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Triple P RTS, LLC*

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

In re:

BEVERLY COMMUNITY HOSPITAL
ASSOCIATION, dba BEVERLY HOSPITAL
(A NONPROFIT PUBLIC BENEFIT
CORPORATION), *et al.*¹

Debtors,

- ☒ Affects all Debtors
- ☐ Affects Beverly Community
Hospital Association
- ☐ Affects Montebello Community Health
Services, Inc.
- ☐ Affects Beverly Hospital Foundation

Case No.: 2:23-bk-12359-SK

Jointly administered with:

Case No: 2:23-bk-12360-SK

Case No: 2:23-bk-12361-SK

Hon. Sandra R. Klein

Chapter 11 Case

**JOINT STATUS REPORT FROM TRIPLE
P SECURITIES, LLC AND U.S. BANK
TRUST COMPANY, NATIONAL
ASSOCIATION, AS MASTER TRUSTEE**

Date: January 24, 2024

Time: 9:00 a.m. (prevailing Pacific Time)

Judge: Sandra R. Klein

Place: zoom.gov

¹ The Debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number, are: Beverly Community Hospital Association d/b/a Beverly Hospital (6005), Montebello Community Health Services, Inc. (3550), and Beverly Hospital Foundation (9685). The mailing address for the Debtors is 309 W. Beverly Blvd., Montebello, California 90640.



1 **TO THE HONORABLE SANDRA R. KLEIN, UNITED STATES BANKRUPTCY**
2 **JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, AND ALL OTHER**
3 **PARTIES IN INTEREST:**

4 Pursuant to your Honor's January 8, 2024 Order Approving Second Stipulation To Continue
5 Hearing On Multiple Fee Applications and Setting Status Conference (the "Order"), U.S. Bank
6 Trust Company, National Association, as Master Trustee ("Master Trustee"), and Triple P
7 Securities, LLC ("TPS") (together, the "Parties") hereby submit this Joint Status Report.

8 **Posture of these Chapter 11 Cases and the TPS Application**

9 1. On May 19, 2023, the above-captioned debtors (the "Debtors") filed their *Debtors'*
10 *Notice of Application and Application Seeking an Order Authorizing the Retention and Employment*
11 *of Triple P Securities, LLC as Investment Banker to the Debtors and Debtors in Possession*
12 *Pursuant to 11 U.S.C. §§ 327(a) and 328 Effective as of April 19, 2023* [Docket No. 280] (the "TPS
13 Application") to, among other things, raise debtor-in-possession financing and sell the Debtors'
14 assets.

15 2. On June 9, 2023, the Master Trustee filed its *Omnibus Objections to the Debtors'*
16 *Applications Seeking Orders Authorizing the Retention and Employment of Triple P Securities, LLC*
17 *as Investment Banker and Triple P RTS, LLC as Restructuring Advisors* [Docket No. 411]
18 (the "Objection").

19 3. On June 30, 2023, the Debtors filed their *Reply in Support of Debtors' Notice of*
20 *Application and Application Seeking Orders Authorizing Retention and Employment of Triple P*
21 *Securities, LLC as Investment Banker and Triple P RTS, LLC as Restructuring Advisors* [Docket
22 No. 497] (the "Reply").

23 4. On August 2, 2023, this Court held a status conference regarding the sale process
24 during which a hearing on the TPS Application was set for August 17, 2023 at 9:00 a.m. (Pacific
25 Time).

26 5. On August 2, 2023, the Debtors filed the *Supplemental Declaration of Jason Cohen*
27 *in Support of Debtors' Notice of Application and Application Seeking an Order Authorizing the*
28 *Retention and Employment of Triple P Securities, LLC as Investment Banker to the Debtors and*

1 *Debtors in Possession Pursuant to 11 U.S.C. §§ 327(a) and 328 Effective as of April 19, 2023*
2 [Docket No. 623] (the “Supplemental Cohen Declaration”).

3 6. On August 16, 2023, the Debtors filed the *Stipulation re Debtors’ Applications to*
4 *Retain and Employ Triple P RTS, LLC and Triple P Securities, LLC* [Docket No. 700], whereby the
5 Debtors, TPS, and the Master Trustee agreed to continue the hearing on the TPS Application until
6 October 12, 2023, or such other date as the Court may set.

7 7. On August 18, 2023, this Court entered the *Order (A) Authorizing the Sale of*
8 *Debtors’ Assets to Purchaser Free and Clear of Liens, Claims, Interests, and Other Interests;*
9 *(B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases*
10 [Docket No. 718].

11 8. On September 13, 2023, after the sale of the hospital had closed, the Court entered
12 the *Order Directing the Appointment of a Chapter 11 Trustee and Setting Hearing and Briefing*
13 *Schedule on Fee Applications* [Docket No. 803] (the “Scheduling Order”).

14 9. On September 15, 2023, the United States Trustee filed the *Notice of Appointment*
15 *of a Chapter 11 Trustee* [Docket No. 811] appointing Howard M. Ehrenberg as the Chapter 11
16 Trustee in these chapter 11 cases, which the Court approved [Docket No. 815] (the “Trustee
17 Appointment”).

18 10. On October 12, 2023, the Court entered the *Order Approving Stipulation re Debtors’*
19 *Application to Retain and Employ Triple P Securities, LLC*, [Docket No. 841], setting a hearing on
20 the TPS Application for January 24, 2024, at 9:00 a.m., prevailing Pacific Time. Pursuant to the
21 Order, the TPS Application is now set to be heard on May 8, 2024 at 10:00 a.m. (the “Retention
22 Hearing”).

23 11. Other than the Objection, no other objection was filed pertaining to the TPS
24 Application in advance of the relevant objection deadline, and the briefing on the TPS Application
25 was closed by the Court.

26 12. As a result of the Trustee Appointment, there is no longer a debtor in possession in
27 these chapter 11 cases. Nonetheless, Howard M. Ehrenberg (the “Chapter 11 Trustee”) has not
28 withdrawn the TPS Application, which remains pending.

1 13. In connection with the TPS Application, the Master Trustee conducted depositions
2 of Alice Cheng and Lyla Eddington on October 24, 2023, and of Jason Cohen on November 10,
3 2023.

4 14. TPS subsequently sent a Fed. R. Civ. P. 30(b)(6) notice of deposition to counsel for
5 the Master Trustee in connection with the TPS Application.

6 15. After that deposition notice was sent, counsel for TPS and counsel for the Master
7 Trustee met and conferred about the propriety of that discovery and TPS's participation in the
8 hearing on the TPS Application. The Master Trustee's position is that, because TPS is not the
9 moving party, it does not have standing to participate in discovery in the contested matter. The
10 Master Trustee further contends that TPS's counsel cannot participate in the presentation of
11 evidence during the Retention Hearing because it has not intervened in the contested matter
12 pursuant to Fed. R. Bankr. P. 2018.

13 16. TPS disagrees and believes that it has standing to serve discovery and present
14 evidence as a party in interest with respect to the TPS Application and, at this juncture, is the party
15 most aptly suited to prosecute the TPS Application. TPS further submits that the Master Trustee's
16 position elevates form over substance, and it would be inequitable to deny TPS the ability to seek
17 discovery and fully participate in the Retention Hearing given the unprecedented posture of the TPS
18 Application, where (a) consideration of the TPS Application was delayed in a good faith effort to
19 reach consensus and conserve estate resources, (b) TPS has already performed the work it was hired
20 to do, and (c) unrelated to the TPS Application or TPS's efforts, a chapter 11 trustee was appointed
21 while the TPS Application remained pending.

22 17. The Master Trustee disagrees with TPS's position that it should be allowed to
23 conduct discovery and participate in the Retention Hearing on the TPS Application because it is not
24 a party to this contested matter. TPS has not intervened in the contested matter pursuant to Fed. R.
25 Bankr. P. 2018. Nor has the Chapter 11 Trustee withdrawn the TPS Application on behalf of these
26 estates so that TPS can file its own retention application (and brief whatever issues it wants in that
27 application) and pursue whatever discovery that it thinks it is entitled to. Absent taking either of
28

1 these steps, it is the Master Trustee's position that TPS is not a party to the contested matter and
2 therefore is not entitled to participate therein as a party.

3 18. The Master Trustee does not believe that TPS would be prejudiced if required to
4 either comply with the Bankruptcy Rules and formally intervene in this contested matter or file its
5 own retention application because the Retention Hearing will not be held for four (4) months. Thus,
6 the Master Trustee does not believe there is any legitimate reason to relieve TPS of the procedures
7 set forth in the Bankruptcy Code and Bankruptcy Rules governing a party's standing to participate
8 in a contested matter and/or its ability to intervene therein.

9 19. The Master Trustee is informed by the Chapter 11 Trustee that he will not prosecute
10 the TPS Application, and therefore the Master Trustee is unclear who is representing the estates'
11 interest with regard to the TPS Application.

12 20. Finally, because the Bankruptcy Court had closed the briefing on the TPS
13 Application and the Master Trustee has already conducted its discovery in this matter, the Master
14 Trustee believes that no further briefing should be permitted in advance of the Retention Hearing.
15 TPS, on the other hand, believes that supplemental briefing is warranted insofar as the Master
16 Trustee took discovery after the briefing deadline that is probative of several of the issues raised in
17 the Objection and that, at the time briefing was completed, the sale of the hospital had not closed.
18 TPS believes that the additional facts surrounding the sale are also pertinent to the relief sought in
19 the TPS Application and the issues raised in the Objection and should be presented to the Court to
20 ensure a complete record. In addition, TPS believes that the Master Trustee's position that there
21 should be no supplemental briefing in this matter to account for the discovery taken to date is
22 inconsistent with its own pursuit of that discovery after briefing was completed.

23 21. It is the Master Trustee's position that, if TPS is permitted to intervene in this
24 contested matter, take discovery and supplement the briefing, the Master Trustee should also be
25 permitted to conduct supplemental discovery and briefing concerning any new arguments raised by
26 TPS.

Request for Guidance

22. At the Status Conference, the Parties seek the Court's guidance on the following points of contention in order to avoid wasteful litigation in preparation for the Retention Hearing. **First**, whether TPS may seek discovery and present evidence on the TPS Application without first intervening or becoming the movant, as discussed above. **Second**, whether the Court intends to hold a live evidentiary hearing on the TPS Application and, if so, whether it has a preferred schedule for pretrial exchanges or wishes to address other logistical issues relating to that hearing. **Third**, depending on the answer to the first question, whether the Court would be amenable to supplemental briefing on the current TPS Application.

23. Input from the Court on these key issues would save the Parties considerable time, effort, and expense preparing to litigate several threshold issues where guidance regarding the Court's view on any of the above listed threshold issues may guide the Parties in determining how to proceed.

[Signature Page Follows]

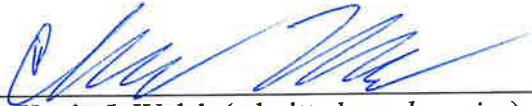
1 Dated: January 10, 2024

2 KIRKLAND & ELLIS LLP AND
3 KIRKLAND & ELLIS INTERNATIONAL LLP

4 By /s/ David I. Horowitz
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6 Ryan Blaine Bennett, P.C. (admitted *pro hac vice*)

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8 *and Triple P Securities, LLC*

9 GREENBERG TRAURIG, LLP

10 By 
11 Kevin J. Walsh (admitted *pro hac vice*)
12 Colleen A. Murphy (admitted *pro hac vice*)
13 Christopher Marks (admitted *pro hac vice*)

14 *Counsel to U.S. Bank Trust Company National*
15 *Association, as Master Trustee*

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
2049 Century Park East, Suite 3700
Los Angeles, California 90067

A true and correct copy of the foregoing document entitled (*specify*): Joint Status Report from Triple P Securities, LLC and U.S. Bank Trust Company, National Association, as Master Trustee

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 01/10/2024, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 01/10/2024, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 01/10/2024, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

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

01/10/2024
Date

David I. Horowitz
Printed Name

/s/ David I. Horowitz
Signature

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