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13

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

16 In re

17 BORREGO COMMUNITY
18 HEALTH FOUNDATION,

19 Debtor and Debtor in
20 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
VILLAMOR USITA REGARDING
CLAIM NO. 186**

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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 Villamor Usita (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 Villamor Usita Regarding Claim No. 186*.

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 September 13, 2022, the Bankruptcy Court established November 21, 2022 as the deadline by which parties holding prepetition claims against the Debtor must file proofs of claim (the “Claims Bar Date”) [See Docket No. 16].

WHEREAS, on or about November 29, 2022, after the Claims Bar Date, Claimant filed Proof of Claim No. 186 in the amount of \$158,860.00 (“Claim 186”), a copy of which is attached hereto as **Exhibit A**;

WHEREAS, the Liquidating Trust was established pursuant to the *First*

1 *Amended Joint Combined Disclosure Statement and Chapter 11 Plan of*
2 *Liquidation of Borrego Community Health Foundation* [Docket No. 1168] (the
3 “Plan”), confirmed by the order [Docket No. 1273] entered January 25, 2024 (the
4 “Confirmation Order”), and that certain *Liquidating Trust Agreement*, dated as of
5 February 14, 2024 (the “Liquidating Trust Agreement”);

6 WHEREAS, the Co-Liquidating Trustees have reviewed the Debtor’s books
7 and records and have reconciled Claim 186 to the amount of \$62,118.00 (the
8 “Reconciled Claim Amount”).

9 WHEREAS, Claimant and the Co-Liquidating Trustees are in dispute over
10 Claim 186, both as to the validity of the Reconciled Claim Amount and whether
11 Claimant has sufficient evidence of excusable neglect to avoid having Claim 186
12 disallowed as late filed.

13 WHEREAS, the Parties have agreed to resolve their dispute regarding Claim
14 186 as set forth herein.

15 **STIPULATION**

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

18 1. Based on the evidence provided by the Claimant, and the fact that
19 Claim 186 was filed after the Claims Bar Date, Claim 186 shall be reduced and
20 allowed as a general unsecured claim in the amount of \$46,588.50 (the “Allowed
21 Claim Amount”).

22 2. Claimant shall not file any additional proofs of claim, nor will
23 Claimant amend (or seek to amend) Claim 186.

24 3. Within thirty (30) days of entry of the order approving this Stipulation,
25 and after Claimant has provided a completed W-9 to the Co-Liquidating Trustees,
26 the Liquidating Trust shall pay the Allowed Claim Amount to Claimant pursuant to
27 the Plan.

28 4. In consideration of the agreements with and value provided herein and

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1 other good and valuable consideration, the Parties hereby waive, remise, release
2 and forever discharge the other, including each of their respective former and
3 current predecessors, successors, assigns, subsidiaries, parent companies,
4 shareholders, partners, members, managers, investors directors, officers,
5 accountants, attorneys, employees, agents, representatives and servants of, from and
6 against any and all claims, actions, causes of action, suits, proceedings, defenses,
7 counterclaims, contracts, judgments, damages, accounts, reckonings, executions,
8 and liabilities whatsoever of every name and nature, whether known or unknown,
9 whether or not well-founded in fact or in law, and whether in law, at equity or
10 otherwise, which either Party ever had or now has for or by reason of any matter,
11 cause or anything whatsoever to this date, relating to or arising out of the Chapter
12 11 Case.

13 5. Each of the Parties to the Stipulation acknowledge that they are
14 familiar with California Civil Code Section 1542 and with respect to the matters
15 released herein, each Party expressly waives any and all rights under California
16 Civil Code Section 1542 and under any other federal or state statute or law of
17 similar effect. California Civil Code Section 1542 provides:

18
19 A general release does not extend to claims that the
20 creditor or releasing party does not know or suspect to
21 exist in his or her favor at the time of executing the
22 release and that, if known by him or her, would have
23 materially affected his or her settlement with the debtor
24 or released party.

25 6. Claimant hereby warrants that Claimant (a) is authorized and
26 empowered to execute this Stipulation on behalf of the Claimant, (b) has read this
27 Stipulation in its entirety and fully understands and accepts the terms set forth
28 herein, (c) has had an opportunity to consult with legal counsel and any other
advisors of Claimant's choice with respect to the terms of this Stipulation, and (d)

1 is signing this Stipulation on Claimant's own free will.

2 7. The terms, covenants, conditions, and provisions of this Stipulation
3 cannot be altered, changed, modified, or added to, or deleted from, except in a
4 writing signed by all parties hereto.

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

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

9
10 Dated: April 30, 2025

DENTONS US LLP
SAMUEL R. MAIZEL
TANIA M. MOYRON

11
12 By /s/ Tania M. Moyron
13 Tania M. Moyron
14 Attorneys for the Post-Effective Date
Debtor and the Co-Liquidating Trustee

15 Dated: April 30, 2025

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

16
17 By /s/ Steven W. Golden
18 Steven W. Golden
19 Attorneys for the Co-Liquidating Trustee

20
21 Dated: April 29, 2025


Villamor Usita

DENTONS US LLP
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LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

EXHIBIT A

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>Villamor Usita</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?	Where should notices to the creditor be sent? See summary page	Where should payments to the creditor be sent? (if different)
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Contact phone <u>9094818881</u> Contact email <u>info@newsmiledentistry.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? \$ <u>158,860.00</u>	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>DENTAL CLAIMS THAT WERE NOT PAID</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. <div style="margin-left: 40px;">Nature or property:</div> <div style="margin-left: 40px;"> <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: _____ </div> <div style="margin-left: 40px;">Basis for perfection: _____</div> <div style="margin-left: 40px;"> 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.) </div> <div style="margin-left: 40px; margin-top: 20px;"> 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.) </div> <div style="margin-left: 40px; margin-top: 20px;"> Amount necessary to cure any default as of the date of the petition: \$ _____ </div> <div style="margin-left: 40px; margin-top: 20px;"> Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable </div>
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)?

☒ No☐ Yes. Check all that apply:

Amount entitled to priority

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

☐ 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.

\$ _____

* 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 11/29/2022
MM / DD / YYYY

/s/Villamor Usita
Signature

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

Name Villamor Usita
First name Middle name Last name

Title Dentist/Owner

Company New Smile Dentistry

Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____

Email _____



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: Villamor Usita 11010 Foothill Blvd. Suite 120 RANCHO CUCAMONGA, California, 91730-7616 United States Phone: 9094818881 Phone 2: Fax: 9094817722 Email: info@newsmiledentistry.com	Has Supporting Documentation: Yes, please mail physical 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: DENTAL CLAIMS THAT WERE NOT PAID	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: 158,860.00	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: Villamor Usita on 29-Nov-2022 6:57:46 p.m. Eastern Time Title: Dentist/Owner Company: New Smile Dentistry		

Additional Supporting Documents Received on 12/8/2022

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DEC 08 2022

KURTZMAN CARSON CONSULTANTS



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Borrego Community Health Foundation

Case Number: 22-02384

[Blank Proof Of Claim Form with Instructions](#)

For phone assistance:

(866) 967-0670 (Domestic US)

(310) 751-2670 (International)

This claim was successfully submitted for \$ 158,860.00 against Borrego Community Health Foundation on 29-Nov-2022 6:57:46 p.m. Eastern Time.

You can download a copy of the Claim Filing Summary [here](#).

If you would like to make any changes to your claim, please [request a new PIN](#) from KCC and file an amended claim.

You have physical supporting documentation and should [mail them along with your claim form summary to KCC at:](#)

**Borrego Health Claims Processing Center
c/o KCC
222 N. Pacific Coast Highway, Suite 300
El Segundo, CA 90245**

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Supporting Documentation Redacted
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