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ATTORNEY FOR TRUSTEES EDWARD
C. CERNY III, SUZAN KUMAR, AND
GALE SWANSON AND THE MARTHA
P. CERNY TRUST

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

IN RE:	§	
	§	
Northwest Senior Housing Corporation,	§	Chapter 11
et al. ¹ ,	§	
	§	CASE NO. 22-30659 (MVL)
	§	
DEBTORS.	§	(Jointly Administered)

EDWARD C. CERNY III, SUZAN KUMAR, GALE SWANSON, AND MARTHA P. CERNY
TRUST'S RESPONSE TO LITIGATION TRUSTEE'S SECOND OMNIBUS OBJECTION
TO RESIDENT CLAIMS

(Related to ECF No. 1735)

COME NOW Edward C. Cerny III, Suzan Kumar, Gale Swanson, and Martha P. Cerny Trust (collectively, "**Cerny Trust**") and hereby file this Response to Litigation Trustee's Second Omnibus Objection to Resident Claims ("**Response**") and respectfully states as follows:

1. On April 14, 2022, Northwest Senior Housing Corporation ("**Edgemere**") commenced the above styled bankruptcy case by filing a Voluntary Petition for Non-Individuals

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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under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (“**Bankruptcy Code**”) in the above styled court.

2. On April 7, 2023, the Court entered *Findings of Fact, Conclusions of Law, and Order Confirming Chapter 11 Plan of Plan Sponsors* [Docket Nos. 1393, 1394] (the “**Confirmation Order**”), confirming the *Fourth Amended Chapter 11 Plan of the Plan Sponsors Dated February 17, 2023* [Docket No. 1241] (the “**Plan**”).

3. The Litigation Trustee, as part of the Litigation Trustee’s Second Omnibus Objection to Claims (the “**Second Omnibus Objection**”), explains that the Litigation Trustee, after reviewing the Debtors’ books and records, believes that “each Resident Claim is only enforceable against the Debtors as a general unsecured claim.”

4. As part of the Second Omnibus Objection, the Litigation Trustee seeks entry of an order reclassifying the Cerny Trust claim as it allegedly does not “meet the requirements of Bankruptcy Code section 507(a)(7) . . . for allowance as [a] priority claim.”

5. The claim of the Cerny Trust was paid in September 2023 as a Class 5 Participating Former Resident Refund Claim out of the Resident Trust pursuant to the terms of the Confirmation Order and Plan. The Cerny Trust does not oppose a reclassification of its proof of claim as a general unsecured claim. However, in the unlikely event that the Litigation Trustee considers the Cerny Trust proof of claim as targeted for disallowance or reduction and allowance or is targeted for reclassification as a Class 4 General Unsecured Claim as opposed to a Class 5 Participating Resident Refund Claim, the Cerny Trust objects to such treatment and would request a final hearing to adjudicate the Second Omnibus Objection.

RESERVATION OF RIGHTS AND JOINDER

6. Cerny Trust expressly reserves all rights, including to: (i) amend, supplement, revise, or withdraw this Response, (ii) raise other objections to the Second Omnibus Objection,

and (iii) file responsive pleadings in accordance with applicable rules and/or deadlines.

PRAYER

WHEREFORE, Cerny Trust respectfully requests this Court grant such relief as this Court deems proper at law or equity.

Dated: November 16, 2023

Respectfully submitted,

WADDELL SERAFINO GEARY RECHNER JENEVEIN, P.C.

By: /s/ Beverly Cahill
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CERTIFICATE OF SERVICE

The undersigned certifies that on November 16, 2023, a true and correct copy of the foregoing Response was served electronically on all parties registered to receive electronic notice of filings in this case via this Court's ECF notification system, including the Debtor and its counsel.

By: /s/ Beverly Cahill
Beverly Cahill Nelson