

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

| | | |
|---|---|-----------------------------------|
| IN RE: |) | CHAPTER 11 |
| |) | |
| REGIONAL HOUSING & COMMUNITY SERVICES CORP., et al., |) | Jointly Administered Under |
| |) | CASE NO. 21-41034-pwb |
| |) | |
| Debtors. |) | |
| |) | |
| |) | |

APPLICATION FOR AUTHORITY TO RETAIN SENIOR HOUSING SERVICES, LLC AS EXCLUSIVE BROKER AGENT TO THE DEBTORS

COME NOW the above-captioned debtors and debtors and debtors-in-possession (collectively, the “**Debtors**”)¹ by and through the undersigned counsel and hereby file this application (the “**Application**”) for an order under Sections 327(a) and 328(a) of Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 2014, 2016, and 5002 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), authorizing the employment and retention of Senior Housing Services, LLC (“**SHS**” or “**Advisor**”) as the exclusive broker agent to the Debtors. In making this Application, the Debtors have relied upon the Affidavit of Daniel Owens, a copy of which is attached hereto as Exhibit A (the “**Owens Affidavit**”). In further support of this Application, the Debtors respectfully represent as follows:

¹ The Debtors in these Chapter 11 cases include: Regional Housing & Community Services Corporation, RHCSC Columbus AL Holdings LLC, RHCSC Columbus Health Holdings LLC, RHCSC Douglas AL Holdings LLC, RHCSC Douglas Health Holdings LLC, RHCSC Gainesville AL Holdings LLC, RHCSC Gainesville Health Holdings LLC, RHCSC Montgomery I AL Holdings LLC, RHCSC Montgomery I Health Holdings LLC, RHCSC Montgomery II AL Holdings LLC, RHCSC Montgomery II Health Holdings LLC, RHCSC Rome AL Holdings LLC, RHCSC Rome Health Holdings LLC, RHCSC Savannah AL Holdings LLC, RHCSC Savannah Health Holdings LLC, RHCSC Social Circle AL Holdings LLC, and RHCSC Social Circle Health Holdings LLC.



Background

1. On August 26, 2021 (the “**Petition Date**”), the Debtors each filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”) with the United States Bankruptcy Court for the Northern District of Georgia, Rome Division (the “**Court**”). The Debtors are authorized to operate their businesses as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

2. No committee, trustee or examiner has been requested or appointed in this Case.

3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C § 157(b)(2). Venue of the Debtors’ Chapter 11 cases (collectively, the “**Case**”) and this Application are proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. On or about April 1, 2022, the Debtors filed an Application for Authority to Retain SLIB II, Inc. d/b/a Senior Living Investment Brokerage as Investment Broker to the Debtors [Dkt. No. 126].

5. On or about April 15, 2022, the Court entered an order approving the retention of SLIB II, Inc. d/b/a Senior Living Investment Brokerage [Dkt. No. 128].

6. Pursuant to the terms of the Representation Agreement with SLIB II, Inc. d/b/a Senior Living Investment Brokerage (“**SLIB II**”), SLIB II had the exclusive right to market the Debtors’ assets for sale through and including August 16, 2022. The Representation Agreement expired without the Debtors consummating a sale transaction.

Relief Requested

7. The Debtors now desire to employ SHS as their exclusive broker agent, pursuant to Section 328(a) of the Bankruptcy Code, and Bankruptcy Rules 2014 and 2016, and to obtain

approval of the terms under which SHS will be compensated, at the expense of the Debtors' estates and on the terms set forth in the engagement agreement with SHS (the "**Engagement Agreement**"), a copy of which is attached hereto as Exhibit B, to provide the Debtors with brokerage services with respect to one or more transactions focusing on a sale of the Debtors' assets.

Basis for Relief

8. Under Sections 327 and 328 of the Bankruptcy Code, a trustee, debtor in possession and committee appointed under Section 1102 of the Bankruptcy Code may employ one or more professionals, that do not hold or represent an interest adverse to the estate and that are disinterested persons, to assist such parties in carrying out their duties under the Bankruptcy Code.

Specifically, Section 328(a) of the Bankruptcy Code provides that the Debtors:

with the court's approval, may employ or authorize the employment of a professional person under section 327 or 1103 of this title, as the case may be, on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis.

11 U.S.C. § 328(a). Further, Bankruptcy Rule 2014(a) requires that an application for retention include:

specific facts showing the necessity for the employment, the name of the [firm] to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the [firm's] connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

Fed. R. Bankr. P. 2014(a).

9. By this Application, the Debtors request that the Court approve the compensation arrangements described in the Engagement Agreement pursuant to Section 328(a) of the Bankruptcy Code. The compensation arrangements contained in the Engagement Agreement are

beneficial to the Debtors' estates as they provide certainty and proper inducement for SHS to act expeditiously and prudently with respect to the matters for which it will be employed.

Necessity

10. The Debtors, in consultation with UMB Bank, National Association, as trustee (the "**Bond Trustee**"), have chosen SHS to act as their exclusive broker agent. SHS has substantial expertise in distressed mergers and acquisitions, and is well qualified to perform these services and represent the interests of the Debtors in this Chapter 11 Case.

Qualifications

11. Dan Owens is the broker in charge of SHS. He has served as a commercial real estate broker for twenty-four years, and is licensed in North Carolina, South Carolina and Georgia. Previously, Mr. Owens was a state licensed appraisal professional focusing on the Seniors Industry. He has worked with banking institutions and some of the largest owners/operators in the industry. A copy of Mr. Owens' resume is attached hereto as Exhibit C.

Services To Be Rendered

12. As more fully set forth in the Engagement Agreement, the services that SHS will provide to the Debtors include, but shall not be limited to, assistance in marketing the estates' assets for sale, identification of potential buyers and negotiation of terms for one or more potential sale transactions.

Compensation

13. Subject to the Court's approval, and in accordance with Section 328(a) of the Bankruptcy Code, SHS will be paid a commission solely from the proceeds of sale, upon the occurrence of certain events more particularly described in the Engagement Agreement, as follows:

- A Transaction Advisory Fee will be due at the closing of a Transaction for any or all of these facilities and will be computed by multiplying the Total Purchase Price (“Purchase Price”) received by the Company or any selling interest owners by 4.75%.
- Company shall deduct from any Transaction Advisory Fee any fee paid to SLIB II, Inc. dba Senior Living Investment Brokerage, to the extent such fee may be owed pursuant to the Representation Agreement dated March 18, 2022, a copy of which is available on the docket of the Bankruptcy Court at Docket No. 126.

14. The overall compensation structure described above is comparable to compensation generally charged by brokerage firms of similar stature to SHS for comparable engagements, both in and out of court.

Conflicts

15. To the best of the Debtors’ knowledge, information, and belief, and based upon the Owens Affidavit, SHS is a “disinterested person” as that term is defined in Section 101(14) of the Bankruptcy Code.

16. As described in detail in the Owens Affidavit, SHS has, among other things, searched its client databases to determine whether it represents, or has represented, certain of the Debtors’ creditors or other parties in interest in these proceedings and/or matters wholly unrelated to these proceedings. Due to the size of SHS and the number of creditors and other parties in interest involved in the case, however, SHS may have represented certain of the Debtors’ creditors or other parties in interest in matters wholly unrelated to this Chapter 11 Case. Except as may be described in the Owens Affidavit, SHS does not, to its knowledge, represent any party with an interest materially adverse to the Debtors.

Notice

17. Notice of this Motion has been provided to the Office of the United States Trustee, counsel to the Bond Trustee and all parties who have appeared in this case under the Bankruptcy Court's Electronic Case Filing Program. In light of the nature of the relief requested, the Debtors submit that no further notice is necessary.

WHEREFORE, based on the facts and disclosures above, the Debtors respectfully request that the Court:

- (a) grant the Debtors authority to employ and retain SHS as its exclusive broker agent;
- (b) approve the terms of employment set forth in the Engagement Agreement, pursuant to the provisions of Section 327(a) of the Bankruptcy Code and Bankruptcy Rule 2014;
- (c) approve the compensation of SHS at the expense of the Debtors' estate on the terms set forth in the Engagement Agreement, pursuant to the provisions of Section 328(a) of the Bankruptcy Code and Bankruptcy Rule 2016; and
- (d) grant such other and further relief as is just and proper.

This 9th day of January, 2023.

SCROGGINS & WILLIAMSON, P.C.

/s/ Ashley R. Ray

J. ROBERT WILLIAMSON

Georgia Bar No. 765214

ASHLEY REYNOLDS RAY

Georgia Bar No. 601559

MATTHEW W. LEVIN

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Counsel for the Debtors

Exhibit A

Declaration

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

IN RE:) **CHAPTER 11**
)
REGIONAL HOUSING & COMMUNITY) **Jointly Administered Under**
SERVICES CORP., et al.,) **CASE NO. 21- 41034**
)
Debtors.)

**DECLARATION OF DANIEL OWENS IN SUPPORT OF
APPLICATION FOR AUTHORITY TO RETAIN SENIOR HOUSING SERVICES, LLC
AS EXCLUSIVE BROKER AGENT TO THE DEBTORS**

I, Daniel Owens, declare under penalty of perjury as follows:

1.

I am a Manager of Senior Housing Services, LLC (“SHS”), and in that capacity, I have personal knowledge of, and authority to speak on behalf of, SHS with respect to the matters set out herein. This Declaration is offered in support of the Application of the above-captioned debtors (collectively, the “Debtors”)¹ to retain SHS as their exclusive broker agent in their Chapter 11 cases (the “Application”), and the matters set out herein are true and correct to the best of my knowledge, information and belief.

2.

SHS has substantial experience in the sale of assets of businesses, on a going concern basis, both in and out of the jurisdiction of the bankruptcy court.

¹ The Debtors in these chapter 11 cases include: Regional Housing & Community Services Corporation, RHCSC Columbus AL Holdings LLC, RHCSC Columbus Health Holdings LLC, RHCSC Douglas AL Holdings LLC, RHCSC Douglas Health Holdings LLC, RHCSC Gainesville AL Holdings LLC, RHCSC Gainesville Health Holdings LLC, RHCSC Montgomery I AL Holdings LLC, RHCSC Montgomery I Health Holdings LLC, RHCSC Montgomery II AL Holdings LLC, RHCSC Montgomery II Health Holdings LLC, RHCSC Rome AL Holdings LLC, RHCSC Rome Health Holdings LLC, RHCSC Savannah AL Holdings LLC, RHCSC Savannah Health Holdings LLC, RHCSC Social Circle AL Holdings LLC, and RHCSC Social Circle Health Holdings LLC.

3.

Neither SHS nor any of its principals, associates or other professional employees have any connection with the above-named estates, their creditors, or any party in interest, or their respective attorneys or accountants.

4.

Neither SHS nor any of its principals, associates or other professional employees represent any interest adverse to that of the estates or the Debtors-in-Possession in matters upon which SHS shall be engaged.

5.

Based on the foregoing, I believe that SHS is a “disinterested person” within the meaning of 11 U.S.C. § 101(14).

6.

I believe that the retention of SHS under the terms outlined herein and in the Application would be in the best interest of the Debtors and their creditors.

This 9th day of January, 2023.

A handwritten signature in cursive script that reads "Dan Owens". The signature is written in black ink on a light-colored background.

CHARLES DANIEL OWENS

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both. 18 U.S.C. §§152 and 3571.

Exhibit B

Engagement Agreement



December 12, 2022

Katie Goodman
Chief Restructuring Officer for Regional Housing & Community Services Corp.
c/o GGG Partners, LLC
3155 Roswell Road NE
Suite 120
Atlanta, GA 30305

RE: Advisory Services Listing Agreement – Eight free-standing assisted living and memory care facilities located in Georgia and Alabama. This agreement is for the sale of business assets/real estate of the facilities identified in "**Exhibit A**" at the end of this Agreement.

Dear Katie,

This letter represents the Exclusive Agreement between Senior Housing Services, LLC, hereinafter "Senior Housing Services" and/or "we", and Regional Housing & Community Services Corp. and the sixteen (16) affiliated debtors in case no. 21-41034 (the "Bankruptcy Case"), pending in the United States Bankruptcy Court for the Northern District of Georgia, hereinafter the "Company" or "you", with respect to the services Senior Housing Services is to provide as the financial advisor to you, including representation as exclusive brokerage agent in the sale of the assets and of the eight real property interests identified in "Exhibit A" ("Facilities").

1. SERVICES

Transaction Advisory Services

We will advise you in the Facilities, and their related assets. Specifically, we will work with you to collect the information needed for potential buyers including that related to the Facilities' business assets, real property, services, customers, market position, competitors, facilities, personnel, governance and financial condition and results. We will secure reasonable confidentiality agreements (each a "Confidentiality Agreement") from interested parties prior to disclosing the offering materials to accredited investors and we will work in cooperation with the Company to provide additional information required by parties interested in pursuing a Transaction.

We will recommend an appropriate sale process, suggest pre-qualified buyers and include any you wish to add. We will advise you in the conduct of negotiations leading to a purchase agreement or agreements and we will provide assistance, as reasonably required along with your legal and tax advisors, in the closing of a Transaction. The terms of any Transaction will be determined by the Company, subject to the consent of UMB Bank, N.A., as bond trustee.

We recognize that the Facilities are being administered in the Bankruptcy Case, and that any sale while the Facilities remain in bankruptcy will be subject to approval of the United States Bankruptcy Court for the Northern District of Georgia (the "Bankruptcy Court"). We agree to assist the Company, as needed, to obtain approval of any sale transaction by the Bankruptcy Court, including but not limited to testifying at any sale hearing regarding the marketing and sale process and selection of any proposed purchaser.

2. FEES

In consideration of the above services, the Company will pay to Senior Housing Services the following amounts:

- A Transaction Advisory Fee will be due at the closing of a Transaction for any or all of these facilities and will be computed by multiplying the Total Purchase Price (“Purchase Price”) received by the Company or any selling interest owners by 4.75%.
- Company shall deduct from any Transaction Advisory Fee any fee paid to SLIB II, Inc. dba Senior Living Investment Brokerage, pursuant to the Representation Agreement dated March 18, 2022, a copy of which is available on the docket of the Bankruptcy Court at Docket No. 126.

Purchase Price will be computed as the sum of all consideration agreed to be paid by the purchaser in the Transaction that is attributable to the value of the business assets or any interest owners’ ownership interest in the Facility and real property whether in the form of cash, marketable securities, or notes received by the Facility or its interest owners; or interest-bearing debt owed by the Facility that is assumed by the buyer. Any dividends or distributions made to the interest owners after a letter of intent is signed prior to closing that result in a reduction to the Purchase Price will be considered part of the Purchase Price. If a portion of the Purchase Price is to be paid after the closing date in the form of an earn-out that is contingent on future performance, a non-compete, or a consulting agreement that provides income above normal compensation for services provided (“Deferred Amount”), you agree to include language in the purchase agreement that provides for our fee on the Deferred Amount to be paid directly to us by the buyer at the time the Deferred Amount(s) are paid to you. Fees on any amounts earned but held in escrow will not be considered Deferred Amounts. Should there be a forfeiture of earnest money, Senior Housing Services shall be entitled to Five Per Cent (5%) of same, provided that Senior Housing Services shall not receive an amount in excess of the commission set forth above. Senior Housing Services will not claim or solicit compensation from anyone other than the Company or its interest owners in connection with any Transaction involving the Company. No Transaction Advisory Fee shall be owed to Senior Housing Services with respect to a credit bid submitted by the Bond Trustee or the holders of debt advanced pursuant to the debtor in possession financing orders entered in the Bankruptcy Case.

3. TERM

This agreement shall expire Nine Months from the date of signing by the Seller (the “Expiration Date”). However, the Transaction Advisory Fee and/or leasing fee contemplated in Section 2 above will be due if, within 6 months following the Expiration Date (the “Tail”), the Facility or real property is sold or leased to a party with which Senior Housing Services obtained an executed Confidentiality Agreement and had material discussions with about the Facilities. Written notice will be given to company of all firms that Senior Housing Services, LLC has had material discussions during the term of the agreement. Senior Housing Services shall provide copies of all executed Confidentiality Agreements to the Company and the Bond Trustee.

4. OTHER

Senior Housing Services shall conduct all brokerage activities in regard to this agreement without respect to the race, color, religion, sex, national origin, handicap or familial status of any party or prospective party to the agreement.

Senior Housing Services and its agents will represent you in your dealings with buyers as your exclusive seller's agent. Senior Housing Services shall be allowed to and have the sole discretion to share its commission with agents representing the buyer.

Senior Housing Services agrees to keep confidential all non-public information which it receives or develops concerning the Facilities and to disclose that information only with the consent of the Company or as required by law or legal process. The Company warrants and represents that, except as contemplated by this Agreement, there are no brokers, representatives or other persons who have an interest in any compensation due to Senior Housing Services from any transaction contemplated herein. This agreement may not be amended or modified except by a written instrument executed by all parties hereto and shall be governed by and construed in accordance with the laws of the State of Georgia. All costs incurred to enforce this agreement, including reasonable attorney fees, will be paid by the party who does not prevail. The Buyer agrees that Senior Housing Services will receive copies of all documents pertaining to the sale and that Buyer will instruct legal counsel to include Senior Housing Services in all distribution of documentation pertaining to the sale.

Please confirm that the foregoing is in accordance with your understanding by signing and returning the enclosed copy of this letter.

We are delighted to accept this engagement and look forward to working with you.


Sincerely,



Charles Daniel Owens
Manager, Senior Housing Services, LLC

ACCEPTED AND AGREED TO:

Regional Housing & Community Services Corp.

By: 

Katie S. Goodman

Date: 1/8/23

"EXHIBIT A"

| Name | Address | Size | Sq Feet | Age | Acreage |
|------------------------------|---|-------------|----------------|------------|----------------|
| Landings of Columbus | 6830 River Rd Columbus, GA | 64 | 38,131 | 1999 | 4.41 |
| Manor House | 1360 West Gordon St Douglas, GA | 58 | 23,519 | 1988 | 3.19 |
| Landings of Gainesville | 2030 Windward Ln Gainesville, GA | 50 | 22,189 | 2009 | 4.43 |
| Gardens of Waterford | 3920 Antoinette Dr Montgomery, AL | 50 | 48,169 | 1961 | 5.03 |
| The Landings of Montgomery | 3300 Lynchburg Dr Montgomery, AL | 61 | 51,547 | 1987 | 4.69 |
| The Gardens of Rome | 1168 Chulio Rd Rome, GA | 60 | 48,420 | 1997 | 2.47 |
| The Gardens of Savannah | 249 Holland Dr Savannah, GA | 46 | 15,084 | 1989 | 3.25 |
| The Gardens of Social Circle | 621 North Cherokee Rd Social Circle, GA | 98 | 44,521 | 1989 | 8.73 |

Exhibit C

Owens Resume



DAN OWENS

338 S. Sharon Amity Road
Ste. 199
Charlotte, NC 28211
Cell: (704)641-1469

SUMMARY:

Broker in Charge, Senior Housing Services, LLC, a Senior Housing and Care Brokerage firm based in Charlotte, NC. Served as a commercial real estate broker for 24 years. Licensed in North Carolina, South Carolina and Georgia. Previously was a state licensed appraisal professional focusing on the Seniors Industry. Have worked with banking institutions and some of the largest owner/operators in the industry. Competent at valuations of facilities and CON beds.

REAL ESTATE JOB EXPERIENCE:

1997 – Present

*Represented sellers of Senior Housing and Care properties in North and South Carolina, Virginia, Maryland and Georgia.

*Represented buyers of Senior Housing and Care properties in finding suitable regional sites to build communities.

*Previously worked in the appraisal industry focused on Senior Housing and Care.

*Recognized as a "market maker" in CON Adult Care Home beds in North Carolina.

*Provided Continuing Education (CE) Classes on "Buying, Selling and Financing Assisted Living Communities" for the North Carolina Association of Long Term Care Facilities (NC) and the South Carolina Association of Residential Care Homes (SCARCH).

*Former Board Member, North Carolina Assisted Living Association (NCALA)

EDUCATION:

1987 – 1989

MBA degree, Finance/Marketing. University of South Carolina, Columbia, SC

OTHER:

*Former United States Senate Intern, Capitol Hill, Washington, DC

CERTIFICATE OF SERVICE

This is to certify that on this date a true and correct copy of the within and foregoing **Application For Authority To Retain Senior Housing Services, LLC As Exclusive Broker Agent To The Debtors** was served (i) by the Court's CM/ECF system on all counsel of record registered in this case through CM/ECF, and (ii) by causing same to be deposited in the United States Mail with adequate postage affixed thereon and addressed to the following:

Martin P. Ochs
Office of the United States Trustee
362 Richard Russell Federal Building
75 Ted Turner Drive, S.W.
Atlanta, Georgia 30303

Charles W. Azano
Greenberg Traurig, LLP
One International Place
Suite 2000
Boston, MA 02110

This 9th day of January, 2023.

SCROGGINS & WILLIAMSON, P.C.

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By: /s/ Ashley R. Ray
J. ROBERT WILLIAMSON
Georgia Bar No. 765214
ASHLEY REYNOLDS RAY
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Georgia Bar No. 448270

Counsel for the Debtors