

So Ordered.

Docket #2875 Date Filed: 3/16/2023

Dated: March 15th, 2023



Whitman L. Holt
Bankruptcy Judge

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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON**

<p>IN RE: ASTRIA HEALTH, Remaining Debtor.</p>	<p>Case No. 19-01189-WLH11 EX PARTE ORDER APPROVING STIPULATION RESOLVING CLAIM OF SCG CAPITAL CORPORATION</p>
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**EX PARTE ORDER APPROVING
STIPULATION**

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1 This matter came before the court on the *Ex Parte Motion to Approve*
2 *Stipulation Resolving Claim of SCG Capital Corporation* (the “Motion”), brought
3 by Steven D. Sass, LLC, as GUC Distribution Trustee.

4 This court has found that it has jurisdiction over this matter pursuant to 28
5 U.S.C. §§ 157 and 1334 and has authority to enter a final order consistent with
6 Article III of the United States Constitution; that venue of this proceeding and the
7 Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and that
8 no notice of the Motion is required. Having reviewed the Motion and all
9 documents filed in support of or opposition thereto or relating thereto; and upon
10 the record in this matter; and after due deliberation thereon; and this court having
11 determined that just cause has been established for the relief granted herein, it is
12 hereby **ORDERED** as follows:

- 13 1. The Motion [ECF No. 2873] is granted.
- 14 2. The Stipulation, attached hereto as **Exhibit A**, and terms therein are
15 approved.
- 16 3. SCG Capital Corporation’s claim is allowed as a general unsecured claim in
17 the amount of \$42,800.00.
- 18 4. The official claims register shall be modified in accordance with this order.
- 19 5. The terms and conditions of this order shall be effective and enforceable
20 immediately upon its entry.

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EXHIBIT A - Stipulation

1 SILLS CUMMIS & GROSS P.C.

Honorable Whitman L. Holt

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10 *Co-Counsel to Steven D Sass LLC,*

as GUC Distribution Trustee

11
12 **UNITED STATES BANKRUPTCY COURT**
13 **EASTERN DISTRICT OF WASHINGTON**

14 IN RE:

15 ASTRIA HEALTH,

16 Remaining Debtor.

Case No. 19-01189-WLH11

**STIPULATION RESOLVING CLAIM
OF SCG CAPITAL CORPORATION**

17 This stipulation (the "Stipulation") by and between: (i) Steven D Sass LLC, as
18 GUC Distribution Trustee (the "GUC Distribution Trustee") of the GUC
19 Distribution Trust, and (ii) SCG Capital Corporation ("SCG", and together with the

20 **STIPULATION RESOLVING CLAIM**
21 **OF SCG CAPITAL CORPORATION**

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1 GUC Distribution Trustee, the “Parties”), resolves all claims asserted or assertable
2 by SCG against the debtors, their estates, and/or the GUC Distribution Trust in the
3 above referenced chapter 11 cases the “Chapter 11 Cases”) of Astria Health and its
4 previously affiliated debtors (the “Debtors”).

RECITALS

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7 **WHEREAS**, on May 6, 2019 (the “Petition Date”), the Debtors commenced
8 these Chapter 11 Cases by filing voluntary petitions for relief under chapter 11 of
9 title 11 of the United States Code (the “Bankruptcy Code”) in the United States
10 Bankruptcy Court for the Eastern District of Washington (the “Bankruptcy Court”),
11 which cases are jointly administered under Case No. 19-01189-11;

12 **WHEREAS**, on December 23, 2020, the Court entered an order confirming
13 the Modified Second Amended Joint Chapter 11 Plan of Reorganization of Astria
14 Health and Its Debtor Affiliates [Docket No. 2196] (the “Plan”);

15 **WHEREAS**, the Plan became effective in accordance with its terms on
16 January 15, 2021 [Docket No. 2264];

17
18 **WHEREAS**, the Plan provides for, among other things, the appointment of
19 Steven D Sass LLC as the GUC Distribution Trustee and grants the GUC Distribution
20 Trustee authority, subject to certain procedural requirements set forth in the Plan, to

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EXHIBIT A - Stipulation

1 file objections to and settle disputes regarding General Unsecured Claims (See Plan
2 Sections III(F)(1)(2) and (M));

3 **WHEREAS**, the Plan further provides that except as otherwise set forth in the
4 Plan or ordered by the Court, “all assets and all liabilities of each of the Debtors shall
5 be deemed merged or treated as though they were merged into and with the assets
6 and liabilities of each other,” and “each and every Claim filed or to be filed in any of
7 the Chapter 11 Cases shall be treated as if filed against the consolidated Debtors and
8 shall be treated [as] one Claim against and obligation of the consolidated Debtors”)
9 (see Plan, Section II(B));

10
11 **WHEREAS**, on April 24, 2020, SCG filed a proof of claim in the amount of
12 \$50,638.27 against Astria Health, identified on the Debtors’ claims register as claim
13 323-2 (the “SCG Claim”)¹;

14 **WHEREAS**, the Parties have engaged in good faith, arm’s-length discussions
15 regarding the SCG Claim and agreed to resolve and stipulate its allowance and
16 treatment in these Chapter 11 Cases according to the terms of this Stipulation;

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20 ¹ On July 26, 2019, SCG filed claim 323-1 against Astria Health. Claim 323-2 amends and
supersedes this initial claim.

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1 **NOW, THEREFORE**, for good and valuable consideration, including the
2 mutual covenants of this Stipulation, the receipt and sufficiency of which are hereby
3 acknowledged, the Parties agree and stipulate as follows:

4 1. Recitals. Each of the foregoing paragraphs is incorporated into this
5 paragraph 1 by reference.

6 2. Allowance of Claim. Upon the date of the entry of an order approving
7 this Stipulation by the Bankruptcy Court (the “Stipulation Effective Date”), the
8 following claim shall be allowed for all purposes in these Chapter 11 Cases (the
9 “Allowed Claim”), including for purposes of treatment under and distribution
10 pursuant to the Plan:

<u>Claim Number</u>	<u>Debtor</u>	<u>Claim Amount</u>	<u>Classification</u>
323-2	Astria Health	\$42,800.00	General Unsecured (Class 4)

11 3. Disallowance of Superseded Claims. Upon the Stipulation Effective
12 Date, any and all claims or requests for payment of any kind or nature that SCG has
13 or could have asserted against the Debtors or the GUC Distribution Trust, other than
14 the Allowed Claim, shall automatically be deemed disallowed and expunged in their
15 entirety. For the avoidance of doubt, SCG (i) shall not have any allowed claims in
16 these Chapter 11 Cases other than the Allowed Claim and (ii) shall not be entitled to

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1 any distribution under the Plan or otherwise (including from the GUC Distribution
2 Trustee) in these Chapter 11 Cases other than on account of the Allowed Claim.

3 4. Claims Register. Upon the Stipulation Effective Date, the Parties
4 request that the official claims register of these cases be revised to reflect the claim
5 reduction and allowance, and disallowances, as described above.

6 5. Authority to Execute. Each person who executes this Stipulation
7 represents that they are duly authorized to execute this Stipulation on behalf of their
8 respective Party hereto and that such Party has full knowledge of and has consented
9 to the terms of this Stipulation.

10 6. Entire Agreement. This Stipulation contains the entire agreement
11 between the Parties with respect to the subject matter of this Stipulation and
12 supersedes any and all prior agreements and undertakings between the Parties. This
13 Stipulation may be executed in counterparts, which counterparts may be delivered by
14 facsimile or electronic mail, and it shall not be necessary that the signature of or on
15 behalf of each Party appear on each counterpart, but it shall be sufficient that the
16 signature of or on behalf of each Party, or that the signature of the persons required
17 to bind each Party, appear on one or more such counterparts. All such counterparts
18 when taken together shall constitute a single and legally binding agreement.
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1 7. Binding Nature. This Stipulation is binding upon and inures to the
2 benefit of the Parties and their respective predecessors, successors, and assigns.

3 8. Due Diligence. The Parties acknowledge and understand that they are
4 executing and delivering this Stipulation with full knowledge of any and all rights
5 which they may have with respect to the matters resolved by this Stipulation. The
6 Parties acknowledge that they were, or had an opportunity, to be represented by
7 counsel of their choosing to the extent they desired before executing and delivering
8 this Stipulation in order to review this document and the matters it resolves, and that
9 each such Party and counsel (if applicable) had reasonable and sufficient time to do
10 so.

11 9. Modification. This Stipulation may not be modified, altered, amended,
12 or vacated other than by a signed writing executed by the Parties.

13 10. Jurisdiction. The Bankruptcy Court shall have exclusive jurisdiction
14 over any and all disputes and all other matters arising out of or relating to the
15 interpretation, implementation or enforcement of this Stipulation.
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17 11. Interpretation. In the event of any ambiguity or question of intent or
18 interpretation, this Stipulation shall be construed as if drafted jointly by the Parties
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1 and no presumption or burden of proof shall arise favoring or disfavoring any Party
2 by virtue of the authorship of any of the provisions of this Stipulation.

3 12. Headings. The headings utilized in this Stipulation are designed for the
4 sole purpose of facilitating ready reference to the subject matter of this Stipulation.
5 Said headings shall be disregarded when resolving any dispute concerning the
6 meaning or interpretation of any language contained in this Stipulation.

7
8 13. Notice. No further notice of this Stipulation is required.

9 14. Fees and Expenses. Each Party to this Stipulation shall bear its own
10 legal fees and expenses with respect to this Stipulation and any and all matters related
11 thereto.

12 **STIPULATED AND AGREED TO BY:**

13 GUC DISTRIBUTION TRUSTEE
14 Steven D Sass LLC
Clarksville, MD 21029

SCG CAPITAL CORPORATION
74 West Park Place
Stamford, CT 06901-2209

15 By: /s/ Steven D. Sass
16 Steven D. Sass

By: /s/ Joseph M. Selba²
Joseph M. Selba
Tydings & Rosenberg LLP
One East Pratt Street, Suite 901
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Counsel for SCG Capital Corporation

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21 ² Per email authorization on March 14, 2023.

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