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PROPOSED COUNSEL FOR CHAPTER 11 TRUSTEE OF KENTUCKY OWL, LLC

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

IN RE:	§	**Case No. 24-80146-SWE**
	§	
STOLI GROUP (USA), LLC, *et al.*[1]	§	**Chapter 11**
	§	
	§	
Debtors.	§	**(Jointly Administered)**
	§	

**APPLICATION TO EMPLOY FERGUSON BRASWELL FRASER KUBASTA PC
AS COUNSEL FOR CLAUDIA SPRINGER, CHAPTER 11 TRUSTEE
<u>OF KENTUCKY OWL, LLC EFFECTIVE AS OF FEBRUARY 19, 2026</u>**

If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at https://ecf.txnb.uscourts.gov/ no more than twenty-one (21) days after the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk and filed on the docket no more than twenty-one (21) days after the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Stoli Group (USA), LLC (5602) and Kentucky Owl, LLC (3826). The Debtors' address is 135 East 57th Street, 9th Floor, New York City, New York.

Claudia Z. Springer (the "**Chapter 11 Trustee**"), as chapter 11 trustee of Kentucky Owl LLC (the "**Debtor**"), files this Application to Employ Ferguson Braswell Fraser Kubasta PC ("**FBFK**" or the "**Firm**") as local counsel for the Chapter 11 Trustee (the "**Application**") as of February 19, 2026, pursuant to sections 327, 328, 330, and 1107 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. (the "**Bankruptcy Code**") and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"). In support thereof, the Chapter 11 Trustee would show as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334(b). This is a core proceeding pursuant to 28 U.S.C. § 157. This Application is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory bases for the relief requested herein are sections 327(a) and 330 of the Bankruptcy Code, Bankruptcy Rules 2014(a) and 2016, Rules 2014-1 and 2016-1 of the Bankruptcy Local Rules for the Northern District of Texas (the "**Local Rules**"), and the Procedures for Complex Cases in the Northern District of Texas.

II. BACKGROUND

2. On November 27, 2024 (the "**Petition Date**"), the Debtor and its affiliate Stoli Group (USA), LLC each filed voluntary petitions for relief under Chapter 11.

3. On February 5, 2026, the Court entered an order authorizing and directing the Office of the United States Trustee (the "**U.S Trustee**") to appoint a chapter 11 trustee for the Debtor [Docket No. 1123].

4. On February 19, 2026, (the "**Appointment Date**") the U.S. Trustee appointed the Chapter 11 Trustee [Docket No. 1145]. On March 4, 2026, the Bankruptcy Court entered an order

approving the appointment of the Chapter 11 Trustee [Docket No. 1172].

5. By this Application, the Chapter 11 Trustee seeks entry of an order, substantially in the form of the proposed order filed with this Application, authorizing the retention and employment of FBFK as her local counsel in accordance with the terms and conditions set forth in that certain engagement agreement between the Chapter 11 Trustee and FBFK, attached as **Schedule 1** to the Smiley Declaration (the "**Engagement Letter**"). The Chapter 11 Trustee seeks approval of this Application effective as of the Appointment Date.

RETENTION OF THE FIRM

A. Qualifications

6. The Chapter 11 Trustee seeks to retain FBFK as its local counsel because the Firm's attorneys have experience in chapter 11 and other bankruptcy-related representations and are well-qualified to represent the Chapter 11 Trustee in the Debtor's bankruptcy case. The Smiley Declaration provides details of the Firm's qualifications to serve as Chapter 11 Trustee's counsel. The Firm has agreed, subject to the Court's approval, to represent the Chapter 11 Trustee in the Debtor's bankruptcy case.

B. Services to be Provided and Professional Compensation

7. Subject to further order of the Court, the Chapter 11 Trustee requests the retention and employment of the Firm to render or assist with the following legal services:

a) Perform all necessary services as the Chapter 11 Trustee's bankruptcy co-counsel, including, without limitation, providing the Chapter 11 Trustee with advice, representing the Chapter 11 Trustee, and preparing necessary documents on behalf of the Chapter 11 Trustee in the areas of restructuring and bankruptcy;

b) take all necessary actions to protect and preserve the Debtor's estate during the Debtor's chapter 11 case, including the prosecution of actions by the Chapter 11 Trustee, the defense of any actions commenced against the Debtor or Chapter 11 Trustee, negotiations concerning litigation in which the Chapter 11 Trustee is involved and objecting to claims filed against the Debtor's estate;

c) prepare or coordinate preparation on behalf of the Chapter 11 Trustee necessary motions, applications, answers, orders, reports and papers in connection with the administration of the Debtor's chapter 11 case;

d) counsel the Chapter 11 Trustee with regard to her rights and fiduciary duties;

e) coordinate with the Chapter 11 Trustee's other professionals in representing the Chapter 11 Trustee in connection with the Debtor's chapter 11 case; and

f) perform all other necessary legal services.

8. Based on the information provided in the Smiley Declaration, the Chapter 11 Trustee believes that the Firm intends to apply for compensation for professional services rendered on an hourly basis and reimbursement of expenses incurred in connection with the Debtor's bankruptcy case, subject to the Court's approval and in compliance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, Local Rules, the Complex Case Procedures in effect in this district, and any other applicable procedures and orders of the Court, including the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* [Docket No. 209] (the "**Compensation Procedures Order**"). The Firm will maintain detailed, contemporaneous records of time expended and expenses incurred in connection with the rendering of the legal services described above by category and nature of the services rendered.

9. Based on the information provided in the Engagement Letter and the Smiley Declaration, the Chapter 11 Trustee believes that Rachael Smiley (TX State Bar No. 24066158), will be the attorney primarily responsible for work performed in connection with this representation.

10. Based on the information provided in the Engagement Letter and the Smiley Declaration, the initial hourly rate for services rendered by Ms. Smiley in this case will be $750. The Firm's rates are agreed upon hourly rates and, the Chapter 11 Trustee believes, are set at a level to fairly compensate the Firm for the services it provides and routine overhead expenses. The Chapter 11 Trustee believes that these hourly rates are comparable to the hourly rates that the Firm uses for its work in other bankruptcy and non-bankruptcy matters and are reasonable and customary in the relevant community for attorneys of similar experience and skill in cases of this nature.

11. Based on the information provided in the Engagement Letter and the Smiley Declaration, the Chapter 11 Trustee believes that it is the Firm's policy to charge its clients in all areas of practice for all other expenses incurred (in the amount actually incurred) in connection with a client's representation that would not have been incurred except for representation of that particular client, including, but not limited to, filing and other governmental fees, deposition costs, expert witness fees, mail charges for mass mailings, express mail charges, special or hand delivery charges, photocopying charges, travel expenses, computerized research, and transcription costs. The Firm is to charge the Chapter 11 Trustee for these expenses in a manner and at rates consistent with charges made generally to the Firm's other clients and, specifically as to photocopy and facsimile expenses, such charges will be consistent with the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases* effective as of November 1, 2013 (the "**U.S. Trustee Guidelines**").

12. In accordance with section 329 of the Bankruptcy Code, Bankruptcy Rule 2016(b), and Local Rule 2014-1(a), the Smiley Declaration provides a statement that the Firm has not shared or agreed to share (a) any compensation it has received or may receive with any other party or

person, other than with the attorneys associated with the Firm in accordance with § 504(b)(1) of the Bankruptcy Code, or (b) any compensation any other party or person has received or may receive.

13. The Firm is not a creditor of the Debtor. The Firm has received no advance retainer or compensation of any kind from the Debtor, its estate, or the Chapter 11 Trustee.

14. Through this Application, the Chapter 11 Trustee now seeks to employ the Firm as her local bankruptcy counsel, subject to the entry of an order approving the Firm's retention, to advise her in this Bankruptcy Case.

15. The Chapter 11 Trustee is also concurrently filing applications to retain Hughes Hubbard & Reed LLP ("**Hughes Hubbard**") to serve as her lead counsel in the Debtors' bankruptcy case, and to retain Novo Advisors LLC ("**Novo**") as her financial advisor. FBFK will make every effort to work cooperatively with Hughes Hubbard's and Novo's professionals to insure that there is no duplication of the services it provides to the Chapter 11 Trustee and to the Debtor's estate.

16. Local Bankruptcy Rule 2014-1(b)(1) provides that, "[i]f a motion for approval of the employment of a professional is made within 30 days of the commencement of that professional's provision of services, it is deemed contemporaneous." Local Rule 2014-1(b)(1). Accordingly, the Chapter 11 Trustee seeks approval of this Application *nunc pro tunc* to February 19, 2026.

C. Firm Disinterestedness

17. Bankruptcy Code § 327(a) provides that a trustee or debtor, subject to Court approval:

> [M]ay employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest

> adverse to the estate, and that are disinterested persons, to represent or assist the [debtor]'s duties under this title.

11. U.S.C. § 327(a).

18. Section 101(14) of the Bankruptcy Code defines a "disinterested person" as a person that:

> Is not a creditor an equity security holder, or an insider; [or] is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and…does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason.

11. U.S.C. § 101(14)(A)-(C).

19. The Firm has informed the Chapter 11 Trustee that it will not represent any person in connection with any matter adverse to the Debtor in this case, or to the Debtor's estate.

20. Should the Firm discover during the pendency of this case that it represents any entities or persons that are affiliates of any party in interest in this case, it will promptly and fully disclose to the Court the nature of its representation and relationships thereto.

21. The Smiley Declaration contains information concerning potential parties in interest that the Firm has reviewed to determine whether it has any conflicts or other relations with these entities that might cause to be not disinterested or to hold or represent an adverse interest to the Debtor's estate.

22. The Firm has attempted to determine its past and present connections with the Debtor, its creditors, equity holders, or any parties in interest appearing in this case, their respective attorneys, accountants, the Court, the United States Trustee, or any person employed in the office of the United States Trustee. Based upon that investigation and to the best of the Firm's present knowledge, the Firm is not aware of any connections it has with the Debtor, its creditors, equity

holders, or any parties in interest in this case, their respective attorneys and accountants, the Court, the United States Trustee or any person employed by the office of the United States Trustee. If the Firm becomes aware of any such connections, it will supplement the disclosure at the earliest opportunity.

23. Bankruptcy Rule 2014(a) requires that an application for retention include:

> [S]pecific facts showing the necessity for the employment, the name of the [firm] to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the [firm's] connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

Fed. R. Bankr. P. 2014(a).

24. The Chapter 11 Trustee submits that, for all the reasons stated above and in the Smiley Declaration, the retention and employment of FBFK as her local counsel in the Debtor's bankruptcy case is warranted.

NOTICE

25. Notice of this Application s Application has been provided to (i) the U.S. Trustee; (ii) counsel for the Official Committee of Unsecured Creditors appointed in the jointly administered cases; (ii) counsel for the Debtor's secured lender; (iii) the Internal Revenue Service; and (iv) all parties in interest who have formally appeared and requested notice. The Chapter 11 Trustee respectfully submit that no further notice of this Application is required.

WHEREFORE, the Chapter 11 Trustee requests an order approving the employment of FBFK as local counsel to render legal services in the areas described above with such compensation as may be awarded by the Court upon proper application submitted pursuant to Fed. R. Bankr. P. 2016(a) and Local Rule 2016-1; and for such other and further relief as the Court may deem just and proper.

Dated: March 16, 2026

Respectfully submitted,

Claudia Springer, as Chapter 11 Trustee
of Kentucky Owl, LLC

BY: *<u>/s/ Claudia Springer</u>*
Claudia Springer

<u>CERTIFICATE OF SERVICE</u>

I certify that on March 16, 2026, a copy of the foregoing document was served electronically on the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas upon all parties entitled to receive such notification.

<u>/s/ Rachael L. Smiley</u>
Rachael L. Smiley

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

In Re:	)	**Case No. 25-80595-mvl-11**
BUCKINGHAM SENIOR LIVING COMMUNITY, INC.,	)	Dallas, Texas January 28, 2026 1:30 p.m. Docket
Debtor.	)	OMNIBUS HEARING:
	)	SALE HEARING (22) MOTION TO COMPEL (218) RULE 2004 MOTION (232)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MICHELLE V. LARSON,
UNITED STATES BANKRUPTCY JUDGE.

APPEARANCES:

For the Debtor:	Daniel M. Simon MCDERMOTT WILL & SCHULTE, LLP 1180 Peachtree Street, NE, Suite 3350 Atlanta, GA 30309 (404) 260-8554
For the Debtor:	Natalie A. Rowles MCDERMOTT WILL & SCHULTE, LLP One Vanderbilt Avenue New York, NY 10017-3852 (212) 547-5367
For the Debtor:	Jason T. Mitchell MCDERMOTT WILL & SCHULTE, LLP 500 North Capitol Street, NW Washington, DC 20001-1531 (202) 729-7467
For the Unsecured Creditors' Committee:	Shari Heyen Emily Nasir GREENBERG TRAURIG, LLP 1000 Louisiana, Suite 6700 Houston, TX 77002 (713) 374-3500

APPEARANCES, cont'd.:

For the Unsecured Creditors' Committee:	Danielle S. Kemp GREENBERG TRAURIG, LLP Bank of America Plaza 101 E. Kennedy Blvd., Suite 1900 Tampa, FL 33602 (813) 318-5700
For the Unsecured Creditors' Committee:	Karl G. Dial GREENBERG TRAURIG, LLP 2200 Ross Avenue, Suite 5200 Dallas, TX 75201 (214) 665-3611
For the Unsecured Creditors' Committee:	Nancy A. Peterman GREENBERG TRAURIG, LLP 360 N. Green Street, Suite 1300 Chicago, IL 60607 (312) 456-8400
For the Unsecured Creditors' Committee:	Casey Roy KANE RUSSELL COLEMAN LOGAN Frost Bank Tower 401 Congress Avenue, Suite 2100 Austin, TX 78701 (512) 487-6572
For UMB Bank, N.A.:	Frasher Murphy HAYNES AND BOONE, LLP 2801 N. Harwood Street, Suite 2300 Dallas, TX 75201 (214) 651-5246
For UMB Bank, N.A.:	Daniel S. Bleck Eric R. Blythe MINTZ LEVIN COHN FERRIS GLOVSKY POPEO, P.C. One Financial Center Boston, MA 02111 (617) 348-4498

APPEARANCES, cont'd.:

For the U.S. Trustee:	Elizabeth Ziegler Young OFFICE OF THE UNITED STATES TRUSTEE Earle Cabell Federal Building 1100 Commerce Street, Room 976 Dallas, TX 75242 (214) 767-8967
For Focus SH Acquisition, LLC:	Trinitee G. Green POLSINELLI, P.C. 1000 Louisiana Street, Suite 6400 Houston, TX 77002 (713) 374-1600
For Focus SH Acquisition, LLC:	Jeremy R. Johnson POLSINELLI, P.C. 150 N. Riverside Plaza, Suite 3000 Chicago, IL 60606 (312) 873-3623
For Creditor Donna Muchmore:	J. Robert Arnett, II CARTER ARNETT, PLLC 8150 N. Central Expressway, Suite 500 Dallas, TX 75206 (214) 550-8209
For the Texas Department of Insurance:	Sahrish Khan Soleja TEXAS OFFICE OF ATTORNEY GENERAL 12221 Merit Drive, Suite 650 Dallas, TX 75251 (832) 701-8418
For the Patient Care Ombudsman:	Susan L. Goodman PIVOT HEALTH LAW, LLC P.O. Box 69734 Oro Valley, AZ 85737 (520) 744-7061
For Pharmacy Corporation of America:	Phillip Martin FULTZ MADDOX DICKENS 101 South Fifth Street, 27th Floor Louisville, KY 40202-3116 (502) 992-5038

APPEARANCES, cont'd.:

For GreyStone Management Services:	David Campbell CARRINGTON COLEMAN SLOMAN & BLUMENTHAL, LLP 901 Main Street, Suite 5500 Dallas, TX 75202 (214) 855-3148
Recorded by:	Bryon A. Robinson UNITED STATES BANKRUPTCY COURT 1100 Commerce Street Dallas, TX 75242 (214) 753-2011
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Proceedings recorded by electronic sound recording; transcript produced by transcription service.

DALLAS, TEXAS - JANUARY 28, 2026 - 1:36 P.M.

THE COURT: Please be seated. Good afternoon, everyone. We are here on our 1:30 docket. We have one matter on the docket this afternoon, and that is Case No. 25-80595, Buckingham Senior Living Community, Inc.

I'll take appearances for the record, and I'll start with those folks in the courtroom.

MR. SIMON: Good afternoon, Your Honor. Dan Simon for the Debtor, also joined at counsel table by Natalie Rowles. And Jason Mitchell is here as well from McDermott.

THE COURT: All right. Thank you very much.

MR. SIMON: Thank you.

THE COURT: Appreciate it.

MR. MURPHY: Your Honor, Frasher Murphy with Haynes and Boone, along with Dan Bleck and Eric Blythe with the Mintz firm, representing UMB Bank as the Bond Trustee and Master Trustee.

THE COURT: All right. Thank you very much.

MR. BLECK: Good afternoon, Your Honor.

THE COURT: Good afternoon.

MS. GREEN: Good afternoon. Trinitee Green of Polsinelli. Here with me is Jeremy Johnson. And we also have with us Scott McGregor of Focus SH Acquisition. Thank you.

THE COURT: All right. Thank you very much.

MS. HEYEN: Good afternoon, Your Honor. Shari Heyen of Greenberg Traurig on behalf of the Official Committee of Unsecured Creditors. With me in the courtroom today is Ms. Nancy Peterman, Ms. Emily Nasir, both of Greenberg Traurig, and Jon Emerson of Berkeley Research Group, --

THE COURT: Okay.

MS. HEYEN: -- the financial advisor for the Committee.

THE COURT: All right. Thank you very much.

MS. HEYEN: In addition, Your Honor, I forgot one of the most important people here today, Mr. Karl Dial from our Dallas office.

THE COURT: Oh, excellent.

MS. HEYEN: Also with Greenberg. Thank you.

THE COURT: I've met Mr. Dial, as luck would have it, as a witness in a case once.

All right. In terms of WebEx, on behalf of Pharmacy Corporation of America, with the Fultz Maddox Dickens firm, I have Phillip Martin.

MR. MARTIN: Good afternoon, Your Honor.

THE COURT: Good afternoon. Thank you.

On behalf of the United States Trustee, I have Ms. Elizabeth Ziegler Young.

MS. YOUNG: Thank you, Your Honor.

THE COURT: Thank you. Also on behalf of the UCC, with the Kane Russell Coleman firm, I have Mr. Casey Roy.

MR. ROY: Good afternoon, Your Honor.

THE COURT: Good afternoon.

And then I know I have at least one student as well. Welcome. And that's Ms. Stephanie Kunkle-Timco. So welcome to our court.

Is there anyone else on WebEx who would like to make an appearance?

MR. CAMPBELL: Your Honor, David Campbell with Carrington Coleman for GreyStone Management Services.

MR. ARNETT: Good afternoon, Your Honor. This is Bob Arnett with Carter Arnett representing Donna Muchmore.

MS. SOLEJA: Good afternoon, Your Honor. Sahrish Soleja from the Texas Attorney General's Office appearing on behalf of the Texas Department of Insurance.

THE COURT: All right. Thank you very much.

MS. GOODMAN: Goode afternoon, Your Honor. Susan Goodman. I'm the Health Care Ombudsman.

THE COURT: Thank you.

MS. KEMP: Good afternoon, Your Honor. Danielle Kemp with Greenberg Traurig, also here for the UCC.

THE COURT: Okay. Thank you.

Give me one moment.

All right. Is there anyone else on WebEx who would like to make an appearance today?

(No response.)

THE COURT: Okay. So, as I understand it, we have three matters on the docket today. Obviously, the sale hearing and then a motion to compel that was filed by the Unsecured Creditors' Committee, as well as a partially unopposed 2004 motion with respect to the GreyStone Parties and Archie Clinton.

What makes sense in terms of the order we tackle these in, Mr. Simon?

MR. SIMON: Good afternoon. Again, Dan Simon of McDermott, Will & Schulte on behalf of the Debtors.

Well, the good news is I believe they're all resolved consensually. We'd like to start with the sale hearing because I think that's the most important, and then we can get to the other two discovery matters and we can kind of read into the record the agreements among the parties.

THE COURT: Okay. Excellent. Good to hear.

MR. SIMON: With respect to the sale hearing, what we'd like to do is we have two witnesses in support today. This follows a very robust auction process that occurred last week in our offices, and you'll hear about that from Mr. Fields, who is in the courtroom.

Mr. McGregor is also on the Debtor's witness and exhibit list. He is with Focus.

But what we would propose is to put Mr. Fields on the stand. We did not file a declaration, but we wanted Your

Honor to hear from him for a short direct. And obviously to the extent anyone wishes to cross Mr. Fields, they have the opportunity to do so, but we wanted Your Honor to hear about the sale process and the auction process directly from Mr. Fields.

And then we can turn to Mr. McGregor, and then we can kind of walk through where that leaves us. And there have been some modifications to the order that either myself or Ms. Rowles can walk you through.

THE COURT: Excellent.

MR. SIMON: Great. So, --

THE COURT: Makes sense to me. Does anyone have any different opinion of the order of operations?

(No response.)

THE COURT: All right.

MR. SIMON: Great.

THE COURT: Let's proceed.

MR. SIMON: So we'll call Mr. Fields to the stand.

THE COURT: All right. Mr. Fields, I think you know the way. I'll go ahead and swear you in, sir. Thank you.

DAVE FIELDS, DEBTOR'S WITNESS, SWORN

THE COURT: Thank you very much. Please be seated.

DIRECT EXAMINATION

BY MR. SIMON:

Q Good afternoon, Mr. Fields. Mr. Fields, who are you

employed by?
A I'm with the firm Raymond James.
Q And what is the role of Raymond James in this case?
A Raymond James is the investment banker for the Debtor.
Q And can you briefly describe Raymond James' efforts prior to the petition date, kind of what you were -- you know, how you were marketing the assets and what you were doing with respect to the Buckingham?
A Sure. So, Raymond James was engaged in late March 2025 to facilitate the solicitation of bids for parties that would be interested in affiliating or acquiring the Buckingham.

We commenced the process to explore this publicly in May, and we received letters of intent at the end of June, approximately. And July 3rd, we had a meeting at which we -- of the 1,500 or so parties, we had 28 nondisclosure agreements, of which we received five bids. And of those, we had -- we had a series of meetings and negotiations where we ended up with the designation from the board of the stalking horse, which is Focus.
Q Were the Bondholders supportive of that prepetition marketing process?
A Yeah. The Bondholders supported the effort, and also with respect to the forbearance agreements and helping fund the process as well and support the organization.
Q And you mentioned that Focus was identified as the

stalking horse bidder. What benefits did that provide the Debtor heading into the bankruptcy case?
A Sure. So, the Focus bid focused on continuing the operation as a continuing care retirement community, albeit the model would change into a rental model versus an entrance fee model. It would preserve the independent living, the assisted living, the skilled nursing, and all the amenities that are offered by the community and allow the residents to remain in place unaffected.
In addition, they provide certain protections for the residents, such as an entrance fee or rent rebate fund and a healthcare credit fund as well.
Q And did that bid serve as the floor in your postpetition marketing process?
A Yeah. So we were able to negotiate on behalf of the company a stalking horse asset purchase agreement, and we were able to submit that as the stalking horse. And that was the floor for an overbid process, which we commenced at the commencement of this case.
Q And can you briefly describe the postpetition marketing?
A Sure. So, after the filing, we immediately commenced overbid marketing in late November. We were able to get another 18 new parties to sign NDAs, on top of a couple hundred inquiries that we had worked through, and ultimately worked with the parties, multiple site visits of interested

parties, and we even had some attendance from the Committee on some of those, to participate to encourage folks to submit a bid, too, for an auction.

Q And did the Debtor receive any qualified bid on the bid deadline?

A We -- the Debtor received one qualified bid.

Q And who was that bid from?

A It was from the organization we refer to as Kong.

Q And did the Debtor convene an auction?

A And the Debtor successfully convened an auction, which occurred last week at this time.

Q And where was that auction held?

A So the auction was held at the offices of McDermott, Will & Schulte over here in Dallas. We opened -- we started the auction at 10:00 a.m., but we, through a lot of negotiations, in good faith with the Committee, the Trustee, the Debtor, and the participating parties, we didn't start the bidding until 2:45 in the afternoon.

Q And so can you describe that period between, say, 10:00 a.m. and 2:45? What were the Debtors focused on?

A Sure. So, understanding there was an auction, a desire to have all parties represented participate in the benefit of the auction, we worked closely with the Committee and the Bond Trustee to figure out a way to have overbids in a fashion that had an orderly auction.

Part of it was to potentially share additional proceeds from that auction, from, you know, the opening bid that's Kong's overbid, and share it. And we were establish an agreement between the Trustee and the UCC on a 50/50 relationship.

Further, there were some conditions in the Kong APA, such as the requirement of a -- some studies and some things it desired from a stalking horse that we were negotiating to resolve as well.

Q And so starting with the kind of discussions with Kong, were you able to -- were the Debtors able to effectively get their bid in place to be apples-to-apples or very similar to the Focus bid?

A Yeah. We were able, for that amount of time, able to make it apples-to-apples as much as we possibly could.

Q Okay. And then you mentioned seeking to reach agreement between the Committee and the Bondholders on the split of proceeds. Can you provide a little more context on that?

A Sure. So we interfaced separately with the Trustee representatives and also then with the UCC representatives and financial advisor. There was a bid/ask process between the two, where we, you know, finally presented, you know, the proposal of a 50/50 split.

Both had to go to their respective parties, it took some time, but ultimately we were able to achieve a 50/50 split amongst any, you know, additional proceeds above the, you know, the topping bid of Kong that was the starting point of the auction.

Q Do you think that agreement helped align the Bondholders and the Committee in achieving higher bids?

A Oh, absolutely, because it -- I think that there was great interest amongst the bidders to direct benefit toward the residents in addition to resolving the issue with respect to the estate. And because of that, you know, and I think that during the process we were able to get other sort of non-direct monetary benefits toward the residents of the Buckingham in the process.

Q Once the auction began in the afternoon, can you just describe for the Court how it was conducted and the process that you went through during the auction process?

A Sure. So, we had two bidders on either side of the table with their respective professional groups. We had representation from the Committee and from other, you know, interested parties as well available. And we also it on-screen as well.

And since Kong was the topping bid, the first bid was from Focus, who, you know -- and we established increments at $500,000. So we're -- and we were able to get the parties to agree to work in that fashion.

We had a couple rounds, until one party or the other --

Kong had done I think initially, you know, went from monetary to look at other nonmonetary kind of benefits after about the third or fourth round. And so then we were taking separate breaks.

And then within the nonmonetary dialogue that we would have between bids, we took time to establish valuation parameters around what those changes could be, you know, and we were working in rapid response so that -- and we communicated that perspective to both parties, so they can either, you know, agree, object, or continue the auction. And we had relative consensus around all those kind of steps in the process.

Q And the bids went back and forth? How did the auction conclude?

A So, at about the seventh or eighth bid, we realized that, you know, there's a -- you know, we're having more -- we're having different variables in there, and the thought was that, you know, both parties, as the day was getting late and we didn't want to, you know, have folks make modifications, to actually approach everyone with a sealed bid, giving them the opportunity, each bidder, to describe the bid the best they want and to talk about whatever considerations there, you know, the condition being that they can't make any bid worse than sort of what they've done for any respective party.

Both bidders agreed to that process of one sealed bid each which we would read out. So at 6:00 p.m. Central is when we issued the directive for delivery at 7:00 p.m. Central. We received the bids at 7:00. We went back on the record approximately at that time to read the two bids and then to seek authority. So we continued the auction until we spoke with our clients and the UCC and others could speak with their clients as well as to the views on the conclusion of the auction.

Q So the next day, did the Debtor convene a board meeting to determine the successful bid?

A The board meeting, yeah, the board had a meeting that afternoon, in earnest, with great interest.

Q And who did it name as the successful bidder?

A The board named Focus as the successful bidder.

Q And did it name Kong as the backup bidder?

A The board named Kong as the backup bidder.

Q Why did the board determine that Focus was the successful bidder?

A So, the board made the determination on a number of factors, but largely that the number of improvements that Focus had provided was greater than, you know, Kong in a number of ways. You know, greater consideration to the Trustee, greater deposit for security, a lower level of resident occupancy requirement for closing as well, which we all viewed as important, the funding of the entrance -- the rent rebate fund, and, you know, the funding of the healthcare credit fund as well.

And a significantly higher deposit at 10 percent, or at $10 million, which is about 8.8 percent of the final bid price.

Q And was that decision supported by the Committee and the Bondholders as well?

A Yeah. We presented our findings and it was supported by the Committee, and the Bondholders as well ratified that decision.

Q Do you believe that the conduct of the auction was fair and transparent to all parties?

A I do.

Q And why is that?

A So, the parties were put in separate rooms, had no communication with each other, unless they were, you know, other than at a group setting at the auction itself. These were arm-length negotiations. You know, other than reading the stalking horse proposal, no party was aware of what other positions are relative to their strategy to move forward. You know, we had multiple parties at the auction at all times, so, you know, there was no collusion whatsoever that we saw.

Q Do you believe the sale to Focus is in the best interest of the Buckingham?

A I agree the sale to Focus is in the best interest of the

Buckingham and its residents.

Q And why is that?

A Focus is an experienced operator. They provided the best outcome relative to the process here. But they are a very experienced operator, multilevel systems, similar kind of operations.

One commitment I failed to mention was that they are committing to $40 million of capital improvements in the building over four years. Or $20 million, excuse me. $10 million in the first two years. So they're looking at significant investment into the community as well.

Focus is well known in the industry. Has a good reputation throughout the instances where we've dealt with them. They've been -- they've delivered on what their commitments are.

MR. SIMON: I have no further questions for the witness.

THE COURT: Thank you very much, Mr. Simon.

All right. Anyone wish to cross-examine Mr. Fields?

(No response.)

THE COURT: Anyone online, on WebEx, who wishes to cross-examine Mr. Fields?

(No response.)

THE COURT: I don't think I have any questions of the witness. Thank you very much for your testimony. I will want to take a look at whatever the changed terms are so I can kind of put my hands on those. But no questions of the witness. Thank you very much. Appreciate that.

MR. SIMON: So, --

THE COURT: You may step down.

(The witness steps down.)

MR. SIMON: Yeah. Your Honor, I was going to point this out. At Docket 230 --

THE COURT: 230?

MR. SIMON: -- is the Notice of Auction Results and --

THE COURT: Okay.

MR. SIMON: -- and Designation Successful Bid. And what Docket 230 does is, in bullets, provides kind of the increases that occurred during the auction. But in addition, there's an attachment that compares -- and I think we have copies if you need -- but it compares --

THE COURT: I found it in my preparatory materials. Thank you, Mr. Domanski. Who's probably thinking, what is she talking about?

MR. SIMON: And so what the exhibit shows is it's a summary of the final sealed bids. I guess what it doesn't show is how it compares to the original stalking horse bid, but I think that would be encapsulated in the bullets that are outlined.

And then we have an amendment to the APA, which I'm not sure, has that been filed yet with the Court?

MS. ROWLES: No.

MR. SIMON: Not yet. So we'll attach the amendment. Instead of doing an Amended and Restated APA, it's just a short amendment reflecting all of the increased terms from the APA.

THE COURT: Okay. And you've hit upon my question. Are the changes that resulted in the resolution today encompassed in 230, or are they going to be announced?

MR. SIMON: They are encompassed in 230.

THE COURT: Okay. All right.

MR. SIMON: They're all there. There has been some back and forth about the precise allocation of this 50/50 split.

THE COURT: Sure.

MR. SIMON: Which, as I understand, is now agreed upon.

THE COURT: Okay.

MR. SIMON: I think it was -- but it's 50/50, and we have the exact figures that we can walk Your Honor through as well.

THE COURT: Okay.

MR. SIMON: But it's roughly 50/50 of the 15 --

THE COURT: And the 50/50 split goes off of the topping, the delta after the topping bid?

MR. SIMON: Correct. There was a bid from Kong, --

THE COURT: Exactly.

MR. SIMON: -- and that, yes, the difference between that Kong bid and then the ultimate winner, --

THE COURT: Okay.

MR. SIMON: -- the winning bid. Correct.

THE COURT: Cool. Excellent. Appreciate it.

So you said you had another witness? Were you going to call Mr. McGregor?

MR. SIMON: The buyer has a witness of Mr. McGregor. They filed a declaration at Docket 238.

THE COURT: Got it.

MR. SIMON: Mr. McGregor is in the courtroom. He's available for cross-examination. But we would simply seek to introduce that declaration --

THE COURT: As his direct? Okay.

MR. SIMON: -- as his direct.

THE COURT: Let me take a look at it.

(Pause.)

THE COURT: All right. Is there any objection to essentially the admission of or the proffer of Mr. Scott McGregor's testimony by way of the declaration that's filed at Docket 238?

Okay. Hearing no objection, the Court will allow the declaration as Mr. McGregor's direct testimony.

Is there anyone who wishes to cross-examine Mr. McGregor?

Okay. Hearing no takers, the only thing that I would ask of Mr. McGregor, and I can go ahead and swear him in, is just that he confirm that the terms that are laid out in I think it is your 230 are the terms that Focus has agreed to.

So, Mr. Johnson, if you want to put him on for that, or if you want Mr. Simon to do so.

MR. JOHNSON: We'll put him on, Your Honor.

THE COURT: Okay. Excellent. Thank you.

MR. JOHNSON: Thank you.

MR. MCGREGOR: Thank you, Your Honor.

THE COURT: I'll go ahead and swear you in, sir, when you get a moment. Thank you.

SCOTT RICHARD MCGREGOR, FOCUS SH ACQUISITION, LLC'S WITNESS, SWORN

THE COURT: Thank you very much. Please be seated.

Mr. Johnson?

MR. JOHNSON: Thank you, Your Honor. For the record, Your Honor, I think Mr. McGregor's declaration is at Docket 238.

THE COURT: Right. So, 238 was the declaration.

MR. JOHNSON: Right.

THE COURT: I was asking if the terms that are laid out in 230 are the terms that Focus has agreed to. That's what I'd like him to attest to.

MR. JOHNSON: Your Honor, if I could approach, I've got a -- I'm stealing your copy of --

THE COURT: Okay.

MR. JOHNSON: I'll take one with no writing on it. Thank you, Your Honor.

THE COURT: Thank you.

DIRECT EXAMINATION

BY MR. JOHNSON:

Q Mr. McGregor, will you state your name for the record?

A Scott Richard McGregor.

Q And where are you employed?

A Focus Healthcare Partners.

Q Thank you. Could you take a look at that Document 230 I just handed you and flip through it? It says, Notice of Auction Results and Designation of Successful Bidder and Backup Bidder. Specifically, the last paragraph on Page 2 and the bullet points under there. Will you take a moment to read that? Take your time.

(Pause.)

A Okay.

Q Okay. So, based on your understanding of those bullet points, and obviously, subject to the documents we'll be submitting, the APA and the sale order itself, is it your understanding that these are the -- is this consistent with

the revised bid that was submitted by Focus at the auction?
A Yes.
Q And this is -- this is the bid that you guys are prepared -- Focus is prepared to close on?
A Yes.
Q Okay.

MR. JOHNSON: That's all I have, Your Honor.

THE COURT: All right. And I don't think I have any other questions. I just wanted to make sure that we had these new terms on the record. Thank you very much.

MR. JOHNSON: Thank you, Your Honor. Yeah, some of the terms are in the amendment and some are going to be in the order, and I think we'll go through them as we -- as the hearing goes on so you can see exactly where they are and how they impact it.

THE COURT: Excellent.

MR. JOHNSON: Thank you, Your Honor.

THE COURT: Thank you, Mr. Johnson.

MR. JOHNSON: Mr. McGregor is trying to catch a flight, and that's a dangerous thing these days.

THE COURT: Yes.

MR. JOHNSON: So if it's okay, Your Honor, may he be excused?

THE COURT: Yes. Go before the temperature drops.

MR. JOHNSON: Yeah.

THE WITNESS: Thank you, Your Honor.

MR. JOHNSON: Thank you.

THE COURT: Thank you very much. Thank you for being here.

(The witness is excused.)

MR. SIMON: So, Your Honor, that is the evidentiary basis we have. We would seek admission of -- I'm struggling to find a witness and exhibit list, but we would just ask Your Honor, --

THE COURT: Sure.

MR. SIMON: -- many of them are pleadings, but ask Your Honor to admit the evidence outlined on our witness and exhibit list. Some of it is with respect the motion to compel. We obviously don't need that.

THE COURT: Okay.

MR. SIMON: I don't know if we have the numbered, Debtor numbers.

THE COURT: So I've got 1 through 12 filed at Docket -- no, that would be the Committee's. Sorry. That's what I get for being helpful. All right. Let's see. There's yours, at 249, which is your supplemental. The supplemental seems to be primarily related to the --

MR. SIMON: The motion to compel.

THE COURT: -- to the motion to compel, so let me look at your 240. Just one second.

(Pause.)

THE COURT: Okay. So your 240 are the three declarations: Michael Weiss in support of first days; David Fields; and Mr. McGregor. And then it skips to 7, so let me see if there's another one. Yes.

(Pause.)

THE COURT: Ms. Rowles, am I missing three exhibits?

MS. ROWLES: Sorry, Your Honor. Are you missing--?

THE COURT: So, I see that we went from 240, which had three exhibits, and then I see the supplemental, but that starts at #7. So I'm wondering if I'm missing another --

MS. ROWLES: Oh, apologies, Your Honor. I see what we did. We inadvertently -- we have sort of 4, 5, and 6 as placeholders, any other document, any other --

THE COURT: Fair enough.

MS. ROWLES: -- exhibits for impeachment purposes, and we started at 7. But you're correct; we should have started at 4.

THE COURT: Okay.

MR. SIMON: I guess it's only those three, then.

THE COURT: Okay. Fair enough. So just --

MR. SIMON: We blame the snow storms. So, sorry about that. Apologies, Your Honor.

THE COURT: No problem. Okay. So, for sake of the record, are there any objections to the admission of, at least for now, Debtor's 1 through 3?

Hearing no objections, the Court will admit 1 through 3, found at Docket 240.

(Debtor's Exhibits 1 through 3 are admitted.)

MR. SIMON: And then what we'll do, assuming Your Honor enters the order, the order will have attached to it the final APA and the amendment as well.

THE COURT: And the amendment? Okay.

MR. SIMON: Uh-huh.

THE COURT: Excellent.

MR. SIMON: So we have no further evidence in support of the sale.

THE COURT: Okay. Thank you very much, Mr. Simon.

MR. SIMON: Thank you.

THE COURT: Is there anyone who wants to be heard with respect to the sale? I'll start with the UCC. Ms. Heyen?

MS. HEYEN: Thank you, Your Honor. Again, Shari Heyen on behalf of the Official Committee of Unsecured Creditors.

Just we've got probably over 80-plus people on the Zoom camera, and I think maybe for the benefit of the audience and the Court, it might be helpful to walk through some of features of the sale that was originally advertised back in the day when it was filed, and what we got to, how we got to here, where we are. So if it pleased the Court, --

THE COURT: I think that would be helpful.

MS. HEYEN: Okay. Thank you, Your Honor.

As the Court will recall, the Committee objected, and through its objection identified several critical features in objection to the proposed stalking horse bid as it was advertised.

Your Honor, we've got probably 360 residents at the Buckingham in Houston. We've got trusts, estates, families, family members, all of whom are very concerned at the time that the sale motion was filed that they were in danger of losing their homes.

If you look at Docket No. 208-1, that's an exhibit of a flyer that basically advertised, when they became residents at the Buckingham, that they would be able to remain in their homes forever. And so when this sale originally rolled out, there were -- they were very rightly concerned about whether -- what their future looked like at the Buckingham.

Our objection had several layers of -- you know, we try to highlight for the bidders and for the residents, both current and former, what was going on with the sale.

So one of the features of the original sale was that a new agreement was to be signed that included broad, sweeping releases of current board members, current directors, officers, and management, the management company there, as well as other third parties. That was overreaching to the residents who put their life savings into the Buckingham. This was the second Buckingham bankruptcy case since 2021. And so we wanted to highlight that for the residents and also for the Court.

In connection with the sale as originally proposed, zero money was set aside for the former residents. And we'll get to the split of the allocation amount in a minute, which is almost $7.4 million.

$12 million was also to be included as part of the bid as forthcoming in the future. So there's $12 million in rebates, but it wasn't going to be funded at closing. Again, promises had been made to the residents about when they were going to get their entrance fees refunded, et cetera. So the residents had a legitimate concern there.

Next, with respect to the benevolent care residents, some of those members, we understand, are clergy members -- there's a nun, for example -- who were going to lose their homes in six months. We got that feature extended out to 18 months, which I'll get to in a second.

And then there was a $750,000 healthcare fund that was, again, to be funded in the future. No guarantee that that was going to be funded.

The net sales proceeds being paid to the prepetition lender was going to happen at closing. That's now not going to happen.

And Your Honor, that highlights some but not all of the objectionable features of the sale as it was originally advertised.

I want to thank the members of the Committee who have worked really tirelessly on this case. We have several calls, you know, a week. But we think that with the Committee's objection, the landscape changed at the auction, the buyers heard these concerns, the fears of the current and former residents.

So, as a result of the auction, now I think Your Honor heard that there will be a 50/50 split of the value over the initial bid. That will result in a net number to the general unsecured creditors to be used by the Committee, directed by the Committee, of $7,391,075. $7,391,075.

Also, the third party releases have been stripped out of the proposed forms of rental agreements.

$12 million will now be paid at closing into an escrow account, and those funds will be disbursed beginning in Month 13, provided certain conditions are met. And that's going to be all outlined in the proposed order.

The benevolent care residents, as I mentioned, their six-month period is now being extended to 18 months.

The $750,000 healthcare fund that was -- is now going to be funded at closing and not at some time in the future. The

Residents Committee has a consultation right as to how that money is spent in the future.

All claims and causes of action have been preserved. They are not being released as part of the sale transaction. And the proposed order, Your Honor, provides -- I think when Mr. Simon hands it up -- that the net sales proceeds, so it'll be the net net, so the allocation amounts will be disbursed but the net net will be held in an account until after the challenge period expires or it's resolved or upon agreement or further order of the Court. So that's going to be held and trapped until that's all sorted out.

And then finally, Your Honor, $20 million in capital expenditures are being earmarked for the facility. The Residents Committee will get a say in how those funds are used.

So, Your Honor, I think, you know, just, really, this is a testament to those members of the Committee about being in the trenches with us, pursuing the objections at the auction, to get to this point today. But we thought it was a good idea to rise and explain to those on the phone and to Your Honor exactly kind of how we got here.

And then also want to say thank you to Kong Capital, who was at the auction and helped achieve the progression as we went through the bidding, several rounds at the auction last week.

THE COURT: All right. Thank you very much, Ms. Heyen. I think it is very helpful. Obviously, it's not the first senior living case that's happened in our district, and we have extended WebEx access, especially to residents. I think that's especially helpful in cases like this. So I am sure that it was informative to them, and so I'm pleased with that.

MS. HEYEN: Right.

THE COURT: Thank you.

MS. HEYEN: Thank you, Your Honor.

THE COURT: Appreciate that.

All right. Mr. Blythe, Mr. Bleck, do you wish to be heard?

MR. BLYTHE: Thank you, Your Honor. Briefly. Eric Blythe on behalf of UMB Bank as Bond Trustee.

The Bond Trustee supports the sale. I think this process worked exactly how it was designed. The stalking horse process generated significant, both monetary and nonmonetary, benefits above the original bid. The parties worked very cooperatively to maximize the value of the estate. So we're very pleased with the result.

The one thing I would note, we've been discussing the allocation amount. The one fact that we just have to highlight is there are minimal miscellaneous closing costs that haven't yet been determined. Those are going to be allocated pro rata, like the other costs were, of the additional amount above that opening bid by Kong. So there might be some minimal adjustments based on the number that was just read into the record, --

THE COURT: Okay.

MR. BLYTHE: -- but that's the only difference that I wanted to highlight.

THE COURT: All right.

MR. BLYTHE: Any questions for me, Your Honor?

THE COURT: No.

MR. BLYTHE: Great. Good to see you.

THE COURT: Thank you very much.

MR. JOHNSON: Your Honor, if I may?

THE COURT: Of course, Mr. Johnson. And I intend to go to TDI and the other objectors as well.

MR. JOHNSON: Oh. Thank you, Your Honor. The only clarification, I think, on the Committee's presentation is there is still a release in there. The Buyer is getting a release --

THE COURT: Okay.

MR. JOHNSON: -- from the residents.

THE COURT: Okay.

MR. JOHNSON: But the legacy parties are not. And good news, Your Honor. No stucco at the Buckingham. So thank you.

THE COURT: When I heard CAPEX, I got just a little shiver up my spine. Thank you very much, Mr. Johnson.

Ms. Heyen?

MS. HEYEN: Thank you, Your Honor. Just with respect to the comment by the Bondholders' counsel, not sure what that was about. We were told before the hearing that this, the number was agreed to, was the $7.391 million number, that's the number that we agreed to. So I'm a little bit surprised to hear that there might be --

THE COURT: Okay. Well, we'll take a recess before we --

MS. HEYEN: Okay.

THE COURT: -- go final, and I'll allow you guys to talk about it.

MS. HEYEN: Great. Thank you.

THE COURT: All right. Thank you.

And I assume, Mr. Johnson, because you escaped before I could ask you: The release that the Buyer is receiving is something akin to no successor liability other than that which will be outlined in the APA?

MR. JOHNSON: Yes, Your Honor. And in the rental. There's successor liability, good faith findings, those sort of things --

THE COURT: Okay.

MR. JOHNSON: -- in the order. But in the -- the releases in question that were brought at issue by the objections were there were releases in the new rental agreements, --

THE COURT: Okay.

MR. JOHNSON: -- you know, the condition that there would be a release in there for the Debtors, the Debtor's board, GreyStone, the Bond Trustee, and the Buyers. And everybody objected to everybody but the Buyers.

THE COURT: Right.

MR. JOHNSON: So the people paying $116 million are getting their release.

THE COURT: Right.

MR. JOHNSON: But everybody else is not, yeah.

THE COURT: And, again, just from my knowledge, essentially, it's just basically to establish, whatever the effective date of the APA is forward, that will be your liability but nothing from prior to?

MR. JOHNSON: Correct. Well, it'd be from closing, but yes, Your Honor.

THE COURT: Exactly.

MR. JOHNSON: Yes.

THE COURT: Thank you.

MR. JOHNSON: Which is going to take -- it's 60 to up to 120 days, but we think it'll be before that.

THE COURT: All right. Thank you very much, Mr.

Johnson.

MR. JOHNSON: Thank you, Your Honor.

THE COURT: All right. I'll now go to TDI. Ms. Soleja, would you like to be heard?

MS. SOLEJA: Thank you, Your Honor. No additional comments for TDI. We just want to thank the parties for working with us and resolving our objections.

THE COURT: All right. Thank you very much.

I am looking, I think the objections that were filed by I think it was the Estate of Ms. Hagood and things of that, they were withdrawn --

MR. SIMON: It was withdrawn.

THE COURT: -- prior to the hearing, correct?

MR. SIMON: Correct. Right.

THE COURT: Okay. Is there anyone else who wishes to be heard with respect to the sale?

MS. GOODMAN: Your Honor, this is Susan Goodman, the Healthcare Ombudsman. Can I just call attention to one fact that was in my report?

First, I too want to thank Debtor's counsel, all the people. It sounds like they've worked hard to come to some conclusions that are really beneficial to the benevolent people.

In my report, however, I called attention to the fact that there are two benevolent residents in memory, one in nursing, one in assisted living. It's hard to predict. I don't know the clinical picture for those four particular residents. I think what -- maybe there could be some wording. If someone at the time the request for them to leave the CCRC coincides with end of life, I would have some pretty significant concerns that we'd have someone on hospice or someone -- and I think it's fairly well documented that moving people from memory places can be problematic as well.

I don't know if there is some way to structure the wording in a way that allows flexibility for -- you know, I realize why we wouldn't want to add to the benevolent pool, but there are four individuals that today are receiving healthcare, and I think I would be remiss as the Ombudsman if I didn't call attention to the comments I made surrounding those individuals in my report.

Thank you, Your Honor.

THE COURT: Thank you very much, Ms. Goodman.

Does anyone want to be heard with respect to those residents?

MR. SIMON: Your Honor, we're happy to work with Ms. Goodman --

THE COURT: Okay.

MR. SIMON: -- on some proposed language.

THE COURT: All right. So, anything else with respect to the APA before we take a brief recess, allow the

UCC and UMB to discuss the finer points of what constitutes minor closing costs?

MR. SIMON: Your Honor, I just -- the other parties stole my thunder, which is good. I just want to kind of reiterate that this was a very beneficial process. These cases, these senior living cases, CCRC cases, don't always go as smoothly as this one has gone. I think it's a testament to our board, who has worked feverishly, both prepetition and postpetition. They're very engaged in the process. They're very focused on, you know, what the residents care about at the facility.

Mr. Philip Jacob at the facility has been key in keeping the residents engaged and working collaboratively with them. And the parties in this room, we all came together. The Debtor, the Committee, the Bondholders. It didn't have to be this way, but I'm happy that it is.

Your Honor noted at the outset that there's a student on the line, and I'll just note, this is how bankruptcy is supposed to work. Consensus among the parties, maybe objections that get resolved, and incremental progress, resulting in a value-maximizing auction and sale process. So we're happy to be here before Your Honor in a consensual fashion, and we think hopefully every case can go this smoothly.

THE COURT: Thank you very much, Mr. Simon.

All right. Anyone else wish to be heard?

MR. MARTIN: Your Honor?

THE COURT: Mr. Martin?

MR. MARTIN: Yes, Your Honor. On behalf of Pharmacy Corporation of America.

We just had a cure objection, and my understanding was those are going to ride through. But our objection was listed on the agenda as a related document, so I just wanted to make sure that we'll deal with that at a later date and that it's not going to be affected by the order today, given that we were put on the agenda.

THE COURT: There's a lot of shaking heads.

MR. SIMON: Mr. Martin and I know each other well, so I'm happy to work with him on that.

THE COURT: Excellent. All right.

MR. MARTIN: Thank you.

THE COURT: Thank you. And that would have been my assumption with respect to cure, but I understand your rising to speak about it, given that it is on the agenda. So we will put a pin in the cure and allow you to work through that issue with the Debtors and the Buyer.

Again, I'm going to allow the parties to speak a little bit about the nuts and bolts of the closing costs and things of that nature and see if we can come to a resolution. But the Court is very pleased to see that we're here consensually with respect to the sale, from a number of perspectives. I applaud, obviously, UMB as the secured lender has given a number of concessions along the way. I'm glad that there could be a competitive process.

I'm certainly glad that the UCC made its points and its issues known early on, so that they could be fleshed out at the auction itself, so that Focus and Kong and whoever else was looking to bid knew what the issues were from the Committee's perspective and were able to address them along the way.

I'm certainly pleased to see a reputable, experienced buyer in the way of Focus that is going to be taking the helm after closing.

And I'll remark, I don't always remember to do this, it's very Judge Hale of me, is that I'll remark about the quality of the lawyering that I've seen here as well. A lot of the folks in this room, a lot of the folks online, are not only skilled bankruptcy practitioners, but they are skilled in the senior living space. It really kind of makes all the difference, is that when you have the experience of that, I think that you just don't have to remake the wheel, to a certain extent. Everyone knows what the hot button issues are. They know that the key at the end of the day is not only maximizing value for creditors, but caring for the residents themselves that are the key to these facilities and to these properties.

And so I certainly appreciate folks like obviously Ms. Goodman, who is out there, onsite, looking after the residents, to the Texas Department of Insurance, to make sure that, from a state law perspective, everyone is being as protective as they can.

And then, again, from just all the professionals, that they're keeping in mind that not only the residents' day-to-day care, their future care, but also the fact that this is the second bankruptcy, and so there is a certain amount of anxiety that certainly would come from that. And I feel that palpably in these cases.

So I'm thrilled that we were able to not only have a successful auction, but that the additives in terms of the offer and the winning bid of Focus were additives that were important to the residents and important to the UCC, rather than something nominal.

And I'm also thrilled that there's no stucco here. I can't tell you how much I feel about that.

But in any event, why don't we take a brief recess. I'll let Mr. Blythe and Ms. Heyen, as well as the Debtors and the Buyer, speak about the terms of closing costs and things like that, and see if we can wrap that up.

MR. BLYTHE: Thank you, Your Honor.

THE CLERK: All rise.

THE COURT: Just let us know when you're ready to come back.

(A recess ensued from 2:24 p.m. until 2:38 p.m.)

THE CLERK: The United States Bankruptcy Court for the Northern District of Texas is once again in session, with the Honorable Michelle Larson now presiding.

THE COURT: Please be seated. All right. We're going to go back on the record in Case No. 25-80595, Buckingham Senior Living.

Mr. Simon?

MR. SIMON: We appreciate the time, Your Honor. There was an agreement reached. I'll let them put the agreement on the record. And then what I'd like to do is just hand it over to Ms. Rowles, and she can hand up the sale order and just walk you through some of the language changes.

THE COURT: Thank you very much.

MR. SIMON: Thank you.

THE COURT: Appreciate it.

MS. HEYEN: Thank you, Your Honor, and thank you for the time to discuss this in the hallway.

So the agreement is that the miscellaneous number would be capped at $10,000. It might be $5,000. It might be $6,000. I think it's 6.6 percent of our share. But the Committee will receive at least $7,381,075.

THE COURT: Okay.

MS. HEYEN: It could be more than that, depending on what the miscellaneous is, but it's going to have a hard cap of $10,000 on that.

THE COURT: All right.

MS. HEYEN: And those funds will be used to be determined by the Committee. So whether it's current, former, benevolent care, you know, the Committee will determine. Thank you.

THE COURT: Okay. Thank you.

MR. BLYTHE: Thanks, Your Honor. And that's accurate. The Committee's share of the allocated portion of those costs will be capped at $10,000.

THE COURT: Okay.

MR. BLYTHE: Thank you.

THE COURT: Thank you very much.

All right. Again, just for sake of the record -- oh, let's walk through the sale order first, Ms. Rowles.

MS. ROWLES: May I approach?

THE COURT: Yes. Thank you. Appreciate that.

MS. ROWLES: Thank you, Your Honor. Natalie Rowles; McDermott, Will & Schulte; on behalf of the Debtor.

So you have in your possession a redline showing changes relative to the version of the sale order attached as an exhibit to the APA, which was attached as an exhibit to the bid procedures motion and also the bid procedures order. So this shows all of the changes.

Many are sort of I'll call them cleanup changes. For example, on Page 2, just a few cleanup changes, adding the docket number of the bid procedures and sale motion, adding the docket number of the bid procedures order.

On Page 3, updating the cash amount of the sale to reflect the increase as a result of the auction. Updating the date of the sale hearing by agreement with the Committee to push it out a week.

And let's see. I guess the first substantive change is Page 9, Paragraph Q.

THE COURT: Uh-huh.

MS. ROWLES: This encompasses what we just discussed, the split between general unsecured creditors and the Bondholders. We will, in the blank highlighted spaces, be inserting language that says something along the lines of 93.4 -- sorry, $105.4 million and change, less miscellaneous closing costs to the Bondholders, and we'll probably build in the percentage allocation there, which is 93.4 percent of the closing costs will be covered by the Bondholders. For the Committee, it's the $7.3 million and change --

THE COURT: Uh-huh.

MS. ROWLES: -- less 6.6 percent of closing costs, up to $10,000.

We'll make sure that we run this by all the parties before we submit --

THE COURT: Sure.

MS. ROWLES: -- this to Your Honor.

The next change, Paragraph G, we just changed to reflect that Mr. Fields testified as opposed to submitting a declaration.

Minor changes. Nothing major here. Correcting the name of the final DIP order on Page 19.

(WebEx interruption.)

THE COURT: Let's mute that line, Mr. Robinson, please. Thank you. Appreciate it.

MS. ROWLES: Paragraph 5 on Page 21 reflects that the -- this provision about Section 5.17(b)(4) of the APA is the release provision and reflects the fact that only the Buyer will be released under the resident -- or, only the Buyer will be required to be released by residents who sign new purchase agreements, not UMB, not the board, and not GreyStone.

THE COURT: Right.

MS. ROWLES: The next big change is Paragraph 9, the net proceeds. This goes to -- let me just review here.

THE COURT: When does the challenge period expire?

MS. ROWLES: That is -- I believe it's February 17th, if I'm not mistaken.

THE COURT: Okay.

MS. ROWLES: Yes. February 17th.

THE COURT: Mr. Bleck is shaking his head.

MR. BLECK: February 17th.

THE COURT: Okay. Thank you.

MS. ROWLES: Okay. So this goes to when proceeds will be released, and that timing depends on whether there is a challenge brought or not.

THE COURT: Okay.

MS. ROWLES: And let's see. I think we're almost done here.

Okay. Paragraph 33 on Page 36, this is language the Committee requested and Focus agreed to, allowing the Committee or any trustee to have reasonable access to the books and records acquired by the purchaser.

Paragraph 34 goes to the mechanics of the $12 million rent rebate funds and how those are funded at closing into an escrow account, to be paid over the 12-month period starting in the 13th month following closing.

THE COURT: And then the $20 million in CAPEX, --

MS. ROWLES: Correct. Thank you, Your Honor.

THE COURT: -- in consultation with the Resident Committee. I see that.

MS. ROWLES: Yes. Correct. Thank you.

Okay. And then Paragraph 35 just clarifies the repayment of entrance fees that are being held in escrow.

THE COURT: Okay.

MS. ROWLES: We have language in Paragraph 43 specifying that Kong will serve as the backup bidder, as required under the bid procedures.

Paragraph 44 is a paragraph to make clear that all executory contracts that are not assumed as of the closing date will be deemed rejected. We will also make this clear in the bar date motion that we will file.

We just made clear that all rights under 365 are reserved.

And we have a couple of paragraphs that Harris County requested with respect to primarily 2025 taxes, and some language with respect to 2026 taxes.

And TDI also requested language that is shown in Paragraph 46 and 47, preserving their police powers and other rights that they have under the Code.

And that is it, Your Honor.

Oh, we did also delete the Exhibit 2, which is the designated contracts list, just because the purchaser has up to I think it's up to two days prior to closing to designate contracts.

THE COURT: Okay.

MS. ROWLES: So we will file that at a later date.

THE COURT: Okay. Let me do this. I'll give you my comments and then I'll hear from anyone else who has any different comments.

First, in Paragraph 23, you just have a set of brackets around the date. So just take a look at that.

The second comment is with respect to Paragraph 44, which is Contract Rejection. So you said you have a bar date motion. It always gives me a little angst to have rejections of contracts kind of hidden in other orders. And I'm not saying that you're trying to hide it, but it's just that it's not kind of front-and-center to those being rejected. So explain to me what the bar date motion is going to say.

MS. ROWLES: I think the bar date -- in contact with the Committee and also TDI about this. We spoke about it this morning. We want to make it really clear to everybody, residents, people, members of the queue, exactly what they need to do, what they need to -- whether they need to file claims, whether they don't need to file claims if they agree with the amount of claim shown in the schedules.

THE COURT: Uh-huh.

MS. ROWLES: But we will make clear that residents and members of the queue do need to file claims if they disagree with the scheduled amounts. And I suppose we could -- I mean, we will be working with the Committee and TDI to ensure that everybody is in agreement on the procedures for that.

THE COURT: Sure. So what I would like to see, and whether you do that under a bar date motion, if you do it via a notice, I want those folks whose contracts are being rejected, I want them to have some very clear notice that that is happening, as well as --

(Echoing.)

THE COURT: If you can mute that number. Thank you.

I'd like them to have a clear notice that their contracts are being rejected and that they're going to have 30 days from whatever that good notice is to file claims. And so if it's going to be all holders of executory contracts, so be it, but I want some sort of clarity so that folks that are holding executory contracts and unexpired leases know that it's happening.

MS. ROWLES: Sure, Your Honor.

THE COURT: All right. Because this would seem, from the Court's perspective, a little buried. Or if it's handled under a plan -- because it's all about the timing of rejection. If you're going to reject under this, then I'd like a notice that tells folks all executory contracts and unexpired leases have been rejected pursuant to the APA. You can do it under simple notice, or under your bar date order you can say, Please note that all executory contracts were rejected by order dated *x*. You have 30 days from this time period -- really, 33 days, considering mailing -- to file a claim.

So I just want to make sure that they have some very crystal clear notice of rejection, and then that from that rejection they have at least 33 days to file a claim.

MS. ROWLES: Sure.

THE COURT: All right?

MS. ROWLES: Absolutely, Your Honor.

THE COURT: And I think that that's everything that I have.

I am comfortable with the 363(m) language in here. I think that the testimony of Mr. Fields got us there for the good faith finding necessary for the Buyer, and obviously, the entirety of the auction process as well.

Is there anyone else who wishes to be heard with respect to the sale order?

Hearing no takers, so the Court will enter the order approving --

(WebEx interruption.)

THE COURT: Mr. Dyer, if you could please not unmute your line again. Thank you.

So the Court will enter an order approving the asset purchase agreement between the Debtor and Focus, as well as establishing Kong as the backup bidder. I'll look, Ms. Rowles, for your team to send up a copy of the order in my queue. If there is any differences in the order, please do send me a redline so that I know about those. And then I will look for form of the APA and the amendment with the order.

Ms. Green?

MS. GREEN: Thank you, Your Honor. Trinitee Green for Focus.

The Committee would like for us to make a representation on the record with respect to the new forms of rental agreement that will be used post-closing. We have circulated drafts of the form rental agreements to the Committee through the Debtors. I believe that was circulated yesterday. And although they are subject to change -- they're drafts -- any revisions would be substantially similar to the amended APA and the sale order and consistent with the sale order and the APA. And Focus will consult with the Committee with respect to those forms of agreements.

THE COURT: Okay. All right. Thank you. Are they attached to the APA or are they attached to the order as a separate exhibit? I'm sorry. I let you get away.

MS. GREEN: They are not attached to any pleading.

THE COURT: Oh, they're not attached to any one -- okay.

MS. GREEN: Yes. Correct.

THE COURT: Excellent. Thank you.

All right. Anything else? All right. Well, again, congratulations to the Debtors and to Focus and to the residents on the sale of the facility.

All right. So now we have the two remaining items. Ms.

Heyen, I think they're your motions.

MS. HEYEN: Thank you, Your Honor. I'll turn the podium over to Mr. Dial.

THE COURT: All right. Thank you.

MR. DIAL: Well, fortunately, we've reached an agreement on these, this morning, on them. So we have two motions, Your Honor. A motion to compel against the Debtor, and we reached an agreement with the Debtor this morning with respect to that. And if I can just set forth the terms of that, and then can get confirmation from the Debtor, that should resolve that one.

Basically, we will -- the Committee will -- and by the way, Karl Dial on behalf of the Committee.

The Committee will hold in abeyance their motion to compel, and what the parties have agreed to do is that the Debtor will do everything possible to complete the production by February 10th. And they will, with respect to the emails to and from Archie Clinton, Phil Jacobs, and Phil Taylor, the Debtors will substantially complete that production of those emails by February 2nd, I guess consistent with their responses and objections to the document requests, by February 2nd. And they said they might need an additional day or two, so we'll say by February 4th with respect to that.

And then the communications with the outside auditors, the Lane Gorman firm and the Debtor, they will get -- that will be produced next week. And either they have completed the production of the escrow agreements and the addendum to the escrow agreements or they will confirm -- they'll either confirm that to us by early next week or we'll produce the documents if there's any additional ones by early next week. And the remainder of the documents other than the ones I specifically identified will -- they're going to do everything possible to complete that by February 10th.

And I believe that is the agreement with respect to the motion to compel.

THE COURT: All right. Thank you, Mr. Dial.

Please. Is it Mr. Mitchell?

MR. MITCHELL: Yes, Your Honor.

THE COURT: Okay. Thank you.

MR. MITCHELL: Jason Mitchell on behalf of the Debtor.

I just want to confirm that that recitation of the terms of the agreement is generally correct. The only additional term I will mention is that the Debtor pledges to make rolling productions every two to three days until production is complete.

And with respect to that notion of completeness of production, just for clarity of the record, that will be consistent with Debtor's responses and objections to the requests for production.

THE COURT: Okay. Thank you very much.

MR. MITCHELL: Thank you, Your Honor.

MR. DIAL: I left that last part out. Thank you. We agree to that, too.

With respect to the Rule 2002 motion, Your Honor, we filed --

THE COURT: 2004. Uh-huh.

MR. DIAL: Pardon me?

THE COURT: 2004 motion.

MR. DIAL: 2004. Sorry.

THE COURT: But I'm following you.

MR. DIAL: 2004. I'll get my Rules right. 2004 motion, we filed a motion seeking to take the testimony of Jim Knox, GreyStone's senior vice president of management services, and Archie Clinton, who's the former business office director of the Debtor.

GreyStone does not oppose the Knox deposition. We left a message with Archie Clinton on January 7th on his last telephone number. We also sent him an email on January 19th. No response from Mr. Clinton with respect to this Rule 2004 motion.

I think I mentioned GreyStone does not oppose it, and we reached an agreement with the Debtor this morning that they do not oppose us taking that testimony. So I think that, you know, we seek an order authorizing us to take the 2004 testimony of Jim Knox and Archie Clinton.

THE COURT: Okay. Anyone wish to be heard with respect to the 2004 motion? (No response.) Or with respect to the motion to compel? (No response.)

All right. Well, based upon the agreement of the parties, and if the parties want to put the terms of their agreement in the form of an agreed form of order, I'd be happy to sign that. I'm not sure if that's the way you want to go, or if you want to resolve it by agreement.

MR. DIAL: I think on the motion to compel we agreed that we would just do that by agreement. We would hold in abeyance, --

THE COURT: Okay.

MR. DIAL: -- in the event the parties don't comply --

THE COURT: That's true.

MR. DIAL: -- with that agreement, we'll come back to the Court.

THE COURT: Okay.

MR. DIAL: We just wanted to state the terms of that agreement on the record with respect to that.

THE COURT: All right. Thank you.

MR. DIAL: The 2004, we do need an order on.

THE COURT: Yes. Okay. And with respect to the 2004, whatever the agreement that you reach with GreyStone and

Mr. Knox, you can establish that by agreement.

If there is any dispute on whether or not a subpoena is necessary, my experience recommends that you nail that down in the order.

MR. DIAL: Okay.

THE COURT: So that you don't have to come back here.

MR. DIAL: Will do.

THE COURT: Because I can tell you, most of the bankruptcy community operates without them, but it is built into 2004.

MR. DIAL: Wonderful. We'll do that.

THE COURT: All right.

MR. DIAL: Thank you, Your Honor.

THE COURT: Okay. All right. So I'll look for orders from your team on those, Mr. Dial. And my minutes will reflect that the motion to compel is being held in abeyance pending the further production. So we'll just, I guess, continue that one without date based on agreement for now.

I think that that's all I have, at least on my list. Is there anything else, ladies and gentlemen?

(No response.)

THE COURT: All right. Well, with that, the Court will stand in adjournment for the day, and hopefully you guys can get out while the sun is still out and the roads are still melting. You all have a great one.

MULTIPLE COUNSEL: Thank you, Your Honor.

(Proceedings concluded at 2:59 p.m.)

--oOo--

CERTIFICATE

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Kathy Rehling **01/30/2026**

Kathy Rehling, CETD-444 Date
Certified Electronic Court Transcriber

INDEX

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

IN RE:	§	**Case No. 24-80146-SWE**
	§	
STOLI GROUP (USA), LLC, *et al.*[1]	§	**Chapter 11**
	§	
	§	
Debtors.	§	**(Jointly Administered)**
	§	

DECLARATION OF RACHAEL L. SMILEY IN SUPPORT OF APPLICATION TO EMPLOY FERGUSON BRASWELL FRASER KUBASTA PC AS COUNSEL FOR CLAUDIA SPRINGER, CHAPTER 11 TRUSTEE OF KENTUCKY OWL, LLC EFFECTIVE AS OF FEBRUARY 19, 2026

I, Rachael L. Smiley, hereby declare as follows:

1. I am a shareholder in the law firm of Ferguson Braswell Fraser Kubasta PC ("**FBFK**," or the "**Firm**"). I have been a member in good standing of the State Bar of Texas since 2008, and I have been admitted to practice in the United States District and Bankruptcy Courts for the Northern, Southern, Eastern and Western Districts of Texas, and United States District and Bankruptcy Courts for the District of Colorado.

2. I am familiar with the matters set forth herein and am authorized to make this declaration on the Firm's behalf.

2. I have extensive experience in chapter 11 bankruptcy cases of all sizes and levels of complexity. I have represented debtors, creditors, and committees in some of the more prominent

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Stoli Group (USA), LLC (5602) and Kentucky Owl, LLC (3826). The Debtors' address is 135 East 57th Street, 9th Floor, New York City, New York.

chapter 11 cases filed in Texas, including *Saks Global Enterprises, LLC*, *CareMax, Inc.*, *Steward Healthcare System LLC*, *Genesis Healthcare, Inc.*, and *Prospect Medical Holdings, Inc.* to name just a few. I believe that the Firm is both well qualified and particularly able to represent the Chapter 11 Trustee in this case given this experience and expertise.

3. This declaration is submitted pursuant to sections 327(a), 330, and 1107(b) of Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq*. (the "**Bankruptcy Code**"), Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and Rule 2014-1 of the Bankruptcy Local Rules of the United States Bankruptcy Court for the Northern District of Texas (the "**Local Rules"**) in support of the *Application to Employ Ferguson Braswell Fraser Kubasta PC as Counsel for Claudia Springer, Chapter 11 Trustee of Kentucky Owl LLC Effective as of February 19, 2026* (the "**Application**")[2].

4. This declaration evidences the qualifications of the Firm under section 327 of the Bankruptcy Code to serve as local counsel to the Chapter 11 Trustee. The facts set forth below are based upon my personal knowledge.

5. The Application is being filed within thirty days of the commencement of services by the Firm; therefore, under Local Rule 2014(b)(1), it should be deemed a contemporaneous filing. Accordingly, the Firm seeks approval of the Application *nunc pro tunc* to February 19, 2026.

Services to be Rendered

6. The Chapter 11 Trustee has requested that the Firm render or assist with legal services in connection with her duties under chapter 11 of the Bankruptcy Code. The professional

[2] All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Application.

services that the Firm will render, or assist the Chapter 11 Trustee and her other professionals will include the following:

a) Perform all necessary services as the Chapter 11 Trustee's bankruptcy co-counsel, including, without limitation, providing the Chapter 11 Trustee with advice, representing the Chapter 11 Trustee, and preparing necessary documents on behalf of the Chapter 11 Trustee in the areas of restructuring and bankruptcy;

b) take all necessary actions to protect and preserve the Debtor's estate during the Debtor's chapter 11 case, including the prosecution of actions by the Chapter 11 Trustee, the defense of any actions commenced against the Debtor or Chapter 11 Trustee, negotiations concerning litigation in which the Chapter 11 Trustee is involved and objecting to claims filed against the Debtor's estate;

c) prepare or coordinate preparation on behalf of the Chapter 11 Trustee necessary motions, applications, answers, orders, reports and papers in connection with the administration of the Debtor's chapter 11 case;

d) counsel the Chapter 11 Trustee with regard to her rights and fiduciary duties;

e) coordinate with the Chapter 11 Trustee's other professionals in representing the Chapter 11 Trustee in connection with the Debtor's chapter 11 case; and

f) perform all other necessary legal services.

Subject to this Court's approval, the Firm is willing and able to represent the Chapter 11 Trustee as her counsel and render or assist with the services described above. A true and correct copy of the Engagement Agreement to which the Firm and the Chapter 11 Trustee have agreed to is attached hereto as "**Schedule I**."

THE FIRM'S DISCLOSURE PROCEDURES

7. The Firm is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code in that the Firm:

(i) is not a creditor, equity security holder, or insider of the Debtor;

(ii) is not and was not, within two years before the date of the filing of the bankruptcy case, a director, officer, or employee of the Debtor; and

(iii) does not have an interest materially adverse to the interests of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtor, or for any other reason.

8. In connection with the Firm's proposed retention by the Chapter 11 Trustee in the Debtor's bankruptcy case, the Debtor and the Chapter 11 Trustee have delivered a list of the names of potential parties in interest ("**Potential Parties in Interest**"), which is attached hereto as "**Schedule II**." The Firm has reviewed this list to determine whether the Firm has any conflict or other relationships with these entities that might cause not to be disinterested or to hold or represent an interest adverse to the Debtor or its estate.

9. Based on the conflicts search conducted to date, to the best of my knowledge, neither I nor the Firm have any connection with the Debtor, its creditors, partners, or any other parties in interest, or their respective professionals.

10. Many of the Firm's attorneys have experience working at large law firms and have been active in various areas of the bar for many years. Consequently, the Firm may have "connections" with attorneys and other professionals involved in the Debtor's bankruptcy case. The Firm may have referred matters to professionals involved in the Debtor's bankruptcy case, and it may have been referred to matters by such parties. The Firm may represent or have represented, from time to time, one or more of the professionals involved in the Debtor's bankruptcy case.

11. The Firm may in the future represent creditors and other parties in interest of the Debtor's estate in connection with matters unrelated to the Debtor and its bankruptcy case. Further, from time to time, the Firm may represent clients who may be creditors of the Debtor or affiliates of such creditors or may represent clients who enter into transactions with creditors of the Debtor or affiliates of such creditors. Under no circumstances, however, has the Firm agreed to, nor will it,

represent any creditors of the Debtor or affiliates of such creditors or debtors in connection with the Debtor's bankruptcy case.

MANNER AND SOURCE OF PROFESSIONAL COMPENSATION

12. The Firm intends to apply for compensation for professional services to be rendered in connection with the bankruptcy case, subject to approval of this Court and in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Complex Case Procedures in effect in this district, the Compensation Procedures Order, and any other applicable orders of this Court. The Firm understands that, in accordance with § 330(a) of the Bankruptcy Code, compensation will be payable on an hourly basis, plus reimbursement of actual, necessary expenses and other charges incurred by the Firm. My initial rate for services rendered in these cases will be $750 per hour. The Firm's rates are subject to periodic adjustment to reflect economic conditions, as well as experience and other similar factors. I believe the Firm's rates are reasonable and customary in the relevant community for attorneys of our experience and skill and for cases of this nature. In fact, I believe these rates are materially lower than those rates charged by most lawyers in the relevant community for attorneys of our experience and skill and for cases of this nature. Our rates are set at a level designed to fairly compensate us for our work and to cover fixed and routine overhead expenses. It is the Firm's policy to charge its clients in all areas of practice for all other expenses incurred in connection with a client's representation, including, but not limited to, telephone and facsimile charges, mail charges for mass mailings, express mail charges, special or hand delivery charges, photocopying charges, travel expenses, computerized research, and transcription costs. The Firm will charge the Chapter 11 Trustee for these expenses in a manner and at rates consistent with charges made generally to the Firm's other clients.

COMPENSATION RECEIVED BY THE FIRM FROM THE DEBTOR

13. The Firm is not a creditor of the Debtor.

16. The Firm has received no advance retainer or compensation of any kind from the Debtor, its estate, or the Chapter 11 Trustee.

14. In accordance with Bankruptcy Code § 329, Bankruptcy Rule 2016(b), and Local Rule 2016-1(a), I declare that the Firm has not shared or agreed to share (a) any compensation it has received or may receive with any other party or person, other than the Firm's shareholders, associates, or contract attorneys with the Firm, or (b) any compensation any other party or person has received or may receive.

Pursuant to 28 U.S.C. § 1746, I, Rachael L. Smiley, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and accurate.

Dated: March 16, 2026

By: *<u>/s/ Rachael L. Smiley</u>*
RACHAEL L. SMILEY

SCHEDULE I

ENGAGEMENT LETTER

FBFK LAW

RACHAEL L. SMILEY

RSMILEY@FBFK.LAW
PHONE (972) 378-9111
FAX (972) 378-9115

February 20, 2026

Via Email: cSpringer@novo-advisors.com

Claudia Springer as Chapter 11 Trustee for Kentucky Owl, LLC
NOVO Advisors
200 W. Madison St.
Suite 1000
Chicago, Illinois 60606
312-961-6854

Re: Engagement of Ferguson Braswell Fraser Kubasta PC

We are delighted that you wish to retain Ferguson Braswell Fraser Kubasta PC (the "Firm") to represent Claudia Springer as Chapter 11 Trustee(the "Client") of Kentucky Owl, LLC which case is administratively consolidated with the Chapter 11 case known as *In re Stoli Group (USA), LLC, et al.*, Case No. 24-80146, currently pending before the United States Bankruptcy Court for the Northern District of Texas, and any other legal matters as we may mutually agree in the future. Due to the uncertainties of litigation, the Firm cannot ascertain or predict the outcome of any litigation matters or the likelihood of the Client's success in any litigation matters..

This letter agreement confirms your engagement of the Firm (the "Engagement") and sets forth the terms and conditions that will govern your relationship with the Firm concerning any legal representation provided. Please read this letter agreement carefully. Indeed, it is advisable to retain separate legal counsel to assist you with your evaluation of this letter. If, after a review of this letter agreement, you find it satisfactory and you continue to desire the Firm to represent you, please sign one copy of the letter and return it to the Firm. Should you have any questions or concerns about this letter agreement, we will be happy to discuss them with you.

Legal services provided by the Firm for the Client will be performed at the Firm's standard hourly rates. Attached as Exhibit A is a list of the Firm's practice areas, and current hourly range. The Firm may, in its discretion, utilize other attorneys and paralegals in the Engagement, as may be necessary or appropriate and in the best interest of the Client. In addition, the Firm has affiliated "Of Counsel" attorneys that may work on the Client's matters. The invoices Client receives will clearly reflect the Of Counsel's time incurred and a description of services. The Of Counsel attorney will be paid a percentage of the fees collected from the Client. By signing this letter agreement, Client consents to this fee arrangement.

The Firm may utilize an electronic database to store and review all documents provided by Client and/or produced by the opposing party(ies) in this litigation. Should the need arise, the Firm may, in its discretion, utilize a database management service to assist in the review and/or production of documents. Client agrees to pay the monthly cost of the electronic database, and the cost associated with database management services, should the need arise. The cost for storing the electronic documents currently is $40 per GB per month, for a minimum of 6 months. The cost of using the database management service currently is $125 per hour.

The Firm's standard method of computing fees for legal services is to record the time spent by each person performing services (in tenth of an hour increments) and to charge such time at the individual's applicable hourly rate.

The Firm invoices its clients for reimbursement of expenses incurred on their behalf. Expenses may include filing fees, on-line database charges, mail, overnight courier services, and messenger fees. Any such expenses incurred by the Firm on the Client's behalf will be added to the statement for the month in which such expenses are recorded in the Firm's billing system. The Firm, however, is under no obligation to advance any such fees or expenses on behalf of the Client. From time to time, the Firm, in its discretion, may request that the Client directly pay individual expenses or costs, as the Firm determines may be appropriate, in the Firm's discretion.

The Firm bills on a monthly basis. Ordinarily, our invoices are due on receipt, but for this Engagement, our invoices are not due until entry of a Court order approving our fees, until such time as we no longer required to apply to the Court for approval of our fees. Invoices may be transmitted to you via email or other electronic means or by traditional means, such as mail or hand delivery, in accordance with the contact information we have for you or your representatives on file. **Please ensure that your spam filter will allow email from the domain fbfk.law.**

This allows the Firm's clients to monitor both current and cumulative legal fees. The Firm reserves the right, as it does with all of its clients, to suspend or terminate any work in progress in the event that timely payment of its invoices is not made. Moreover, if, during the course of our representation, billing disputes arise which remain unresolved, the Firm reserves the right to withdraw from any further representation of the Client. If for any reason the Firm suspends or terminates its work for the Client or otherwise withdraws from its representation of the Client, such suspension, termination or withdrawal shall constitute the Client's free and knowing assent to the Firm's termination of the Engagement and representation by and for the Client.

The Client has agreed to pay the Firm's normal hourly billing rates as are in effect from time to time, plus expenses provided that the Bankruptcy Court approves such billing rates and expenses. Upon any termination of the Firm's representation hereunder for any reason, all fees for legal services rendered through such time, and expenses with respect to periods prior to such time (whether billed by the Firm or not prior to such time), shall be immediately due and payable upon presentation of any statement therefore. It is understood and agreed that invoices shall be paid from funds in the Kentucky Owl estate and not from any other sources.

In order to avoid representing parties with conflicts of interest, the Firm maintains a conflict of interest database. The Firm will not represent any party with an interest that may be adverse to that of a person or entity identified in the database without an examination to determine whether an actual conflict of interest exists. In this matter we propose to index **Claudia Springer as Chapter 11 Trustee for Kentucky Owl, LLC** as the Firm's Client. Keep in mind that the Firm only represents the Client. Please advise us as to any individuals or business entities that will be involved with any matters likely to arise during our representation of the Client in order that we may index them in our conflicts system as potentially adverse parties.

From time to time, the Firm includes certain information about the Firm's relationship with its clients in information the Firm may provide to third parties, such as presentations to other prospective clients, or in published information, such as press releases. This information might include the client's name, a brief description of its business and/or a description of the transactions in which the Firm is involved. By signing this letter agreement, the Client consents to the Firm's disclosure of such information about the Firm's relationship with the Client. The Firm will not disclose or publicize any confidential or proprietary information about the Client.

Of course, every client has the right to terminate our representation at any time for any reason. We have the same right upon giving the client reasonable notice so that suitable arrangements can be made by the client to obtain alternative representation, in accordance with applicable Rules of Professional Conduct. In such event, the Client will be responsible for all fees, expenses and disbursements incurred through the date of termination, and the Firm will work with the Client to effect an orderly transition of pending matters and delivery of files to new counsel.

Our records retention policy requires us to return all original records and documents that you have given us at the conclusion of the Engagement. At the same time, our records and engagement files are the Firm's property and shall be retained by the Firm. Our Firm policy is to destroy our engagement files after a period of seven (7) years. A copy of the Firm's records retention policy is available upon request. Catastrophic events or physical deterioration may result in our Firm's records being unavailable before the expiration of the above retention period. Client should retain copies of all documents that provide evidence and support for Client's position in the subject Matter, including copies of all documents provided to the Firm.

In today's technological environment, businesses and individuals are continuously interacting through e-mail. This often involves sending of data, documents, legal communications, and other information, much of which is protected by attorney-client privilege and/or work product privilege. Although convenient, the Client hereby acknowledges the risk involved in such form of communication, and Client, by signing this Fee Agreement, agrees to communicate in this fashion, and Client assumes such risk and holds the Firm harmless, except in case of bad faith or intentional harm. For security reasons, Client is encouraged not to communicate via text, especially concerning confidential information or information protected because of the attorney-client relationship. Client acknowledges that the Firm is not responsible for actual receipt nor the maintaining of such text. Client should not presume the Firm received an email unless it is confirmed by the Firm. Client's signature to this agreement authorizes such e-mail communication between the Firm and Client at Client's below email addresses. Further it is agreed that, if Client initiates a communication to the Firm's e-mail, such action also authorizes further e-mail communications between the Firm and Client at the e-mail address used by the Client. The Client affirms that the following contact information, including telephone numbers and emails are correct:

Claudia Springer as Chapter 11 Trustee for Kentucky Owl, LLC
NOVO Advisors
200 W. Madison St.
Suite 1000
Chicago, Illinois 60606
312-961-6854

Any controversy, dispute or claim arising out of, or in connection with, or in relation to the interpretation, performance or breach of this letter agreement or the Engagement of the Firm and legal services rendered by it or any of its owners or employees, including but not limited to fee disputes and legal malpractice, shall be finally determined, at the request of either party, by arbitration conducted in Dallas, Texas, or the immediate surrounding area, in accordance with existing rules for commercial arbitration of the American Arbitration Association, and judgment upon any award rendered by the arbitrator may be entered by any state or federal court having jurisdiction thereof. The arbitrator shall award the prevailing party, in addition to the costs of the proceeding, that party's reasonable attorneys' fees. The parties hereto shall be bound by this provision and the results of any such arbitration. The parties hereto have the right to consult independent counsel about this and each other provision of this letter agreement. **THE PARTIES HERETO ACKNOWLEDGE AND AGREE THAT, IF ACCEPTED BY EXECUTION BELOW, THIS PROVISION ELIMINATES THEIR RIGHT TO A JURY OR OTHER TRIAL IN ANY AND ALL DISPUTES AGAINST THE FIRM OR ITS OWNERS OR EMPLOYEES.**

To enhance the efficiency of our practice, the Firm uses a variety of technology, including third party cloud-based platforms, to store documents, communicate with clients and other activities. The Client agrees that files and data provided to the Firm will be stored on a cloud-based service provider. For data security reasons, the Firm will provide the Client with a method for sharing files and data that meet the ABA's ethical guidelines regarding an attorney's duty of protecting information relating to the representation of a client ("Recommended Sharing Platforms"). The Firm has exercised due care in selecting providers whose security and management practices meet or exceed applicable ethics requirements and engage in ongoing monitoring and oversight of their services. The Firm cannot attest to the security and/or management practices of any non-Recommended Sharing Platforms (i.e.: Dropbox, Carbonite, or iCloud), and the Client agrees the sharing and/or storage of data through any non-Recommended Sharing Platforms is subject to such provider's security and management practices.

This letter agreement is the entire agreement between the parties hereto and supersedes all prior oral or written agreements. This letter agreement may be executed in multiple counterparts. This letter agreement will be governed by and construed under the laws of the State of Texas. The Firm's Engagement becomes effective upon the Firm's receipt of this Agreement signed by the Client and upon the entry of a Court order approving such engagement.

We look forward to representing you on the basis set forth in this letter agreement.

FERGUSON BRASWELL FRASER KUBASTA PC

By: */S/ RACHAEL L. SMILEY*________
Rachael L. Smiley, Shareholder

APPROVED AND AGREED:

CLAUDIA SPRINGER AS CHAPTER 11 TRUSTEE FOR KENTUCKY OWL, LLC

DocuSigned by:

By: Claudia Springer

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Date: February 20, 2026

EXHIBIT A

ATTORNEY RATES

Practice Areas	Hourly Rate
Bankruptcy	\$365 - \$755
Commercial Litigation	\$365 - \$1200
Corporate/Transactional	\$365 - \$910
Estate Planning	\$510 - \$865
Intellectual Property	\$410 - \$805
Labor/Employment	\$670 - \$805
Oil & Gas	\$460 - \$700
Real Estate/Land Use, Zoning	\$430 - \$825
Tax Planning & Controversies	\$575 - \$865

PARALEGAL / LEGAL ASSISTANT RATES

Practice Areas	Hourly Rate
Bankruptcy	\$165 - \$310
Commercial Litigation	\$165 - \$310
Corporate/Transactional	\$165 - \$315
Estate Planning	\$270 - \$315
Intellectual Property	\$285
Labor/Employment	\$165 - \$310
Oil & Gas	\$310
Real Estate/Land Use, Zoning	\$165 - \$315
Tax Planning & Controversies	\$270 - \$315

SCHEDULE II

POTENTIAL PARTIES IN INTEREST

Kentucky Owl, LLC Relationship Checklist

DEBTORS/AFFILIATES:
Stoli Group (USA), LLC
Kentucky Owl IP SARL
Kentucky Owl RE, LLC
Louisiana Spirits LLC S.P.I.
Spirits (Cyprus) Ltd S.P.I.
Worldwide Trade

FORMER DIRECTORS AND OFFICERS:
Chris Caldwell
Andrey Shishkov
Alexey Oliynik
Matthew Spooner
Heidi Thomas
Sarah Hensen
Yuri Shefler

LENDER:
Fifth Third Bank, National Association

BANKS:
Fifth Third Bank, National Association
Wells Fargo Bank NA

EQUITY HOLDERS:
S.P.I. Spirits (Cyprus) Limited
S.P.I. Worldwide Trade Limited

LANDLORD:
135 East 57th Street, LLC

INSURANCE PROVIDERS:
AFCO Credit Corporation
Cigna Group Corporation
Cigna Health & Life Insurance Company
McGriff Insurance Services Inc.
Principal Financial Services, Inc.
ShelterPoint Life Insurance Company
The Hartford Financial Services Group

OFFICE OF THE U.S. TRUSTEE FOR NDTX:
Alexandria Hughes
Asher Bublick
C. Marie Goodier
Cheryl H. Wilcoxson
Elizabeth Young
Erin Schmidt
Felicia P. Palos
Fernando Garnica
Jason Russell
Kara Croop
Kendra M. Rust
Lisa L. Lambert
Meredyth Kippes
Nancy S. Resnick
Rafay Suchedina
Reinhard Freimuth
Susan Hersh

NDTX JUDGES AND STAFF:
Edward L. Morris
Mark X. Mullin
Michelle V. Larson
Brad W. Odell
Scott W. Everett
Stacey G. C. Jernigan
Shelby Wimberly
Dawn Harden
Jenni Bergreen
Jennifer Speer
Karyn Rueter
Hawaii Jeng

GOVERNMENT/TAXING AUTHORITIES:
Alabama Department of Revenue
Alabama Office of the Attorney General
Alaska Department of Revenue
Alaska Office of the Attorney General
Arizona Department of Revenue
Arizona Office of the Attorney General
Arkansas Department of Finance & Administration
Arkansas Office of the Attorney General
California Franchise Tax Board
California Office of the Attorney General
Colorado Department of Revenue
Colorado Office of the Attorney General
Commonwealth of Massachusetts
Comptroller of Maryland
Connecticut Department of Revenue Services
Connecticut Office of the Attorney General
Delaware Department of Justice
Delaware Division of Revenue
District of Columbia Office of the Attorney General
Florida Department of Revenue
Florida Office of the Attorney General
Georgia Department of Revenue
Georgia Office of the Attorney General
Hawaii Department of Taxation
Hawaii Office of the Attorney General
Idaho Office of the Attorney General
Idaho State Tax Commission
Illinois Department of Revenue
Illinois Office of the Attorney General
Indiana Department of Revenue
Indiana Office of the Attorney General
Internal Revenue Service
Iowa Department of Revenue
Iowa Office of the Attorney General
Kansas Department of Revenue
Kansas Office of the Attorney General
Kentucky Department of Revenue
Kentucky Office of the Attorney General
Liquor Control Board of Ontario
Louisiana Department of Revenue
Louisiana Office of the Attorney General

Maine Office of the Attorney General
Maine Revenue Services
Maryland Office of the Attorney General
Massachusetts Department of Revenue
Massachusetts Office of the Attorney General
Michigan Department of Treasury Michigan Office of the Attorney General
Minnesota Department of Revenue
Minnesota Office of the Attorney General
Mississippi Department of Revenue
Mississippi Office of the Attorney General
Missouri Department of Revenue Missouri Office of the Attorney General
Montana Department of Revenue Montana Office of the Attorney General
National Alcohol Beverage Control Agency
Nebraska Department of Revenue Nebraska Office of the Attorney General
Nevada Office of the Attorney General
New Hampshire Department of Revenue Administration
New Hampshire Office of the Attorney General
New Jersey Division of Taxation New Jersey Office of the Attorney General
New Mexico Office of the Attorney General
New Mexico Taxation and Revenue Department
New York Office of the Attorney General
New York State Department of Taxation and
North Carolina Department of Revenue
North Carolina Office of the Attorney General
North Dakota Office of State Tax Commissioner
North Dakota Office of the Attorney General
Northern District of Texas Office of the U.S. Trustee
NYC Department of Finance Ohio
Department of Taxation
Ohio Office of the Attorney General
Oklahoma Office of the Attorney General
Oklahoma Tax Commission
Oregon Department of Revenue Oregon Department of Revenue Oregon Office of the Attorney General
Pennsylvania Department of Revenue
Pennsylvania Office of the Attorney General
Rhode Island Division of Taxation Rhode Island Office of the Attorney General
South Carolina Department of Revenue
South Carolina Office of the Attorney General
South Dakota Office of the Attorney General
State of Connecticut
State of Florida
State of New Hampshire
State of New Jersey
State of North Carolina
State of South Carolina, Dept of Revenue
Tennessee Department of Revenue Tennessee Office of the Attorney General
Texas Comptroller of Public Accounts
Texas Office of the Attorney General
Treasurer - State of Iowa
Treasurer - State of Maine
U.S. Attorney's Office for the Northern District of Texas
U.S. Customs and Border Protection
Utah Office of the Attorney General
Utah State Tax Commission
Vermont Department of Taxes Vermont Information Processing, Inc
Vermont Office of the Attorney General
Virginia Department of Taxation Virginia Office of the Attorney General
Washington Department of Revenue
Washington Office of the Attorney General
West Virginia Office of the Attorney General
West Virginia State Tax Department
Wisconsin Department of Revenue
Wisconsin Office of the Attorney General
Wyoming Liquor Division
Wyoming Office of the Attorney General

VENDORS/UNSECURED CREDITORS/OTHER:

Bardstown Bourbon Company
Bottle Raiders, Inc.
Brindiamo Group LLC
Corporation Service Company
Impaks Ltd.
Internal Revenue Service
Kentucky Owl IP Sarl
Louisiana Spirits LLC
Shapiro Goldstein Moses & Artuso
S.P.I. Spirits (Cyprus) Ltd.
SPI World Trade Limited
Steklarna Hrastnik d.o.o.
TAPI S.p.a.
Trade Winds Transit