

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

Northwest Senior Housing Corporation, *et al.*,¹

Debtors.

Chapter 11

Case No. 22-30659 (MVL)

(Jointly Administered)

**DECLARATION OF NICK HARSHFIELD IN SUPPORT OF THE
DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
(I) AUTHORIZING THE DEBTORS TO (A) PAY PREPETITION
WAGES, SALARIES, COMMISSIONS, EMPLOYEE BENEFITS,
PREPETITION PAYROLL TAXES, AND OTHER OBLIGATIONS, (B)
MAINTAIN COMPENSATION AND BENEFITS PROGRAMS, AND PAY
RELATED ADMINISTRATIVE OBLIGATIONS, AND (C) MAKE
PAYROLL DEDUCTIONS, (II) AUTHORIZING APPLICABLE BANKS
AND OTHER FINANCIAL INSTITUTIONS TO HONOR AND PROCESS
RELATED CHECKS AND TRANSFERS, AND (III) GRANTING
RELATED RELIEF**

Nick Harshfield makes this Declaration pursuant to 28 U.S.C. § 1746 and states:

1. I am a Director, Vice Chair and Treasurer ("**Treasurer**") of Northwest Senior Housing Corporation d/b/a Edgemere ("**Edgemere**") and its affiliate Senior Quality Lifestyles Corporation ("**SQLC**"), who are the debtors and debtors in possession (the "**Debtors**") in the above-captioned chapter 11 cases (the "**Chapter 11 Cases**").

2. I submit this Declaration (the "**Declaration**") in connection with the *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Commissions, Employee Benefits, Prepetition Payroll Taxes, and Other Obligations, (B) Maintain Compensation and Benefits Programs, and Pay Related Administrative*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Northwest Senior Housing Corporation (1278) and Senior Quality Lifestyles Corporation (2669). The Debtors' mailing address is 8523 Thackery Street, Dallas, Texas 75225.



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Obligations, and (C) Make Payroll Deductions, (II) Authorizing Applicable Banks and Other Financial Institutions to Honor and Process Related Checks and Transfers, and (III) Granting Related Relief [Docket No. 20] (the “**Wages Motion**”).²

3. Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth below.

A. Sales Incentive Program

4. The Debtors maintain a sales incentive program (the “**Sales Incentive Program**”) for seven (7) Employees who work in the Debtors’ sales and marketing department, and none of these Employees are insiders, directors, or C-suite executives. The following summarizes the Employees, who are eligible to earn commissions under the Sales Incentive Program.

<u>Job Title</u>	<u>Sales Type</u>
Sales Director	IL
Sr. Sales Counselor	IL
Sales Counselor	IL
Sales Assistant	IL
Move-In Coordinator	AL/MC/IL
Community Outreach	AL/MC
Sales Counselor	AL/MC

5. No sales and marketing Employee is excluded from eligibility under the Sales Incentive Program.

6. The Sales Incentive Program is based on established criteria and sales metrics, and the Debtors pay earned commissions on a regular basis.³ The Sales Incentive Program is an

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Wages Motion.

³ Employees who are eligible to receive commission in connection with IL unit sales are paid on a quarterly basis, and the remaining Employees who earn commission are paid such commission amounts monthly.

important aspect of the sales and marketing Employees' overall compensation. Maintaining historical prepetition practices is essential to ensuring that the Debtors can retain their Employees and continue to operate the businesses and maximize value through the duration of the Chapter 11 Cases.

7. In 2021, the Debtors' incurred approximately \$258,000 in monetary obligations to Employees under the Sales Incentive Program on account of sales totaling approximately \$27 million. But for the provision of such incentives (and the performance of the Debtors' sales and marketing Employees), the Debtors would not have benefited from these revenues. The Sales Incentive Program is not only reasonably targeted to increase sales without overburdening the Debtors' financial position, but is customary in the industry.

8. In 2021, the Debtors paid approximately \$189,110 in commissions as part of the Sales Incentive Program obligations, of which approximately \$158,000 was earned by IL sales Employees of IL sales.⁴

9. The Debtors' 2021 commission obligations of approximately \$189,110 was only approximately 0.6% of operating expenses, approximately 1.9% of total salaries and wages, and approximately 0.7% of associated 2021 sales revenues. The Debtors will pay no Employee (a) more than \$13,650 on account of commissions earned before the Petition Date and/or (b) on account of commissions earned more than 180 days prior to the Petition Date.

10. For 2022 Sales and Incentive Program obligations that the Debtors anticipate will accrue, the Debtors have budgeted commission payments of approximately \$100,609.⁵

⁴ In 2022, prior to the Petition Date, the Debtors paid approximately \$68,840 for sales incentive bonuses earned within the 2021 Sales Incentive Program obligations.

⁵ The Debtors have also budgeted an additional \$170,000 for estimated sales incentive bonuses as part of the 2022 Sales Incentive Program obligations to be paid in 2023.

B. Debtors' Need to Modify the Sales Incentive Program for IL Unit Sales

11. Immediately after Debtors' landlord, Intercity Investment Properties, Inc. ("**Intercity**") caused negative press coverage relating to the Edgemere in February 2022, the Debtors' management observed a dramatic decline in inquiries and expressions of interest relating to the Debtors' Independent Living ("**IL**") units. As a result, the Debtors' management began to monitor IL sales activities, even more closely than under normal circumstances, including the number of phone calls placed from potential new residents.

C. Debtors' Need to Modify the Sales Incentive Program for IL Unit Sales

12. The IL sales and marketing Employees are especially critical to the Debtors' business operations, and the Debtors' operating income and liquidity depends heavily on the Debtors' ability to sell IL units. As IL units are sold, among other things, entrance fee funds are received and available to satisfy certain refund obligations. In 2021, the Debtors received entrance fee funds on account of IL sales in the amount of \$26,955,609.

13. Historically, IL operating revenue has accounted for approximately 56.5% of total operating revenue. In 2021, the Debtors closed 48 IL sales transactions. In January 2022, the Debtors closed five IL sales transactions. The Debtors have made no IL sales since February 2022, when an article was published in the Dallas Morning News, as referenced above, and as set forth more fully in the Debtors' *Complaint* at Docket No. 1 in Adv. No. 22-30660.

14. After observing no positive change in IL sales activity, the Debtors' management ascertained, prior to the Petition Date, that sales of IL units to prospective residents had been consistently and dramatically harder to achieve. Members of the Debtors' management, none of whom is a sales and marketing Employee, met to discuss this critical issue. These members of management evaluated options to motivate and incentivize all IL sales and marketing Employees,

who were growing weary, to continue to perform at a high level and uphold best efforts to make sales of IL units to prospective residents in an increasingly challenging environment.

15. For the foregoing reasons, the Debtors implemented the modified Sales Incentive Program, which is based on 2021 budgeted amounts but includes additional metrics to safeguard the Employees' ability to earn commissions temporarily while also motivating the Employees to continue to strive to surpass budgeted goals. The formulaic changes account for the need to modify – at least temporarily – certain budgeted sales goals for the IL sales and marketing Employees. This modification is necessary to retain sales and marketing Employees, who are critical to the Debtors' ability to bring prospective IL residents into the Edgemere community and produce revenue for the benefit of the Debtors' estates, creditors, and all stakeholders.

16. The modified Sales Incentive Program is based on established criteria and sales metrics, which includes (i) a component that encourages IL sales and marketing employees to maintain their employment, despite difficulties making IL sales and (ii) an added incentive for such Employees ability to surpass budgeted sales goals. Specifically, Employees are temporarily assumed to have met their budgeted goals but may earn additional commission amounts to be paid in 2023 for exceeding budgeted goals throughout 2022.

17. The modified Sales Incentive Program relating to IL sales and marketing Employees will assist the Debtors in increasing their earning potential, not only in the short-term but in the long run.

I certify under penalty of perjury in accordance with 28 U.S.C. § 1746 that to the best of my knowledge and after reasonable inquiry, the foregoing is true and correct.

Dated: May 6, 2022
Dallas, Texas

/s/ Nick Harshfield

Nick Harshfield
Director, Vice Chair and Treasurer
Northwest Senior Housing Corporation
Senior Quality Lifestyles Corporation