

CSD 1001A [07/01/18](Page 1)

Docket #1473 Date Filed: 09/17/2024

Name, Address, Telephone No. & I.D. No.

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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West F Street, San Diego, California 92101-6991

In Re

BORREGO COMMUNITY HEALTH FOUNDATION,

Debtor.

BANKRUPTCY NO.
22-02384-LT11

**ORDER ON
STIPULATION BY AND AMONG THE POST-EFFECTIVE DATE DEBTOR,
THE LIQUIDATING TRUSTEE, THE CO-LIQUIDATING TRUSTEES AND DR. WADIE AHWAL
REGARDING CLAIM NO. 156**

The court orders as set forth on the continuation pages attached and numbered 2 through 2 with exhibits, if any, for a total of 13 pages. Stipulation Docket Entry No. 1467.

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DATED: September 17, 2024

Judge, United States Bankruptcy Court



ORDER ON STIPULATION BY AND AMONG THE POST-EFFECTIVE DATE DEBTOR, THE LIQUIDATING TRUSTEE, THE CO-LIQUIDATING TRUSTEES AND DR. WADIE AHWAL REGARDING CLAIM NO. 156

DEBTOR: BORREGO COMMUNITY HEALTH FOUNDATION

CASE NO: 22-02384-LT11

On September 16, 2024, Borrego Community Health Foundation (the Post-Effective Date Debtor), The Liquidating Trustee, the Co-Liquidating Trustees and Dr. Waiel Putrus filed a *Stipulation By and Among the Post-Effective Date Debtor, The Liquidating Trustee, The Co-Liquidating Trustees And Dr. Wadie Ahwal Regarding Claim No. 156* [Docket No. 1467] (the “Stipulation”).

IT IS HEREBY ORDERED:

1. That the Stipulation, attached hereto as **Exhibit 1**, is approved in its entirety.
2. That the terms and conditions of the Stipulation shall be binding upon the parties and are hereby fully incorporated into this Order by this reference.

EXHIBIT 1

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sgolden@pszjlaw.com

Attorneys for the Co-Liquidating Trustee

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA**

In re

**BORREGO COMMUNITY
HEALTH FOUNDATION,**

Debtor and Debtor in
Possession.

Case No. 22-02384-11

Chapter 11 Case

Judge: Honorable Laura S. Taylor

**STIPULATION BY AND AMONG THE
POST-EFFECTIVE DATE DEBTOR,
THE LIQUIDATING TRUSTEE, THE
CO-LIQUIDATING TRUSTEES AND DR.
WADIE AHWAL REGARDING CLAIM
NO. 156**

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Borrego Community Health Foundation, the debtor and debtor in possession (prior to the effective date of the Plan (defined below), the “Debtor,” and after the effective date, the “Post-Effective Date Debtor”) in the above-captioned chapter 11 bankruptcy case, the Liquidating Trustee (the “Liquidating Trustee”) of the Borrego Community Health Foundation Liquidating Trust (the “Liquidating Trust”), the Co-Liquidating Trustees of the Liquidating Trust (the “Co-Liquidating Trustees”) and Dr. Wadie Ahwal (the “Claimant”, and collectively with the Post-Effective Date Debtor, the Liquidating Trustee, and the Co-Liquidating Trustees, the “Parties”) hereby enter into this *Stipulation By and Among the Post-Effective Date Debtor, the Liquidating Trustee, the Co-Liquidating Trustees and Dr. Wadie Ahwal Regarding Claim No. 156*.

RECITALS

WHEREAS, on September 12, 2022, the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code commencing Case No. 22-02384 (the “Chapter 11 Case”) in the United States Bankruptcy Court for the Southern District of California;

WHEREAS, on or about November 21, 2022, Claimant filed Proof of Claim No. 156 in the amount of \$25,000.00 (“Claim 156”), a copy of which is attached hereto as **Exhibit A**;

WHEREAS, the Liquidating Trust was established pursuant to the *First Amended Joint Combined Disclosure Statement and Chapter 11 Plan of Liquidation of Borrego Community Health Foundation* [Docket No. 1168] (the “Plan”), confirmed by the order [Docket No. 1273] entered January 25, 2024 (the “Confirmation Order”), and that certain *Liquidating Trust Agreement*, dated as of

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February 14, 2024 (the "Liquidating Trust Agreement");

WHEREAS, on or about July 25, 2024, the Liquidating Trustee and the Co-Liquidating Trustees filed an *Objection to Claim and Notice Thereof* regarding Claim 156 [the "Claim Objection"] [Docket 1416] on the basis that the Claimant did not provide sufficient support to substantiate the amount of Claim 156.

WHEREAS, on or about August 29, 2024, the Claimant filed a *Request and Notice of Hearing* [Docket No. 1434];

WHEREAS, the Post-Effective Date Debtor has reviewed its books and records and believes that Claim 156 relates to dental services performed by the Claimant on behalf of the Debtor; and

WHEREAS, after the Post-Effective Date Debtor's professionals reviewed Claim 156, the Parties have agreed to resolve any issues regarding Claim 156 as set forth herein.

STIPULATION

NOW THEREFORE, subject to the approval of the Court, the Parties hereby agree and stipulate as follows:

1. Claim 156 shall be reduced and allowed as a general unsecured claim in the amount of \$10,000.00 (the "Allowed Claim Amount").

2. Within thirty (30) days of entry of the order approving this Stipulation, the Liquidating Trust shall pay the Allowed Claim Amount to Claimant pursuant to the Plan.

3. In consideration of the agreements with and value provided herein and other good and valuable consideration, the Parties hereby waive, remise, release and forever discharge the other, including each of their respective former and current predecessors, successors, assigns, affiliates, subsidiaries, parent companies, shareholders, partners, members, managers, investors directors, officers, accountants, attorneys, employees, agents, representatives and servants of, from and against any and all claims, actions, causes of action, suits, proceedings, defenses,

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1 counterclaims, contracts, judgments, damages, accounts, reckonings, executions,
2 and liabilities whatsoever of every name and nature, whether known or unknown,
3 whether or not well-founded in fact or in law, and whether in law, at equity or
4 otherwise, which either Party ever had or now has for or by reason of any matter,
5 cause or anything whatsoever to this date relating to or arising out of the Parties'
6 prior business relationship, or the Chapter 11 Case.

7 4. Each of the Parties to the Stipulation acknowledge that they are
8 familiar with California Civil Code Section 1542 and with respect to the matters
9 released herein, each Party expressly waives any and all rights under California
10 Civil Code Section 1542 and under any other federal or state statute or law of
11 similar effect. California Civil Code Section 1542 provides:

12
13 A general release does not extend to claims that the
14 creditor or releasing party does not know or suspect to
15 exist in his or her favor at the time of executing the
16 release and that, if known by him or her, would have
17 materially affected his or her settlement with the debtor
18 or released party.

19 5. Claimant hereby warrants that Claimant (a) is authorized and
20 empowered to execute this Stipulation on behalf of the Claimant, (b) has read this
21 Stipulation in its entirety and fully understands and accepts the terms set forth
22 herein, (c) has had an opportunity to consult with legal counsel and any other
23 advisors of Claimant's choice with respect to the terms of this Stipulation, and (d)
24 is signing this Stipulation on Claimant's own free will.
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6. The terms, covenants, conditions, and provisions of this Stipulation cannot be altered, changed, modified, or added to, or deleted from, except in a writing signed by all parties hereto.

7. This Stipulation may be executed in counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same.

8. The Court shall retain jurisdiction over all matters relating to the interpretation and enforcement of this Stipulation.

Dated: September 16, 2024

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SAMUEL R. MAIZEL
TANIA M. MOYRON

By /s/ Tania M. Moyron
Tania M. Moyron

Attorneys for the Post-Effective Date
Debtor and the Co-Liquidating Trustee

Dated: September 16, 2024

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz
Steven W. Golden

By /s/ Steven W. Golden
Steven W. Golden

Attorneys for the Co-Liquidating Trustee

Dated: September 16, 2024

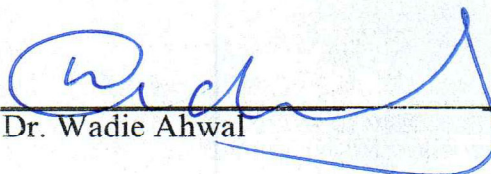
By 
Dr. Wadie Ahwal

EXHIBIT A

Claim #156 Date Filed: 11/21/2022

Fill in this information to identify the case:

Debtor Borrego Community Health Foundation
United States Bankruptcy Court for the: Southern District of California
(State)
Case number 22-02384

Official Form 410 Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Wadie Ahwal</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>Wadie Ahwal</u> <u>8881 Fletcher Pkwy Ste 265</u> <u>La Mesa, CA 91942</u>	Where should payments to the creditor be sent? (if different) _____ _____
	Contact phone <u>619-463-1113</u> Contact email <u>DrAhwal@parkway-dental.com</u>	Contact phone _____ Contact email _____
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on ____/____/____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
7. How much is the claim? \$ 25000.00	Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>Services Performed</u>
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature or property: <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. Check all that apply:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

☐ Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

☐ Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

Amount entitled to priority

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☒ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 11/21/2022
MM / DD / YYYY

/s/Wade Ahwal
Signature

Print the name of the person who is completing and signing this claim:

Name Wade Ahwal
First name Middle name Last name

Title Dentist Owner

Company Parkway Dental Group
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____

Email _____



KCC ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (866) 967-0670 | International (310) 751-2670

Debtor: 22-02384 - Borrego Community Health Foundation		
District: Southern District of California, San Diego Division		
Creditor: Wadie Ahwal 8881 Fletcher Pkwy Ste 265 La Mesa, CA, 91942 Phone: 619-463-1113 Phone 2: 619-920-9233 Fax: Email: DrAhwal@parkway-dental.com	Has Supporting Documentation: No supporting documentation Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Creditor	
	Other Names Used with Debtor:	
Amends Claim: No Acquired Claim: No		
Basis of Claim: Services Performed	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: 25000.00	Includes Interest or Charges: No	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Wade Ahwal on 21-Nov-2022 6:34:14 p.m. Eastern Time Title: Dentist Owner Company: Parkway Dental Group		

VN: C85215947A4D351AE6F7C9982A2B5A6C

Notice Recipients

District/Off: 0974-3	User: Admin.	Date Created: 9/18/2024
Case: 22-02384-LT11	Form ID: pdfO1	Total: 6

Recipients of Notice of Electronic Filing:

aty	Jeffrey N. Pomerantz	jpomerantz@pszjlaw.com
aty	Jeffrey N. Pomerantz	jpomerantz@pszjlaw.com;tkapur@pszjlaw.com;sgolden@pszjlaw.com
aty	Steven W Golden	sgolden@pszjlaw.com
aty	Tania M. Moyron	tania.moyron@dentons.com

TOTAL: 4

Recipients submitted to the BNC (Bankruptcy Noticing Center):

db	BORREGO COMMUNITY HEALTH FOUNDATION,	587 Palm Canyon Dr.	Suite 208	Borrego
	Springs, CA 92004			
aty	Samuel Ruven Maizel	Dentons US LLP	601 South Figueroa Street	Suite 2500 Los Angeles,
	CA 90017			

TOTAL: 2