

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

SC HEALTHCARE HOLDING, LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 24-10443 (TMH)

(Jointly Administered)

Ref. Docket No. 564

**DECLARATION OF MARK L. MYERS
IN SUPPORT OF DEBTORS' PROPOSED BID PROTECTIONS**

Pursuant to 28 U.S.C. § 1746, I, MARK L. MYERS, declare as follows:

1. My name is Mark L. Myers. I am over the age of 18 and have personal knowledge of the matters discussed in this declaration (the "Declaration").

2. I am a Managing Director at Walker & Dunlop Investment Sales, LLC ("WD"), the proposed investment banker for SC Healthcare Holding, LLC and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors," the "Company," or "Petersen").

3. I make this Declaration in support of the Debtors' proposed market bid protections for their designated stalking horse bidder (the "Stalking Horse Bidder" and its bid, the "Stalking Horse Bid") in connection with the proposed sale of all or substantially all of the Debtors' assets (the "Assets"), as set forth in that certain *Asset Purchase Agreement*, dated June 26, 2024 (the "Stalking Horse APA") and described in the Debtors' *Notice of Stalking Horse Bidder and*

¹ The last four digits of SC Healthcare Holding, LLC's tax identification number are 2584. The mailing address for SC Healthcare Holding, LLC is c/o Petersen Health Care Management, LLC 830 West Trailcreek Dr., Peoria, IL 61614. Due to the large number of debtors in these Chapter 11 Cases, whose cases are being jointly administered, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information is available on a website of the Debtors' claims and noticing agent at www.kccllc.net/Petersen.



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Proposed Bid Protections [Docket No. 564] (the bid protections described therein, the “Bid Protections”).

4. In particular, this Declaration summarizes the arm’s-length, bona fide nature of the negotiations for the Bid Protections, my observation and professional opinion that the Bid Protections reflect customary market terms, and that the Stalking Horse Bidder is critical to the success of the Debtors’ sale process and should therefore receive the Bid Protections.

5. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge; information supplied to me by other employees of WD and members of the Debtors’ management, professionals, and advisors; my review of relevant documents; or my opinion based upon my experience and knowledge of the Debtors’ industry, operations, and financial condition. If called to testify, I could and would testify competently as to the facts set forth herein. I am authorized to submit this Declaration.

6. I have previously provided a detailed description of my educational and professional background and qualifications, including my deep experience with investment sales of seniors housing and long-term care facilities, in the *Amended Declaration of Mark L. Myers in Support of Debtors’ (X) Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Granting Security Interests and Superpriority Administrative Expense Status, (III) Granting Adequate Protection to Certain Prepetition Secured Credit Parties, (IV) Modifying the Automatic Stay, (V) Authorizing the Debtors to Enter into Agreements with JMB Capital Partners Collateral, (VI) Scheduling a Final Hearing, and (VIII) Granting Related Relief; and (Y) Omnibus Objection to (A) the Emergency Motion for an Order (I) Dismissing the Subject Chapter 11 Cases, (II) For Abstention, or (III) Appointment of Receiver as the Chapter 11 Trustee and (B) the Emergency Motion to Excuse Receiver’s*

Compliance with 11 U.S.C. § 543(a) & (b) [Docket No. 288] (the “First Myers Declaration”), and I incorporate the First Myers Declaration by reference herein.

THE BID PROTECTIONS

1. In the First Myers Declaration, I described the Debtors’ extensive marketing efforts for the sale of their Assets, coordinated and executed by WD and the Debtors’ other advisors. As noted therein, by May 2024, following months of arm’s-length negotiations, we had secured approximately twenty bids involving various combinations of the Assets. At that time, we turned our attention to engaging closely with those bidders to strengthen and develop their bids further, continuing to encourage competitive bidding, and working to determine whether a stalking horse bid (the “Stalking Horse Bid”) for most or all of the Assets would emerge.

2. Since May 2024, discussions with existing bidders have continued and we have also engaged with new bidders. We continued to answer bidders’ questions, provide analysis and information, and conducted multiple telephone conferences and in-person meetings with the most promising bidders. In the process, we communicated closely with the Debtors, their chief restructuring officer, their counsel, and their financial advisor to ensure that we advocated for the Debtors’ interests as effectively as possible. In total, WD, the Debtors, and the Debtors’ advisors have spent hundreds of hours negotiating and discussing potential bid configurations and packages.

3. As a result of those productive marketing efforts and negotiations with bidders in May and June 2024, the Debtors have now secured a Stalking Horse Bid for the Assets (with certain exclusions). This binding bid has been memorialized in the Stalking Horse APA between the Debtors and the Stalking Horse Bidder, for the purchase of applicable Assets for an aggregate purchase price of \$118,000,000.00 plus the assumption of the Assumed Liabilities (as defined in the Stalking Horse APA, subject to certain prorations and adjustments).

4. As part of the selection of the Stalking Horse Bid, and to induce the Stalking Horse Bidder to expend time and resources in the pursuit of this transaction, we determined that it was necessary to provide the Bid Protections to the Stalking Horse Bidder, as authorized under Paragraph 6 of that certain *Order (I) Approving (A) Bidding Procedures and (B) Assumption and Assignment Procedures and (II) Granting Related Relief* [Docket No. 341].

5. The Bid Protections consist of two primary protections: (i) an expense reimbursement of up to \$500,000 for the Stalking Horse Bidder's reasonable and documented out-of-pocket costs, fees and expenses (including reasonable expenses of legal, financial advisory, accounting and other similar costs, fees and expenses) related to, among other things, negotiating and finalizing the Stalking Horse APA and conducting diligence in pursuit thereof, payable to the Stalking Horse Bidder in the event that it is not the successful purchaser of the Assets following the Auction, and (ii) a break-up fee equal to 3.0% of the Purchase Price, subject to certain potential adjustments, in the event that the Debtors close an alternative transaction other than the Stalking Horse APA for the subject Assets.

6. Notably, the Bid Protections represent a material reduction from the original terms proposed by the Stalking Horse Bidder, reflecting the nature of a thorough and spirited arm's-length negotiation process between the Debtors, WD, the Debtors' other advisors, and the Stalking Horse Bidder. While engaging with the Stalking Horse Bidder on all aspects of its bid, from Purchase Price to Assets to the terms of the asset purchase agreement, we were ultimately able to lower the terms of the Bid Protections significantly. Further, based on my interactions with the Stalking Horse Bidder, it is clear that the Bid Protections have been instrumental to the Stalking Horse Bidder's pursuit of the Assets and its ultimate decision to provide the Stalking Horse Bid.

7. Based on the course of the negotiations in this sale process, my professional decades-long experience in this part of the healthcare sector, and my discussions with the Debtors' counsel and financial advisors, I believe that these Bid Protections represent customary and market terms for a transaction of this nature and size. In the market, a break-up fee and an expense reimbursement are considered reasonable and necessary to compensate a stalking horse bidder's out-of-pocket costs in the event that its bid is ultimately topped by another bidder. Further, while the Debtors must protect and maximize all estate assets in these Chapter 11 Cases, the expense reimbursement and break-up fee represent reasonable costs in the context of the \$118 million Purchase Price that the sale process has yielded thus far—and which will only be the floor for any bids that may be made at the Auction scheduled for July 2, 2024.

8. Indeed, based on the continued interest from bidders and ongoing discussions in the week leading up to the Auction, it is clear that the Stalking Horse Bid has already benefited the Debtors' estates by further encouraging competitive bidding and will continue to do so until the Auction begins. Ultimately, I expect that the Stalking Horse Bid will generate a value-maximizing transaction for the Debtors' estates and position the Debtors on the path toward emergence.

9. Accordingly, the Bid Protections should be approved.

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

Dated:

June 28, 2024



Mark L. Myers
Managing Director
Walker & Dunlop Investment Sales, LLC