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Sources: Hosp. Authority pushed for bankruptcy

Creditors strike back; internal feud at hospital?

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Creditors are crying foul in court over the city's settlement with the Hudson Healthcare Inc. (HHI), the company that operates Hoboken's city-owned hospital. The HHI recently filed for Chapter 11 bankruptcy, leaving local businesses – as well as two municipal entities – owed millions of dollars they may never receive, and sources have raised questions about the cause of the bankruptcy.



Knowledgeable sources said that representatives from HHI, the non-profit entity that operates the hospital, did not wish to declare bankruptcy, but received pressure from the Hoboken Municipal Hospital Authority (HMHA), a municipal board, to do so. Doing so would smooth the process of the sale of the hospital from Hoboken

to HUMC Holdco, a group from Bayonne that also operates Bayonne Medical Center.

The hospital must extinguish its debts before the sale is complete, essentially wiping the slate clean for the new owner. A bankruptcy could achieve that goal quickly.

The city saved the hospital from failing financially in 2007.

The city took ownership of the once-failing hospital in 2007 by voting to guarantee \$52 million in bonds. The measure, supported by the administration of Mayor David Roberts, saved the hospital, but taxpayers were concerned that if the facility failed financially, they would be left to pay. After Mayor Dawn Zimmer took office in 2009, she pledged to sell the hospital – which was still on shaky financial ground – to private owners who would still run it as a hospital for several years, so taxpayers will no longer be responsible for it.

After receiving eight bids, the city began the process of selling the

facility to Holdco. As part of the agreement, Holdco agreed to keep the facility as a hospital for at least seven years.

Several aspects of the process are controversial.

Shortly before HHI declared bankruptcy, Hoboken University Medical Center Chief Executive Officer Spiros Hatiras resigned from his position, making state headlines when it was discovered that he would receive a \$600,000 severance payout. Members of the HHI board also resigned from their positions before the bankruptcy.

Also, sources say that the Hoboken Municipal Hospital Authority, a municipal board, withheld some money from HHI, which may have helped force them into bankruptcy. The HMHA denied this last week.

Newest filing by creditors last week

Approximately 5,000 creditors are owed money they may not receive due to the HHI bankruptcy, including the city of Hoboken and the Parking Utility, which was owed \$2 million in claims, according to bankruptcy documents.

Paul Hollander of Okin, Hollander & Deluca, LLP in Fort Lee represents the city in the bankruptcy proceedings at a rate of \$540 per hour.

On Aug. 18, the City Council approved a settlement, meaning that they will never receive any of their \$2 million claim, but in return, the city will not be liable for lawsuits from creditors in the bankruptcy. Instead, HHI will be liable.

However, an "official committee of unsecured creditors" filed a motion in U.S. Bankruptcy Court on the afternoon of Aug. 24 objecting to the settlement, as well as other aspects of the bankruptcy.

The creditors are asking to pursue claims against the HMHA and the city instead of just HHI.

The committee of unsecured creditors, who are not individually named, are currently represented by Andrew Sherman of Sills, Cummis, & Gross, PC of Newark.

Interim hospital CEO Vincent Riccitelli wrote in a letter to the editor last week in ***The Hoboken Reporter*** that the bankruptcy filing was completed "to ensure the hospital would be able to continue operating until completion of its sale to HUMC Holdco LLC."

Riccitelli cited low pay from insurance carriers as a reason why the hospital was not profitable. The hospital relied on state funds, officials said.

Ongoing sale

The sale of the hospital is almost complete. The state Health Planning Board approved of the deal in Trenton earlier this month, and now the final step in the state certificate of need process is the approval from the commissioner of health.

Usually, hospital sales are subject to a review by the attorney general's office under the Community Healthcare Asset Protections Act (CHAPA), but since the hospital is municipally owned, there is no requirement for a CHAPA review.

Sources said the HMHA and HHI boards were conflicted over declaring bankruptcy, which led to the HMHA withholding money from the HHI.

Doug Petkus, a spokesperson for the HMHA, denied that claim.

"HMHA did not withhold funds from HHI," Petkus said in an e-mail. "HMHA has no independent source of revenue other than what the hospital itself generates. Funds generated from the hospital are used to satisfy the terms of the bonds and then the balance is distributed to HHI to operate the hospital."

However, in June, the HHI sent a notice of default to the HMHA board, as well as other parties involved in the sale, alleging that the HMHA has not fully funded its obligations to the hospital to the tune of approximately \$5 million over the past year and a half.

Bankruptcy and the City Council

On Aug. 18, the City Council voted 5-3 to approve the city's settlement.

Council President Ravinder Bhalla voted in favor of the city's settlement claim at the council meeting on Aug. 18, saying it's "unconscionable and reckless to not move forward."

Council members Theresa Castellano, Michael Russo, and Tim Occhipinti, all political foes of the mayor, voted against the settlement. Russo was upset that the council hadn't been privy to the information of the sale even though he had asked to be involved through the process.

When the **Reporter** asked a series of questions about the bankruptcy last week, Zimmer did not wish to comment.

"The city has a longstanding policy of not commenting on ongoing litigation so I cannot respond to your specific questions," Zimmer said in an e-mail.

She added that the motions filed in court represent the legal position of just one of the parties.

"The transaction with Holdco represents an opportunity to save our hospital and to relieve our taxpayers of the burden of a \$52 million loan guaranty that we cannot afford," she added. "I have at all times acted in the best interest of the city of Hoboken and its residents to work toward completion of a transaction that represents an enormous accomplishment for our city."

The seven-year guarantee

On Wednesday evening, Russo asked members of the administration to consider asking the mayor if she would put in a deed restriction on the property. As part of the transaction, the building is only required to remain as a hospital for a period of seven years.

Russo said that the city should issue a deed restriction that makes the hospital land only available for park space or a hospital after seven years. Thus, it could not be used for residential development, for instance.

New faces on HHI board

Shortly before the bankruptcy filing, the members of the HHI board resigned.

The HHI Board Members as of July 1 were Hatiras, Vincent Riccitelli (who took over for Hatiras as the interim CEO), Anthony Leitner, Andrew Greene, and Fred DeSanti.

As of Aug. 8, the new board members were Riccitelli, Linda Barrientos, and James Doyle, according to an Open Public Records Act filing.

Gov. Christopher Christie has one statewide appointment to the non-profit board. He appointed Doyle, a Zimmer supporter who has donated to her campaign in the past, meaning Zimmer now has allies on both the HMHA and HHI, which could help the sale move along.

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