



NEW JERSEY SENATE

LORETTA WEINBERG
SENATOR, 37TH DISTRICT
545 CEDAR LANE
TEANECK, NJ 07666
TEL: (201) 928-0100

COMMITTEES:
CHAIR
HEALTH, HUMAN SERVICES, SENIOR
CITIZENS
MEMBER
JUDICIARY

September 14, 2011

Honorable Paul J. Fishman
United States Attorney's Office
970 Broad Street, 7th Floor
Newark, NJ 07102

Dear Mr. Fishman:

I recently became aware of allegations made by Donald Scarinci, the former counsel to Hoboken University Medical Center ("HUMC"), regarding potential malfeasance in the process of transferring ownership of the hospital to a private entity. A September 14, 2011 Bergen Record article entitled "Ex-hospital Counsel Cites Fears of Fraud," reveals court documents in which Mr. Scarinci alleges that he resigned from representing the Hoboken Municipal Hospital Authority (the "Authority") because he feared it had fraudulently orchestrated the bankruptcy of HUMC. The press account highlights certain court filings in which Mr. Scarinci states that "the hospital withheld millions in contractual payments to help make it appear the facility was in duress and push it into bankruptcy." The article quotes Mr. Scarinci, who indicated to the court " 'that he was a first hand witness to a pattern of conduct by the Hoboken Municipal Hospital Authority board members to intimidate, threaten, control, abuse and attempt to force the CEO of [the hospital] and members of the board to take actions adverse to its charter and otherwise violate the laws of the state of New Jersey.' " Because he believed the Authority's efforts in pursuit of bankruptcy violated the law, he resigned his position as counsel.

I am deeply troubled by these allegations of fraud, intimidation and other unlawful conduct. I request your office to investigate the validity of Mr. Scarinci's claims and ensure that the conduct of individuals involved in the bankruptcy of HUMC conformed to State law.

Thank you for your prompt attention and consideration of this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Loretta Weinberg". The signature is fluid and elegant, with a large initial "L" and a long, sweeping underline.

Loretta Weinberg
Chair
Senate Health, Human Services and Senior Citizens

Attachment

Ex-Hoboken hospital lawyer warns of fraud

Says bankruptcy was forced to ease sale to private group

By Jarrett Renshaw
STATEHOUSE BUREAU

The attorney for Hoboken University Hospital says he resigned in July because he feared the city was committing fraud by engineering the bankruptcy of its hospital, court documents show.

Donald Scarinci, a partner in the law firm of Scarinci & Hollenbeck, was the general counsel for the hospital and its board from 2009 until July 16, about two weeks before the facility filed for bankruptcy.

In court papers, Scarinci says the city-backed authority created to oversee the hospital withheld millions in contractual payments to help make it appear the facility was in duress and push it into bankruptcy. The authority wants to sell the hospital to private investors who own the for-profit Bayonne Medical Center.

"I was the first-hand witness to a pattern of conduct by the Hoboken Municipal Hospital Authority board members to intimidate, threaten, control, abuse and attempt to force the CEO of [the hospital] and members of the board to take actions adverse to its charter and otherwise violate the laws of the state of New Jersey," Scarinci said in a document filed

yesterday. Reached yesterday, Scarinci declined to elaborate.

The attorney for the city's hospital authority, Ken Rosen, of Lowenstein Sandler, said he would not "respond to hysterical allegations that have no basis in fact."

"We are focused on saving jobs at the hospital and ensuring it remains open," said Rosen. "The authority was incredibly diligent, hard working and searched for the best deal for the city of Hoboken and its taxpayers."

Doug Petkus, a spokesman for the authority, said, "The authority believes the allegations by Mr. Scarinci in his motion to the court are unfounded and false."

Scarinci claims the authority wielded its influence against hospital board members who questioned the failed payments and opposed the bankruptcy, including the hospital's former CEO, who got a \$600,000 severance package when he resigned two weeks before the bankruptcy filing.

The hospital's board members also resigned and were replaced by members picked by the authority, halting a pending legal challenge to the withheld payments, Scarinci said. He claims the authority granted departing members legal protection in exchange for their silence.

The goal, Scarinci says, was to ensure

the hospital was sold to the investors, who are waiting for the state to approve a transfer of its license and a bankruptcy judge to rule on key motions considered pivotal to the \$65 million sale.

The hospital owes creditors, including union pension funds, \$34.6 million and has asked a bankruptcy judge to approve a settlement that would give them \$5 million from the sale. Scarinci & Hollenbeck are among the creditors.

Scarinci's accusations are in e-mails and motions filed in the bankruptcy case in response to questions by Lowenstein Sandler about whether he violated attorney ethics by meeting with attorneys for the creditors last month to talk about his ex-client.

In a Sept. 3 e-mail to Lowenstein Sandler about the meeting, Scarinci responded, "I have made it very clear that I will not participate in the fraud that I believe your team of lawyers is attempting to perpetuate in the bankruptcy court. As everyone knows, I resigned from [the hospital] precisely because I could not and would not be part of any of this."

A federal judge denied Lowenstein Sandler's motion yesterday to force the creditors' law firm to turn over the notes from the meeting.

Jarrett Renshaw: jrenshaw@starledger.com or (609) 989-0379