

McMANIMON, SCOTLAND & BAUMANN, LLC

75 Livingston Avenue, Suite 201

Roseland, New Jersey 07068

(973) 622-1800

Anthony Sodono, III (007631990)

Sari B. Placona (108842014)

Counsel to Brian W. Hofmeister, Independent Receiver

In Re:

LIQUIDATION AND DISSOLUTION OF
AFFILIATED PHYSICIANS AND
EMPLOYERS MASTER TRUST D/B/A
MEMBER HEALTH PLAN NJ

Petitioner.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION- MORRIS COUNTY

DOCKET NO. MRS-C-111-22

**NOTICE OF MOTION FOR AN ORDER (1)
AUTHORIZING THE RETENTION OF MAZARS
USA LLP AS ACCOUNTANTS TO THE
INDEPENDENT RECEIVER; (2) AUTHORIZING
MONTHLY PAYMENTS TO MAZARS USA LLP;
AND (3) SUCH OTHER EQUITABLE RELIEF**

TO: ALL CREDITORS AND PARTIES IN INTEREST

PLEASE TAKE NOTICE that on May 26, 2023, at 9:00 a.m., or as soon thereafter as counsel can be heard, Independent Receiver, Brian W. Hofmeister (the “Independent Receiver”), by and through his counsel, McManimon, Scotland & Baumann, LLC, shall move before the Honorable Frank J. DeAngelis, P.J. Ch. at the Superior Court of New Jersey, Morris County Courthouse, Chancery Division, 10 Court Street, Floor 4, Morristown, New Jersey for an Order (i) authorizing the retention of Mazars USA LLP as accountants to the Independent Receiver; (2) authorizing monthly payments to Mazars USA LLP; and (3) such other equitable relief (the “Motion”).

PLEASE TAKE FURTHER NOTICE that in support of the within Motion, the undersigned shall rely upon the Letter Brief and Certification of the Independent Receiver, submitted herewith in support of the relief requested.

PLEASE TAKE FURTHER NOTICE that the within Motion is brought before the Court pursuant to Rule 1:6-2. A proposed form of Order is submitted herewith.

PLEASE TAKE FURTHER NOTICE that any opposition to the Motion must be in writing, filed with the Court and served upon the undersigned in accordance with the Rules of Court.

PLEASE TAKE FURTHER NOTICE that oral argument is hereby waived unless timely objection is received.

PLEASE TAKE FURTHER NOTICE that a proposed order granting the relief requested herein is submitted herewith and made part of the Motion herein.

McMANIMON, SCOTLAND & BAUMANN, LLC
Counsel to Brian W. Hofmeister, Independent Receiver

By: /s/ Anthony Sodono, III
Anthony Sodono, III

Dated: April 21, 2023

McMANIMON, SCOTLAND & BAUMANN, LLC

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Roseland, New Jersey 07068

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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION - MORRIS COUNTY

DOCKET NO. MRS-C-111-22

**CERTIFICATION OF BRIAN W. HOFMEISTER IN
SUPPORT OF MOTION FOR AN ORDER
(1) AUTHORIZING THE RETENTION OF MAZARS USA
LLP AS ACCOUNTANTS TO THE INDEPENDENT
RECEIVER; (2) AUTHORIZING MONTHLY PAYMENTS
TO MAZARS USA LLP; AND (3) SUCH OTHER
EQUITABLE RELIEF**

BRIAN W. HOFMEISTER, of full age, hereby certifies as follows:

1. I am the Independent Receiver (“Independent Receiver”) appointed in the above-captioned case to oversee the dissolution and liquidation of Affiliated Physicians and Employers Master Trust d/b/a Members Health Plan NJ (“APEMT” or “Petitioner”).

2. On May 24, 2021, APEMT filed a voluntary petition for relief under chapter 11, subchapter V of the United States Bankruptcy Code, bearing Case No. 21-14286 (MBK).

3. APEMT, a debtor under a confirmed subchapter V plan in the pending Chapter 11 bankruptcy case, is a non-profit, self-funded multiple employer welfare arrangement (“MEWA”) under the provisions of 29 U.S.C. Ch. 18 (the “Employee Retirement Income Security Act”) and N.J.S.A. 17B:27C-1, et seq. (the “Self-Funded Multiple Employer Welfare Arrangement

Regulation Act”) and was registered with the New Jersey Department of Banking and Insurance (“NJ DOBI”) annually.

4. In addition to registering with NJ DOBI, APEMT is also registered as a MEWA with the United States Department of Labor (“US DOL”), through an annual M1 filing. APEMT offered medical and prescription benefits to members of its sponsoring associations (“Members”).

5. APEMT has no owners, or direct employees, only trustees (the “Trustees”). As of the voluntary petition date, there were eleven (11) Trustees for APEMT (the “Board of Trustees”). The respective Trustees represent sponsoring associations (the “Sponsors”) of APEMT. Members must belong to a Sponsor in order to enroll with APEMT.

6. On August 5, 2021, APEMT filed its Small Business Subchapter V Plan (with amended Plans filed December 8th and 9th, the “Plan”).

7. Also, on August 5, 2021, APEMT moved to expand the scope of my powers as Trustee. The Court granted APEMT’s motion by order entered November 15, 2021 (the “Sub V Trustee Order”).

8. As set forth in more detail in the letter brief, the Sub V Trustee Order authorized me as Trustee to review available documents and records from the past five (5) years (the “Examination Period”) in order to analyze the financial and operational conditions of APEMT which caused the impaired financial condition of APEMT, and the impact, if any, of the Covid-19 Pandemic.

9. Furthermore, I am authorized to investigate APEMT’s actuarial professional’s rating methodology for the Examination Period. Finally, I am authorized to review APEMT’s administrative expenses for the Examination Period.

10. By order, dated March 21, 2022, the Court confirmed APEMT's Plan (the "Confirmation Order").

11. On April 28, 2022, APEMT filed a *Notice of (I) Entry of and Order Confirming Plan of Reorganization Filed by the Debtor; (II) Occurrence of the Effective Date; and (III) Administrative Bar Date* (the "Notice of the Effective Date") which indicated the effective date of the Plan occurred on March 31, 2022.

12. Pursuant to the Confirmation Order, my authority was expanded to include reporting obligations and oversight, and pursuit of avoidance actions.

13. On November 10, 2022, this Court entered a Judgment (1) Appointing Brian W. Hofmeister as Independent Receiver to Oversee the Dissolution and Liquidation of APEMT; (2) Authorizing the Independent Receiver to Continue to Execute APEMT's Bankruptcy Plan; (3) Authorizing the Waiver of Any Bond Requirements for the Independent Receiver; and (4) Such Other Relief that this Court Deems Equitable (the "Judgment"). The Judgment adopted all orders entered by the Bankruptcy Court. I have been analyzing claims, in which some of those will be challenged. I seek for this Court to approve the claims process outlined below in the Bankruptcy Court. Any claims that need to be expunged and/or objected to will be in the Bankruptcy Court. The affected claimants will be noticed if their claim is disputed.

14. At this time I am seeking to have this Court affirm and authorize my retention of Mazars USA LLP as accountants ("Mazars").

15. On March 7, 2023 I received from Mazars two (2) retainer agreements, I entered into the retainer agreements with Mazars as accountants to prepare 1) the 2021 federal income tax returns with supporting schedules for the Affiliated Physicians & Employers Health Plan – Form 5000 and 2) audit the statutory statements of admitted assets, liabilities, and capital and surplus of

the Plan as of December 31, 2021, and the related statements of revenue and expense, capital and surplus and cash flows for the year then ended (the “fiscal year”) and related notes to the statutory financial statements (the “financial statements”) prepared in conformity with accounting practices prescribed or permitted by the New Jersey Department of Banking and Insurance (“statutory basis of accounting”). A copy of Mazars’ retention letters are attached as **Exhibits A and B**.

16. I also seek approval for procedures to notice and pay Mazars on a monthly basis. Mazars shall submit their monthly fee statements for approval. Each invoice will be reviewed and approved for payment. I seek approval to upload Mazars approved monthly fee statements to APEMT’s public website. Using Constant Contact all approved monthly invoice notices will be emailed to Plan Members and Plan Participants. Constant Contact is a communication application with Employer Members and Employee Participants, which provides the Receiver with the capability to send multiple communications via Constant Contact and then catalogue and track all communications with this business tool. Approved invoices and/or notices will be posted to the Plan’s public website for Plan Members and Plan Participants to review. APEMT has been utilizing these methods to communicate with Plan Members and Plan Participants for the past few years, particularly through the bankruptcy proceedings. The Constant Contact application is an efficient and cost-effective communication mechanism when coupled with the Plan’s public website.

17. The Plan has been utilizing these two (2) methods to communicate with Plan Members and Plan Participants for the past few years, particularly through the bankruptcy proceedings beginning in May 2021. The Constant Contact application is an efficient and cost-effective communication application which will catalog and maintain electronic records for all email transmissions. When coupled with notices posted on the Plan’s public website Plan

Members and Plan Participants will be fully informed on professional costs associated with the administration of the Plan. Utilizing Constant Contact allows the Receiver and the estate of **APEMT** to preserve costs and avoid mass mailings.

18. I am seeking court approval of the procedure of notice and submission of the Mazars' invoices on a monthly basis.

Submission of Monthly Statements

On or before the 10th day of each month following the month for which compensation is sought.

Content of Monthly Statement

Each monthly fee statement shall comply with the rules from Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules for the United States Bankruptcy Court for the District of New Jersey. All timekeepers must contemporaneously maintain time entries in increments of tenths (1/10th) of an hour.

Review Period

Each person shall have the opportunity to review the monthly fee statement approved by the Receiver on the APEMT public website. Any objections shall be provided to the Receiver within ten (10) days after the email notice is received via Constant Contact (the "Objection Deadline").

Payment

Upon the expiration of the Objection Deadline, the Receiver is authorized to pay Mazars.

Objections

If any party objects to a monthly fee statement, it must file a written objection (the "Notice of Objection to Monthly Fee Statement") and serve it upon the Receiver and Mazars so that the

Notice of Objection to Monthly Fee Statement is received on or before the Objection Deadline. The Notice of Objection to Monthly Fee Statement must set forth the nature of the objection and the amount of fees and/or expenses at issue.

If the Receiver receives an objection to the Monthly Fee Statement, the Receiver shall withhold payment of that portion of the Monthly Fee Statement to which the objection is directed and promptly pay the remainder of the fees and disbursements.

If the parties are unable to reach a resolution of the objection(s) within ten (10) days after service of the objection(s), it shall request a conference with the court to resolve such objection(s).

19. The Receiver shall serve this Motion on all creditors and interested parties from the bankruptcy case and this proceeding. Once the court enters an order approving this process, Mazars shall submit their monthly fee statements to the Receiver. Each invoice will be reviewed and approved by the Receiver for payment. Approved monthly invoices will be uploaded to the Constant Contact business application for email transmission to Plan Members and Plan Participants. The Constant Contact application stores all communications to/from Plan Members and Plan Participants, and any failure to transmit an email to a registered email address can be tracked by the Receiver. The Constant Contact communication process provides the Receiver with the capability to send cost effective communications, and the Constant Contact application tracks all communications for reporting. Approved invoices and/or notices are posted to the Plan's public website for Plan Members and Plan Participants to review. The Plan has been utilizing these two (2) methods to communicate with Plan Members and Plan Participants for the past few years, particularly through the bankruptcy proceedings beginning in May 2021. The Constant Contact application is an efficient and cost-effective communication application which will catalog and maintain electronic records for all email transmissions. When coupled with notices posted on the

Plan's public website Plan Members and Plan Participants will be fully informed on professional costs associated with the administration of the Plan.

20. I have the authority to seek the relief requested in the motion pursuant to R. 4:53. For the foregoing reasons, the undersigned respectfully submits that there is sufficient cause for the court to grant the motion in its entirety and any other equitable relief the court deems just.

I hereby certify that the facts set forth herein are true to the best of my knowledge, information and belief. I am aware that if any of the foregoing statements are willfully false, that I am subject to punishment.

I further certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Dated: April 21, 2023

/s/ Brian Hofmeister
Brian W. Hofmeister
Independent Receiver

EXHIBIT A



Mazars USA LLP
501 Office Center Drive
Suite 300
Fort Washington, Pennsylvania 19034

Tel: 215.259.1000
www.mazars.us

March 7, 2023

Brian Hofmeister, Esq
Law Firm of Brian Hofmeister
3131 Princeton Pike, Building 5, Suite 110
Lawrenceville, NJ 08648

Dear Mr. Hofmeister:

This letter is to confirm and specify the terms of our engagement with The Affiliated Physicians & Employers Master Trust (the "Plan") for the year ended December 31, 2021, and to clarify the nature and extent of the services we will provide. We understand that you are the person responsible for the tax matters of the Plan. As such, we assume that you are responsible for decisions and functions in relation to the tax process in addition to establishing and maintaining internal controls, including monitoring ongoing activities. If our understanding is not correct, please furnish the name of the individual with whom we should coordinate.

Tax Compliance Services

We will perform the following services:

1. Prepare the federal income tax returns with supporting schedules. Our records indicate that we should prepare the following returns:
 - The Affiliated Physicians & Employers Health Plan – Form 5500

We will prepare these returns from information provided directly by you or information provided to us by third parties on your behalf. Mazars will not be responsible for verifying the accuracy and completeness, or otherwise evaluating such information. Further, our engagement for the above-referenced tax work does not include any procedures designed to detect errors, irregularities, or illegal acts, including fraud or defalcations, should any exist. However, we may request clarifications as appropriate.

You agree that all records, documentation and information we request in connection with the preparation of the federal and state tax returns will be made available to us (including those pertaining to related parties), that all material information will be disclosed to us and that we will have your full cooperation. We will not be liable for any loss arising from false, misleading, or incomplete information or documentation provided by you or by third-parties on your behalf, or by any other person of whom we make inquiries during our services.

You understand that due to the evolving legal, regulatory and professional environment (i.e., imminent legislation and related guidance), interpretations are still forthcoming. You understand that until certainty is reached as to various matters, our evaluations, advice and/or comments are considered preliminary. We will not be responsible for any impact changes in laws, regulations or the business environment may have on you.

It is our policy to provide all professional advice in writing. You may not rely on any advice that has not been issued in writing by Mazars.

Except as otherwise agreed, all services hereunder shall be solely for your internal purposes and use and this engagement does not create privity between Mazars and any person or party other than you ("Third Party"). This engagement is not intended for the express or implied benefit of any Third Party. No Third Party is entitled to rely, in any manner or for any purpose, on the advice, opinions, reports or other services of Mazars. You are, however, authorized to disclose our advice, opinions, reports or other services to other persons. Since our advice, opinions, reports or other services are solely for your benefit and are not to be relied upon by others, you must inform anyone to whom you make disclosures that they may not rely upon our advice, opinions or reports without our written consent. We may place such conditions on our consent as Mazars deems appropriate.

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Please be advised that, although this engagement is subject to confidentiality, it is not subject to privilege under I.R.S. regulations.

You agree to file the tax returns as prepared by Mazars without any modifications. If modifications must be made to the tax returns prior to filing, you agree to obtain written approval from Mazars in advance. You have the final responsibility for the income tax returns and therefore, you should review them carefully before signing and mailing them to the tax authorities.

Please note that because of the concurrent attest services being rendered by Mazars, this engagement is subject to professional independence considerations.

Tax Presence in Other Jurisdictions

Please note that if you had a taxable presence (e.g., an employee or any tangible property owned or rented within the state, or sales in excess of \$50,000) in a state, it may be subject to state income or franchise tax in that state, depending upon the particular facts. It is your obligation to notify Mazars of such circumstances.

If you have derived income from a foreign country, we will use the foreign country income information which you provide to calculate any applicable federal or state foreign tax credit or other affected federal or state income tax items. However, you are responsible for meeting any foreign country income tax or other foreign country reporting requirements.

Please note that any person or entity subject to the jurisdiction of the United States (includes individuals, corporations, partnerships, trusts and estates) having a financial interest in, or signature or other authority over, bank accounts, securities, or other financial accounts having a value exceeding \$10,000 in a foreign country, is required to report such a relationship. Filing requirements also apply to taxpayers that have direct or indirect control over a foreign or domestic entity with foreign financial accounts, even if the taxpayer does not have foreign account(s). For example, a corporate owned foreign account would require filings by the corporation and by the individual corporate officers with signature authority. Failure to disclose the required information to the U.S. Department of the Treasury may result in substantial civil and/or criminal penalties.

In addition, the Internal Revenue Service under IRC Section 6038 requires information reporting with respect to certain foreign corporations, foreign partnerships and foreign disregarded entities and describes the information required to be reported on this form, which is due when your income tax return is due, including extensions.

We caution you that a failure to report involvement in foreign accounts or entities may result in substantial penalties, up to 50% of value of the accounts which were not properly reported in accordance with applicable regulations, among other penalties, interest, costs and taxes.

By your signature below, you accept responsibility for informing us if you (1) have derived income from foreign sources, (2) have a signatory control over a foreign account or have control over an entity with control over a foreign account and (3) are an officer, director, or shareholder in a foreign corporation, a partner in a foreign partnership, hold an interest in a foreign disregarded entity or have transactions with foreign affiliates. You agree to provide us with the information necessary to prepare the appropriate forms, including, but not limited to forms referenced.

Administration

We may from time to time and depending on the circumstances, use contract professionals in performing certain limited tasks on your engagement. We hold these professionals to the same standards of confidentiality as all Mazars professionals.

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Unless prohibited by applicable law or regulation, we may provide client information to external third parties providing services on our behalf, who may process (i.e., collect, use, transfer, store, etc.) it in furtherance of the services provided to you. We hold these professionals to the same standards of confidentiality as all Mazars USA LLP professionals. These third parties will abide by applicable data privacy regulations and laws.

Mazars USA LLP is required to obtain your consent in order to disclose tax return information to third parties, which may be located in the U.S. or offshore, for the purpose of assisting in the preparation and filing of your tax return. Your consent will permit Mazars USA LLP to disclose your tax return information to such third parties. Information to be provided may include personally identifiable information such as your social security number, employer identification number and any information provided by you to facilitate the preparation of your return, as well as information derived or generated by Mazars USA LLP with respect to tax returns for prior years that are in Mazars USA LLP's possession. By signing this letter, you are providing your consent for this disclosure.

If your actions lead to a data breach or privacy regulatory non-compliance, you will reimburse Mazars for its costs incurred to mitigate exposure caused by such actions.

Based on our present policies, we will maintain your tax returns and files and related documentation either in hard copy or electronic format for a period of seven years. We may modify our record retention policies from time to time in accordance with our professional obligations. It is, therefore, important for you to keep the copies of tax returns and related supporting data.

This agreement does not create an agency, employment, partnership joint venture, trust or other fiduciary relationship between the parties. Neither party shall have the right to bind the other to any Third Party or otherwise act in any way as a representative or agent of the other except as otherwise agreed in writing between the parties.

Any and all claims by the Plan arising under this engagement must be commenced by the Plan within three (3) years following the earlier of the date the tax returns were filed or the extended due date of the tax returns associated with this engagement. If the completed work product is not delivered to the Plan, for any reason, any and all claims by the Plan arising under this engagement must be commenced by the Plan within one (1) year following later of (i) the date Plan is informed of the engagement's termination or, (ii) the last date services were provided to the Plan.

In the event that there is a request (by subpoena or otherwise) for testimony, documents or other information concerning the Plan by any governmental agency or investigative body or by a party in any litigation or dispute (other than litigation or disputes involving claims by the Plan against Mazars), you agree to reimburse Mazars, its partners, principals and employees for any expense, including compensation for our otherwise billable time and reimbursement for attorneys' fees, incurred in complying with or responding to any request. This provision will survive termination of this engagement.

The engagement workpapers are the property of the firm and may not be reviewed, copied or inspected without consent from Mazars.

Mazars will not be liable to the Plan for any actions, damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the services performed under this engagement letter for an aggregate amount in excess of the fees billed by Mazars under this engagement letter for the services giving rise to the liability. In no event will Mazars be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs) or other damages (other than direct damages).

As part of our services to our clients, we provide information about industry developments, analysis of current accounting issues and our related service offerings. These informational mailings will be sent via either electronic correspondence or hard copy mailings. It is our hope that you find these communications informative and helpful. Simply by agreeing to this engagement letter, you are eligible to and agreeing to receive this information. However,

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if you do not wish to receive such communications inform Mazars of this request in writing, via email or hard copy and Mazars will remove you from the informational mailings.

To the extent that the provision of the services is affected by a pandemic or similar public health emergency (including Covid-19) and any reasonable concerns or measures taken to protect the health and safety interests of any party's personnel, the parties will work together to amend this agreement in order to allow the services to be delivered in an appropriate manner under such circumstances. The parties agree to cooperate in good-faith to allow for necessary adjustments (e.g., remote working, modified timeframes, etc.) to the extent (a) any government or similar entity implements quarantines, lockdowns, or similar restrictions that may interfere with provision of onsite or other services, (b) either party implements reasonable limitations on travel or meetings that could interfere with provision of onsite or other services, (c) any party's personnel determines that he or she is unable or unwilling to travel or to engage in other related activities in light of a pandemic-related risk, or (d) a pandemic-related risk may otherwise impair the ordinary course operations of the parties or that of any essential related party. Both parties acknowledge that neither party will be responsible for delays caused by pandemic conditions.

Dispute Resolution

Any controversy or claim arising out of or relating to this engagement, the engagement agreement, or breach thereof ("dispute") (including any dispute involving any person or entity for whose benefit the services in question are or were provided), shall be resolved in accordance with the dispute resolution procedures set forth below, which constitute the sole methodologies for the resolution of all such disputes. If any of these provisions are determined to be invalid or unenforceable, the remaining provisions shall remain in effect and binding on the parties to the fullest extent permitted by law.

Mediation

Any dispute shall first be submitted for good faith mediation administered by the American Arbitration Association ("AAA") under its Mediation Rules. The parties agree to discuss their differences in good faith and to attempt, with facilitation by the mediator, to reach a consensual resolution of the dispute. The mediation shall be treated as a settlement discussion and shall be confidential. Each party shall bear its own costs in the mediation. Absent an agreement to the contrary, the fees and expenses of the mediator shall be shared equally by the parties.

Arbitration

If the dispute is not resolved by mediation within 30 days of its submission to the mediator, then the parties will submit the dispute for arbitration administered by the American Arbitration Association under its Accounting and Related Services Arbitration Rules and Mediation Procedures (the "Rules").

The arbitration will be conducted before a single arbitrator selected by agreement between the parties from the AAA's Panel of Accounting Professionals and Attorneys and shall take place in New York, New York. The arbitrator shall be a fit and impartial person and shall have at least ten (10) years' experience in commercial litigation, accounting or a similar field connected to the subject matter of the dispute. The arbitrator, with the aforementioned requisite qualifications, will be selected pursuant to Section A-16 of the Rules.

The arbitrator shall issue its final award in a written and reasoned decision. In its decision, the arbitrator will declare one party the prevailing party and will have the power to award all reasonable legal fees associated with the arbitration and prior mediation to the prevailing party. The arbitrator shall have no authority to award non-monetary or equitable relief or damages that are punitive in nature, or that are not measured by actual compensatory loss.

Any discovery sought in connection with the arbitration must be expressly approved by the arbitrator only upon a showing of substantial need by the party seeking discovery. In addition, there shall be no pre-hearing depositions of party witnesses.

All aspects of the arbitration shall be treated as confidential. The parties and the arbitrator may disclose the existence, content or result of the arbitration only as expressly provided by the Rules.

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The award reached as a result of the arbitration will be binding on the parties and confirmation of the arbitration award may be sought in any court having jurisdiction.

Any dispute relating in any way to this engagement will be governed by the laws of the State of New York, without giving effect to any provisions relating to conflict of laws that would require the laws of another jurisdiction to apply. In applying the terms of this engagement letter, the Arbitrator shall apply the laws of the State of New York.

Fees

Our estimated fees are to be communicated to you within the December 31, 2021 audit engagement letter of the Plan. Our fees are based on our standard hourly rates. The fee estimate is based on reasonably anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, our fee estimate may be revised. Our bills for these fees will be rendered each month as work progresses.

In addition, you will be billed for any travel costs and fees for services from other professionals, if any, as well as a Technology and Delivery Charge ("TDC") of four (4) percent to cover certain technology and processing costs associated with the delivery of our services.

Our invoices will be rendered on a periodic basis and are due when rendered. A late charge will be added for any portion not paid within 30 days. In accordance with our firm policies, work may be suspended if your account becomes overdue and may not be resumed until your account is paid in full.

We will send an information request which will delineate all of the initial information necessary to complete your tax returns. Additional information may be requested once the initial data is reviewed. If we do not receive such information at least three weeks prior to the filing deadline, we may impose a premium upon our fee in order to complete the return within a short time frame. Receiving information with only a few weeks left to complete your returns may also jeopardize our ability to timely complete our services.

Additional Services

Additional services may be requested and depending upon the scope and time required to perform these services, we may issue a separate engagement letter covering the additional services. In the absence of a separate engagement letter documenting such additional services, our services will be governed by the terms of this engagement letter; however, these additional services are a separate engagement.

As a matter of clarity, preparing amended returns or representing you through a tax examination (an "audit") is not part of this engagement. If we are requested to provide either of those services, those services will be the subject of a separate engagement.

Conclusion of Services

Our tax engagement ends on delivery of the tax returns (Form 5500 and Form 990).

Either party may terminate this engagement at any time by giving written notice to the other party. Upon written notice, the engagement shall be deemed concluded even if we have not issued our work product. Upon termination of this agreement, for any reason other than completion of the engagement, you will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed even if we have not issued our work product. If payment is late, you shall reimburse us for any expenses incurred collecting fees.

Agreement

This letter comprises the complete and exclusive statement of the agreement between the parties superseding all proposals, oral or written and all other communications between the parties with respect to the subject matter

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hereof. Any modifications to this agreement must be made in writing and signed by an authorized representative of the parties. If any provision in this engagement letter is deemed void or unenforceable, all other provisions shall remain in force as if the unenforceable provision is excluded.

We appreciate the opportunity to be of service to you and believe that this letter accurately summarizes all the terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign and return a copy to us.

Very truly yours,

MAZARS USA LLP

RESPONSE:

This letter correctly sets forth the understanding with Plan:

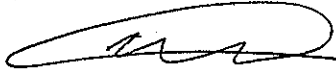
Signature: 
Title: Brian W. Hofmeister, Court appointed
Date: Independent Receiver
3/31/23.

EXHIBIT B



Mazars USA LLP
501 Office Center Drive
Suite 300
Fort Washington, Pennsylvania 19034

Tel: 215.259.1000
www.mazars.us

March 7, 2023

Brian Hofmeister, Esq
Law Firm of Brian Hofmeister
3131 Princeton Pike, Building 5, Suite 110
Lawrenceville, NJ 08648

We are pleased to confirm our understanding of the services we are to provide for The Affiliated Physicians & Employers Master Trust, (the "Plan") for the year ended December 31, 2021.

We will audit the statutory statements of admitted assets, liabilities, and capital and surplus of the Plan as of December 31, 2021, and the related statements of revenue and expense, capital and surplus and cash flows for the year then ended (the "fiscal year") and related notes to the statutory financial statements (the "financial statements") prepared in conformity with accounting practices prescribed or permitted by the New Jersey Department of Banking and Insurance ("statutory basis of accounting").

Other Services

Other services are limited to those discussed below. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

We will prepare or assist in preparing the financial statements of the Plan in conformity with statutory basis of accounting based on information provided by you. We will perform the financial statement preparation services in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants.

We will prepare the Plan's Form 5500, including required schedules for the fiscal year, the terms of which will be the subject of a separate engagement letter, based on information provided by you. After we have completed the Plan's Form 5500 and required schedules, we will authorize the Plan to include our auditor's report on the financial statements with the Plan's Form 5500 filing. We will perform the tax services in accordance with the Statements on Standards for Tax Services issued by the American Institute of Certified Public Accountants. We will advise management with regard to tax positions taken in the preparation of the Form 5500, but management must make all decisions with regard to those matters.

Audit Objective

The objectives of our audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and issue an auditor's report that includes our opinion about whether your financial statements are fairly presented, in all material respects, in conformity with statutory basis of accounting. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with auditing standards generally accepted in the United States of America ("GAAS") will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements.

Auditor's Responsibilities for the Audit of the Financial Statements

We will conduct our audit in accordance with GAAS and will include tests of your accounting records and other procedures we consider necessary to enable us to express such an opinion. As part of an audit in accordance with GAAS, we exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements,



including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the Plan or to acts by management or employees acting on behalf of the Plan.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements may not be detected by us, even though the audit is properly planned and performed in accordance with GAAS. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting, or misappropriation of assets that comes to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will obtain an understanding of the Plan and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. Accordingly, we will express no such opinion. However, during the audit, we will communicate to you and those charged with governance internal control related matters that are required to be communicated under professional standards.

Based on our understanding of the Plan and procedures to date, we would expect to identify the following significant risk(s) of material misstatement as part of our audit planning. However, as we have not yet completed our planning procedures for the current year audit, the final significant risk(s) identified could change.

- Management override of controls
- Risk of improper revenue recognition
- Improper use of estimates regarding IBNR

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Plan's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and direct confirmation of receivables and certain assets and liabilities by correspondence with selected customers, creditors, and financial institutions. We will also request written representations from your attorneys as part of the engagement.

Our audit of the financial statements does not relieve you of your responsibilities.

Responsibilities of Management for the Financial Statements

You agree to assume all management responsibilities for the tax services, financial statement preparation services, and any other nonattest services we provide; oversee the services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for designing, implementing, and maintaining internal controls relevant to the preparation and fair presentation of financial



statements that are free from material misstatement, whether due to fraud or error, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements in conformity with statutory basis of accounting.

You are responsible for including all informative disclosures that are appropriate for statutory basis of accounting for the Plan. Those disclosures will include (1) a description of statutory basis of accounting, including a summary of significant accounting policies, and how statutory basis of accounting differs from accounting principles generally accepted in the United States of America ("GAAP"); (2) informative disclosures similar to those required by GAAP; and (3) additional disclosures beyond those specifically required that may be necessary for the financial statements to achieve fair presentation.

You are also responsible for making drafts of financial statements, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters; (2) additional information that we may request for the purpose of the audit; and (3) unrestricted access to persons within the Plan from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the Plan involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the Plan received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the Plan complies with applicable laws and regulations.

Reporting

We will issue a written report upon completion of our audit of the Plan's financial statements. Our report will be addressed to the Court Appointed Independent Receiver, Brian W. Hofmeister, Esq., for the Plan. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinion, add a separate section, or add an emphasis-of-matter or other-matter paragraph to our auditor's report, or if necessary, withdraw from this engagement. If our opinion is other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or withdraw from this engagement.

Other Information in Documents Containing the Audited Financial Statements

If you intend to publish or otherwise reproduce our report on the financial statements and make reference to Mazars USA LLP, you agree to provide us in advance with copies for our review and approval before distribution. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed. If you intend to distribute in electronic format, you must provide us both the electronic version as well as an actual print-out for our approval.

Our responsibility for any other information included in documents containing the Plan's audited financial statements and auditor's report does not extend beyond the financial information identified in the report. We have no responsibility for determining whether such other information contained in these documents is properly stated.



However, if a material inconsistency is noted, we will determine whether the audited financial statements or the other information needs to be revised and communicate with management and / or those charged with governance as required under professional standards.

Engagement Administration

Anthony J Stranix is the engagement partner and is responsible for supervising the engagement and signing the report.

To the best of your knowledge, you are unaware of any facts which might impair our independence with respect to this engagement.

Please be advised that the independence rules provide that an auditor will not be independent with respect to a plan where the plan employs a current or former partner or other person who may influence the engagement within a specified period of time. Accordingly, you agree not to enter into any discussion regarding employment with any current or former partner or other person who may influence the engagement without our permission.

Unless prohibited by applicable law or regulation, we may provide Plan information to external third parties providing services on our behalf, who may process (i.e., customary business software that may collect, use, transfer, store, etc.) it in furtherance of the services provided to you. These third parties are contractually bound and legally required to abide by applicable data privacy regulations and laws. We remain committed to maintaining the confidentiality and security of your information.

If Plan information includes data that can be linked to specific individuals, or personal data, it will be processed in accordance with applicable law and regulations. The Plan warrants that it has the authority to provide any such personal data to us in connection with the performance of this engagement.

In today's technology environment, data security is of utmost importance. With that in mind, if the Plan transmits any ransomware or malware that negatively impacts our data or systems, the Plan will reimburse Mazars for its costs incurred to mitigate exposure caused by such actions.

Any and all claims by the Plan arising under this engagement must be commenced within one (1) year following the date on which Mazars USA LLP delivered the report associated with this engagement. If the completed work product is not delivered to the Plan, for any reason, any and all claims by the Plan arising under this engagement must be commenced by the Plan within one (1) year following (i) the date the Plan is informed of the engagement's termination or, (ii) the last date services were provided to the Plan, whichever occurs first.

In the event there is a request (by subpoena or otherwise) for testimony, documents or other information concerning the Plan by any governmental agency or investigative body or by a party in any litigation or dispute (other than litigation or disputes involving claims by the Plan against Mazars USA), you agree to reimburse Mazars USA, for any expense, including compensation for our otherwise billable time and reimbursement for attorneys' fees, incurred in complying with or responding to any request. This paragraph will survive termination of this engagement.

As part of our services to our clients, we provide information about industry developments, analysis of current accounting issues and our related service offerings. These informational mailings will be sent via either email or hard copy mailings. It is our hope that you find these communications informative and helpful. Simply by agreeing to this engagement letter, you are eligible to and agreeing to receive this information. However, if you do not wish to receive such communications, inform Mazars of this request in writing, via email or hard copy, and Mazars will remove you from the informational mailings.

You agree that Mazars is authorized to refer to its role and to the services performed on your behalf with other Mazars entities worldwide and we each reserve the right to refer to you in a general sense in proposals or similar submissions made to clients and prospective clients unless you write to us expressly prohibiting such disclosure.



Of course, we will adhere to our professional obligations and will not disclose any confidential or proprietary information.

The failure of either party to perform any obligation pursuant to this engagement by reason of an act of God, an act of government, terrorism, riot, war or other state sponsored military action, accident, pandemic, or any other cause beyond the reasonable control of either party shall not be deemed to be a breach of this engagement, provided that the nonperforming or delayed party provided to the other party written notice of the existence and nature of such reason for the nonperformance and delay and resumes performance immediately upon the elimination of the relevant force majeure occurrence. If the force majeure event continues for more than thirty (30) days, then the non-delayed party may terminate the engagement.

Please note that this engagement is subject to our normal and customary client acceptance and continuance procedures.

Dispute Resolution

Any controversy or claim arising out of or relating to this engagement, the engagement agreement, or breach thereof ("dispute"), (including any dispute involving any person or entity for whose benefit the services in question are or were provided), shall be resolved solely in accordance with the dispute resolution procedures set forth below. If any of these provisions are determined to be invalid or unenforceable, the remaining provisions shall remain in effect and binding on the parties to the fullest extent permitted by law.

Mediation

Any dispute shall first be submitted for good faith mediation administered by the American Arbitration Association ("AAA") under its Mediation Rules. The parties agree to discuss their differences in good faith and to attempt, with facilitation by the mediator, to reach a consensual resolution of the dispute. The mediation shall be treated as a settlement discussion and shall be confidential. Each party shall bear its own costs in the mediation. Absent an agreement to the contrary, the fees and expenses of the mediator shall be shared equally by the parties.

Arbitration

If the dispute is not resolved by mediation within 30 days of its submission to the mediator, then the parties will submit the dispute for arbitration administered by the American Arbitration Association under its Accounting and Related Services Arbitration Rules and Mediation Procedures (the "Rules").

The arbitration will be conducted before a single arbitrator selected by agreement between the parties from the AAA's Panel of Accounting Professionals and Attorneys and shall take place in New York, New York. The arbitrator shall be a fit and impartial person and shall have at least ten (10) years' experience in commercial litigation, accounting or a similar field connected to the subject matter of the dispute. The arbitrator, with the aforementioned requisite qualifications, will be selected pursuant to Section A-16 of the Rules.

The arbitrator shall issue its final award in a written and reasoned decision. In its decision, the arbitrator will declare one party the prevailing party and will have the power to award all reasonable legal fees associated with the arbitration and prior mediation to the prevailing party. The arbitrator shall have no authority to award non-monetary or equitable relief, or damages that are punitive in nature, or that are not measured by actual compensatory loss.

Any discovery sought in connection with the arbitration must be expressly approved by the arbitrator only upon a showing of substantial need by the party seeking discovery. In addition, there shall be no pre-hearing depositions of party witnesses.

All aspects of the arbitration shall be treated as confidential. The parties and the arbitrator may disclose the existence, content or result of the arbitration only as expressly provided by the Rules.

The award reached as a result of the arbitration will be binding on the parties and confirmation of the arbitration award may be sought in any court having jurisdiction.

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Any dispute relating in any way to this engagement will be governed by the laws of the State of New York, without giving effect to any provisions relating to conflict of laws that would require the laws of another jurisdiction to apply. In applying the terms of this engagement letter, the Arbitrator shall apply the laws of the State of New York.

Fees

We estimate that our fees for these services will be billed at the following rates per hour:

<i>Level</i>	<i>Rate</i>
Partner	\$ 600
Senior Manager	\$ 475
Manager	\$ 385
Senior	\$ 315
Staff	\$ 225

\$385 X 350 hours = \$134,750

We estimate our hours to range from 225-350 hours. Our bills, which are payable upon presentation, will be billed as work progresses with an initial retainer upon the issuance of this engagement letter of \$25,000.

In addition, you will be billed for any travel costs and fees for services from other professionals, if any, as well as a Technology and Delivery Charge ("TDC") of four (4) percent to cover certain technology and processing costs associated with the delivery of our services.

Mazars USA accepts multiple forms of payment. The most secure payment method is via bank wire (as indicated on our invoice) or ACH transfer (available through our website). Credit card payments are accepted via a bank portal available on our website and subject to a processing fee. We also accept payment by check, which can be mailed to our office provided on the invoice.

Our invoices will be rendered on a periodic basis and are due when rendered. A late charge will be added for any portion not paid within 30 days, and we shall be entitled to recover all reasonable expenses incurred due to non-payment, including attorney's fees. In accordance with our firm policies, work may be suspended if your account becomes overdue and may not be resumed until your account is paid in full.

We will schedule the engagement based in part on agreed upon deadlines, working conditions, and availability of your key personnel. We plan the engagement based on the assumption that your personnel will cooperate and provide assistance by performing tasks such as: closing the trial balance timely, including accurate account analysis / reconciliations; preparing and providing requested schedules as agreed upon; retrieving supporting documents; preparing confirmations; preparing drafts of the report and/or report support; and answering questions that arise in the course of our procedures. If, for whatever reason, your personnel are unavailable or unable to provide the necessary assistance in a timely manner, or such information is not accurate, it will substantially increase the work we have to do to complete the engagement within the established deadlines or extend our deadlines, resulting in an increase in fees over the above estimate.

Although we plan the engagement, unforeseen circumstances can occur that require additional time to be spent to complete our work. Examples of such unforeseen circumstances, which will result in an increase in fees over the above estimate include, but are not limited to:

- unplanned assistance with the preparation and drafting of the financial statements and related disclosures;
- changes in reporting requirements;
- assistance in researching proper accounting for contemplated or completed transactions;
- new accounting issues;
- changes in the size and scope of your operations including acquisitions and dispositions;
- changes in information systems configurations;
- changes to the internal control structure;
- changes in personnel which directly impact our engagement;

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- contractual or other problems with vendors, lenders or customers;
- control deficiencies that require additional engagement effort;
- implementation or changes in accounting pronouncements, or their application;
- illegal acts or fraud investigations;
- new borrowing arrangements or debt refinancing; and
- debt covenant issues.

Additional Services

This engagement is for the services and periods specified herein. Additional services may be requested and, depending upon the scope and time required to perform these services, we may issue a separate engagement letter covering the additional services. In the absence of a separate engagement letter documenting such additional services, our services will be governed by the terms of this engagement letter; however, these additional services are a separate engagement.

Conclusion of Services

Our engagement ends on delivery of the report.

In accordance with our firm policies, work may be suspended if bills become more than 60 days aged. Work will not be resumed until such aged bills are paid in full, and we reserve the right to charge interest on any aged bills. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed even if we have not issued our report.

We may also elect to resign upon our determination that (a) Plan personnel have not been forthcoming in providing information or have not been truthful or (b) continuing with the engagement would violate professional ethical obligations. If we elect to terminate our services, our engagement will be deemed to have been concluded upon written notification of termination, even if we have not completed our report.

Upon termination this agreement for any reason other than completion of the engagement, you will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

During the term of this agreement and for one year thereafter, neither party will solicit the other's personnel for hire without the prior written consent of the other party. This provision does not apply to: (i) any individual that has been terminated by a party prior to beginning employment discussions by the other party; and (ii) general solicitations through newspapers, postings, or other medium or using professional search firms. In the event a party breaches this provision, the breaching party will pay to the other an amount equal to 50% of the base salary of the individual(s) solicited within 30 days of the breach.

Agreement

This letter comprises the complete and exclusive statement of the agreement between the Plan and Mazars USA LLP superseding all proposals, oral or written, and all other communications between the parties with respect to the subject matter hereof. Any modifications to this agreement must be made in writing and signed by an authorized representative of the parties. If any provision in this engagement letter is deemed void or unenforceable, all other provisions shall remain in force as if the unenforceable provision is excluded.

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes all the terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the letter and return it to us.

Very truly yours,

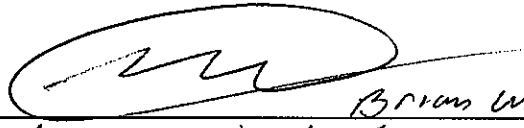
Mazars USA LLP

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Mazars USA LLP

RESPONSE:

This letter correctly sets forth the understanding of the Plan:

Signature:  Brian W. Hofmeister
Title: Court Appointed Receiver
Date: 4/12/23

McMANIMON, SCOTLAND & BAUMANN, LLC

75 Livingston Avenue, Suite 201

Roseland, New Jersey 07068

(973) 622-1800

Anthony Sodono, III (007631990)

Sari B. Placona (108842014)

Counsel to Brian W. Hofmeister, Independent Receiver

In Re:

LIQUIDATION AND DISSOLUTION OF
AFFILIATED PHYSICIANS AND
EMPLOYERS MASTER TRUST D/B/A
MEMBER HEALTH PLAN NJ

Petitioner.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION - MORRIS COUNTY

DOCKET NO. MRS-C-111-22

**ORDER (1) AUTHORIZING THE RETENTION OF
MAZARS USA LLP AS ACCOUNTANTS TO THE
INDEPENDENT RECEIVER; (2) AUTHORIZING
MONTHLY PAYMENTS TO MAZARS USA LLP; AND (3)
SUCH OTHER EQUITABLE RELIEF**

THIS MATTER having been presented to the Court by McManimon, Scotland & Baumann, LLC, counsel for the Independent Receiver Brian W. Hofmeister (the “Independent Receiver”), seeking relief by way of Motion (the “Motion”); and the Motion having been served upon all known creditors and parties in interest by United States first class regular mail pursuant to R. 1:1-2; and the Court having considered the submissions in support and opposition, if any; and for good cause shown;

IT IS on this day of 2023;

1. **ORDERED** that proper notice has been provided to all creditors and parties in interest; and it is further

2. **ORDERED** that the Independent Receiver be and is hereby authorized to employ Mazars USA LLP (“Mazars”), as his accountant on the terms and conditions set forth in the retainer agreements; and it is further

3. **ORDERED** that Mazars rates are subject to normal and ordinary course increase; and it is further

4. **ORDERED** that the procedures to notice and authorized monthly payments to Mazars are hereby approved; and it is further

5. **ORDERED** that the monthly process to pay Mazars is as follows:

Submission of Monthly Statements

On or before the 10th day of each month following the month for which compensation is sought.

Content of Monthly Statement

All timekeepers must contemporaneously maintain detailed time entries in increments of tenths (1/10th) of an hour.

Review Period

Any party in interest shall have the opportunity to review the monthly fee statements approved by the Receiver on Constant Contact. Any objections shall be provided to the Receiver within ten (10) days after posting to Constant Contact (the “Objection Deadline”).

Payment

Upon the expiration of the Objection Deadline, the Receiver is authorized to pay Mazars.

Objections

If any party objects to a monthly fee statement, it must file a written objection (the “Notice of Objection to Monthly Fee Statement”) and serve it upon the Receiver and Mazar so that the

Notice of Objection to Monthly Fee Statement is received on or before the Objection Deadline. The Notice of Objection to Monthly Fee Statement must set forth the nature of the objection and the amount of fees and/or expenses at issue.

If the Receiver receives an objection to a particular Monthly Fee Statement, the Receiver shall withhold payment of that portion of the Monthly Fee Statement to which the objection is directed and promptly pay the remainder of the fees and disbursements.

If the parties are unable to reach a resolution of the objection(s) within ten (10) days after service of the objection(s), it shall request a conference with the court to resolve such objection(s).

Honorable



Sari B. Placona
Writer's Direct Dial: (973) 721-5030
Writer's Direct Fax: (973) 681-7233
splacona@msbnj.com
01819-1

April 21, 2023

Honorable Frank J. DeAngelis, P.J. Ch.
Superior Court of New Jersey
Morris County Courthouse
56 Washington Street
Morristown, NJ 07960

**Re: Liquidation and Dissolution of Affiliated Physicians and Employers Master Trust d/b/a Member Health Plan NJ
Docket No. MRS-C-111-22**

Dear Judge DeAngelis:

This firm represents Independent Receiver, Brian W. Hofmeister (the "Independent Receiver"), appointed in the above-captioned case to oversee the dissolution and liquidation of Affiliated Physicians and Employers Master Trust d/b/a Member Health Plan NJ ("APEMT" or "Petitioner")¹. Please accept this letter brief in support of the Independent Receiver's Motion (1) authorizing the retention of Mazars USA LLP as accountants to the Independent Receiver; (2) authorizing monthly payments to Mazars USA LLP; and (3) such other equitable relief (the "Motion").

Background

On May 24, 2021, APEMT filed a voluntary petition for relief under chapter 11, subchapter V of the United States Bankruptcy Code (the "Petition Date"), bearing Case No. 21-14286 (MBK) (the "Bankruptcy Case"). See Certification of Brian W. Hofmeister, Independent Receiver, in support of the Motion ("Hofmeister Cert.") ¶ 2. The Bankruptcy Case was filed in the Trenton

¹ For clarification, APEMT has not yet been dissolved.

Vicinage, of the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”).

APEMT, a debtor under a confirmed subchapter V plan in the Bankruptcy Case, is a non-profit, self-funded multiple employer welfare arrangement (“MEWA”) under the provisions of 29 U.S.C. Ch. 18 (the “Employee Retirement Income Security Act”) and N.J.S.A. 17B:27C-1, et seq. (the “Self-Funded Multiple Employer Welfare Arrangement Regulation Act”) and was registered with the New Jersey Department of Banking and Insurance (“NJ DOBI”) annually. Id. ¶ 3.

In addition to registering with NJ DOBI, APEMT is also registered as a MEWA with the United States Department of Labor (“US DOL”), through an annual M1 filing. APEMT offered medical and prescription benefits to members (“Members”). Id. ¶ 4. Traditionally, Members were small business employers or sole practitioners. Once enrolled, and depending upon the type of coverage elected by the Member, coverage was extended to the employees or sole practitioner, and the family members of those employees or that sole practitioner (the “Covered Beneficiaries”).

APEMT has no owners or direct employees. Prior to November 2022, APEMT was overseen by a board of trustees (the “Board of Trustees” and, each individual trustee, a “Trustee”). As of the Petition Date, there were eleven (11) Trustees for APEMT. The respective Trustees represent sponsoring associations (the “Sponsors”) of APEMT. Members must belong to a Sponsor in order to enroll with APEMT. Id. ¶ 5.

On August 5, 2021, APEMT filed its Small Business Subchapter V Plan (with amended Plans filed December 8th and 9th, the “Plan”). Hofmeister Cert. ¶ 6.

Also, on August 5, 2021, APEMT moved to expand the scope of Mr. Hofmeister’s Subchapter V Trustee powers. The Court granted APEMT’s motion by order entered November 15, 2021 (the “Sub V Trustee Order”). Id. ¶ 7.

As set forth in more detail therein, the Sub V Trustee Order authorized Mr. Hofmeister to review available documents and records from the past five (5) years (the “Examination Period”) in order to analyze the financial and operational conditions of APEMT which caused the impaired financial condition of APEMT, and the impact, if any, of the Covid-19 Pandemic. Id. ¶ 8.

Furthermore, Mr. Hofmeister is authorized to investigate APEMT’s actuarial professional’s rating methodology for the Examination Period. Finally, Mr. Hofmeister is authorized to review APEMT’s administrative expenses for the Examination Period. Id. ¶ 9.

On December 14, 2021, APEMT served on all of its Members with notice of the Bankruptcy Court’s *Amended Order Setting Deadlines and Scheduling Confirmation Hearing* (the “Amended Order Scheduling Confirmation”).

With the Amended Order Scheduling Confirmation, APEMT provided notice and an opportunity for all Members and Covered Beneficiaries to assert a claim against APEMT in the Bankruptcy Case.

By order, dated March 21, 2022, the Court confirmed APEMT’s Plan (the “Confirmation Order”). Hofmeister Cert., ¶ 10. On March 25, 2022, APEMT served a copy of the Confirmation Order on all Members.

On April 28, 2022, APEMT filed a *Notice of (I) Entry of and Order Confirming Plan of Reorganization Filed by the Debtor; (II) Occurrence of the Effective Date; and (III) Administrative Bar Date* (the “Notice of the Effective Date”) which indicated the effective date of the Plan occurred on March 31, 2022. Id. ¶ 11.

Pursuant to the Confirmation Order, the Independent Receiver’s authority was expanded to include reporting obligations and oversight, and pursuit of avoidance actions. Id. ¶ 12.

On November 10, 2022, this Court entered its *Judgment: (1) Appointing Brian W. Hofmeister as Independent Receiver to Oversee the Dissolution and Liquidation of APEMT; (2) Authorizing the Independent Receiver to Continue to Execute APEMT's Bankruptcy Plan; (3) Authorizing the Waiver of Any Bond Requirements for the Independent Receiver; and (4) Such Other Relief that this Court Deems Equitable* (the “Judgment”). The Judgment adopted all orders entered by the Bankruptcy Court. *Id.* ¶ 13.

Legal Argument

The relief requested by the Receiver is consistent with:

- i. applicable law;
- ii. this Court’s November 10, 2022 *Judgment*; and
- iii. the March 21, 2022 Confirmation Order entered in the United States Bankruptcy Court for the District of New Jersey.

The Receiver submits that the requested relief is equitable and for the benefit of the interested parties to this estate.

I. AFFIRMING AND AUTHORIZING THE RETENTION OF MAZARS USA LLP ACCOUNTANTS TO THE RECEIVER

By this Motion, the Independent Receiver seeks authority for the retention of Mazars USA LLP (“Mazars”) as accountants. The retention of Mazars is necessary in order to prepare the federal income tax returns for APEMT and audit the statutory statements of admitted assets, liabilities, and capital and surplus of APEMT as of December 31, 2021.

Rule 4:53 relates to insolvent corporations and the administration through receivers and liquidating trustees. The rule states, “A receiver may employ an attorney or accountant only if the

court determines that such employment is necessary to the proper conservation and administration of the estate.” R. 4:53.

As found by the Bankruptcy Court, all Professionals are disinterested persons, having no interest materially adverse to APEMT. See 11 U.S.C. §§ 327 and 328.

II. AUTHORIZING PROCEDURES FOR NOTICE AND AUTHORIZING MONTHLY PAYMENTS TO MAZARS USA LLP

By the Judgment, this Court authorized the Independent Receiver to take all action necessary to enact and comply with the Plan and Confirmation Order entered in APEMT’s Bankruptcy Case. See Judgment, (b). Furthermore, this Court “*So Authorized*” the relief granted in the Plan and Confirmation Order including, but not limited to, APEMT’s Post-Confirmation Operations, Mr. Hofmeister’s continued collection of bankruptcy estate property under the jurisdiction and oversight of the Bankruptcy Court in his role as Subchapter V Trustee, and APEMT’s collection of the Member assessments under the jurisdiction and oversight of this Court. See Judgment, (e)(i); Confirmation Order, §§ 4, 5, 15, and 16.

Pursuant to the Confirmation Order, APEMT (or Mr. Hofmeister as Subchapter V Trustee), is entitled to retain and compensate professionals without further order of the Bankruptcy Court.

Bankruptcy Courts allow debtors to seek a streamlined process for allowance and payment of compensation and reimbursement for attorneys and other professionals whose services are, will, or have been authorized pursuant to the Bankruptcy Code. The streamlined procedures are established in an effort to save time and expense required when filing applications for allowance of compensation and reimbursement of expenses pursuant to sections 330 and 331 of the Bankruptcy Code. See 11 U.S.C. §§ 330 and 331 (Requiring retained professionals to submit applications for interim compensation and reimbursement of expenses every one-hundred-twenty (120) days or more often if the court permits).

The Independent Receiver desires to adopt a similar streamlined process here. The Independent Receiver shall serve this Motion on all creditors and interested parties. Should the Court enter an order approving this process, all Professionals will be required to submit their monthly fee statements to the Independent Receiver. Each invoice will be reviewed and approved by the Independent Receiver for payment. Approved monthly invoice notices will be uploaded to the Constant Contact business application for email transmission to Members and Plan Participants. The Constant Contact application stores all communications to/from Plan Members and Plan Participants, and any failure to transmit an email to a registered email address can be tracked by the Receiver. The Constant Contact communication process provides the Receiver with the capability to send cost effective communications, and the Constant Contact application tracks all communications for reporting. Approved invoices and/or notices will be posted to the Plan's public website for Plan Members, Plan Participants and interested Parties to review.

The Constant Contact application is an efficient and cost-effective communication application which will catalog and maintain electronic records for all email transmissions. When coupled with notices posted on the Plan's public website Plan Members and Plan Participants will be fully informed on professional costs associated with the administration of the Plan. Utilizing Constant Contact allows the Receiver and the estate of APEMT to preserve costs and avoid mass mailings. See Hofmeister Cert. ¶ 17.

A. Submission of Monthly Statements

On or before the 10th day of each month following the month for which compensation is sought.

B. Content of Monthly Fee Statement

Each monthly fee statement shall include a detailed breakdown of the services provided

and the fees incurred by those services. All timekeepers must contemporaneously maintain time entries in increments of tenths (1/10th) of an hour.

C. Review Period

Monthly Fee Statements will be available for review on APEMT's website. Any objections shall be provided to the Independent Receiver within ten (10) days after receiving notice from Constant Contact (the "Objection Deadline").

D. Payment

Upon the expiration of the Objection Deadline, the Receiver is authorized but not directed to pay Mazars

E. Objections

If any party objects to a monthly fee statement, it must file a written objection (the "Notice of Objection to Monthly Fee Statement") and serve it upon the Independent Receiver and Mazars so that the Notice of Objection to Monthly Fee Statement is received on or before the Objection Deadline. The Notice of Objection to Monthly Fee Statement must set forth the nature of the objection and the amount of fees and/or expenses at issue.

If the Receiver receives an objection to a particular Monthly Fee Statement, the Independent Receiver shall withhold payment of that portion of the Monthly Fee Statement to which the objection is directed and promptly pay the remainder of the fees and disbursements.

If the parties are unable to reach a resolution of the objection(s) within ten (10) days after service of the objection(s), it shall request a conference with the Court to resolve such objection(s).

Conclusion

Based on the foregoing, the Receiver respectfully requests that the Motion be granted in its entirety.

Respectfully submitted,

/s/ Anthony Sodono, III

Anthony Sodono, III