

**HEARING DATE: MARCH 7, 2023 AT 10:00 A.M.**  
**WEBEX VIRTUAL HEARING**  
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STATE OF RHODE ISLAND  
PROVIDENCE, SC

SUPERIOR COURT

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)  
PETER MUMMA, in his capacity as Chief )  
Executive Officer and President of the )  
Board of Directors of Phoenix Houses of )  
New England, Inc., )  
    *Petitioner,* )  
)  
v. )  
)  
PHOENIX HOUSES OF NEW ENGLAND,) )  
INC., )  
    *Respondent.* )  
\_\_\_\_\_ )

C.A. No. PM-2021-00006

**SPECIAL MASTER’S FOURTH INTERIM REPORT**  
**AND FIFTH REQUEST FOR FEES, COSTS, AND EXPENSES**

NOW COMES Jonathan N. Savage, Esq., solely in his capacity as Permanent Non-Liquidating Special Master (“Special Master”) of Phoenix Houses of New England, Inc. (“Phoenix House”) and hereby makes a report relative to Phoenix House, and requests that the Court (1) approve the distributions and recommendations set forth below, and (2) review, approve, and authorize payment of the Special Master’s fees, costs, and expenses that have been incurred in connection with the administration of Phoenix House under the COVID-19 Business Recovery Plan.

**BACKGROUND**

1. This Fourth Interim Report and Fifth Request for Fees, Costs, and Expenses (the “Report”) is made in succession to the Special Master’s Third Interim Report and Fourth Request for Fees, Costs, and Expenses (“Third Interim Report”), which is incorporated herein by reference.

2. In December 2022, the Court approved the Third Interim Report in its entirety. A copy of the Order approving the Third Interim Report is attached hereto as **Exhibit A**.

### **THE CLAIMS PROCESS**

3. By Order dated June 30, 2022 (the “Order”), the Court approved Phoenix Houses’ Petition to Sell Assets in the Ordinary Course; Special Master’s Petition for Instructions on Claim Process; and Special Master’s Second Interim Report and Third Request for Fees, Costs, and Expenses, which included the approval of the Special Master’s request to establish a claims process. A copy of that Order is attached hereto as **Exhibit B**.

4. The Order provides, in relevant part:

That all creditors or other claimants hereby are ordered to file under oath with the Special Master at 564 S. Water Street, Providence, RI 02903 on or before the 31st day of October 31, 2022, a statement setting forth their claims, including, but without limiting the generality of the foregoing, the name and address of the claimant, the nature and amount of such claim, a statement of any security or lien held by the claimant to which such claimant is or claim to be entitled, and also a statement as to any preference or priority to which the claimant claims to be entitled to over the claims of any other or all claimants or creditors.

*See Order at ¶ 7.*

5. Consistent with the authorization provided in that Order, the Special Master initiated a claims process (the “Claims Process”) for all vendors, creditors, or other parties in interest to assert claims against the Special Mastership Estate on or before October 31, 2022 (“Claims Bar Date”). That process included the creation and subsequent mailing of a proof of

claim form to approximately 440 parties. A copy of the Notice to All Creditors and Parties in Interest is attached hereto as **Exhibit C**.<sup>1</sup>

6. After the Claims Process began, the Special Master's counsel and his staff fielded and responded to inquiries from various parties and coordinated with creditors to submit proofs of claim.

7. This process involved significant effort in working with Phoenix House's remaining contractors to reconcile proofs of claim against the liabilities logged on Phoenix House's financials.

8. Throughout this process, the Special Master's counsel reviewed proofs of claim as they were submitted to catalogue the claims, document their priority, and determine whether each claim was properly substantiated and documented.

9. As of the filing of this Report, the Special Master's counsel and staff have completed their review of the proofs of claim submitted in connection with the Claims Process.

10. The Special Master has categorized the proofs of claim into the following categories: (a) undisputed claims that are recommended for approval (the "Recommended Claims"); (b) claims that, while recommended for approval, in part, require further investigation and/or substantiation (the "Pending Claims"); (c) claims that, while properly substantiated, were received after the Claims Bar Date (the "Late Claims"); and (d) a claim that, while received on time, should be rejected, because it was not filed under oath with the Special Master (the "Disallowed Claim"), as required by the Order.

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<sup>1</sup> The Special Master also reminded all vendors, creditors, and other parties in interest of their obligation to file claims against the Special Mastership Estate by mailing dated October 14, 2022, a copy of which is attached hereto as **Exhibit D**.

### **Summary of the Proofs of Claim**

11. As of the filing of this Report, the Special Master has received eighty (80) proofs of claim, which cumulatively total \$1,848,458.33. All of those claims are unsecured.

12. One of the claims—which was submitted by the Burlington Housing Authority for payment of \$12,606.60 (the “Compromised Claim”)—was recently compromised,<sup>2</sup> however, leaving the Special Master with a total of seventy-nine (79) proofs of claim, for a total amount claimed of \$1,835,851.73.

13. Aside from the Compromised Claim, seventy-seven (77) of the proofs of claim were received on time, prior to the expiration of the Claims Bar Date, while the two (2) remaining proofs of claim were received late, after the Claims Bar Date had passed (defined above as the “Late Claims”).

14. Excluding the Compromised Claim, the seventy-seven (77) timely proofs of claim totaled \$1,832,258.50, while the two (2) Late Claims total \$3,593.23.<sup>3</sup>

15. As set forth below, the Special Master is recommending approval of, and requests the authority to make distributions up to the amounts for, the vast majority of the timely submitted proofs of claim, which, together, total \$1,416,455.81.

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<sup>2</sup> As further discussed *infra*.

<sup>3</sup> In addition to the eighty (80) proofs of claim submitted to the Special Master, it appears that on or about November 5, 2022, another creditor—Capital Lease Group—by and through its counsel, filed a “Motion for Instructions and Supporting Memorandum.” In that filing, Capital Lease Group recounts that it had previously leased certain vehicles to Phoenix House and requested instructions on the mechanics filing an administrative proof of claim. At the time of that filing, however, the Special Master had not received a proof of claim from Capital Lease Group. And, as of the filing of this Report, that remains true. Although Capital Lease Group was free to seek the Court’s permission to file a proof of claim beyond the Claims Bar Date, that, too, has not yet occurred. As a result, any claim of Capital Lease Group remains characterized as one of the Other Liabilities and should be rejected.

16. Relatedly, for the reasons set forth below, the Special Master also recommends approval of, and requests the authority to make distributions up to the amounts for, the two (2) Late Claims, for a total of \$3,593.23.

17. Together, the Recommended Claims and the Late Claims total \$1,420,049.04.

18. However, there are a set of proofs of claim that the Special Master, by and through his counsel, has determined require further investigation and/or substantiation—the Pending Claims, which, taken together, total \$408,849.58. For the reasons discussed *infra*, the Special Master is recommending approval of Pending Claims, in part, in the amount of \$203,318.54.

19. As for certain excess amounts of the Pending Claims, and to alleviate the continued accrual of the Special Master's fees and expenses in responding to and engaging with creditors with Recommended or Late Claims, the Special Master recommends, in his business judgment, that the Court reserve on ruling on approving, denying, or modifying the non-recommended Pending Claims until the Special Master can complete his investigation into those particular claims. This bifurcated process will allow the Recommended Claims and the Late Claims to be paid, in full, while the Special Master continues to fulfill his obligations to investigate and allow claimants to substantiate the Pending Claims without further delay for creditors with Recommended or Late Claims. If, in the course of the investigation into the Pending Claims, the Special Master or his counsel are able to reach a compromise with any claimant, however, the Special Master further requests the authority to compromise any such Pending Claim in an amount not to exceed \$25,000.00 per claim.

20. Moreover, included in the proofs of claim received by the Special Master was one (1) proof of claim that the Special Master recommends be rejected (defined above as the Disallowed Claim). As described below, the Disallowed Claim was submitted by NSTAR d/b/a

Eversource (“Eversource”) for payment of \$6,963.11. In short, Eversource’s claim should be rejected because it was not filed under oath and therefore did not comply with paragraph 7 of the Order.

21. Finally, as reflected by the Other Liabilities, there are a series of potential creditors that may have had claims but did not, pursuant to the mandates of the Order, submit a proof of claim to the Special Master. According to Phoenix House’s books and records, the sum total of these Other Liabilities is approximately \$1,269,708.05.

22. As an initial matter the Special Master recommends that any claims that may have existed based on the Other Liabilities must be rejected in light of the passage of the Claims Bar Date and the corresponding failure to comply with the terms of the Order. However, due to potential issues regarding notice or other unique circumstances—and to defray any additional administrative expense in returning to the Court for on a case-by-case basis (should any such creditor decide, now, to press a time barred claim for payment)—the Special Master requests the authority to compromise any claims made within thirty (30) days of the filing of this Report that relate to any of the Other Liabilities in an amount not to exceed \$25,000.00 per claim.

### **The Recommended Claims**

23. Of the seventy-seven (77) proofs of claim that were submitted on time (excluding the Compromised Claim discussed below), the Special Master requests that the Court approve the following Recommended Claims and, correspondingly, authorize the Special Master to make distributions up to the amounts listed below:

<b>Claimant</b>	<b>Amount</b>	<b>Basis for Payment</b>
Thomas G. Durham, PhD	\$900.00	Balance due for professional services
Staples, Inc.	\$8,954.65	Balance due on invoices
Suburban Propane	\$8,571.14	Balance due for propane and services

Map Communications, Inc.	\$15,934.26	Balance due for communications services
JMB Mechanical, Inc.	\$3,763.03	Balance due for labor and materials
Pannone Lopes Devereaux & O'Gara LLC	\$58,890.83	Balance due for legal services
BioSearch	\$18,750.00	Balance due for recruitment and talent acquisition services
Pierce Fire Protection Services, Inc.	\$100.00	Balance due for fire extinguisher inspection and service call
Triple T Trucking Corp.	\$2,458.85	Balance due for trash services
BCA Cleaning Company, LLC	\$10,580.00	Balance due for cleaning services
HPC Foodservice	\$34,776.34	Balance due for food distribution services
Charles Simpson d/b/a Simpson Landscape Company	\$6,305.00	Balance due for landscaping services
Aqua Tech Compliance Services, LLC	\$2,450.00	Balance due for water testing and compliance services
MAS Medical Staffing, LLC	\$23,935.00	Balance due for staffing services
HP Hood, LLC	\$689.13	Balance due for food and beverage services
Apple Valley Alarms, LLC	\$4,641.50	Balance due for security system and electrical maintenance and monitoring services
Burlington Electric Department	\$3,445.59	Balance due for electric services
Northeast Water Solutions, Inc.	\$2,105.88	Balance due for water treatment services
Daniel Pender	\$1,250.51	Balance due for employee expense reimbursement
Pitney Bowes Inc. / Purchase Power	\$635.66	Balance due for postage/mailing services
Complete Staffing Solutions, Inc.	\$6,283.20	Balance due for staffing services
Canon Financial Services Inc.	\$9,500.44	Balance due for copier and other equipment
Green Mountain Power	\$6,209.69	Balance due for electric services
Charts & Carts	\$3,020.73	Balance due for patient charting services
James Henzel	\$1,449.10	Balance due for employee expense reimbursement

Jimmie Searle	\$628.46	Balance due for employee expense reimbursement
Morgaine Wilde	\$4,264.12	Balance due for services rendered
Susan Shubitowski	\$271.70	Balance due for employee expense reimbursement
Medimpex United, Inc.	\$399.50	Balance due for testing supplies
Add-A-Line, Inc.	\$16,875.00	Balance due for billing consulting services
Test Medical Symptoms @ Home, Inc.	\$134.95	Balance due for testing supplies
Allied Fire Protection Inspection Services, Inc.	\$1,725.10	Balance due for fire protection services
Decision Points Authors LLC	\$1,800.00	Balance due for training services
Town of Dublin	\$25,161.41	Balance due for payments in lieu of taxes
Thomas DeFanti / Sound Recovery Inc.	\$44,395.00	Balance due for professional services
Quinn and Company, Inc.	\$1,800.00	Balance due for financial consulting services
FirstLight Fiber, Inc.	\$491.86	Balance due for fiber-optic services
Fire Control Systems, Inc.	\$1,963.35	Balance due for fire equipment services
CPRBoston.org Inc.	\$1,100.00	Balance due for CPR training services
St. Mary's Center for Women & Children	\$105,337.16	Balance due for rent
Shorey Naphen (Dow)	\$11,335.75	Balance due for employee expense reimbursement
BDO USA, LLP	\$28,708.21	Balance due for accounting services
DiBro Holdings, Inc. d/b/a System4	\$8,144.00	Balance due for cleaning services
American Medical Response of Massachusetts	\$36,840.00	Balance due for COVID-19 testing services
Sherri Krug-Summers d/b/a Smart Spaces	\$2,600.00	Balance due for cleaning services
Global Medical Systems, Inc.	\$641.48	Balance due for testing supplies
Shred This, Inc. d/b/a SecurShred	\$466.25	Balance due for shredding services
Robert Half International Inc.	\$27,260.59	Balance due for staffing services



Larlham Landscape Construction Company, Inc.	\$450.00	Balance due for landscaping services
Citizens Bank	\$20,079.41	Balance due on credit card
David Robillard d/b/a Forest Hills Landscaping	\$5,850.04	Balance due for landscaping and snow removal services
G.A. Smith, Inc. d/b/a Rhode Island Snow & Ice	\$7,775.00	Balance due for snow removal services
G. Medical, LLC d/b/a Pharmaceuticals	\$7,250.47	Balance due for medical supplies
Shawn L. Thygeson	\$880.00	Balance due for snow removal services
KC Mechanical, Inc.	\$1,072.33	Balance due for equipment repair services
Phoenix House Foundation, Inc.	\$202,561.30	Balance due for tail insurance premiums
Aid Maintenance Co. II, Inc.	\$3,450.00	Balance due for janitorial services
Megan E. Durocher	\$5,250.00	Balance due for tuition reimbursement
Jones Moving & Storage LLC	\$12,172.00	Balance due for monthly storage charges
Philadelphia Indemnity Insurance Company	\$116,557.90	Balance due for liability insurance premiums
Enterprise FM Trust and Enterprise Fleet Management, Inc.	\$5,828.04	Balance due for vehicle lease payments
Rhode Island Department of Health	\$2,386.00	Balance due for chemical testing
New Hampshire Food Bank	\$2,703.03	Balance due for food purchases and delivery services
Dighton Industries, LLC	\$344,235.87	Balance due for rent
Peter Kassis, M.D.	\$90,000.00	Balance due for payment upon termination under employment agreement
Alex Etienne, M.D.	\$30,000.00	Balance due for consulting fees
<b>Total Recommended Claims</b>	<b>\$1,416,445.81</b>	

24. As for the Recommended Claims, all of which are unsecured but were timely received, the Special Master, through his counsel, has been able to verify the proofs of claim he received against the liabilities recorded in Phoenix House's books and records. Moreover, these

Recommended Claims were all submitted on the Court-authorized proof of claim form, under oath and notarized, and supported by backup or supporting documentation.

25. As a result, the Special Master recommends that the Court approve all of the Recommended Claims depicted above, in full, and authorize the Special Master to make distributions up to the recommended amounts set forth above, for a total of up to \$1,416,445.81.

### **The Compromised Claim**

26. As alluded to above, during the proof of claims process, the Special Master also received a claim from the Burlington Housing Authority, which submitted a claim for \$12,606.60 in unpaid rent due under a lease for certain real property located at 37 Elmwood Avenue, Burlington, Vermont. As the Special Master's counsel learned after filing the Third Interim Report, however, it turned out that the Burlington Housing Authority owed Phoenix House \$75,000, pursuant to a promissory note dated June 30, 2010, and recorded in Book 1106, at Page 647, in the Burlington Land Records. In November of 2022, the Special Master, by and through his counsel, working with counsel for the Burlington Housing Authority, reached a compromise of this claim. In exchange for the payment to Phoenix House in the amount of \$62,393.40 (representing an offset of the \$75,000 owed to Phoenix House under the note, less the \$12,606.60 in rental indebtedness), the Special Master, by and through his counsel, agreed to discharge the mortgage that secured the note. This settlement resulted in an additional influx of \$62,393.40 in funds for the Special Mastership Estate and, based upon the agreement with Burlington Housing Authority, mooted its previously submitted proof of claim.

### **The Late Claims**

27. The Special Master received two (2) claims after the Claims Bar Date. They are depicted as follows:

<b>Claimant</b>	<b>Amount</b>	<b>Basis for Payment</b>
Open Text Corp.	\$2,832.23	Balance due for information management services
Gray Media Group, Inc.	\$761.00	Balance due on invoices
<b>Total Late Claims</b>	<b>\$3,593.23</b>	

28. The Special Master received the first of the Late Claims on November 8, 2022, and it was submitted by Open Text Corp., which provided information management solutions to Phoenix House. Open Text Corp.'s proof of claim was for a claimed balance of \$2,832.23, and according to its proof of claim form, it was signed and notarized on October 27, 2022. Given the fact that the delay was minimal, coupled with the surplus of the Special Mastership Estate (even when accounting for the Pending Claims described below), the Special Master recommends that the Court approve Open Text Corp.'s claim, in full, and authorize the Special Master to make a corresponding distribution to Open Text Corp. in the amount of \$2,832.23.

29. The second of the Late Claim was received by the Special Master on January 17, 2023, and it was submitted by Gray Media Group, Inc. ("Gray Media Group") for payment in the amount of \$761.00. Gray Media Group was a creditor unknown to the Special Master and his counsel at the time of the proof of claims process, and it was only recently that Gray Media Group made contact with counsel for the Special Master. Because Gray Media Group did not receive notice of this proceeding or the proof of claims process, the Special Master recommends that the Court approve Gray Media Group's claim, in full, and authorize the Special Master to make a corresponding distribution to Gray Media Group in the amount of \$761.00.

30. Moreover, the Late Claims were both submitted on the Court-authorized proof of claim form, under oath and notarized, and supported by supporting documentation.

### The Pending Claims

31. In addition, the Special Master also received several claims that require further investigation and/or substantiation. These claims—defined as the Pending Claims—fall into several subcategories, but they are depicted, in full, as follows:

<b>Claimant</b>	<b>Amount</b>	<b>Claim for Payment</b>
The Substance Use & Mental Health Leadership Council	\$12,451.00	Claim for membership dues
Marcum LLP	\$38,428.43	Claim for accounting services
Pitney Bowes, Inc.	\$14,556.16	Claim for postage equipment
Suzan R. White, D.O.	\$95,804.00	Claim for compensation incentives and bonuses
Michelle Kearney	\$76,601.00	Claim for compensation incentives, bonuses, and student loan reimbursements
Susan A. Brodeur, PA-C	\$67,902.00	Claim for compensation incentives, bonuses, and student loan reimbursements
Peter Kassis, M.D.	\$21,620.58	Claim for reimbursement of travel and lodging expenses
Effortless Office Enterprises, LLC	\$81,486.41	Claims for information technology services
<b>Total Pending Claims</b>	<b>\$408,849.58</b>	

32. The Pending Claims fall into several subcategories: (a) proofs of claim that vary from the liabilities recorded on Phoenix House’s books and records and therefore require further investigation and supporting documentation (the “Discrepancy Claims”); (b) proofs of claim for compensation and purported bonuses that require further investigation and supporting documentation (the “Pending Compensation Claims”); (c) a proof of claim submitted for reimbursement of travel and lodging expenses (the “Kassis Claim”); and (d) proofs of claim submitted for information technology services (the “Effortless Claims”) that need to be reconciled with Zinnia Health, LLC (“Zinnia”), the purchaser and operator of Phoenix House’s former facility located in Exeter, Rhode Island.

*The Discrepancy Claims*

33. The Special Master, by and through his counsel, has determined that the following Discrepancy Claims are for amounts that vary from the liabilities recorded on Phoenix House's books and records and, as a result, require further investigation and supporting documentation.

34. The Discrepancy Claims consist of the following:

<b>Claimant</b>	<b>Amount Claimed</b>	<b>Amount Reflected on Phoenix House's Books and Records</b>
The Substance Use & Mental Health Leadership Council	\$12,451.00	\$6,076.00
Marcum LLP	\$38,428.43	\$26,016.21
Pitney Bowes, Inc.	\$14,556.16	\$5,947.25
<b>Total Recommended Discrepancy Claims</b>		<b>\$38,039.46</b>

35. Based on those discrepancies between the amounts claimed (the "Excess Amounts") and the amounts reflected in Phoenix House's books and records, the Special Master remains unable to verify the accuracy of the Excess Amounts claimed.

36. Still, in order to ensure that these claimants are paid for the amounts that the Special Master has been able to verify, the Special Master recommends that the Court approve, and authorize the Special Master to make corresponding distributions, as follows:

- a. \$6,076.00 to The Substance Use & Mental Health Leadership Council (leaving an excess amount of \$6,375.00);
- b. \$26,016.21 to Marcum LLP (leaving an excess amount of \$12,412.22); and
- c. \$5,947.25 to Pitney Bowes, Inc. (leaving an excess amount of \$8,608.91).

37. These claimants may, in the course of the Special Master's further investigation, seek to clear their burden of proof to provide documentation in support of the Excess Amounts. *See, e.g., In re Moreno*, 341 B.R. 813, 819 (Bankr. S.D. Fla. 2006) (explaining that "where the

claim correlates by account number to a claim scheduled by the debtor, but the amount of the claim exceeds the scheduled amount[,] . . . the proper objection is that the claimant has not established its claim to the extent it exceeds the amount the debtor admits is owed” and that “[i]f the original proof of claim contains only summary information and lacks the documentation necessary under Rule 3001 to establish prima facie validity, the claimant will have the burden of establishing its claim for the excess amounts, including, for example, providing a breakdown of how it calculated charges”) (citing *In re Shank*, 315 B.R. 799, 830 (Bankr. N.D. Ga. 2004)).

38. At this juncture, however, the Special Master recommends the approval, in part, of the Discrepancy Claims consistent with the amounts recommended above; provided, however, that if any claimant with Discrepancy Claims (a) fails to submit additional documentation within thirty (30) days of the filing of this Report or (b) otherwise compromise their claim with the Special Master in an amount not to exceed \$25,000.00, then the Special Master recommends that any such claim for the Excess Amounts be rejected.

*The Pending Compensation Claims*

39. Several claimants also submitted proofs of claim for payment of certain compensation and bonuses that, to date, the Special Master, by and through his counsel, has not been able to verify. These Pending Compensation Claims consist of:

<b>Claimant</b>	<b>Amount Claimed</b>	<b>Basis for Claim</b>	<b>Amount Recommended</b>
Suzan R. White, D.O.	\$95,804.00	Claim for compensation incentives and bonuses	\$59,386.20
Michelle Kearney, PA-C	\$76,601.00	Claim for compensation incentives, bonuses, and student loan reimbursements	\$37,105.60
Susan A. Brodeur, PA-C	\$67,902.00	Claim for compensation incentives, bonuses, and student loan reimbursements	\$52,366.70
<b>Total Recommended Pending Compensation Claims</b>			<b>\$148,858.50</b>

40. Generally, the Pending Compensation Claims, respectively, are comprised of claims for (a) variable compensation based on incentives measured by relative value units (“RVUs”), plus (b) performance incentive bonuses. And, in two instances, claimants with Pending Compensation Claims also sought reimbursement for matching funds pledged under Vermont’s Education Loan Repayment Program.

41. More specifically:

- a. Suzan R. White, D.O. submitted a total claim for \$95,804, which is comprised of (a) variable RVU compensation of \$70,804, and (b) a performance incentive bonus of \$25,000.
  - i. To date, however, the Special Master, in coordination with Phoenix House’s former CEO, has been able to verify only part of Dr. White’s claim—namely, (a) variable RVU compensation in the amount of \$49,386.20, plus (b) a performance incentive bonus of \$10,000, for a total verified amount of \$59,386.20.
- b. Michelle Kearney, PA-C submitted a total claim for \$76,601.00, which is comprised of (a) variable RVU compensation of \$31,610, (b) a performance incentive bonus of \$25,000, and (c) \$20,000 in student loan reimbursement repayments/matching funds.
  - i. To date, however, the Special Master, in coordination with Phoenix House’s former CEO, has been able to verify only part of Ms. Kearney’s claim—namely, (a) variable RVU compensation in the amount of \$10,439.60, (b) a performance incentive bonus of \$6,666, plus (c) \$20,000 in pledged student loan reimbursement payments, for a total verified claim of \$37,105.60.

c. Susan A. Brodeur, PA-C submitted a total claim for \$67,902, which is comprised of (a) variable RVU compensation of \$35,402, (b) a performance incentive bonus of \$12,500, and (c) \$20,000 in student loan reimbursement repayments/matching funds.

i. To date, however, the Special Master, in coordination with Phoenix House's former CEO, has been able to verify only part of Ms. Brodeur's claim—namely, (a) variable RVU compensation in the amount of \$25,700.70, (b) a performance incentive bonus of \$6,666, plus (c) \$20,000 in pledged student loan reimbursement payments, for a total verified claim of \$52,366.70.

42. Based on the remaining discrepancy between the amounts claimed and the amounts verified here, the Special Master recommends that the Court approve the Pending Compensation Claims as follows:

- a. Approval of Dr. White's claim in the amount of \$59,386.20, while reserving on the remainder of the total, unverified amount claimed;
- b. Approval of Ms. Kearney's claim in the amount of \$37,105.60, while reserving on the remainder of the total, unverified amount claimed; and
- c. Approval of Ms. Brodeur's claim in the amount of \$52,366.70, while reserving on the remainder of the total, unverified amount claimed.

43. However, with respect to the outstanding, unverified amounts (the "Excess Pending Compensation Amounts")—that is, the difference between the amounts that the Special Master has verified/recommended and the total amounts claimed in Pending Compensation Claims—further investigation is required. To complete that process, the Special Master recommends the following procedure: (a) providing any claimant with Pending Compensation Claims within thirty



(30) days of the filing of this Report to substantiate the Excess Pending Compensation Amounts; and (b) authorizing the Special Master to compromise these claims and the Excess Pending Compensation Amounts in an amount not to exceed \$25,000.00 per claim.

*The Kassis Claim*

44. The next subcategory of Pending Claims involves one (1) of the two (2) claims submitted by Peter Kassis, M.D. (“Dr. Kassis”). The Kassis Claim consists of:

<b>Claimant</b>	<b>Amount Claimed</b>	<b>Basis for Claim</b>	<b>Amount Recommended</b>
Peter Kassis, M.D.	\$21,620.58	Claim for reimbursement of travel and lodging expenses as well as monthly rental payments	<b>\$16,420.58</b>

45. Dr. Kassis submitted a claim for reimbursement of (a) lodging and travel expenses (in the combined amount of \$16,420.58) and (b) rental payments for certain property located in Exeter, Rhode Island (in the combined amount of \$5,200, representing \$1,300 per month from December 2021 through March 2022). Based on Phoenix House’s books and records, the portion of this claim for lodging and travel expenses has been verified; but the remaining \$5,200 for rent remains wanting. In short, the purported agreement for reimbursement of monthly rental payments is not, to the Special Master’s satisfaction, memorialized in Dr. Kassis’ employment agreement. As a result, the Special Master recommends approving this claim, in part, in the amount of \$16,420.58, while reserving on the remaining \$5,200, which requires further investigation/substantiation.

*The Effortless Claims*

46. Next, there are the Effortless Claims, which were submitted by Phoenix House’s managed service provider, Effortless Office Enterprises, LLC. The Effortless Claims are comprised of the following:

<b>Claimant</b>	<b>Amount</b>	<b>Claim for Payment</b>
Effortless Office Enterprises, LLC	\$22,144.39	Claim for information technology services
Effortless Office Enterprises, LLC	\$59,342.02	Claim for information technology services

47. As of the filing of this Report, however, the Special Master, by and through his counsel, requires additional time to reconcile the amounts set forth in the Effortless Claims with the amounts due by and between Phoenix House, on one hand, and Zinnia, on the other hand.<sup>4</sup>

48. Accordingly, the Special Master recommends that the Court reserve on the Effortless Claims until the Special Master can complete the process of reconciling any amounts due and owing to Effortless from Phoenix House or Zinnia.

#### **The Rejected Claim**

49. As noted above, the Special Master received one (1) claim that failed to comply with the Order and, as a result, should be rejected. The Rejected Claim is depicted below:

<b>Claimant</b>	<b>Amount</b>	<b>Claim for Payment</b>
NSTAR d/b/a Eversource	\$6,963.11	Claim for electric services

50. As the Order provides, “all creditors or other claimants hereby are ordered *to file under oath* with the Special Master . . . a statement setting forth their claims . . . .” *See* Order at ¶ 7. And in providing notice of the Order and the proof of claims process, the Special Master emphasized that requirement. *See* Notice to All Creditors and Parties in Interest.

51. But in submitting the Rejected Claim, Eversource failed to comply with that requirement. Instead, Eversource provided only a cover letter enclosing a statement of account.

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<sup>4</sup> Moreover, the Special Master has approved payment to Effortless for the vast majority (if not all) invoices for services in the post-petition period, which, upon final reconciliation, will significantly reduce/satisfy the amounts set forth in the Effortless Claims.

52. Because Eversource failed to submit a proof of claim under oath, the Special Master recommends that the Rejected Claim—which Eversource submitted for the payment of \$6,963.11—be rejected.

53. Nevertheless, the Special Master further recommends that the Court provide Eversource with a grace period of ten (10) days from the filing of this Report, during which time Eversource can cure its deficiency and file, under oath, an amended proof of claim with the Special Master.

### **The Other Liabilities**

54. Finally, there are the Other Liabilities.

55. As noted above, Phoenix House's books and records contain an additional \$1,269,708.05 in recorded liabilities. In this case, however, claimants or creditors that may have had claims against the Other Liabilities failed to submit proofs of claim.

56. Because no such claims were submitted before the expiration of the Claims Bar Date, as the Order required, these liabilities should be extinguished and any claims made subsequent to this Report should be rejected.<sup>5</sup>

57. However, to account for any potential issues regarding notice or other unique circumstances—and to defray any additional administrative expense in returning to the Court for on a case-by-case basis (should any such creditor decide, now, to press a time barred claim for

---

<sup>5</sup> Although not listed as a liability on Phoenix House's books and records, the Special Master has also been made aware of pre-petition litigation pending in C.A. No. PC-2020-01752, which is styled as *Trey Perry v. Phoenix Houses of New England, Inc.* On January 12, 2021, the Special Master, by and through his counsel, entered his appearance in that litigation and filed and served a Notice of Suggestion of Special Mastership, which, among other things, informed the parties of this special mastership proceeding and the stay on proceedings against Phoenix House. Since that date, however, the plaintiff has not sought this Court's approval to lift the stay. Nor has the Special Master received a proof of claim from the plaintiff or his representative. As a result, the Special Master recommends that the plaintiff's claim against Phoenix House be extinguished.

payment)—the Special Master requests the authority to compromise any claims relating to any of the Other Liabilities in an amount not to exceed \$25,000.00 per claim.

### **REQUEST FOR FEES, COSTS, AND EXPENSES**

58. As of the filing of this Report, the Special Master and members of the Special Master's law firm have devoted a cumulative total of approximately 118.2 hours to this matter and incurred \$32,544.00 in legal fees. Attorneys were billed at rates between \$295 and \$325 per hour, and paralegals were billed at rates between \$115 and \$145 per hour. The Special Master confirms that those fees were incurred as necessary for the benefit of the Special Mastership estate.

59. Additionally, the Special Master incurred \$1,315.93 in out-of-pocket expenses.

60. Accordingly, the Special Master requests that the Court approve the Special Master's legal fees and out-of-pocket costs and expenses, confirm that such fees, costs, and expenses were incurred for the benefit of the Special Mastership estate, and authorize the Special Master to pay such legal fees, costs, and expenses cumulatively totaling \$33,859.93. The Special Master's invoice has been submitted to the Court for an in camera review. If so authorized by the Court, the Special Master will present such invoice to any party.

WHEREFORE, the Special Master respectfully requests that the Court:

- A. Set this Report down for hearing, and, after such hearing, approve this Report;
- B. Approve the Special Master's recommended proof of claims allowances as follows:
  1. Approve the Recommended Claims and authorize the Special Master to make corresponding distributions up to the amounts set forth above to claimants with Recommended Claims;

2. Approve the Late Claims and authorize the Special Master to make corresponding distributions up to the amounts set forth above to claimants with Late Claims;
  3. Approve the recommended amounts of the Pending Claims and authorize the Special Master to make corresponding distributions up to the amounts set forth above but reserve on the excess amounts of Pending Claims that require further investigation; and
  4. Approve the Special Master's recommendation to disallow Eversource's proof of claim;
- C. Order any claimant with Pending Claims to submit to the Special Master, within thirty (30) days of the filing of this Report, further documentation to support their claim;
- D. Authorize the Special Master to compromise any Pending Claims, without further approval from the Court, in an amount not to exceed \$25,000.00 per claim;
- E. Extinguish the Other Liabilities and authorize the Special Master to, in his business judgment, compromise any claims made against the Other Liabilities in an amount not to exceed \$25,000.00 per claim;
- F. Approve the Special Master's request for fees and out-of-pocket expenses in the amount of \$33,859.93;
- G. Find that the Special Master's fees and out-of-pocket expenses are reasonable and were incurred for the benefit of the Special Mastership estate;
- H. Approve and authorize the Special Master to pay his fees and out-of-pocket expenses from the Special Mastership estate;

- I. Approve, confirm, and ratify all the acts, doings, and disbursements of the Special Master as of the filing of this Report;
- J. Order that the Special Master and the Special Mastership shall remain in place until further order of the Court; and
- K. Order any and all other relief as the Court deems necessary and just.

JONATHAN N. SAVAGE, ESQ., SOLELY  
IN HIS CAPACITY AS SPECIAL MASTER OF  
PHOENIX HOUSES OF NEW ENGLAND, INC.

By his attorney,

/s/ Christopher J. Fragomeni  
Christopher J. Fragomeni, Esq. (9476)  
SAVAGE LAW PARTNERS, LLP  
564 S. Water Street, Providence, RI 02903  
P: 401-238-8500 | F: 401-648-6748  
[chris@savagelawpartners.com](mailto:chris@savagelawpartners.com)

**CERTIFICATE OF SERVICE**

I hereby certify that, on the 24th day of February, 2023, I filed and served this document through the electronic filing system. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Christopher J. Fragomeni

# Exhibit A

STATE OF RHODE ISLAND  
PROVIDENCE

SUPERIOR COURT

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PETER MUMMA, in his  
Capacity as Chief Executive Officer and  
President of the Board of Directors of  
Phoenix Houses of New England, Inc.  
*Petitioner,*

v.

PHOENIX HOUSES OF NEW  
ENGLAND, INC.,  
*Respondent*

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C.A. No. PM-2021-00006

**ORDER**

The above-captioned matter came before the Honorable Brian P. Stern on November 10, 2022, on the Third Interim Report and Fourth Request for Fees, Costs, and Expenses (“Report”) of Jonathan N. Savage, Esq., solely in his capacity as Permanent Special Master (“Special Master”) of Phoenix Houses of New England, Inc. After hearing, and without objection, it is hereby

**ORDERED, ADJUDGED, AND DECREED**

1. That the Report is approved;
2. That all the acts, doings, and disbursements of the Special Master are approved, confirmed, and ratified;
3. That the Special Masters request for fees and out-of-pocket expenses in the amount of \$73,547.38 is approved, and such fees are reasonable and were incurred for the benefit of the Special Mastership estate;
4. That the Special Master is authorized to pay his fees, costs, and expenses from the Special Mastership estate; and



5. That the Special Master and this Special Mastership proceeding shall remain in place until further order of the Court.

ENTERED as an order of this Court on this ~~\_\_\_\_\_~~ day of ~~November, 2022.~~ December 2, 2022

ENTER:



Brian P. Stern  
Associate Justice

\_\_\_\_\_  
Stern, J.

BY ORDER:

/s/ Carin Miley

\_\_\_\_\_  
Clerk **Deputy Clerk I**

December 2, 2022

Presented by,  
COUNSEL TO THE SPECIAL MASTER,

/s/ Christopher J. Fragomeni

Christopher J. Fragomeni, Esq. (9476)  
SAVAGE LAW PARTNERS, LLP  
564 S. Water Street, Providence, RI 02916  
P: 401-238-8500 | F: 401-648-6748  
[chris@savagelawpartners.com](mailto:chris@savagelawpartners.com)

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 14th day of November, 2022, I filed and served this document through the electronic filing system on all registered parties. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Christopher J. Fragomeni, Esq.

# **Exhibit B**

STATE OF RHODE ISLAND  
PROVIDENCE, SC

SUPERIOR COURT

\_\_\_\_\_  
)  
PETER MUMMA, in his capacity as Chief )  
Executive Officer and President of the )  
Board of Directors of Phoenix Houses of )  
New England, Inc., )  
*Petitioner,* )

v. )

C.A. No. PM-2021-00006

)  
PHOENIX HOUSES OF NEW )  
ENGLAND, INC., )  
*Respondent.* )  
\_\_\_\_\_ )

**ORDER**

The above-captioned matter came before the Honorable Brian P. Stern on June 17, 2022 on Phoenix Houses of New England Inc.'s Petition to Sell Assets in the Ordinary Course; Special Master's Petition for Instruction on Claim Process; and Special Master's Second Interim Report and Third Request for Fees, Costs, and Expenses ("Petition"). After hearing, and without objection, it is hereby

**ORDERED, ADJUDGED, AND DECREED**

1. That the Court reserves decision on Phoenix Houses of New England, Inc.'s Petition to Sell Assets in the Ordinary Course, as set forth in the Petition;
2. That the Special Master's Second Interim Report and Third Request for Fees, Costs, and Expenses, as set forth in the Petition, is approved;
3. That all acts, doings, and disbursements of the Special Master as of the filing of the Petition are approved, ratified and confirmed;

4. That the Special Master's legal fees and out-of-pocket expenses as set forth in the Petition are hereby approved, and the Court finds that such fees, costs, and expenses were incurred for the benefit of the Special Mastership Estate;

5. That the Special Master is hereby authorized and directed to pay the Special Master's fees, costs, and expenses in the amount of \$290,689.33 from the Special Mastership Estate. Further, the Special Master is authorized and directed to pay to Ferrucci Russo Dorsey, P.C. the amount of \$13,055.00 from the Special Mastership Estate;

6. That the Special Master's Petition for Instructions on Claim Process is approved;


7. That all creditors or other claimants hereby are ordered to file under oath with the Special Master at 564 S. Water Street, Providence, RI 02903 on or before the 31st day of October, 2022, a statement setting forth their claims, including, but without limiting the generality of the foregoing, the name and address of the claimant, the nature and amount of such claim, a statement of any security or lien held by the claimant to which such claimant is or claim to be entitled, and also a statement as to any preference or priority which the claimant claims to be entitled to over the claims of any other or all other claimants or creditors;

8. That notice will be given of the entry of this Order by the Clerk of this Court by publication in the *Providence Journal* on the 22nd day of July, 2022, and by the Receiver mailing on the 22nd day of July, 2022, a copy of this order and a proof of claim form to each creditor holding claims against the Special Mastership known as such to the Special Master, or appearing as such on the books and records of Phoenix Houses of New England, Inc., addressed to each such creditor at last known address; and

9. That this proceeding shall remain open, pending further order of the Court.

ENTERED, as an Order of this Court this 30th day of June, 2022.

BY ORDER:

  
Brian P. Stern  
Associate Justice

ENTER:

**/s/ Carin Miley**  
**Deputy Clerk I**  
June 30, 2022

\_\_\_\_\_  
Stern, J.

\_\_\_\_\_  
June 30, 2022

\_\_\_\_\_  
Clerk, Superior Court

Presented by:  
Counsel to the Special Master,

/s/ Christopher J. Fragomeni  
Christopher J. Fragomeni, Esq. (9476)  
Savage Law Partners, LLP  
564 S. Water Street, Providence, RI 02903  
P: 401-238-8500 | F: 401-648-6748  
[chris@savagelawpartners.com](mailto:chris@savagelawpartners.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22nd day of June, 2022, I filed and served this document through the electronic filing system on all registered parties. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Christopher J. Fragomeni

# Exhibit C



July 6, 2022

**NOTICE TO ALL CREDITORS AND PARTIES IN INTEREST**

**RE: Peter Mumma v. Phoenix Houses of New England, Inc.**  
**Case No.: PM-2021-00006**

On June 30, 2022, the Rhode Island Superior Court entered an order approving, among other things, the Special Master's Petition for Instruction on Claim Process (the "Order"), a copy of which is enclosed for your reference.

The Special Master is an officer of the Court. Our office does not and has not represented Phoenix Houses of New England, Inc. ("Phoenix House"). Funds from the sale of Phoenix Houses' assets are available to pay creditors with pre-petition or post-petition claims, said claims will be paid in the order to which they are entitled in accordance with their respective rights and priorities.

In order that your interests be protected, I have enclosed a Proof of Claim form, which I suggest that you complete, **under oath and execute before a Notary Public**, and return to me at the earliest possible date, **but no later than October 31, 2022.** Please be sure to include any and all documentation in support of your claim.

All Proof of Claims should be sent to me at the following address:

Christopher J. Fragomeni, Esq.  
Counsel to the Special Master  
Savage Law Partners, LLP  
564 South Water Street  
Providence, RI 02903

No distribution to creditors will take place without notice to all creditors and other parties in interest who file a Proof of Claim with the Special Master, which notice will include the date and time at which an interested party may be heard thereon before the Rhode Island Superior Court. Should you have any questions regarding any aspect of the foregoing, please feel free to contact Christopher J. Fragomeni, Esq. at (401) 238-8500 or [chris@savagelawpartners.com](mailto:chris@savagelawpartners.com).

STATE OF RHODE ISLAND  
PROVIDENCE, SC

SUPERIOR COURT

\_\_\_\_\_  
)  
PETER MUMMA, in his capacity as Chief )  
Executive Officer and President of the )  
Board of Directors of Phoenix Houses of )  
New England, Inc., )  
*Petitioner,* )

v. )

C.A. No. PM-2021-00006

)  
PHOENIX HOUSES OF NEW )  
ENGLAND, INC., )  
*Respondent.* )  
\_\_\_\_\_ )

**ORDER**

The above-captioned matter came before the Honorable Brian P. Stern on June 17, 2022 on Phoenix Houses of New England Inc.'s Petition to Sell Assets in the Ordinary Course; Special Master's Petition for Instruction on Claim Process; and Special Master's Second Interim Report and Third Request for Fees, Costs, and Expenses ("Petition"). After hearing, and without objection, it is hereby

**ORDERED, ADJUDGED, AND DECREED**

1. That the Court reserves decision on Phoenix Houses of New England, Inc.'s Petition to Sell Assets in the Ordinary Course, as set forth in the Petition;
2. That the Special Master's Second Interim Report and Third Request for Fees, Costs, and Expenses, as set forth in the Petition, is approved;
3. That all acts, doings, and disbursements of the Special Master as of the filing of the Petition are approved, ratified and confirmed;



4. That the Special Master's legal fees and out-of-pocket expenses as set forth in the Petition are hereby approved, and the Court finds that such fees, costs, and expenses were incurred for the benefit of the Special Mastership Estate;

5. That the Special Master is hereby authorized and directed to pay the Special Master's fees, costs, and expenses in the amount of \$290,689.33 from the Special Mastership Estate. Further, the Special Master is authorized and directed to pay to Ferrucci Russo Dorsey, P.C. the amount of \$13,055.00 from the Special Mastership Estate;

6. That the Special Master's Petition for Instructions on Claim Process is approved;


7. That all creditors or other claimants hereby are ordered to file under oath with the Special Master at 564 S. Water Street, Providence, RI 02903 on or before the 31st day of October, 2022, a statement setting forth their claims, including, but without limiting the generality of the foregoing, the name and address of the claimant, the nature and amount of such claim, a statement of any security or lien held by the claimant to which such claimant is or claim to be entitled, and also a statement as to any preference or priority which the claimant claims to be entitled to over the claims of any other or all other claimants or creditors;

8. That notice will be given of the entry of this Order by the Clerk of this Court by publication in the *Providence Journal* on the 22nd day of July, 2022, and by the Receiver mailing on the 22nd day of July, 2022, a copy of this order and a proof of claim form to each creditor holding claims against the Special Mastership known as such to the Special Master, or appearing as such on the books and records of Phoenix Houses of New England, Inc., addressed to each such creditor at last known address; and

9. That this proceeding shall remain open, pending further order of the Court.

ENTERED, as an Order of this Court this 30th day of June, 2022.

BY ORDER:

  
Brian P. Stern  
Associate Justice

ENTER:

**/s/ Carin Miley**  
**Deputy Clerk I**  
June 30, 2022

\_\_\_\_\_  
Stern, J.

\_\_\_\_\_  
June 30, 2022

\_\_\_\_\_  
Clerk, Superior Court

Presented by:  
Counsel to the Special Master,

/s/ Christopher J. Fragomeni  
Christopher J. Fragomeni, Esq. (9476)  
Savage Law Partners, LLP  
564 S. Water Street, Providence, RI 02903  
P: 401-238-8500 | F: 401-648-6748  
[chris@savagelawpartners.com](mailto:chris@savagelawpartners.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22nd day of June, 2022, I filed and served this document through the electronic filing system on all registered parties. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Christopher J. Fragomeni

Mail Proofs of Claim to:

**Christopher J. Fragomeni, Esq., Counsel to the Special Master of Phoenix Houses of New England, Inc.**  
**c/o Savage Law Partners, LLP**  
**564 S. Water Street, Providence, RI 02903**

**PROOF OF CLAIM FORM**

**PROOF OF CLAIM MUST BE RECEIVED ON OR BEFORE OCTOBER 31, 2022.**

I, \_\_\_\_\_, being duly sworn, depose and say:

\_\_\_\_\_ (INDIVIDUAL) I am the claimant herein.

\_\_\_\_\_ (PARTNERSHIP, LLC, LLP) I am a partner/officer of \_\_\_\_\_  
which is the claimant herein.

\_\_\_\_\_ (CORPORATION) I am an officer, to wit, \_\_\_\_\_  
of \_\_\_\_\_ which is the claimant herein.

The full address of the claimant is (complete address, including zip code): \_\_\_\_\_.

That on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, Phoenix Houses of New England Inc. did owe and still does owe the claimant a balance of \$ \_\_\_\_\_ dollars, **a statement of which account is attached hereto.**

That I affirm that such account is just, true and correct, and said balance is now due to the claimant from Phoenix Houses of New England, Inc.

That no part thereof has been paid or satisfied, and that there are no set-offs, or counterclaims thereto, to the knowledge or belief of deponent and that no security exists for said debt.

That the attorneys named on this Proof of Claim are hereby made and constituted attorneys for all purposes whatsoever in connection with this claim with full power of substitution (if attorney is filing for you).

\_\_\_\_\_  
(Signature of Claimant)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

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***Please attach copies of documentation in support of your claim and mail original claim form to***  
**Christopher J. Fragomeni, Esq., Counsel to Special Master of Phoenix Houses of New**  
**England, Inc.**

**c/o Savage Law Partners LLP, 564 S. Water Street, Providence, RI 02903**

# Exhibit D



October 14, 2022

**RE: Peter Mumma v. Phoenix Houses of New England, Inc.**  
**Case No.: PM-2021-00006**

**NOTICE OF HEARING ON PETITION TO SELL ASSETS**

On June 7, 2022, Phoenix House of New England filed a Petition to Sell Assets in the Ordinary Course (“Petition to Sell”) relative to the properties located at 435 Western Avenue, Brattleboro, Vermont and 15 Mulberry Street, Springfield, Massachusetts. A copy of the Petition to Sell is enclosed for your reference.

On June 30, 2022, the Rhode Island Superior Court entered an order, reserving decision on the Petition to Sell. A copy of that Order is enclosed for your reference.

PLEASE TAKE NOTICE that the Petition to Sell has been returned to the Court’s calendar and a hearing thereon will take place on **November 10, 2022 at 10:00 a.m.** via WebEx. Please contact the Court or the undersigned for access to the WebEx hearing.

Additionally, the deadline to submit a proof of claim is October 31, 2022. If you have not already done so, please submit your notarized proof of claim form with supporting documentation as soon as possible.

Very truly yours,

Christopher J. Fragomeni,  
Counsel to the Special Master of Phoenix  
Houses of New England, Inc.