

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

CANO HEALTH, INC., *et al.*,

Debtors<sup>1</sup>.

Chapter 11

Case No. 24-10164 (KBO)

Re: Docket Nos. 864

**DECLARATION OF PATRICIA FERRARI IN SUPPORT OF CONFIRMATION OF  
THE FOURTH AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF  
CANO HEALTH, INC. AND ITS AFFILIATED DEBTORS**

I, Patricia Ferrari, hereby declare, pursuant to 28 U.S.C. § 1746 and under the penalty of perjury, that the following is true and correct to the best of my knowledge, information, and belief:

1. I am an independent member of the board of directors (the “**Board**”)<sup>2</sup> and a member of the Finance Committee of Cano Health, Inc. (“**Cano**” and, together with its debtor affiliates, the “**Debtors**” or the “**Company**”) and have held these positions since I joined the Board on or around December 18, 2023.

2. I submit this declaration (the “**Declaration**”) in support of the releases included in the *Fourth Amended Joint Chapter 11 Plan Of Reorganization Of Cano Health, Inc. And Its Affiliated Debtors*, dated May 21, 2024 (Docket No. 864) (including any exhibits,

<sup>1</sup> The last four digits of Cano Health, Inc.’s tax identification number are 4224. A complete list of the debtors (collectively, the “Debtors”) in the chapter 11 cases may be obtained on the website of the Affiliated Debtors’ claims and noticing agent at <https://www.kccclcc.net/CanoHealth>. The Affiliated Debtors’ primary mailing address is 9725 NW 117th Avenue, Miami, Florida 33178.

<sup>2</sup> Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Plan (as defined herein) or the Disclosure Statement.



schedules, or supplements thereto and as may be further amended, supplemented, or otherwise modified from time to time in accordance with its terms, the “**Plan**”).

3. In my capacity as an independent director of Cano, I am knowledgeable about and familiar with the Debtors’ business and financial affairs. Except as otherwise indicated, the facts set forth in this Declaration (or incorporated by reference herein) are based upon my personal knowledge, my review of relevant documents, my experience, knowledge, and information concerning the Debtors’ operations and financial condition, my own reasonable inquiry, and/or my discussions with the Debtors’ other directors, officers, and advisors. If called upon to testify, I will testify to the facts set forth in this Declaration.

#### **Background and Qualifications**

4. I have over thirty-four (34) years of experience in banking and structured finance, restructurings, corporate governance, and risk management, serving as a lawyer for over two decades and a senior executive of a NYSE company for over a decade.

5. From 2010 to 2023, I served as a senior executive at MBIA, Inc. and was promoted in 2014 to Managing Director, Head of Restructuring and Remediation. While at MBIA, I directly reported to the Chief Executive Officer and Board of Directors on all aspects of distressed credits, bankruptcy, and restructuring. I played a key role and led the teams in the restructurings of international credits, such as Punch Taverns, the London A13 toll road, and LYB, which is an Australian energy company. I also led the team at MBIA that helped engineer the successful restructuring of \$18 billion of indebtedness for COFINA, the Puerto Rico Sales Tax Financing Corporation, and the \$17 billion General Obligation debt of Puerto Rico. I also led one of the two teams of creditors that structured and implemented the restructuring of the \$4.3 billion bonds of

Puerto Rico's highway and transportation system. Additionally, I played pivotal roles in notable municipal bankruptcies, such as Detroit, Harris County (TX) Sports Authority, and Stockton (CA).

6. Prior to joining MBIA, from 1992 to 2004, I was one of the founding partners of King & Spalding LLP's New York office, where I provided strategic legal counseling in banking, structured finance, and restructurings and represented banks, hedge funds, and private equity firms as investors, lenders, and creditors of distressed entities. I also represented creditors and other stakeholders in chapter 11 and non-judicial restructurings. Prior to becoming a partner at King & Spalding LLP, I practiced law at Alston & Bird LLP from 1986 to 1993 (and was promoted to partner in 1990), after working as an associate at Shearman & Sterling from 1983 to 1986.

7. I hold a law degree from Vanderbilt University and a Bachelor of Arts degree from Southern Illinois University.

### **The Debtors' Investigations**

8. On or around December 18, 2023, Cano appointed Carol Flaton and me as independent directors (the "**2023 Directors**").

9. On January 17, 2024, Cano retained Quinn Emanuel Urquhart & Sullivan, LLP ("**Quinn Emanuel**") as legal counsel to conduct an investigation, at the exclusive direction of the 2023 Directors, into potential claims and causes of action against current and former officers and directors of Cano, relating to corporate transactions and other corporate actions taken by the Company, while the directors and officers served in their roles, in each case from and after April 10, 2022.<sup>3</sup>

<sup>3</sup> On April 10, 2022, the Board retained Weil, Gotshal & Manges LLP ("**Weil**") as corporate counsel. Accordingly, to the extent the investigations considered claims related to events that took place or decisions that were made on or after Weil was retained, in order to avoid any appearance of conflict, Quinn Emanuel was tasked with investigating those events and decisions.

10. Because the Debtors Releases affect current directors and give rise to a potential conflict of interest, the Board contemplated at the outset of the Debtors Investigations that it would delegate to the 2023 Directors the authority to approve or reject the releases contemplated under the Plan.

11. Throughout the investigation, the 2023 Directors and Quinn Emanuel held regular meetings, generally weekly, during which Quinn Emanuel provided updates regarding the investigation and relevant case developments, and the 2023 Directors provided direction and guidance, and asked questions. In total, the 2023 Directors and Quinn Emanuel met over a dozen times during the investigation.

12. As part of the investigation, Quinn Emanuel met with the corporate, investigatory, and bankruptcy teams of Weil; had multiple calls with Cano's financial advisor, Alix Partners, regarding Cano's directors and officers as well as Cano's financial situation; had multiple calls with Cano's other legal advisors, including Skadden, Arps, Slate, Meagher & Flom LLP; Richards, Layton & Finger, PA; and McDermott Will & Emery LLP; and met with FTI Consulting representatives for further information on the Prior Investigations (as defined below).

13. Quinn Emanuel also received complete access to documents regarding prior investigations conducted by Weil from January to August 2023, regarding certain corporate governance and self-dealing issues. Specifically, in the prior investigations, Weil, with the support of FTI Consulting, examined, *inter alia*, (i) loans issued to CEO Marlow Hernandez by various individuals and entities connected to Cano; (ii) transactions between Cano and Marlow Hernandez's father, Jose Hernandez, and entities he was affiliated with; and (iii) the circumstances surrounding the agreements between Cano, Onside Dental LLC, and Dental excellence Partners (the "**Prior Investigations**").

14. Additionally, Quinn Emanuel collected over one million documents from numerous sources, including the Company and Richards, Layton & Finger, P.A., which collected documents in connection with litigation brought by former directors against the Company in Delaware. Quinn Emanuel ran numerous targeted searches and reviewed documents relevant to its investigation.

15. In total, Quinn Emanuel conducted over a dozen interviews with Cano's directors, officers, and business development team. In January 2024, Quinn Emanuel conducted preliminary interviews with directors Angel Morales, Kim Rivera, Alan Muney, and Solomon Trujillo, as well as CEO and director Mark Kent. Then, in March 2024, Quinn Emanuel held follow-up interviews with Mr. Morales, Ms. Rivera, Mr. Muney, and Mr. Kent, and also held interviews with Bob Camerlinck (Chief Operating Officer), and David Armstrong (General Counsel and Chief Compliance Officer). Weil and counsel for the Official Committee of Unsecured Creditors (the "**Creditors Committee**") attended this second set of interviews, and the Creditors Committee had an opportunity to ask questions at each interview.<sup>4</sup> Thereafter, Quinn Emanuel conducted a follow-up interview with Mark Kent, and interviewed Frederick Green (former Chief Legal Officer), Jennifer Hevia (Chief People Officer), Jacqueline Guichelaar (former director), and David Zapata from Cano's internal audit group.

16. Quinn Emanuel analyzed potential claims and causes of action it identified based on its document review and witness interviews, arising out of, *inter alia*, the following: (i) retention payments made to certain officers prior to the Petition Date; (ii) the Debtors' contracts with vendors, including with respect to MedCloud Depot, LLC, MSP Recovery, LLC, and Second Wave Delivery Systems, LLC; (iii) the Debtors' Business Development Acquisition Incentive Plan

<sup>4</sup> As discussed below, Weil separately interviewed each of these witnesses during its investigation, which was also at the direction of the 2023 Directors.

(under which select eligible employees could receive finder's fees for referring acquisition targets to the Debtors if the Debtors ultimately acquired those targets); (iv) certain related-party transactions; (v) the acquisition of Total Health Medical Centers; (vi) potential transactions with CVS Health and Humana contemplated by the Debtors; and (vii) the Board's oversight and management of CHI, including, but not limited to, personal loans made by certain of the Debtors' officers and directors to then-CEO and Chairman of the Board, Dr. Marlow Hernandez.

17. At the 2023 Directors' instruction and direction, Quinn Emanuel considered potential causes of action that would be covered by the releases the Debtors were contemplating in Article 10.6(a) of the Plan (the "**Debtors Releases**"), including claims for (i) breach of fiduciary duty, (ii) corporate waste, and (iii) avoidance actions under the Bankruptcy Code.

18. On April 24, 2024, Quinn Emanuel delivered their preliminary findings and conclusions from the investigation to the 2023 Directors. The 2023 Directors asked questions and provided direction regarding the investigation.

19. Quinn Emanuel did not identify any valuable causes of action that the Debtors may have against their current directors and officers, former director Jacqueline Guichelaar, or former officer Frederick Green.

20. Also at the direction of the 2023 Directors, Weil conducted an investigation (together with Quinn Emanuel's investigation, the "**Debtors Investigations**"), into any other potential claims and causes of action the Debtors may have against the current or former directors or officers of the Company, relating to or arising from corporate transactions and other corporate actions taken by the Debtors from four years prior to the Petition Date up until April 10, 2022<sup>5</sup>.

<sup>5</sup> Because Cano retained Weil as corporate counsel on April 10, 2022, Weil did not investigate potential claims from April 10, 2022 to the present, which is the time period covered by Quinn Emanuel's investigation.

21. Weil's investigation also involved extensive document collection, review, and analysis. Weil reviewed (i) the Board minutes and materials and the Company's public filings; (ii) the negotiation history, diligence materials, and closing documents for the relevant transactions; (iii) materials and findings from the Prior Investigations; and (iv) notes from Quinn Emanuel's witness interviews with current officers and directors that predated Weil's investigation. Weil also collected over one million documents (including those previously collected by Quinn Emanuel) from 19 different custodians, and based on targeted searches, reviewed over 18,000 documents, including emails.

22. Weil attended Quinn Emanuel's second set of interviews in March 2024, and then conducted its own follow-up interviews with current Board members and executive management, including Mark Kent, Robert Camerlinck, David Armstrong, Solomon Trujillo, Kim Rivera, Angel Morales, Alan Muney, Jennifer Hevia, and Jacqueline Guichelaar. Weil also interviewed two members of the Company's Corporate Development Team: Devin Chazan (Vice President, Corporate Development) and Flavia Villamonte (Manager, Corporate Development).

23. Additionally, Weil worked with Houlihan Lokey, the Company's financial advisor, to analyze the reasonableness of the consideration the Company paid for the following acquisitions: (i) University Health Care Inc., (ii) Orange Care Management Services Organization LLC, (iii) HP Enterprises II, LLC, (iv) Primary Care Physicians of Hollywood, and (iv) Doctor's Medical Center, LLC. Houlihan Lokey compared acquisitions across the value-based care space and more broadly across the healthcare industry during that same time period, looking at both total purchase price and EBITDA multiples.

24. Weil coordinated with both Quinn Emanuel and counsel for the Creditor's Committee throughout the course of its investigation. Weil met with the 2023 Directors during its

investigation, where it provided periodic updates and received additional direction from the 2023 Directors.

25. Weil analyzed the following transactions involving the Debtors relevant to the time period of its investigation: (i) the acquisition of Primary Care Physicians of Hollywood acquisition; (ii) the acquisition of HP Enterprises II; (iii) the Dental Excellence Partners, LLC Services Agreement; (iv) the CS Credit Agreement; (v) Cano's de-SPAC merger with Jaws Acquisition Corp.; (vi) the acquisition of University Health Care and its affiliates; (vii) the acquisition of Doctor's Medical Center, LLC and its affiliates; (viii) the acquisition of Serenity Community Mental Health Center LLC and Miami Personal Behavioral LLC; (ix) the acquisition of Orange Care Management Services Organization LLC; and (x) the Dental Services Agreement with CD Support, Inc. Weil also analyzed (i) the Debtors' contracts with vendors, including with respect to MedCloud Depot, LLC; (ii) the Debtors' Business Development Acquisition Incentive Plan (under which select eligible employees could receive finder's fees for referring acquisition targets to the Debtors if the Debtors ultimately acquired those targets); (iii) certain related-party transactions; and (iv) personal loans made by certain of the Debtors' officers and directors to then-CEO and Chairman of the Board, Dr. Marlow Hernandez.

26. With regard to its investigation of potential claims and causes of action against the current directors and officers and Ms. Guichelaar, Weil considered potential causes of action that would be covered by the Debtors Releases, including claims for (i) breach of fiduciary duty, (ii) corporate waste, and (iii) avoidance actions under the Bankruptcy Code.

27. Weil did not identify any valuable causes of action the Debtors may have against their current directors and officers for breach of fiduciary duty, constructive fraudulent transfer, or corporate waste.



28. In addition to the interviews conducted by Quinn Emanuel and Weil, I also assessed the business impact of the releases, including their impact on the ability of the Debtors to retain key executives. To make this assessment, I spoke to Mark Kent, with whom I discussed executive retention and value to the estate of key executives. Furthermore, I considered the fact that Cano's organizational documents contain typical indemnification and exculpation provisions, as well as the potential costs, delays, and inconvenience to Debtors that might result from pursuing potential legal claims against current officers and directors of the Debtors. I also discussed the business impact of the potential releases with Carol Flaton.

29. On May 7, 2024, the 2023 Directors, Weil, and Quinn Emanuel held a meeting in which Weil and Quinn Emanuel presented to the 2023 Directors their findings and conclusions based on the Debtors Investigations and responded to questions that the 2023 Directors had about the investigations and findings. At that meeting, based in part on our own review of the factual record as well as the investigation conducted at our direction, the 2023 Directors—who had been previously delegated authority by the Board with the authority to approve or reject the Debtors Releases—voted to approve the Debtors Releases for current officers and directors.

30. On May 15, 2024, based in part on our own review of the factual record as well as the investigation conducted at our direction, the 2023 Directors voted to approve the Debtors Releases for Ms. Guichelaar and Mr. Green.

31. Based on my experience as a financing and restructuring lawyer and a senior executive of a public company and as an independent director, the Debtors Releases constitute a sound exercise of the Debtors' business judgment, and are customary in transactions of this kind, are fair and reasonable, and are in the best interests of the Debtors and their estates.

32. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: June 25, 2024  
New York, New York

By: /s/ Patricia Ferrari  
Patricia Ferrari