

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

In re:) Chapter 11
Capstone Pediatrics, PLLC,) Case No. 15-09031
Debtor.) Judge Randal S. Mashburn
)
) Resp. Deadline Dkt 366: March 30, 2017
) Hearing: April 18, 2017 at 9:00 a.m. Ctrm 1, 2nd FL
Customs House, 701 Broadway, Nashville, TN 37203

**CIGNA ENTITIES OBJECTION TO DISCLOSURE STATEMENT
TO ACCOMPANY DEBTOR’S PLAN OF REORGANIZATION**

Cigna Health and Life Insurance Company (“CHLIC”) and Life Insurance Company of North America (“LINA,” and jointly with CHLIC, “Cigna”), by and through their undersigned counsel, hereby object to the *Disclosure Statement to Accompany Debtors’ Plan of Reorganization* [Docket No. 366] (“Disclosure Statement”), as follows:

Background

1. On or about December 18, 2015 (“Petition Date”), Debtor filed its voluntary petition under chapter 11 of title 11 of the United States Code.

2. Prior to and for more than one year after the Petition Date, CHLIC provided fully-insured healthcare coverage to the Debtor’s eligible employees and their eligible dependents pursuant to a group medical insurance policy between CHLIC and the Debtor (“Cigna Medical Policy”).

3. Effective as of February 1, 2016, LINA provided voluntary life, voluntary accidental death and dismemberment and voluntary short-term disability insurance coverage to the Debtor’s eligible employees and their eligible dependents pursuant to group insurance policies between LINA and the Debtor (“LINA Policies”).

4. Debtor failed to pay \$138,581.27 incurred under the Cigna Medical Policy after the Petition Date for the months of September, October, November and December 2016 (“CHLIC Administrative Claim”). At least one-third of the amounts due to CHLIC were withheld by Debtor from its employees’ paychecks; however, Debtor failed to remit those amounts to CHLIC. The CHLIC Administrative Claim is entitled to administrative priority status and treatment under 11 U.S.C. § 507(a)(2).

5. Debtor failed to pay \$16,142.79 incurred under the LINA Policies after the Petition Date for the months of August, September, October, November and December 2016 (“LINA Administrative Claim” and jointly with the CHLIC Administrative Claim, the “Cigna Claims”). Because the LINA Policies were voluntary, 100% of the amounts due to LINA were withheld by Debtor from its employee’s paychecks; however, Debtor failed to remit those amounts to LINA. The LINA Administrative Claim is entitled to administrative priority status and treatment under 11 U.S.C. § 507(a)(2).

6. On February 20, 2017, Debtor filed the Disclosure Statement and *Debtor’s Plan of Reorganization* [Docket No. 365] (“Plan”).

Objection

7. Section 1125(b) of the Bankruptcy Code requires that a disclosure statement contain “adequate information.” 11 U.S.C. § 1125(b). The term adequate information is that which would enable a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the Plan. *See, e.g., Krystal Cadillac-Oldsmobile GMC Truck, Inc. v. GMC*, 337 F.3d 314, 321 (3d Cir. 2003); *Tenn-Fla Partners v. First Union Nat’l Bank of Fla.*, 229 B.R. 720, 733 (W.D. Tenn. 1999). The Disclosure Statement fails to meet this requirement.

8. The Disclosure Statement declares that “[a]ll amounts incurred [after the Petition Date] by the Debtor for services provided or materials or goods purchased in the ordinary course of Debtor’s business are entitled to administrative expense priority.” Disclosure Statement, Article 4.01(b). The Disclosure Statement states that all Administrative Expense Claims will be paid in full on or before the Effective Date of the Plan. Disclosure Statement, Article 7.01(a).

9. The Debtor purports to list its Administrative Expense Claims on Exhibit B to the Disclosure Statement. However, the Cigna Claims are not on Exhibit B. Therefore, the Disclosure Statement fails to account for the Cigna Claims. Further, the Debtor’s failure to include the Cigna Claims on Exhibit B indicates that the Debtor may not be aware of the extent of its Administrative Expense Claims to be paid under the Plan.

10. The Disclosure Statement represents that the Debtor will have sufficient cash to pay all Administrative Expense Claims on the Effective Date. Disclosure Statement, Article XII. Debtor intends to accomplish this by “delaying the Effective Date” as necessary to accumulate such cash. However, the Disclosure Statement fails to disclose when, if ever, this will be accomplished.

11. The Disclosure Statement fails to disclose the existence of, or account for, a significant Administrative Expense Claim, and fails to provide a date, if ever, when the Plan will become Effective. Thus, the information in the Disclosure Statement is inadequate for purposes of 11 U.S.C. § 1125(b), and the Disclosure Statement cannot be approved.

Reservation of Rights

12. Cigna reserves all of its rights, claims, interests and remedies, including, without limitation: (a) the right to supplement this objection; (b) the right to file and to

prosecute an objection to confirmation of any plan of reorganization or liquidation on any grounds; (c) the right to conduct discovery and present evidence relating to any of the foregoing; and (d) all of its rights and claims under the Agreements.

WHEREFORE, for the reasons set forth herein, Cigna respectfully requests that the Court sustain this Objection, deny approval of the Disclosure Statement, and grant Cigna such further and additional relief as the Court may deem just and proper.

Dated: March 27, 2017

WALLER LANSDEN DORTCH & DAVIS LLP

/s/ Tyler N. Layne

Tyler N. Layne (TN BPR # 033401)
511 Union Street, Suite 2700
Nashville, TN 37219
Telephone: (615) 244-6380
Facsimile: (615) 244-6804
Email: tyler.layne@wallerlaw.com

and

CONNOLLY GALLAGHER LLP
Jeffrey C. Wisler (DE Bar No. 2795)
The Brandywine Building
1000 West Street, Suite 1400
Wilmington, Delaware 19801
Telephone: (302) 757-7300
Facsimile: (302) 658-0380

Counsel for Cigna Health and Life Insurance Company,
and Life Insurance Company of North America

CERTIFICATE OF SERVICE

I, the undersigned, declare that I caused a true and correct copy of the foregoing to be filed electronically and served via the Court's ECF noticing system to all parties registered to receive electronic notices in this case this 27th day of March, 2017.

/s/ Tyler N. Layne