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**COUNSEL FOR THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS**

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

In re:	§	Chapter 11
Northwest Senior Housing Corporation, <i>et</i>	§	Case No. 22-30659 (MVL)
<i>al.</i> , ¹	§	(Jointly Administered)
Debtors.	§	

**WITNESS AND EXHIBIT LIST OF THE UNSECURED CREDITORS' COMMITTEE
AND ITS PROFESSIONALS FOR PLAN CONFIRMATION HEARING ON
FEBRUARY 21, 2023, AT 9:30 A.M. (CDT)**

The Official Committee of Unsecured Creditors (the “Committee”) and its Professionals hereby file their *Witness and Exhibit List* for the hearing(s) scheduled for **February 21, 2023, at 9:30 a.m.**

1. The Committee may call any of the following as a witness at the hearing:
 - A. Jeremy Johnson, Polsinelli PC;
 - B. Dan Bleck, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.;
 - C. Eric Walker, Cooley LLP;

¹ The Debtors in these chapter 11 cases (the “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.



- D. Stephen A. McCartin, Foley & Lardner LLP;
- E. Any representative of the Plan Proponents;
- F. Any witness necessary to authenticate a document;
- G. Any witness called or designated by any other party in interest; and
- H. Any witness necessary to impeach or rebut the testimony of witnesses called or designated by any other party.

2. The Committee may offer any one or more of the following exhibits at the

hearing:

EX.	DESCRIPTION	M A R K E D	O F F E R E D	O B J E C T	A D M I T
1	Plan Excerpt – Section 2.2 [Docket No. 933, Page 22 of 60]				
2	Amended DIP Budget for the period of January 2023 through April 2023 [Docket No. 1015-1, pages 24-25]				
3	Objection of the Official Committee of Unsecured Creditors to the Debtors’ Amended Post-Petition DIP Financing and Cash Collateral Budget filed 1/11/23 [Docket No. 1025]				
4	Limited Objection of the Official Committee of Unsecured Creditors and its Professionals to Confirmation of the Plan filed 1/11/23 [Docket No. 1024]				
5	Email dated 12/1/22 from S. McCartin to J. Johnson and T. Green regarding no agreement to fee cap				
6	Email dated 1/9/23 from S. McCartin to T. Green, J. Johnson, D. Bleck and E. Blythe regarding CC objection to fee cap				
7	Email dated 1/10/23 from S. McCartin to J. Johnson, D. Bleck and others regarding objection to fee cap				
8	Email dated 2/16/23 from S. McCartin to E. Blythe confirming continued limited objection to fee cap				
	OTHER DOCUMENTS				
	Any document or pleading filed in the above-captioned case(s).				

EX.	DESCRIPTION	M A R K E D	O F F E R E D	O B J E C T	A D M I T
	Any exhibit necessary for impeachment and/or rebuttal purposes.				
	Any exhibit identified or offered by any other party.				

The Committee reserves the right to supplement or amend this *Witness and Exhibit List* at

any time prior to the hearing.

DATED: February 16, 2023

Respectfully submitted by:

/s/ Stephen A. McCartin

Stephen A. McCartin (TX 13344700)

Thomas C. Scannell (TX 24070559)

Mark C. Moore (TX 24074751)

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**COUNSEL FOR THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS**

CERTIFICATE OF SERVICE

I hereby certify that, on February 16, 2023 a true and correct copy of the foregoing document was served electronically by the Court's PACER system.

/s/ Stephen A. McCartin

Stephen A. McCartin

practicable thereafter; (iii) if an Administrative Claim is not Allowed as of the Effective Date, on the date that is no later than thirty (30) days after the date on which an order allowing such Administrative Claim becomes a Final Order of the Bankruptcy Court or as soon as reasonably practicable thereafter; or (iv) at such time and upon such terms as set forth in a Final Order of the Bankruptcy Court.

To be eligible to receive Distributions under this Plan on account of an Administrative Claim that is not otherwise Allowed by this Plan, a request for payment of an Administrative Claim must be filed with the Bankruptcy Court on or before the Administrative Claims Bar Date. Any Administrative Claim that is not asserted in accordance herewith shall be deemed disallowed under this Plan and shall be forever barred against the Debtors, the Debtors' Estates, or any of the Debtors' Assets or property, and the holder thereof shall be enjoined from commencing or continuing any action, employment of process or act to collect, offset, recoup or recover such Claim. For the avoidance of doubt, holders of the DIP Facility Claims, the Escrow Resident Claims and the Diminution Claim shall not be required to file an Administrative Claim for the allowance and satisfaction of such Claims.

2.2 Professional Claims. All Professionals seeking payment of Professional Claims shall (i) file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred in the Chapter 11 Cases by the date that is forty-five (45) days after the Effective Date and (ii) be paid (a) the full unpaid amount as is Allowed by the Bankruptcy Court within five (5) Business Days after the date that such Claim is Allowed by order of the Bankruptcy Court, or (b) upon such other terms as may be mutually agreed upon between the holder of such an Allowed Professional Claim and the Plan Sponsors; provided however that Professional Claims shall be cumulatively capped at \$1.5 million from the period of December 1, 2022 through the Effective Date, with holders of Professional Claims sharing Pro Rata in the \$1.5 million in the event Professional Claims exceed the cap. Any Professional Claim that is not asserted in accordance with Section 2.2 of this Plan or that exceed the cap shall be deemed disallowed under this Plan and shall be forever barred against the Plan Sponsors, the Debtors' Estates, or any of the Debtors' Assets or property, and the holder thereof shall be enjoined from commencing or continuing any action, employment of process or act to collect, offset, recoup or recover such Claim. All Professionals seeking payment of Professional Claims for amounts arising through November 30, 2022 shall file their respective interim fee applications for allowance of compensation for services rendered and reimbursement of expenses incurred in the Chapter 11 Cases through November 30, 2022 within twenty-one (21) days of entry of the Confirmation Order.

2.3 Priority Tax Claims. In accordance with Bankruptcy Code section 1123(a)(1), Priority Tax Claims have not been classified and are treated as described in this Section 2 of this Plan. Unless otherwise agreed by the holder of an Allowed Priority Tax Claim, any Person holding an Allowed Priority Tax Claim will receive, as determined by the Plan Sponsors in their sole discretion and in full satisfaction of such Claim, payment in Cash in full on the later of (i) the Effective Date, or as soon as reasonably practicable thereafter as determined by the Litigation Trustee, or (ii) the first Business Day after the date that is thirty (30) calendar days after the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, or as soon thereafter as is reasonably practicable.

Committee
Exhibit 1

‡ # 7 o

Week Number:	1	2	3	4	5	6	7	8	9	10	11
Week Ended:	1/8/2023	1/15/2023	1/22/2023	1/29/2023	2/5/2023	2/12/2023	2/19/2023	2/26/2023	3/5/2023	3/12/2023	3/19/2023
Total Operating Receipts	\$ 389,801	\$ 1,384,677	\$ 230,231	\$ 500,012	\$ 458,156	\$ 1,375,636	\$ 228,867	\$ 497,376	\$ 264,957	\$ 1,234,851	\$ 302,682
Operating Disbursements											
Salaries & Wages	564	511,444	45,451	662,290	564	470,283	564	521,430	451	467,825	451
Employee Benefits & Taxes	-	47,195	126,302	56,668	-	43,257	126,998	54,850	-	43,053	126,267
Culinary	-	250,560	265,560	-	-	-	280,967	-	-	-	270,076
Environmental Services	2,035	1,868	1,123	9,190	2,013	1,847	1,111	9,086	4,405	833	1,082
General & Administration	224,630	38,614	40,545	177,441	103,992	41,772	43,861	166,314	160,359	37,529	7,803
Leisure Services	4,103	3,263	2,138	15,620	4,103	3,263	2,138	15,620	6,818	1,561	5,423
Plant	103,482	30,540	70,649	75,113	31,626	33,926	78,749	83,736	50,383	53,909	42,484
Skilled Nursing	91,570	15,622	6,929	126,037	15,668	14,384	6,380	116,049	15,282	26,611	6,289
Property Taxes	-	-	-	2,083,288	-	-	-	-	-	-	-
Ground Lease	-	-	-	-	367,660	-	-	-	367,660	-	-
Other Disbursements ¹	-	2,016	613	1,202	-	2,015	596	1,202	1,911	105	1,815
Total Operating Disbursements	426,383	901,123	559,311	3,206,848	525,625	610,748	541,362	968,288	607,269	631,427	461,690
Net Cash from Operations	(36,582)	483,554	(329,081)	(2,706,835)	(67,469)	764,888	(312,495)	(470,912)	(342,313)	603,424	(159,008)
Non-Operating/Bankruptcy Receipts/(Disbursements)											
Capital Expenditures	(48,219)	(48,219)	(48,219)	(48,219)	(48,219)	(48,219)	(48,219)	(48,219)	(38,575)	(38,575)	(38,575)
Restructuring Professional Fees - Company ²	-	-	-	(376,000)	-	(870,000)	-	(256,000)	-	-	-
Restructuring Professional Fees - Claims Agent	-	-	-	(268,867)	-	-	-	(156,000)	-	-	-
Restructuring Professional Fees - DIP Lenders	-	-	-	(150,000)	-	-	-	(150,000)	-	-	-
Restructuring Professional Fees - UCC ²	-	-	-	(253,408)	-	-	-	(64,000)	-	-	-
Independent Director Fees	-	-	-	-	-	-	-	-	(45,000)	-	-
Ombudsman Fees	-	-	-	(14,007)	-	-	-	(5,000)	-	-	-
UST Fees	-	-	-	(94,869)	-	-	-	-	-	-	-
Net Cash Flow	\$ (84,801)	\$ 435,335	\$ (377,300)	\$ (3,912,206)	\$ (115,688)	\$ (153,331)	\$ (360,715)	\$ (1,150,131)	\$ (425,888)	\$ 564,848	\$ (197,583)
Cash Rollforward											
Beginning Cash and Investments	\$ 3,233,027	\$ 3,148,225	\$ 3,583,561	\$ 3,206,261	\$ 1,094,055	\$ 1,078,367	\$ 1,025,036	\$ 1,064,321	\$ 1,014,191	\$ 1,088,303	\$ 1,653,151
Net Cash Flow	(84,801)	435,335	(377,300)	(3,912,206)	(115,688)	(153,331)	(360,715)	(1,150,131)	(425,888)	564,848	(197,583)
DIP Borrowing	-	-	-	1,800,000	100,000	100,000	400,000	1,100,000	500,000	-	-
Ending Cash and Investments	\$ 3,148,225	\$ 3,583,561	\$ 3,206,261	\$ 1,094,055	\$ 1,078,367	\$ 1,025,036	\$ 1,064,321	\$ 1,014,191	\$ 1,088,303	\$ 1,653,151	\$ 1,455,568
DIP Rollforward											
Beginning Balance	\$ 10,100,000	\$ 10,100,000	\$ 10,100,000	\$ 10,100,000	\$ 11,900,000	\$ 12,000,000	\$ 12,100,000	\$ 12,500,000	\$ 13,600,000	\$ 14,100,000	\$ 14,100,000
Borrowing	-	-	-	1,800,000	100,000	100,000	400,000	1,100,000	500,000	-	-
Ending Balance	\$ 10,100,000	\$ 10,100,000	\$ 10,100,000	\$ 11,900,000	\$ 12,000,000	\$ 12,100,000	\$ 12,500,000	\$ 13,600,000	\$ 14,100,000	\$ 14,100,000	\$ 14,100,000

1. Other Disbursements includes assisted living, memory support, taxes, and COVID related disbursements.

2. Incurred Restructuring Professional Fees - Company/UCC are capped at \$2.0M from 12/1 with \$1.28M being paid within the budget period and \$720K to be paid subsequent to the budget period.

Committee
Exhibit 2

‡ # 7 o

Week Number:	12	13	14	15	16	17	Total
Week Ended:	3/26/2023	4/2/2023	4/9/2023	4/16/2023	4/23/2023	4/30/2023	17-Weeks
Total Operating Receipts	\$ 194,053	\$ 515,826	\$ 474,305	\$ 1,382,482	\$ 232,042	\$ 516,829	\$ 10,182,784
Operating Disbursements							
Salaries & Wages	517,754	451	470,257	564	537,688	564	4,208,593
Employee Benefits & Taxes	54,590	-	43,255	126,979	43,255	11,592	904,263
Culinary	-	-	-	-	280,671	-	1,347,835
Environmental Services	5,935	1,957	2,029	1,862	1,120	9,159	56,656
General & Administration	61,205	193,980	85,302	42,787	44,927	162,668	1,633,728
Leisure Services	6,175	5,146	4,103	3,263	2,138	15,620	100,491
Plant	107,493	41,776	26,534	28,443	65,634	69,772	994,249
Skilled Nursing	10,007	113,727	17,216	15,805	7,010	127,513	732,101
Property Taxes	-	-	-	-	-	-	2,083,288
Ground Lease	-	-	367,660	-	-	-	1,102,981
Other Disbursements ¹	-	-	-	2,016	612	1,202	15,305
Total Operating Disbursements	763,159	357,036	1,016,356	221,719	983,055	398,089	13,179,489
Net Cash from Operations	(569,106)	158,789	(542,052)	1,160,764	(751,012)	118,739	(2,996,705)
Non-Operating/Bankruptcy Receipts/(Disbursements)							
Capital Expenditures	(38,575)	(38,575)	(48,219)	(48,219)	(48,219)	(48,219)	(771,508)
Restructuring Professional Fees - Company ²	(256,000)	-	-	-	-	(256,000)	(2,014,000)
Restructuring Professional Fees - Claims Agent	(74,000)	-	-	-	-	(82,000)	(580,867)
Restructuring Professional Fees - DIP Lenders	-	(150,000)	-	-	-	(75,000)	(525,000)
Restructuring Professional Fees - UCC ²	(64,000)	-	-	-	-	(64,000)	(445,408)
Independent Director Fees	-	-	-	-	-	-	(45,000)
Ombudsman Fees	(4,000)	-	-	-	-	(2,000)	(25,007)
UST Fees	-	-	-	-	-	(115,013)	(209,883)
Net Cash Flow	\$ (1,005,682)	\$ (29,786)	\$ (590,271)	\$ 1,112,544	\$ (799,232)	\$ (523,493)	\$ (7,613,378)
Cash Rollforward							
Beginning Cash and Investments	\$ 1,455,568	\$ 1,049,886	\$ 1,020,100	\$ 1,029,829	\$ 2,142,374	\$ 1,343,142	\$ 3,233,027
Net Cash Flow	(1,005,682)	(29,786)	(590,271)	1,112,544	(799,232)	(523,493)	(7,613,378)
DIP Borrowing	600,000	-	600,000	-	-	200,000	5,400,000
Ending Cash and Investments	\$ 1,049,886	\$ 1,020,100	\$ 1,029,829	\$ 2,142,374	\$ 1,343,142	\$ 1,019,649	\$ 1,019,649
DIP Rollforward							
Beginning Balance	\$ 14,100,000	\$ 14,700,000	\$ 14,700,000	\$ 15,300,000	\$ 15,300,000	\$ 15,300,000	\$ 10,100,000
Borrowing	600,000	-	600,000	-	-	200,000	5,400,000
Ending Balance	\$ 14,700,000	\$ 14,700,000	\$ 15,300,000	\$ 15,300,000	\$ 15,300,000	\$ 15,500,000	\$ 15,500,000

1. Other Disbursements includes assisted living, memory support, taxes, and COVID related disbursements.

2. Incurred Restructuring Professional Fees - Company/UCC are capped at \$2.0M from 12/1 with \$1.28M being paid within the budget period and \$720K to be paid subsequent to the budget period.

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Committee
Exhibit 3

**COUNSEL FOR THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS**

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

<p>In re:</p> <p>Northwest Senior Housing Corporation, <i>et al.</i>,¹</p> <p style="text-align: center;">Debtors.</p>	§ § § § § § §	<p>Chapter 11</p> <p>Case No. 22-30659 (MLV)</p> <p>Jointly Administered</p>
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**OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
TO THE DEBTORS' AMENDED POST-PETITION DIP FINANCING AND CASH
COLLATERAL MOTION**
[Relates to Docket No. 1015]

The Official Committee of Unsecured Creditors (the “**Committee**”) hereby files its Objection (the “**Objection**”) to the *Debtors’ Amended (I) Motion for Entry of an Order Amending the Final Order (1) Authorizing Debtors in Possession to Obtain PostPetition Financing; (2) Authorizing Debtors in Possession to Use Cash Collateral; (3) Providing Adequate Protection; and (4) Granting Liens, Security Interests and Superpriority Claims and (II) Notice of the Amended*

¹ The Debtors in these chapter 11 cases (the “**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) (together, the “**Debtors**”). The Debtors’ mailing address is 8523 Thackery Street, Dallas, Texas 75225.



DIP Budget [Docket No. 1015] filed by the above-captioned debtors and debtors-in-possession (the “**Debtors**”), and respectfully states as follows:

I.
PRELIMINARY STATEMENT

1. The Committee filed objections to the Debtors’ original DIP Motion,² including an objection to the Debtors’ originally proposed budget and “carve out” for Committee professionals of only \$310,000, especially compared to the \$5,235,000 budgeted for the Debtors’ professionals.

2. To resolve this objection, the Debtors and the Committee agreed to an aggregate “carve out” and budget for Committee professionals of \$900,000 through December 31, 2022 (the Debtors anticipated conclusion of these Chapter 11 Cases at that time). This was an agreed budget amount, not an agreed cap on Committee fees, nor a limit on the Committee professionals’ allowed administrative expense claims against the bankruptcy estates. In fact, the Committee professionals were certain that their fees and expenses would exceed the \$900,000 budget, but were willing to defer the payment of fees incurred in excess of \$900,000 through December 31, 2022 until such excess would be, hopefully, paid as an administrative expense payment upon Plan confirmation.

3. These cases did not, of course, conclude by December 31, 2022. The confirmation hearing on the proposed Plan is now scheduled for February 22, 2023, with an Effective Date anticipated in April 2023. Accordingly, the Debtors have recently filed their Amended DIP Motion and propose to increase the amount of the DIP Loan, from \$10.1 million to \$15.5 million pursuant to a proposed amended budget (attached as Exhibit A to Docket Number 1015-1) (“**Proposed Amended Budget**”). The Proposed Amended Budget covers the period from January 1, 2023 through April 30, 2023.

² *Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Use of Cash Collateral, (II) Authorizing Post-Petition Financing, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, (V) Scheduling the Final Hearing and Approving the Form and Method of Notice Thereof, and (VI) Granting Related Relief* [Docket No. 35].

4. Consistent with the Debtors' pattern in the original Budget proposed at the outset of this case, the Proposed Amended Budget attempts to force the Committee to defer and risk the payment of a substantial amount of its professional fees incurred after January 1, 2023 until Plan confirmation.

5. The Proposed Amended Budget only allows for the payments of Committee professional fees of \$445,408 for the extended 5 months' DIP Period. This averages to \$89,081.60 per month. In comparison, the Debtors' professionals are allocated \$2,014,000, averaging \$402,800 per month during the extended DIP period. The Debtors are once again attempting to improperly force the Committee's professionals to defer and finance a disproportionate share of the unpaid administrative expenses of these estates, which is not fair nor legally enforceable, especially when considering the outsized fees of the Debtors' professionals compared with the Committee's professionals.

6. While the Proposed Amended DIP Budget does not limit the administrative expense claim of the Committee's professionals for allowed fees and expenses, the budget does force the Committee to defer and finance a disproportionate share of its unpaid fees. The Court should require the Increased Amount to be increased to an amount necessary to pay administrative expenses, and Committee professionals should be not forced to defer, finance and risk their fees on confirmation of a Plan.

7. While the Proposed Amended DIP Budget does not limit the administrative expense claim of the Committee's professionals for allowed fees and expenses, the Bondholders and the Debtors are attempting to improperly limit the allowed administrative expense claim of the Committee's professionals in Section 2.2 of their proposed Third Amended Plan of Reorganization filed on December 19, 2022 (the "**Plan**"). The Committee and its professionals have filed a limited objection to confirmation of the Plan for its failure to provide for the payment

in full of allowed administrative expenses of the Committee's professionals pursuant to the requirements of Section 1129(a)(9)(A) of the Bankruptcy Code. A copy of the Limited Objection is attached hereto as **Exhibit A**.

8. The Debtors' and Bondholders' attempt to use the Proposed Amended Budget, in conjunction with Section 2.2 of the Plan, to unilaterally cut off the Committee professionals' right to receive the full amount of their allowed administrative expense claims for reasonable and necessary fees for services rendered to the estates is not acceptable. No professionals in this case should be paid under the Proposed Amended Budget unless all professionals are treated equally and fairly. Without an increase in the budget for the timely payment of professionals, the estates are accruing unpaid administrative expenses.

9. For these reasons, the Committee objects to the Proposed Amended Budget until an appropriate and fair amount is budgeted for Committee professionals.

II. **BACKGROUND**

10. On April 14, 2022 (the "**Petition Date**"), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code and filed the Landlord Litigation. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made.

11. On April 28, 2022, the United States Trustee for the Northern District of Texas appointed the Committee in these Chapter 11 Cases, as amended on April 29, 2022 and May 2, 2022.

12. On June 23, 2022, the Court entered the Final DIP Order, attached to which was the First Budget covering the time period between the week ending May 8, 2022 and the week ending August 14, 2022.

13. On August 15, 2022, the Debtors filed the Second Budget covering the time period between the week ending August 21, 2022 and the week ending November 6, 2022.

14. On January 9, 2023, the Debtors filed the Proposed Amended Budget, as described above. The Court has scheduled an expedited hearing to consider the Proposed Amended Budget on January 12, 2023 at 9:30 am (CT).

III. RELIEF REQUESTED

15. As set forth above, the aggregate amounts contemplated for actual payment to Committee professionals under the Proposed Amended Budget fall short of an equitable split between the Debtors' professionals and the Committee's professionals. When combined with the Plan's proposed Section 2.2 professional fee cap, the Proposed Amended Budget will leave the Committee's professionals without a mechanism to receive the full amount of reasonable and necessary fees, as approved by the Court. The Committee's services to the estates should not be unilaterally hamstrung by limiting its professional fees (in advance) to an inequitable split with the Debtors' professionals under an artificial cap imposed by the Bondholders.

16. The Committee's professionals have, at several points during these Chapter 11 Cases, requested that the Debtors increase the amounts for Committee professionals through the Effective Date in order to allocate and to pay the actual reasonable and necessary amounts for legal services rendered to the estates. If the Proposed Amended Budget's professional fee allocation can be right-sized, it is potentially viable for the Plan's Section 2.2 professional fee cap to be feasible. However, the Bondholders and the Debtors have refused to ensure the Committee's professionals have an appropriate budget to adequately provide representation to the Committee's interests. In this way, Plan Section 2.2 violates 1129's requirement to pay all administrative expenses in full prior to the Effective Date. As currently drafted, the Proposed Amended Budget works against Plan Section 2.2 and renders the Plan unconfirmable.

17. Accordingly, the Committee requests that the Court deny the Proposed Amended Budget until an equitable and accurate amount of professional fees can be allocated to the Committee, even if that requires the Debtors to shift a percentage of the scheduled amounts from the generous columns budgeted by the Debtors for their professionals. It is inequitable that the Debtors would draft and propose a budget that pays its professionals an unfair amount at the expense of the Committee.

IV.
CONCLUSION

18. For the reasons stated above, the Committee objects to the Proposed Amended Budget.

Dated: January 11, 2023

Respectfully submitted,

FOLEY & LARDNER LLP

/s/ Stephen A. McCartin

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**COUNSEL FOR THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was served electronically by the Court's PACER system on January 11, 2023.

/s Stephen A. McCartin

Stephen A. McCartin



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**IN THE UNITED STATES BANKRUPTCY COURT
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In re: Northwest Senior Housing Corporation, et al.,¹ <p style="text-align: center;">Debtors.</p>	§ § § § § § §	Chapter 11 Case No. 22-30659 (MLV) Jointly Administered
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**LIMITED OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS AND ITS PROFESSIONALS TO CONFIRMATION OF THE PLAN**
[Relates to Docket No. 933]

The Official Committee of Unsecured Creditors (the “**Committee**”) and its professionals hereby file this their Limited Objection (the “**Objection**”) to the *Third Amended Plan of Reorganization of the Plan Sponsors* Dated December 19, 2022 [Docket No. 933] (the “**Plan**”) filed by the above-captioned debtors and debtors-in-possession (the “**Debtors**”) and the Bondholders (defined below), and would respectfully state as follows:

¹ The Debtors in these chapter 11 cases (the “**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) (together, the “**Debtors**”). The Debtors’ mailing address is 8523 Thackery Street, Dallas, Texas 75225.

I. **BACKGROUND**

1. On April 14, 2022 (the “**Petition Date**”), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made.

2. On April 28, 2022, the United States Trustee for the Northern District of Texas appointed the Committee in these Chapter 11 Cases, as amended on April 29, 2022 and May 2, 2022.

3. On December 19, 2022, the Debtors, UMB Bank, N.A., as trustee for the Original Bonds (the “Bondholders”) and in its capacity as lender under the DIP Credit Agreement, filed the Plan. The Confirmation hearing for the Plan is scheduled for February 22, 2023.

II. **LIMITED OBJECTION**

4. Section 2.2 of the Plan provides in part:

“...provided however that Professional Claims shall be cumulatively capped at \$1.5 million from the period of December 1, 2022 through the Effective Date, with holders of Professional Claims sharing Pro Rata in the \$1.5 million in the event Professional Claims exceed the cap.”

This provision of the Plan is hereinafter referred to as the “Fee Cap”.

5. “Professionals” is defined in the plan as all professionals employed in these Chapter 11 cases pursuant to Bankruptcy Code sections 327, 328, and 1103. This would include:

Debtors’ Professionals

- Polsinelli, PC;
- FTI Consulting; and
- KCC.

Committee's Professionals

- Foley & Lardner LLP; and
- Ankura.

6. The Fee Cap contained in section 2.2 of the Plan violates the requirements of section 1129 of the Bankruptcy Code for confirmation of a plan. Section 1129 provides that the court may only confirm a plan if all allowed administrative expenses, including allowed fees and expenses of the Committee's professionals, are paid in full pursuant to the plan. *See* Sections 1129(a)(a)(A), 507(a)(2), 503(b)(2), 330(a), and 327 of the Bankruptcy Code.

7. The Committee's professionals fully understand that the allowance of their fees and expenses are subject to, and conditioned upon, this Court's determination that the fees and expenses represent reasonable compensation for actual and necessary services rendered. However, once allowed, Committee professionals' fees and expenses constitute allowed administrative expenses of the estates that must be paid in full to confirm the Plan pursuant to the provisions of §1129 of the Bankruptcy Code. The Plan Proponents may not unilaterally "cap" or limit the payment of allowed administrative expenses without violating the plan confirmation requirements of §1129 of the Bankruptcy Code.

8. The Committee understands the desire by the Bondholders to attempt to limit professional fees, which would, under the Plan, directly increase their recovery. The Debtors' professionals have billed over \$5.2 million in fees and expenses (and that is only through August 2022 for Polsinelli and through November 2022 for FTI). The Committee's professionals have staffed these cases judicially and bill their professionals at much lower hourly rates than Debtors' professionals (e.g. \$925 per hour for S. McCartin, while J. Johnson bills \$1,100 per hour and C. Shandler at FTI bills \$1,325 per hour). The Committee professional fees and expenses are extremely reasonable, and are a fraction of the Debtors' professional fees. Accordingly, if the

Debtors, as a Plan Proponent want to limit their professional fees, great, but the Committee's professionals have not and do not agree to any such limit (and especially refuse to compete for a pro rata share of a capped amount with the much more expensive Debtors' professionals).

III. **CONCLUSION**

9. For the reasons stated above, the Committee and its professionals partially object to the confirmation of the Plan, which contains any Fee Cap for Committee professionals currently contained in Section 2.2 of the Plan.

Dated: January 11, 2023

Respectfully submitted,

FOLEY & LARDNER LLP

/s/ Stephen A. McCartin

Stephen A. McCartin (TX 13344700)

Thomas C. Scannell (TX 24070559)

Mark C. Moore (TX 24074751)

2021 McKinney Avenue, Suite 1600

Dallas, Texas 75201

Telephone: (214) 999-3000

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Email: smccartin@foley.com

Email: tscannell@foley.com

Email: mmoore@foley.com

COUNSEL FOR THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was served electronically by the Court's PACER system on January 11, 2023.

/s Stephen A. McCartin

Stephen A. McCartin

Stephen A. McCartin (TX 13344700)
Thomas C. Scannell (TX 24070559)
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smccartin@foley.com
tscannell@foley.com
mmoore@foley.com

Committee
Exhibit 4

**COUNSEL FOR THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS**

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

<p>In re:</p> <p>Northwest Senior Housing Corporation, <i>et al.</i>¹</p> <p style="text-align: center;">Debtors.</p>	§ § § § § § §	<p>Chapter 11</p> <p>Case No. 22-30659 (MLV)</p> <p>Jointly Administered</p>
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**LIMITED OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS AND ITS PROFESSIONALS TO CONFIRMATION OF THE PLAN**
[Relates to Docket No. 933]

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Dated: January 11, 2023

Respectfully submitted,

FOLEY & LARDNER LLP

/s/ Stephen A. McCartin

Stephen A. McCartin (TX 13344700)

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2021 McKinney Avenue, Suite 1600

Dallas, Texas 75201

Telephone: (214) 999-3000

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**COUNSEL FOR THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was served electronically by the Court's PACER system on January 11, 2023.

/s Stephen A. McCartin

Stephen A. McCartin

From: McCartin, Steve <smccartin@foley.com>
Sent: Thursday, December 1, 2022 7:24 AM
To: Trinitee Green <tggreen@polsinelli.com>
Cc: Jeremy Johnson <jeremy.johnson@polsinelli.com>
Subject: Re: Edgemere - Fee Estimate

I guess that is the period that Lifespace and Dan want to cap estate professionals at \$1.5. We haven't agreed to cap, but I know we need to budget. How much are debtors professionals budgeting?

Steve McCartin
Foley & Lardner LLP
2021 McKinney Avenue, Suite 1600, Dallas, TX 75201-3340
O 214.999.4945 | C 214.202.4111
smccartin@foley.com



From: Trinitee Green <tggreen@polsinelli.com>
Sent: Wednesday, November 30, 2022 5:35:00 PM
To: McCartin, Steve <smccartin@foley.com>
Cc: Jeremy Johnson <jeremy.johnson@polsinelli.com>
Subject: RE: Edgemere - Fee Estimate

**** EXTERNAL EMAIL MESSAGE ****

Hi Steve. Where did you land on estimated fees from December 1 to March 31?

Thanks,

From: Jeremy Johnson <jeremy.johnson@polsinelli.com>

Sent: Monday, January 9, 2023 10:22:58 PM

To: McCartin, Steve <smccartin@foley.com>

Cc: Trinitee Green <tggreen@polsinelli.com>; DSBleck@mintz.com <DSBleck@mintz.com>; Eric Blythe <eblythe@mintz.com>; Moore, Mark C. <mmoore@foley.com>; Jeremy Johnson <jeremy.johnson@polsinelli.com>

Subject: Re: Budget/Professional Fees

**** EXTERNAL EMAIL MESSAGE ****

Steve (I took off the broker),

Happy to discuss tomorrow in more detail. I agree there's an issue with the overlap for December (there was an original approved budget through 12/31, then it changes to the hard cap for Dec-Mar). Then, that cap was only through March and now we've added April, so we increased it by one month (averaged).

I think the cap was already approved by the Committee, but I could be wrong. We carved out the claims agent from the cap because they are primarily hard costs related to mailing/publication/balloting issues.

In terms of split, we estimated 80/20 on Debtor v. Committee professionals, that's just a guesstimate based on our respective workloads. FTI has all the reporting obligations to do as FA (but not much else), Polsinelli has the plan and cure/discovery obligations.

We know the Committee has a real role, but it's primarily focused on supporting the confirmation process and the resident trust related issues, to which we have deferred to you.

Again, can discuss tomorrow morning after our 9:30am hearing. Willing to consider reasonable modifications.

Jeremy

Jeremy R. Johnson
Polsinelli PC
Mobile: (732) 423-1148

On Jan 9, 2023, at 3:17 PM, McCartin, Steve <smccartin@foley.com> wrote:

EXTERNAL EMAIL smccartin@foley.com

Can someone help me understand the new proposed budget and particularly professional fees.

The Committee was allowed \$900,000 through 12/31. I think Foley/Ankura have been paid all but around \$124,421 (Ankura is now authorized to be paid \$71,700 more, which will leave \$52,720 remaining for Ankura out of the \$900,000 budget when it files its next monthly fee statement through 12/31).

The plan cap is \$1.5 million for both Debtors and the CC for 12/1/23 and thereafter. The overlap of the original 12/31 budget agreement and the plan fee cap starting on 12/1 is probably making it more difficult to follow.

The CC objects to the cap, but we would like to understand how you allocate the \$1.5 million cap in your new budget. Just adding the line items it appears you have budgeted the following, which aggregate more than \$1.5 million. I assume this has something to do with timing of pre and post 12/1/22 fees. Can someone explain? Thanks

- Debtors': \$1.470M
- Claims Agent: \$.425M

- UCC: \$.309M

Steve McCartin

Foley Lardner LLP

2021 McKinney Avenue

Suite 1600

Dallas, Texas 75201

smccartin@foley.com

214-999-4945 office

214-202-4111 cell

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From: McCartin, Steve <smccartin@foley.com>

Sent: Tuesday, January 10, 2023 7:55 AM

To: Jeremy Johnson <jeremy.johnson@polsinelli.com>

Cc: Trinitee Green <tgreen@polsinelli.com>; DSbleck@mintz.com; Eric Blythe <eblythe@mintz.com>; Moore, Mark C. <mmoore@foley.com>; Jeremy Johnson <jeremy.johnson@polsinelli.com>; Scannell, Thomas Charles <tscannell@foley.com>

Subject: Re: Budget/Professional Fees

Happy to discuss. Call me whenever you would like.

A few points for the record:

--it would be helpful if someone could explain the current proposed budget and how it ties to the attempted cap;
--I am not sure why you would think the Committee has ever agreed to the cap. In our initial discussions I voiced a strong objection to the cap, but then tried to negotiate an agreed split of the cap to avoid an unseemly dog fight over the limited budget, which was not successful;
--to avoid any further confusion or representation to the Court to the contrary, we intend to object to the DIP budget, all monthly fee statements of Debtors' professionals, and to confirmation of the Plan (I assume 1129 continues to require all allowed administrative expenses to be paid in full unless there is an agreement to the contrary).

Nevertheless, I recognize our obligation to meet and confer and would like to do so today also. Thanks

Steve McCartin
Foley & Lardner, LLP
smccartin@foley.com
O 214.999.4945
C 214.202.4111

Committee
Exhibit 7

From: McCartin, Steve <smccartin@foley.com>
Sent: Thursday, February 16, 2023 8:33 AM
To: Blythe, Eric <ERBlythe@mintz.com>; Walker, Eric <ewalker@cooley.com>; Jeremy Johnson <jeremy.johnson@polsinelli.com>; Bleck, Daniel <DSBleck@mintz.com>; Walsh, Kaitlin <KRWalsh@mintz.com>
Cc: Trinitee Green <tggreen@polsinelli.com>
Subject: Re: Committee 2/15 Comments to Amended Plan

Still objecting, but I assume you wouldn't revise just because I asked again. I'll call you to discuss

Steve McCartin
Foley & Lardner LLP
2021 McKinney Avenue, Suite 1600, Dallas, TX 75201-3340
O 214.999.4945 | C 214.202.4111
smccartin@foley.com



From: Blythe, Eric <ERBlythe@mintz.com>
Sent: Thursday, February 16, 2023 8:31:07 AM
To: McCartin, Steve <smccartin@foley.com>; Walker, Eric <ewalker@cooley.com>; Jeremy Johnson <jeremy.johnson@polsinelli.com>; Bleck, Daniel <DSBleck@mintz.com>; Walsh, Kaitlin <KRWalsh@mintz.com>
Cc: Trinitee Green <tggreen@polsinelli.com>
Subject: RE: Committee 2/15 Comments to Amended Plan

**** EXTERNAL EMAIL MESSAGE ****

Hi Steve – we are ok making that change. Does that mean you are no longer objecting to the cap?

Eric

Eric Blythe
Member

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center, Boston, MA 02111
+1.617.348.4913
ERBlythe@mintz.com | Mintz.com



From: McCartin, Steve <smccartin@foley.com>
Sent: Wednesday, February 15, 2023 3:15 PM
To: Walker, Eric <ewalker@cooley.com>; Blythe, Eric <ERBlythe@mintz.com>; Jeremy Johnson <jeremy.johnson@polsinelli.com>; Bleck, Daniel <DSBleck@mintz.com>; Walsh, Kaitlin <KRWalsh@mintz.com>
Cc: Trinitee Green <tggreen@polsinelli.com>
Subject: RE: Committee 2/15 Comments to Amended Plan

Dan and/or Eric,

Jeremy represented at the amended DIP Budget hearing that the Plan Proponents will exclude the fees of KCC from the \$1.5 million plan cap and the pro rate payment of that \$1.5 million to professionals for the Debtors and the Committee. Has UMB agreed to that modification?

If so, I think you should change the definitions or language of section 2.2 to implement that change, as I think the definitions currently used include KCC.

Thanks

Steve McCartin

Foley Lardner LLP
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Dallas, Texas 75201
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214-999-4945 office
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From: McCartin, Steve
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To: Walker, Eric <ewalker@cooley.com>; Blythe, Eric <ERBlythe@mintz.com>; Jeremy Johnson <jeremy.johnson@polsinelli.com>; Bleck, Daniel <DSBleck@mintz.com>; Walsh, Kaitlin <KRWalsh@mintz.com>