulation of settlement (the "Medicaid Reimbursement Claims Settlement") resolving the Medicaid Reimbursement Claims. A true and correct copy of the Medicaid Reimbursement Claims Settlement is

attached hereto as Exhibit C and is incorporated herein by reference.

27. Pursuant to the Medicaid Reimbursement Claims Settlement, the Defendant agreed to “the increase [the Plaintiff’s] MA reimbursement in the amount of \$121,000.” Medicaid Reimbursement Claims Settlement, ¶ 3

28. On January 25, 2006, the Defendant notified the BHA that the Medicaid Reimbursement Claims appeals had been resolved through the Medicaid Reimbursement Claims Settlement. A true and correct copy of that correspondence is attached hereto as Exhibit D and is incorporated herein by reference.

29. Also on January 25, 2006, the Defendant notified the Bureau of Long Term Care Programs that it had agreed to pay the Plaintiff \$121,000 in accordance with the Medicaid Reimbursement Claims Settlement. A true and correct copy of that correspondence is attached hereto as Exhibit E and is incorporated herein by reference.

30. On February 8, 2006, the BHA entered an order approving the Medicaid Reimbursement Claims Settlement.

The Defendant’s Refusal to Pay the Plaintiff \$121,000

31. Thereafter, the Defendant informed the Plaintiff that it did not intend to make the \$121,000 payment.

32. By letter dated June 5, 2006 (the “Set-Off Letter”), the Defendant stated that although it had agreed to increase the Plaintiff’s reimbursement by \$121,000, it had determined, “based on audits and final cost settlements” for 1994 and 1995, that the Debtor owed the Plaintiff \$426,227.53. A true and correct copy of the Set-Off Letter is attached hereto as Exhibit F and is incorporated herein by reference.

33. Citing the Medicaid Reimbursement Claims Settlement, the Defendant

stated that it intended to offset \$426,227.53 that the Debtor allegedly owed the Defendant against the \$121,000 owed to the Plaintiff, and therefore, no payment would be made to the Plaintiff. See Set-Off Letter.

34. To date, the Defendant has not paid the Plaintiff any portion of the \$121,000.

COUNT I

(Declaratory Judgment)

35. The Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 34 of this Complaint as though fully set forth herein.

36. Because the Transfer Stipulation and the Transfer Order, coupled with prevailing Third Circuit law, provided for the transfer of the Debtor's assets, including the Medicaid Reimbursement Claims, free and clear of all set-off rights and claims, the Defendant is barred from exercising set-off rights or offsetting claims against the \$121,000 owed to the Plaintiff.

37. By attempting to exercise set-off rights and offset claims against the \$121,000 owed to the Plaintiff, the Defendant has created a genuine and actual controversy requiring declaratory relief.

COUNT II

(Breach of Contract)

38. The Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 37 of this Complaint as though fully set forth herein.

39. The Medicaid Reimbursement Claims Settlement is a contract requiring the Defendant to pay the Plaintiff \$121,000.

40. The Defendant has failed to pay that amount.

41. The Defendant has therefore breached its obligations under the Medicaid Reimbursement Claims Settlement.

42. This breach has caused the Plaintiff damages in the amount of \$121,000, plus interest.

WHEREFORE, the Plaintiff demands that judgment be entered in its favor and against the Defendant:

(i) declaring that the the Defendant is barred from exercising set-off rights or offsetting claims against the \$121,000 owed to the Plaintiff;

(ii) awarding the Plaintiff damages against the Defendant for breach of contract in the amount of \$121,000, plus interest; and

(iii) granting such other and further relief as may be just and proper under the circumstances.

Dated: _____, 2007

Respectfully submitted,

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EXHIBIT A

EXHIBIT B

EXHIBIT C

EXHIBIT D

EXHIBIT E

EXHIBIT F

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED
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IN RE: :
: :
FAIRVIEW RETIREMENT COMMUNITY, : CASE NO. 1-98-03222
INC., :
: :
Debtor. : CHAPTER 11

STIPULATION AND ORDER TRANSFERRING
TITLE TO AND POSSESSION OF DEBTOR'S ASSETS TO INDENTURE
TRUSTEE, ON BEHALF OF BONDHOLDERS, AND CONVERTING DEBTOR'S
BANKRUPTCY CASE UPON SATISFACTION OF CERTAIN CONDITIONS

This stipulation (the "Stipulation") is made as of November 20, 2003, by and among Fleet National Bank ("Fleet"), as successor trustee under the indenture, dated as of July 1, 1993 (the "Indenture"), between York County Industrial Development Authority and First Valley Bank, governing the health care facility revenue bonds, with a face value of \$7.5 million (the "Bonds"), debtor Fairview Retirement Community, Inc., d/b/a Woodland Center for Nursing (the "Debtor"), Fairview Township and Fairview Township Authority ("Fairview Township"), and CR Healthcare Management, L.P. ("CRHM" and, together with Fleet, the Debtor, and Fairview Township, the "Parties").

WHEREAS, on June 30, 1998, the Debtor filed a petition for relief in the Bankruptcy Court for the Middle District of Pennsylvania (the "Court") pursuant to Chapter 11 of the Bankruptcy Code; and

WHEREAS, as security for payment of the Bonds, Fleet has a mortgage on the Debtor's nursing care facility located on an 8-acre tract of land in Fairview Township, Pennsylvania (including all land improvements, buildings, and building improvements related thereto, the "Facility") and a valid, perfected security interest in, among other things, the

receivables (the "Receivables"), equipment, machinery, furniture, fixtures, revenues, contracts, rights, and general intangibles generated therefrom and associated therewith, including, **without limitation**, the assets listed on the Debtor's balance sheet, dated November 20, 2003, a copy of which is attached hereto as Exhibit A and is incorporated herein by reference (the "Assets"); and

WHEREAS, Fairview Township has a claim against the Debtor and its estate in the amount of \$69,108.77 for sewer services provided thereby, which claim is secured by a first priority municipal lien on the Facility; and

WHEREAS, the Debtor represents, to the best of its knowledge, information, and belief, that State Resources Corp. ("Resources"), assignee of First Union National Bank, had a claim against the Debtor and its estate on account of a pre-petition secured line of credit advanced to the Debtor, which claim has been paid in full, and that such claim was secured by a first priority security interest in the Receivables, which was senior to Fleet's, *pari passu* with Friar's (as defined below), and junior to CRHM's security interest therein; and

WHEREAS, the Debtor represents, to the best of its knowledge, information, and belief, that James H. Friar ("Friar"), successor-in-interest to and assignee of Rickel & Associates, Inc., has a claim against the Debtor and its estate in the amount of approximately \$29,250 on account of a pre-petition loan to the Debtor. The Debtor further represents, to the best of its knowledge, information, and belief, that Friar's claim is secured by a security interest in the Receivables, which is senior to Fleet's, *pari passu* with Resources' (to the extent any remaining claim exists), and junior to CRHM's security interest therein; and

WHEREAS, CRHM has a claim against the Debtor and its estate and a security interest in the Receivables pursuant to the Management Services Agreement dated September 23, 2003 and approved by this Court on October 22, 2003 (the "Management Agreement") and

pursuant to this Court's Order Authorizing Borrowing Authority on a Super-Priority Secured Basis under Rule 4001(c)(2) Fed. R. Civ. P. dated November 3, 2003 (the "Financing Order"), which security interest is senior to Fleet's, Resources' (to the extent any remaining claim exists), and Friar's security interest therein. As of the date hereof, CRHM's claim against the Debtor and its estate under the Management Agreement and the Financing Order is approximately \$162,000; and

WHEREAS, the Debtor represents that no other parties, except for those described herein, have a lien, security interest, or other interest in the Facility or the Assets (including the Receivables); and

WHEREAS, on October 16, 2002 (the "Confirmation Date"), the Bankruptcy Court approved the Debtor's Revised Second Amended Plan of Reorganization (as revised on May 8, 2002 and as amended thereafter, the "Plan"), pursuant to which the Debtor agreed to issue new bonds (the "New Bonds") to the holders of the Bonds (the "Bondholders"); and

WHEREAS, since the Confirmation Date, financial circumstances have prevented the Debtor from issuing the New Bonds; and

WHEREAS, Section 15.4 of the Plan provides that "[t]he transfer of any assets including any real estate, and lots of Real Property by the Debtor during the pendency of this case, or after Confirmation, shall constitute a transfer under this Plan within the purview of Code Section 1146(c) and shall not be subject to transfer, stamp or similar taxes under any law"; and

WHEREAS, the Commonwealth of Pennsylvania, the Debtor, and CHRM have commenced an orderly shut-down (the "Shut-Down") of the Facility, which, upon information and belief, could be completed as soon as December 3, 2003.

NOW, THEREFORE, INTENDING TO BE LEGALLY BOUND, IT IS HEREBY STIPULATED AND AGREED, by and between the Parties, through their undersigned counsel, as follows:

1. The foregoing recitals are incorporated by reference.
2. This Stipulation is subject to the approval of this Court following notice and a hearing. Accordingly, on or before November 20, 2003, the Debtor shall file a motion seeking Court approval of this Stipulation pursuant to Bankruptcy Code sections 105, 362, 363, 554, and 1112 and Bankruptcy Rule 9019, as is required, which motion and notice thereof shall be subject to Fleet's prior approval and to which the Debtor shall attach and incorporate by reference a copy of this Stipulation. If a hearing on the motion is required pursuant to the Bankruptcy Rules and the Local Rules, the Debtor shall schedule such hearing (the "Hearing") on the earliest possible date permitted by the Bankruptcy Rules, the Local Rules, and this Court's schedule. Notice of the motion shall be served on the Parties, the Office of the United States Trustee, counsel for the official committee of unsecured creditors, Resources, Friar, all parties that have filed notices of appearance and requested service pursuant to Bankruptcy Rule 2002, all known environmental and taxing authorities that the Debtor believes could potentially have liens on, or potential claims with respect to, the Facility or the Assets (including the Receivables), all parties-in-interest, and any other party requested by Fleet.
3. This Stipulation shall not become effective unless and until (1) it has been approved by this Court on a final basis, provided that Fleet, in its sole and absolute discretion, may waive the requirement that such approval be final, and (2) Fleet has received notice from the Commonwealth of Pennsylvania, the Debtor, or CRHM, as applicable, that the Shut-Down has been completed.

4. The Debtor and CRHM are authorized and directed, at their own expense, on or before the date of Shut-Down, to abandon, discard, destroy, and/or otherwise dispose of any and all (1) medical records regarding current or past patients and other confidential information, (2) medications, (3) needles and other intravenous equipment, (4) hazardous waste, including, without limitation, anything containing or related to bodily fluids, (5) food, and (6) other property reasonably requested by Fleet in writing (the "Abandoned Assets"); provided that (1) the Debtor shall not seek to abandon any other Assets (including the Receivables) or the Facility under 11 U.S.C. § 554 or otherwise without Fleet's prior written approval and (2) any or all of the requirements set forth in this paragraph 4 may be waived by Fleet in writing.

5. On the third business day after the conditions set forth in paragraphs 3 and 4 above have been satisfied, (1) Fleet shall pay Fairview Township \$69,108.77 (the "Payment"), (2) Fairview Township shall file (a) a satisfaction of municipal lien and (b) a satisfaction of judgment with respect to its claim, which, once filed, shall constitute conclusive evidence of the release of all of its liens of any kind or nature whatsoever against the Facility or the proceeds from the sale of the Facility and against any other asset of the Debtor, Fleet, or any of the Bondholders, and any proceeds of any sale thereof, (3) Fairview Township shall file, register, or otherwise record a certified copy of the Court-approved Stipulation, which, once filed, registered, or otherwise recorded shall constitute conclusive evidence of the release of all of its liens of any kind or nature whatsoever against the Facility or the proceeds from the sale of the Facility and against any other asset of the Debtor, Fleet, or any of the Bondholders, and any proceeds of any sale thereof, (4) the Debtor is authorized and directed to transfer title to the Facility to Fleet, on behalf of the Bondholders, by means of a deed in lieu of foreclosure (in accordance with 72 P.S. § 8102-C.3(16)), which title shall be good, clear, and marketable title,

and which Facility shall be transferred free and clear of any and all claims, encumbrances, deeds of trust, liens, including liens for taxes due governmental authorities, pledges, offsets, set-offs, recoupments, charges, successor, environmental, tax, and other liabilities (whether secured or unsecured, contingent, or absolute, liquidated or unliquidated, perfected or unperfected, choate or inchoate, filed or not filed, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded), taxes, security interests, mortgages, restrictions, indentures, loans, credit agreements, other agreements, instruments, contracts, judgments, and orders of any court or governmental department, commission, board, agency, or instrumentality, domestic or foreign, and any actions and proceedings of any kind or nature, and any claim by any person or entity asserting any rights or interests; provided that Fleet's mortgage on the Facility and its rights thereunder shall remain in full force and effect pending the full and final transfer of title to Fleet pursuant hereto; and (5) the Debtor is authorized and directed to transfer title to, and/or possession of, the Assets (except for the Abandoned Assets) to Fleet, on behalf of the Bondholders, in any manner reasonably requested by Fleet, including by bill of sale, which assets shall be transferred free and clear of any and all claims, encumbrances, deeds of trust, liens, including liens for taxes due governmental authorities, pledges, offsets, set-offs, recoupments, charges, successor, environmental, tax, and other liabilities (whether secured or unsecured, contingent, or absolute, liquidated or unliquidated, perfected or unperfected, choate or inchoate, filed or not filed, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded), taxes, security interests, mortgages, restrictions, indentures, loans, credit agreements, other agreements, instruments, contracts, judgments, and orders of any court or governmental department, commission, board, agency, or instrumentality, domestic or foreign, and any actions and proceedings of any kind or nature, and any claim by any person or entity

asserting any rights or interests; provided that (1) the Parties shall retain their respective interests in the Receivables as provided in paragraph 12 below and as otherwise provided herein, and (2) Fleet's security interest in the Assets (including the Receivables) and its rights thereunder shall remain in full force and effect pending the full and final transfer of title and/or possession, as applicable, to Fleet pursuant hereto.

6. The Payment shall be in full satisfaction of all pre-petition and postpetition claims of Fairview Township against the Debtor and its estate and, upon such payment, Fairview Township hereby releases any and all liens, including any municipal liens, against the Facility or the proceeds from the sale of the Facility and against any asset of the Debtor, Fleet, or any of the Bondholders and any proceeds of any sale thereof, agrees not to seek payment of any claims against the Debtor and its estate, Fleet, or any Bondholders from any such proceeds or assets, and agrees not to seek or demand the sale or other disposition of the Facility by sheriff's sale or otherwise. Accordingly, on or before November 20, 2003, Fairview Township shall (1) continue the sheriff's sale currently scheduled for November 24, 2003 until the next available date after the Hearing, and (2) provide the Debtor and Fleet with evidence of such cancellation.

7. The Parties are authorized and directed to take all actions and execute all documents as may be reasonably necessary or appropriate to effectuate the transfer of title to the Facility and the Assets (as applicable) to Fleet and to release any liens pursuant to paragraph 5 hereof.

8. The date on which the conditions in paragraphs 3, 4, and 5 hereof have been satisfied or waived, as applicable, shall hereinafter be referred to as the "Effective Date."

9. The Parties agree and the Court finds that conversion of this case to a case under Chapter 7 of the Bankruptcy Code is in the best interest of the Debtor's estate and its creditors.

10. On the Effective Date, the Debtor's bankruptcy case shall be converted to a Chapter 7 case under the Bankruptcy Code pursuant to 11 U.S.C. § 1112 without the requirement of any further Order of this Court, except to the extent the Court requires the Debtor to file an election to convert or any other documents.

11. Prior to the Effective Date, the Parties shall take all actions necessary and appropriate to preserve the value of the Facility and the Assets (including the Receivables), including, without limitation, allowing Fleet and any of its agents to take possession of the Facility prior to the transfer of title contemplated hereby.

12. Provided that the conditions in paragraph 4 above are met, the Management Agreement shall terminate as of the date of Shut-Down. Notwithstanding such termination or any applicable law otherwise relieving CRHM of its collection and servicing obligations with respect to the Receivables, CRHM shall continue to use commercially reasonable efforts to collect and service the Receivables (excluding, however, the obligation to initiate legal or judicial action) for a period of 90 days after the Shut Down (which period may be extended for an additional 30 days at the sole and absolute discretion of Fleet and may be extended thereafter upon written agreement between CRHM and Fleet) and, along with the Debtor (to the extent it receives payments on account of the Receivables), shall promptly distribute payments on account of the Receivables to the following parties in the following order of priority: (1) to CRHM, until its claim (the "CRHM Claim") against the Debtor and its estate under the Management Agreement and Financing Order is satisfied in full; (2) to Resources (to

the extent it has any remaining claim against the Debtor and its estate) and Friar, pro rata, until their claims against the Debtor and its estate, as described above, are satisfied in full, (3) to Fleet, until its claim against the Debtor and its estate is satisfied in full; provided that CRHM shall be entitled to a fee of 10% from any payments made to Fleet on account of the Receivables, and (4) to the Debtor, to the extent the claims of CRHM, Resources, Friar, and Fleet have been satisfied in full.

13. The Debtor, on behalf of its estate, the Debtor's counsel, CRHM (once the CRHM Claim has been paid in full), and Fairview Township, for themselves and their successors and assigns, hereby waive and release Fleet, the Bondholders, and their respective successors, assigns, affiliates, officers, directors, shareholders, advisors, agents, attorneys, employees, and representatives from any actions and claims that the Debtor, the Debtor's counsel, CRHM, and Fairview Township, as applicable, and their successors and assigns may have with respect to the Assets (including the Receivables) or the Facility, including, without limitation, any avoidance actions under the Bankruptcy Code, any claims under 11 U.S.C. § 506(c) (except to the extent necessary to effectuate this Stipulation and convert the Debtor's bankruptcy case) and any claim with respect to environmental conditions at, under, from, or affecting the Facility, whether known or unknown, fixed or contingent, foreseen or unforeseeable, and whether arising now or in the future or under statutory (including CERCLA) or common law, with the exception of any claims incurred by Fairview Township on or after November 1, 2003 on account of sewer services provide.

14. All persons holding liens, claims, or encumbrances against or in the Debtor, its estate, officers, directors, shareholders, or any of its assets, including the Facility and the Assets (including the Receivables), of any kind or nature whatsoever are forever barred,

banned, estopped, and permanently enjoined from asserting, prosecuting, or otherwise pursuing such liens, claims, or encumbrances against the Facility, or the Assets (including the Receivables), Fleet, any of the Bondholders, their respective property, or their respective successors and assigns, as alleged successors or otherwise, with respect to such liens, claims, or encumbrances, and no holder of any such lien, claim, or encumbrance shall interfere with Fleet's title to, or use and enjoyment of, the Facility or the Assets (including the Receivables).

15. After Fleet (1) performs its obligations pursuant to this Stipulation and (2) liquidates or otherwise disposes of the Facility and the Assets in accordance with the Indenture and distributes the proceeds thereof to the Bondholders pursuant thereto, Fleet and its agents, successors, and assigns shall be discharged of all of their obligations associated with the Indenture and such Indenture shall be deemed canceled, except that such cancellation shall not impair or otherwise affect (1) Fleet's indemnification and related rights pursuant to the Indenture and (2) Fleet's rights under its charging liens, if any, pursuant to the Indenture.

16. Nothing contained herein shall prevent Fleet from liquidating the Facility or any of the Assets following the conversion of the Debtor's bankruptcy case.

17. To the extent required, the automatic stay in bankruptcy is lifted and/or modified pursuant to Bankruptcy Code section 362(d) to give effect hereto.

18. The transfer of title to the Facility to Fleet pursuant in accordance herewith is a transfer pursuant to section 15.4 of the Plan and to section 1146(c) of the Bankruptcy Code and, accordingly, shall not be subject to any federal, state, local municipal, or other law imposing, or claiming to impose, a stamp tax or any other similar tax.

19. This Stipulation contains the entire agreement of the Parties and supercedes all prior and contemporaneous discussions, negotiations, understandings, and

agreements, whether oral or written, express or implied, between and among the Parties regarding the subject matter of this Stipulation.

20. Fleet reserves the right to request that any professionals in this case, including the Debtor's counsel, file a final fee application.

21. This Stipulation may be executed in any number of original or facsimile counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

22. This Stipulation is subject to the approval of the Court. In the event that the Court fails to approve this Stipulation, then this Stipulation shall be null and void and of no force or effect.

23. Except as otherwise expressly set forth herein, nothing herein shall constitute an admission of liability by any party hereto.

24. No waiver of any of the provisions of this Stipulation shall constitute a waiver of any other provisions herein (whether or not similar).

25. The Court shall retain jurisdiction to hear any matters or disputes arising from or relating to this Stipulation, as well as to interpret, implement, and enforce the provisions hereof.

26. This Stipulation shall remain in full force and effect notwithstanding the conversion of the Debtor's bankruptcy case pursuant to paragraph 10 hereof and shall be binding on the Parties and their successors and assigns, any Chapter 7 trustee hereinafter appointed or elected for the Debtor's estate, and any examiner appointed pursuant to Section 1104 of the Bankruptcy Code.

FLEET NATIONAL BANK

By its attorneys



David C. McGrail, Esq.

Dechert LLP

30 Rockefeller Plaza

New York, New York 10112

FAIRVIEW RETIREMENT COMMUNITY, INC.,

d/b/a WOODLAND CENTER FOR NURSING

By its attorneys.

Dated: November 20 2003

Dated: November 20, 2003

Robert E. Chernicoff, Esq.

Cunningham & Chernicoff, P.C.

2320 N. 2nd Street

P.O. Box 60457

Harrisburg, PA 17110

CR HEALTHCARE MANAGEMENT, L.P.

By its attorneys.

Dated: November 20, 2003

John S. Broude, Esq.

Broude, Smith & Jennings, P.C.

309 West Seventh Street

Suite 1100

Fort Worth, Texas 76102

FAIRVIEW TOWNSHIP AND FAIRVIEW

TOWNSHIP AUTHORITY

By its attorneys,

Dated: November 20, 2003

Lawrence V. Young, Esq.

Countess Gilbert Andrews, P.C.

29 North Duke Street

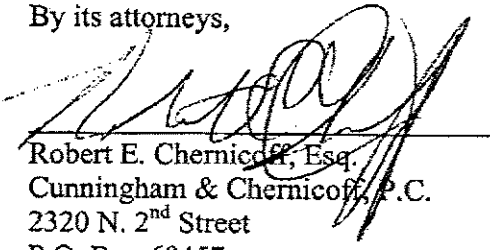
York, PA 17401

By its attorneys,

Dated: November 20 2003

David C. McGrail, Esq.
Dechert LLP
30 Rockefeller Plaza
New York, New York 10112
FAIRVIEW RETIREMENT COMMUNITY, INC.,
d/b/a WOODLAND CENTER FOR NURSING
By its attorneys,

Dated: November 20, 2003



Robert E. Chernicoff, Esq.
Cunningham & Chernicoff, P.C.
2320 N. 2nd Street
P.O. Box 60457
Harrisburg, PA 17110

CR HEALTHCARE MANAGEMENT, L.P.
By its attorneys,

Dated: November 20, 2003

John S. Broude, Esq.
Broude, Smith & Jennings, P.C.
309 West Seventh Street
Suite 1100
Fort Worth, Texas 76102

FAIRVIEW TOWNSHIP AND FAIRVIEW
TOWNSHIP AUTHORITY
By its attorneys,

Dated: November 20, 2003

Lawrence V. Young, Esq.
Countess Gilbert Andrews, P.C.
29 North Duke Street
York, PA 17401

By its attorneys,

Dated: November 20 2003

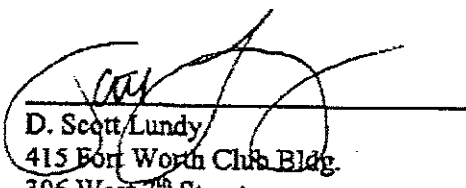
David C. McGrail, Esq.
Dechert LLP
30 Rockefeller Plaza
New York, New York 10112
FAIRVIEW RETIREMENT COMMUNITY, INC.,
d/b/a WOODLAND CENTER FOR NURSING
By its attorneys,

Dated: November 20, 2003

Robert E. Chernicoff, Esq.
Cunningham & Chernicoff, P.C.
2320 N. 2nd Street
P.O. Box 60457
Harrisburg, PA 17110

CR HEALTHCARE MANAGEMENT, L.P.
By its Vice President,

Dated: November 20, 2003



D. Scott Lundy
415 Fort Worth Club Bldg.
306 West 7th Street
Fort Worth, TX 76102

FAIRVIEW TOWNSHIP AND FAIRVIEW
TOWNSHIP AUTHORITY
By its attorneys,

Dated: November 20, 2003

Lawrence V. Young, Esq.
Countess Gilbert Andrews, P.C.
29 North Duke Street
York, PA 17401

APPROVED AND SO ORDERED

By its attorneys,

Dated: November 20 2003

David C. McGrail, Esq.
Dechert LLP
30 Rockefeller Plaza
New York, New York 10112
FAIRVIEW RETIREMENT COMMUNITY, INC.,
d/b/a WOODLAND CENTER FOR NURSING
By its attorneys,

Dated: November 20, 2003

Robert E. Chernicoff, Esq.
Cunningham & Chernicoff, P.C.
2320 N. 2nd Street
P.O. Box 60457
Harrisburg, PA 17110

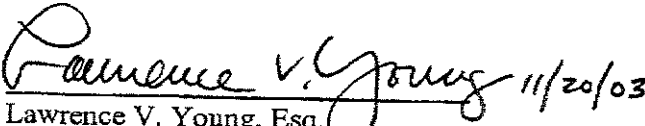
CR HEALTHCARE MANAGEMENT, L.P.
By its attorneys,

Dated: November 20, 2003

John S. Broude, Esq.
Broude, Smith & Jennings, P.C.
309 West Seventh Street
Suite 1100
Fort Worth, Texas 76102

FAIRVIEW TOWNSHIP AND FAIRVIEW
TOWNSHIP AUTHORITY
By its attorneys,

Dated: November 20, 2003


Lawrence V. Young, Esq.
Countess Gilbert Andrews, P.C.
29 North Duke Street
York, PA 17401

APPROVED AND SO ORDERED
this ____ day of December, 2003.

United States Bankruptcy Judge

EXHIBIT A

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PAGE 01

11:40 AM
 11/20/03
 Account Basic

**Woodland Center for Nursing
 Balance Sheet
 As of November 20, 2003**

ASSETS	Nov 20, 03
Current Assets	
Checking/Savings	
1100 - Cash and cash equivalents	
1101 - Payroll checking	2,593.18
1102 - Operating checking	289,207.40
1111 - Petty cash - Administration	1,000.00
1112 - Petty cash - Resident Funds	200.00
1113 - Bank of New York	844.37
1121 - Resident trust checking	14,597.21
Total 1100 - Cash and cash equivalents	<u>288,342.13</u>
Total Checking/Savings	288,342.13
Accounts Receivable	
1201 - Accounts Receivable	
1202 - Resident A/R - Self Pay	140,988.63
1203 - Resident A/R - Medicare	177.40
1204 - Resident A/R - BCBS	-17,328.98
1205 - Resident A/R - Medicaid	6,882.21
1206 - Resident A/R - Commercial	11,896.05
1207 - Resident A/R - Medicare HMO	7,687.82
Total 1201 - Accounts Receivable	<u>143,981.13</u>
Total Accounts Receivable	143,981.13
Other Current Assets	
1301 - Allowance for doubtful accts	-122,123.26
1500 - Inventory	
1501 - Nursing supplies	14,529.33
1502 - Dietary supplies	10,134.00
Total 1500 - Inventory	<u>24,663.33</u>
1600 - Prepaid expenses and other	
1601 - Prepaid insurance	179,063.90
1602 - Prepaid expenses - Other	126,735.20
Total 1600 - Prepaid expenses and other	<u>305,799.10</u>
Total Other Current Assets	<u>206,339.17</u>
Total Current Assets	<u>640,652.43</u>
Fixed Assets	
1700 - Property and equipment, net	
1701 - Land	125,000.00
1702 - Land improvements	882,525.00
1703 - Buildings	4,478,144.00
1704 - Building improvements	207,117.17
1711 - Office furniture & equipment	43,879.32
1712 - Computer hardware	74,611.70
1713 - Computer software	13,997.00
1721 - Vehicles	19,660.38
1731 - Resident care furniture & equip	88,069.16
1732 - General service equipment	85,440.09
1751 - Current Year Asset Purchases	18,686.67
1752 - Accum deprec - Land improv	-188,582.56
1753 - Accum deprec - Buildings	-1,383,962.04
1754 - Accum deprec - Bldgs Improve	-117,405.32
1755 - Accum deprec - Off furn & equip	-38,006.64
1756 - Accum deprec - Comp hardware	-51,708.04
1757 - Accum deprec - Comp software	-13,790.32
1758 - Accum deprec - Vehicles	-17,242.34
1759 - Accum deprec - RC furn & equip	-52,787.20
1760 - Accum deprec - Gen serv equip	-75,912.88
Total 1700 - Property and equipment, net	<u>3,886,603.26</u>

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PAGE 02

11:40 AM
11/20/03
Accrual Basis

Woodland Center for Nursing Balance Sheet As of November 20, 2003

	Nov 20, 03
Total Fixed Assets	3,886,603.26
Other Assets	
1900 - Other assets	
1941 - Purchase option - Lots 3 & 4	373,511.99
Total 1900 - Other assets	373,511.99
Total Other Assets	373,511.99
TOTAL ASSETS	4,800,777.58
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
2100 - Accounts payable	
2101 - Accounts payable - Post-pet	3,131,105.75
2105 - Payments - Post Petition	-10,000.00
Total 2100 - Accounts payable	3,121,105.75
2103 - Pre-Petition A/P	
2104 - Unsecured Non-priority Claims	130,000.00
2105 - Unsecured Priority Claims	42,158.07
2107 - Payments - Pre Petition	-10,354.55
Total 2103 - Pre-Petition A/P	161,803.52
Total Accounts Payable	3,282,909.27
Other Current Liabilities	
2110 - Payroll-related liabilities	
2115 - Loan - OPT	-830.00
2123 - Credit union wh	1,142.00
2128 - Union dues wh	678.00
2129 - Other withholdings	3,408.28
2132 - State unemploy employer contrib	-1,355.78
Total 2110 - Payroll-related liabilities	3,027.52
2200 - Current Portion - LTD	
2231 - Loan - States Resources	-830.41
Total 2200 - Current Portion - LTD	-830.41
2300 - Other current liabilities	
2301 - Residents' funds - Liability ac	14,897.21
Total 2300 - Other current liabilities	14,897.21
2400 - Accrued expenses	
2402 - Accrued salaries & wages	-11,644.43
2403 - Accrued vacation	42,804.74
2412 - Accrued Interest Now Bonds	220,000.00
2421 - Acord Management fees	-4,385.44
2433 - Accrued expenses - Other	13,693.76
Total 2400 - Accrued expenses	260,468.63
2015 - Notes Payable - CR Management	10,000.00
Total Other Current Liabilities	287,382.95
Total Current Liabilities	3,570,292.22
Long Term Liabilities	
2550 - Secured Claims	
2552 - Commerce Bank	389,051.97
2563 - James H. Frier	29,250.00
2564 - Health Med., Inc.	7,000.00
2565 - Summit Bank-1993 Bonds	4,000,000.00
Total 2550 - Secured Claims	4,405,311.97

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PAGE 03

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11/20/03

Accrual Basis

Woodland Center for Nursing Balance Sheet As of November 20, 2003

	Nov 20, 03
Total Long Term Liabilities	4,405,311.97
Total Liabilities	7,876,804.19
Equity	-3,653,287.55
3101 - Opening Net Assets - Pre-Pet	845,813.53
3800 - Retained Earnings	-287,152.48
Net Income	-3,074,626.51
Total Equity	4,800,777.68
TOTAL LIABILITIES & EQUITY	4,800,777.68

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

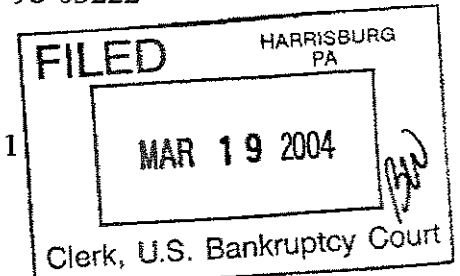
IN RE:

FAIRVIEW RETIREMENT
COMMUNITY, INC. d/b/a
WOODLAND CENTER FOR NURSING

Debtor

CASE NO. 1-98-03222

CHAPTER 11



**AMENDED ORDER APPROVING A STIPULATION
TRANSFERRING TITLE TO AND POSSESSION OF DEBTOR'S
ASSETS TO INDENTURE TRUSTEE, ON BEHALF OF BONDHOLDERS,
FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES**

Upon consideration of the of the Debtor's Motion for Amended Order Approving a Stipulation Transferring Title To and Possession Of Debtor's Assets to Indenture Trustee, on Behalf of Bondholders, Free and Clear of Liens, Claims and Encumbrances and the Court having considered such Motion, together with a Stipulation (the "Stipulation"), dated as of November 20, 2003, by and between Fleet¹, the Debtor, Fairview Township, and CRHM, following Supplemental Notice and opportunity for a hearing, it is

HEREBY FOUND AND DETERMINED that due, proper, timely, adequate, and sufficient notice of the Motion for Amended Order Approving a Stipulation Transferring Title To and Possession Of Debtor's Assets to Indenture Trustee, on Behalf of Bondholders, Free and Clear of Liens, Claims and Encumbrances and the Stipulation has been provided to all parties on the service list attached hereto as **Exhibit "A"** and incorporated herein by reference (collectively, the "Parties") and that no other or further notice thereof is required; and it is

¹Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Stipulation.

HEREBY ORDERED that the Stipulation is approved in its entirety with respect to the Parties; and it is

FURTHER ORDERED that the Parties are bound by this Court's Order Granting Motion and Stipulation, dated January 16, 2004 (the "First Order"); and it is

FURTHER ORDERED that the transfer of title to the Facility and the Assets by the Debtor to Fleet was free and clear of any and all claims, encumbrances, deeds of trust, liens, including liens for taxes due governmental authorities, pledges, offsets, set-offs, recoupments, charges, successor, environmental, tax and other liabilities (whether secured or unsecured, contingent, or absolute, liquidated or unliquidated, perfected or unperfected, choate or inchoate, filed or not filed, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded), taxes, security interests, mortgages, restrictions, indentures, loans, credit agreements, other agreements, instruments, contracts, judgments, and orders of any court or governmental department, commission, board, agency, or instrumentality, domestic or foreign, and any actions and proceedings of any kind or nature (collectively, the "Claims") held or asserted by any of the Parties; and it is

FURTHER ORDERED that the Debtor transferred good, clear, and marketable title to the Facility and the Assets to Fleet free and clear of any Claims held or asserted by any of the Parties; and it is

FURTHER ORDERED that any transfer of the Facility or the Assets by Fleet to any third party shall be free and clear of any Claims held or asserted by any of the Parties; and it is

FURTHER ORDERED that any terms and provisions contained in the First Order which are not inconsistent with the terms and provisions of this Order shall remain in effect and are affirmed as if more fully set forth herein; and it is

FURTHER ORDERED that this Court shall retain jurisdiction with respect to the matters contained in the Stipulation and Motion, including the validity of any claim or lien as to the Debtor's Assets.

BY THE COURT:

/s/ John J. Thomas

United States Bankruptcy Judge

Date: MAR 19 2004

DISTRIBUTION:

Robert E. Chernicoff, Esquire
David C. McGrail, Esquire
David M. Grimes, Esquire
Francis J. Lawall, Esquire
Service List

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
BUREAU OF HEARINGS AND APPEALS**

**IN THE MATTER OF: FAIRVIEW RETIREMENT COMMUNITY, INC.
d/b/a WOODLAND CENTER FOR NURSING
BHA ID No. 3452
Docket Nos. 23-93-220, 40-93-131, 40-93-130,
23-93-221, 23-94-236, 23-96-161, 23-96-349,
40-96-173, 23-98-260, 23-98-376 and 40-98-251
Audit and Final Cost Settlement Appeals for 1991-1995**

STIPULATION OF SETTLEMENT

AND NOW, the Department of Public Welfare (hereinafter “Department” or “DPW”) and Fairview Retirement Community, Inc. d/b/a Woodland Center for Nursing (hereinafter “Appellant”), hereby enter into this Stipulation of Settlement for the purposes of resolving the above-captioned appeals and do hereby stipulate and agree as follows:

1. Appellant hereby withdraws, discontinues, and ends with prejudice the appeals identified in the caption to this Stipulation of Settlement and any and all pending appeals to the DPW Bureau of Hearings and Appeals (hereinafter “BHA”) that:
 - (a) Relate to Appellant’s Medical Assistance (hereinafter “MA”) facility audits and MA audited allowable costs for the above-captioned matters, Fiscal Years Ending (hereinafter “FYE”) and facility audits or MA audited allowable costs for the above captioned matters and FYEs; or
 - (b) Relate to or seek additional MA reimbursement based upon the costs incurred by Appellant for services during the above-captioned FYEs and matters.
2. Appellant agrees that, on and after the effective date of this Stipulation of Settlement, they will not file any requests for hearing with BHA, petitions with the Secretary of Public Welfare pursuant to 1 Pa. Code § 35.17–

35.19, or claims, actions or matters in any other administrative or judicial forum that relate to the issues, fiscal years and MA reimbursement matters identified in 1(a) and 1(b) above.

3. Upon review of additional materials supplied by Appellant to DPW in connection with the above-captioned appeals, and in consideration of Appellant's agreements as set forth in this Stipulation of Settlement, DPW agrees to increase Appellant's MA reimbursement in the amount of \$121,000 in accordance with Exhibit A to this Stipulation of Settlement.
4. DPW will make its best efforts to adjust its accounts and records to reflect the increase noted in Paragraph 3 and authorize payment to Appellant by gross adjustment if any underpayment exists within 60 days of the Final Order of the BHA adopting this Stipulation of Settlement; provided, however, that nothing in this Stipulation of Settlement shall be construed to preclude the Department from offsetting against any payment due Appellant pursuant to the Stipulation of Settlement, any amount which may be due from Appellant to DPW, as shown on DPW's books and records even though said amount may be in dispute.
5. Except as specified in Paragraph 6 below, the parties agree that this Stipulation of Settlement resolves, and each party hereby agrees to release the other party and its officials, employees, agents and representatives from any and all actions, claims, and liability against the other party, its officials, employees, agents, or representatives that have accrued, may accrue or are derived from:

- (a) The Department's audits of the Appellant indicated in the caption above for the FYEs indicated in the caption and of the Department's determination of MA audited allowable costs for these same fiscal periods; and
 - (b) The appeals, claims, actions and matters identified in Paragraph 1 of this Stipulation of Settlement, including the appeals identified in the caption of this Stipulation of Settlement.
6. The parties and their counsel agree that the following issues, matters, and disputes are not resolved by this Stipulation of Settlement:
- (a) Any charge, claim, or legal action that has been or may be made or brought by DPW alleging or involving fraud, abuse or false claims by Appellant, its officials, agents, or representatives, regardless of whether any of the underlying or predicated acts or omissions occurred during a fiscal period that is subject to the terms of this Stipulation of Settlement.
 - (b) Any charge, claim, or legal action of any sort that has been or may be made or brought by any state agency, other than DPW, or by any federal agency against Appellant, its officials, agents, or representatives.
 - (c) Any disputes, claims or issues that have been or may be raised in litigation involving Appellant's MA audits, payment rates, peer group prices, CMIs, or reimbursement for services provided in a fiscal period other than those identified in Paragraph 1(a) and 1(b) above.
7. The parties agree that, except for a proceeding brought pursuant to Paragraph 8 below, this Stipulation of Settlement and any document prepared, drafted, or issued to implement the terms of this Stipulation of Settlement, shall not be offered into evidence or submitted to any judicial or quasi-judicial tribunal or any administrative agency, or otherwise used, in any action, appeal, or proceeding involving a dispute between a provider and DPW regarding the MA Program. Appellant agrees that any


attempt by Appellant or its counsel to introduce or use this Stipulation of Settlement in any such matter, or to introduce or use any document prepared, drafted, or issued to implement the terms of this Stipulation of Settlement in any matter shall constitute a material breach of this Stipulation of Settlement.

8. BHA shall have exclusive jurisdiction over any dispute that may arise with respect to the interpretation, application, or enforcement of the terms of this Stipulation of Settlement, subject to appellate judicial review.
9. This Stipulation of Settlement is governed by, and shall be interpreted and construed in accordance with, the laws of the Commonwealth of Pennsylvania subject to the following:
 - (a) This Stipulation of Settlement shall not be construed for or against any party, but rather shall be given a fair and reasonable interpretation based upon the plain language of the Stipulation of Settlement and the expressed intent of the parties.
 - (b) This Stipulation of Settlement may not be altered, amended or modified in any respect or particular whatsoever except by writing duly executed by an authorized representative of each of the parties.
 - (c) This Stipulation of Settlement shall not be construed as an admission or evidence of DPW interpretation or policy on any issue, dispute, or claim resolved hereunder.
 - (d) This Stipulation of Settlement is based upon facts unique to these cases and does not establish a precedent or otherwise bind DPW in any other audit, review, investigation, or matter involving Appellant, any successor to Appellant, or any other MA provider, or in any other action, appeal, or claim which is or may be filed in any forum by or on behalf of Appellant, any successor to Appellant, or any other MA provider.
 - (e) This Stipulation of Settlement shall not constitute an admission of wrongdoing or fault by any party.

- (f) This Stipulation of Settlement is not binding on any other state agency or any federal agency.
10. Each party shall bear its own costs and attorney fees. No attorney fees or costs related to these matters, including fees associated with settlement discussions, shall be submitted hereafter for MA reimbursement either through Appellant's cost report or otherwise. To the extent Appellant has already claimed such costs and attorney fees on any MA cost report for which a final audit has not been issued by DPW, Appellant agrees that such costs and attorney fees will be disallowed by DPW at audit. To the extent Appellant has already claimed such costs or attorney fees on any MA cost report for which a final audit has been issued by DPW, and DPW has not disallowed any costs or fees related to these matters in auditing said cost report, DPW agrees that it will not reopen its audit for the purpose of disallowing the costs and attorney fees related to these matters.
11. This Stipulation of Settlement is not binding, shall have no effect and is not enforceable pursuant to Paragraph 8 above unless both of the following conditions have occurred:
- (a) This Stipulation of Settlement is executed by all parties or their duly authorized representative.
 - (b) This Stipulation of Settlement is filed with and approved and adopted by Order of the BHA.
12. This Stipulation of Settlement constitutes the entire agreement and understanding between the parties relating to the subject matter contained

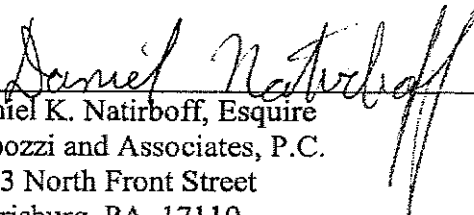
herein and supersedes all prior agreements whether oral or written with respect thereto.

WHEREFORE, the parties, intending to be legally bound, by their duly authorized representative, hereby STIPULATE and AGREE to the above.


Kathleen A. Grogan, Esquire
Office of General Counsel
3rd Floor West, Health and Welfare Bldg.
Harrisburg, PA 17120

(For the Department of Public Welfare)

Date: 1/24/06


Daniel K. Natirboff, Esquire
Capozzi and Associates, P.C.
2933 North Front Street
Harrisburg, PA 17110

(For the Appellant)

Date: 1/23/06

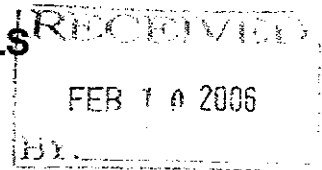
FAIRVIEW VILLAGE/WOODLAND CENTER

SUMMARY OF SETTLEMENT

FYE	FAIRVIEW VILLAGE	WOODLAND CENTER	
12/90	18,783		
6/91	11,835		
6/92	15,095		
6/93	4,759		
6/94		8,835	
6/95		37,742	
12/95		23,951	
	50,472	70,528	121,000



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
BUREAU OF HEARINGS AND APPEALS**



APPEAL OF: **FAIRVIEW VILLAGE NURSING CENTER**
BHA ID No. 3452
Docket No: 23-93-220, 40-93-131, 40-93-130,
23-93-221, 23-94-236, 23-96-161, 23-96-349,
40-96-173, 23-98-260, 23-98-376 & 40-98-251
Audit Adjustment and Nursing Home
Final and Revised Settlement

ORDER

AND NOW, this 8th day of February, 2006, it is hereby **ORDERED and DECREED** that the Stipulation of Settlement in the above-captioned matter that was entered into by the Parties on January 24, 2006 is **ADOPTED**. Accordingly, the matter pending before the Bureau of Hearings and Appeals is considered **SETTLED AND ENDED**. The Parties are hereby instructed to carry out the terms of the Stipulation as agreed to by the Parties.

FEB 08 2006

**Final Administrative Action
and Mailing Date**

A handwritten signature in black ink, appearing to read "Thomas E. Cheffins".

**Thomas E. Cheffins, Esquire
Chief Administrative Law Judge**

cc: Kathleen Grogan, Esq.
Daniel K. Natirboff, Esq.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
3rd Floor West, Health & Welfare Building
Harrisburg, PA 17120

Kathleen Grogan
Senior Assistant Counsel
Office of Legal Counsel

Telephone: 717-787-4063
Fax: 717-772-0717
E-mail: kgrogan@state.pa.us

January 25, 2006

Thomas Cheffins, Esquire
Director
Bureau of Hearings and Appeals
Department of Public Welfare
2330 Vartan Way, 2nd Floor
Harrisburg, Pennsylvania 17105-2675

RE: Fairview Retirement Community, Inc.
d/b/a Woodland Center for Nursing
BHA I.D. 3452
Dkt. Nos. 23-93-220, 40-93-131, 40-93-130,
23-93-221, 23-94-236, 23-96-161, 23-96-349,
40-96-173, 23-98-260, 23-98-376 and 40-98-251
Audit and Final Cost Settlement Appeals for 1991-1995
Stipulation of Settlement

Dear Mr. Cheffins:

Enclosed please find a fully executed Stipulation of Settlement for the above-captioned matter for approval. Pursuant to Paragraph I of the Stipulation, please mark this matter as withdrawn and discontinued.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen Grogan".

Kathleen Grogan

cc: Daniel K. Natirboff, Esquire ✓
James Williamson
Ian Cohen
Barbara Clark

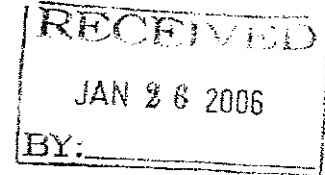
D. Natirboff

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE

TO: JAMES WILLIAMSON
Bureau of Long Term Care Programs

IAN COHEN
Bureau of Long Term Care Programs

FROM: KATHY GROGAN *Kathy Grogan*
Office of General Counsel



RE: Fairview Retirement Community, Inc.
d/b/a Woodland Center for Nursing
Audit Appeals- 1991- 1995
Stipulation of Settlement Implementation

DATE: January 25, 2006

I am attaching a fully executed copy of a Stipulation of Settlement for the above-captioned matter. Pursuant to Paragraph 3 of the stipulation, we have agreed to pay the provider and additional \$121,000.00 in MA reimbursement. The amount related to each fiscal period is contained in Exhibit A to the stipulation.

Please also note that based on a bankruptcy stipulation, payment is to be made to "Bank of America, N.A." and mailed to Susan Reif, 10 Light Street, 19th Floor, Baltimore, MD 21202. If anyone needs a copy of the bankruptcy stipulation, please let me know and I will forward a copy.

Thanks for your assistance in resolving this appeal. I appreciate your time and effort. Feel free to call me at 783-1429 with any questions.

cc: Barbara Clark



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
Office of General Counsel
3rd Floor West, Health & Welfare Building
HARRISBURG, PENNSYLVANIA 17120

Kathleen A. Grogan
Senior Assistant Counsel

Telephone: 717-787-4063
Fax: 717-772-0717
E-mail: KGrogan@state.pa.us

June 5, 2006

Daniel K. Natirboff, Esquire
CAPOZZI & ASSOCIATES, P.C.
2933 North Front Street
Harrisburg, Pennsylvania 17110

RE: Fairview Retirement Community, Inc.
1991- 1995 audit and settlement appeals
Stipulation of Settlement Implementation

Dear Dan:

I am writing this letter as follow up to our conversations over the past several months regarding the stipulation of settlement for the above-referenced facility. Pursuant to the stipulation, the Department agreed to increase reimbursement to the Appellant in the amount of \$121,000 for the audit and final cost settlement appeals relating to fiscal years 1991 through 1995. However, as the stipulation also provides, the Department may offset against any payment due to the Appellant "any amount which may be due from Appellant to DPW, as shown on DPW's books and records." Stipulation, Paragraph 4.

I have been advised by the Comptroller's Office that for the period July 1, 1993 through December 31, 1995, a total of \$426,227.53 (\$133,542.24- FYE 6/30/94; \$175,842.88- FYE 6/30/95; \$116,842.41- FYE 12/31/95) is due to DPW from the Appellant based on audits and final cost settlements for these years. Consequently, in accordance with the terms of the stipulation, the Department will offset the amount owed under the stipulation by the amount of \$426,227.53 resulting in no payment due to the Appellant.

Please feel free to call me if you wish to discuss this further.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Grogan".

Kathleen Grogan

cc: Ian Cohen/Barbara Clark

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

-----X	
IN RE:	:
	:
FAIRVIEW RETIREMENT COMMUNITY, INC.,	:
	:
Debtor.	:
-----X	

CHAPTER 7
CASE NO. 1-98-bk-03222

**ORDER REOPENING BANKRUPTCY CASE
PURSUANT TO 11 U.S.C. § 350(b) FOR LIMITED PURPOSE OF AUTHORIZING
COMMENCEMENT AND PROSECUTION OF ADVERSARY PROCEEDING**

Upon consideration of the motion (the “Motion”) of Bank of America (f/k/a Fleet National Bank), as indenture trustee (the “Indenture Trustee”), for an order, pursuant to Bankruptcy Code section 350(b), reopening the Chapter 7 bankruptcy case of debtor Fairview Retirement Community, Inc. (d/b/a Woodland Center for Nursing) (the “Debtor”), for the limited purpose of authorizing the Indenture Trustee to commence and prosecute an adversary proceeding against Pennsylvania Department of Public Welfare (“DPW”); and it appearing that the relief requested in the Motion is in the best interests of the Debtor and its estate and creditors; and it appearing that notice of the Motion was adequate and proper under the circumstances, and it appearing that no other or further notice need be given; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion is granted; and it is further

ORDERED that the Debtor’s Chapter 7 bankruptcy case shall be reopened for the limited purpose of authorizing the Indenture Trustee to commence and prosecuting an adversary proceeding against DPW, as further described in the Motion; and it is further

ORDERED that, concurrent with the commencement of such adversary proceeding, the Indenture Trustee shall pay the appropriate fee required to reopen the Debtor's Chapter 7 bankruptcy case; and it is further

ORDERED that, pursuant to Bankruptcy Rule 5010, a trustee shall not be appointed in connection with the Debtor's reopened Chapter 7 bankruptcy case; and it is further

ORDERED that this Court shall retain jurisdiction over all matters arising from or related to the interpretation and implementation of this Order.

Dated: _____, 2007

United States Bankruptcy Judge