

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

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IN RE:	)	
	)	Chapter 11
CHURCH STREET HEALTH MANAGEMENT, LLC,	)	
<i>et al.</i> <sup>1</sup>	)	Case No. 12-01573
	)	
Debtors	)	(Joint Administration Pending)

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**EXPEDITED APPLICATION OF DEBTORS TO EMPLOY WALLER  
LANSDEN DORTCH & DAVIS, LLP AS BANKRUPTCY  
COUNSEL EFFECTIVE AS OF THE PETITION DATE**

TO THE HONORABLE UNITED  
STATES BANKRUPTCY JUDGE:

Church Street Health Management, LLC (“CSHM”) and its affiliated debtors in the above-captioned chapter 11 bankruptcy cases, as debtors in possession (collectively, the “Debtors”), as and for their application for the relief requested herein, would state as follows:

**SUMMARY OF RELIEF REQUESTED**

By this application (the “Application”),<sup>2</sup> the Debtors hereby move for entry of an expedited order substantially in the form annexed hereto (the “Order”), authorizing the Debtors to employ Waller Lansden Dortch & Davis LLP (the “Firm” or “WLDD”), whose business offices are located at 511 Union Street, Suite 2700, Nashville, Tennessee 37219, as their bankruptcy counsel effective as of the Petition Date (as defined below). This Application is

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<sup>1</sup> The Debtors (with the last four digits of each Debtor’s federal tax identification number and chapter 11 case number), are: Church Street Health Management, LLC (2335; Case No. 12-01573), Small Smiles Holding Company, LLC (4993; Case No. 12-01574), FORBA NY, LLC (8013; Case No. 12-01575), FORBA Services, Inc. (6506; Case No. 12-01577), EEHC, Inc. (4973; Case No. 12-01576).

<sup>2</sup> The Debtors requested expedited relief on this Application as more fully set forth in that certain *Second Expedited Motion to Shorten Notice and Set Expedited Hearing for certain First day Motions* filed contemporaneously herewith, which motion supports the request for relief by this Application and which is incorporated herein by reference.

brought pursuant to 11 U.S.C. §§ 327(a) and 328, Rule 2014 of the Federal Rule of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Bankruptcy Rule 2014-1.

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this Application under 28 U.S.C. § 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of these proceedings and this Application is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

### **PROCEDURAL BACKGROUND**

2. Commencing on February 20, 2012, and concluding in the early morning hours of February 21, 2012 (the “Petition Date”), each of the Debtors filed a voluntary petition with this court for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended (the “Bankruptcy Code”).

3. The Debtors continue to manage and operate their businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

4. No creditors’ committee has yet been appointed in these cases by the United States Trustee. Further, no trustee or examiner has been requested or appointed in any of the Debtors’ chapter 11 cases.

5. Concurrently with the filing of this Application, the Debtors filed a motion with this Court seeking the joint administration of their chapter 11 cases for procedural purposes only.

### **FACTUAL BACKGROUND**

6. The factual background relating to the Debtors’ commencement of these chapter 11 cases is set forth in detail in the Affidavit of Martin J. McGahan, the Chief Restructuring Officer of CSHM, in Support of Chapter 11 Petitions and First Day Pleadings (the “First Day

Affidavit”) filed contemporaneously herewith. The First Day Affidavit supports the request for relief by this Application and is incorporated herein by reference.

### **RETENTION OF THE FIRM**

#### **A. The Qualifications of the Firm**

7. The Debtors seek Court approval to retain the Firm, effective as of the Petition Date, at the expense of the Debtors’ estates, to serve as their bankruptcy counsel and to provide the legal services that will be required to prosecute these cases to completion, including pursuing claims on behalf of, or defending and objecting to claims against, any of the Debtors.

8. The Debtors desire to retain the Firm because of its particular expertise in the areas of insolvency, business reorganization, and other debtor/creditor matters, including those matters particular to Debtors. The Firm has also handled numerous matters for the Debtors since 2006 and is very familiar with the Debtors’ business and operations. The Firm has served as bankruptcy counsel to debtors, committees, and creditors in a wide range of industries and in a large number of chapter 11 cases. The Firm also has extensive experience in representing trustees, asset purchasers, and investors in both in- and out-of-court restructurings. Further, the Firm has substantial experience practicing before this Court. The Firm’s depth of experience in bankruptcy makes it specially qualified to represent the Debtors in these cases. Therefore, the Debtors believe that the Firm’s retention is in the best interests of the estates.

#### **B. The Legal Services to be Provided by the Firm for the Debtors**

9. The Firm’s services are necessary to enable the Debtors to execute their duties as debtors in possession. Subject to further order of this Court, and without being exclusive, the Firm proposes to render the following types of legal services to the Debtors:

(i) Advise the Debtors regarding the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the requirements of the United States Trustee pertaining to the administration of the Debtors' estates (the "Estates");

(ii) Advise and represent the Debtors concerning the rights and remedies of the Estates in regards to the assets of the Estates;

(iii) Prepare motions, applications, answers, orders, memoranda, reports, and other documents in connection with the administration of the Estates;

(iv) Protect and preserve the Estates by prosecuting and defending actions commenced by or against the Debtors or either of them;

(v) Analyze, and prepare necessary objections to, proofs of claim filed against the Estates;

(vi) Conduct examinations of witnesses, claimants, or adverse parties;

(vii) Represent the Debtors in any proceeding or hearing in the Bankruptcy Court;

(viii) Advise and represent the Debtors in the negotiation, formulation, and drafting of any plan and disclosure statement;

(ix) Advise and represent the Debtors in connection with investigation of potential causes of action against persons or entities, including, but not limited to, avoidance actions, and the litigation thereof if warranted;

(x) Advise the Debtors and their counsel regarding local practice in the Bankruptcy Court for the Middle District of Tennessee;

(xi) Render such other advice and services as the Debtors may require in connection with the Cases; and

(xii) Advise and represent the Debtors in connection with certain labor and employment, immigration, tax, litigation, healthcare regulatory and compliance, marketing, and general corporate matters which are crucial to the continued operation of the Debtors' business and the maintenance of the Debtors' estates.

**C. Disinterestedness and Other Disclosures**

10. The Firm was formally retained by the Debtors to act as bankruptcy counsel in connection with these chapter 11 filings in the United States Bankruptcy Court for the Middle District of Tennessee approximately four weeks prior to the Petition Date. The Firm, however, has represented the Debtors and certain of Debtors' affiliated entities since 2006 in connection with a wide variety of matters including acquisitions, sales and transfers, and immigration, labor and employment, tax, litigation, healthcare regulatory and compliance, marketing, and general corporate matters. Over the last twelve (12) months, the Firm has, in particular, represented the Debtors and certain of Debtors' affiliated entities in connection with the Debtors' workout and restructuring efforts after the Debtors defaulted on their prepetition secured indebtedness in September 2011.

11. As set out in the Tishler Declaration, the Firm does not, to the best of its knowledge, represent any of the other parties which are or may be listed as creditors or parties on the matrices filed in these cases other than the following: (i) CIT Healthcare LLC ("CIT"), the Agent for the prepetition secured lenders (CIT and Waller have executed a waiver of such conflict; and the matters on which the Firm has been hired by CIT do not involve the Debtor, any of its creditors, equity holders or parties in interest); and (ii) Hudson Group Corporation for which the Firm has a single matter, and which does not involve the Debtor, its creditors, equity holder or other parties in interest. To avoid any appearance of a conflict, the Firm has agreed not

to litigate with either CIT or Hudson and the Debtors would retain special counsel for any such matters.

12. The Debtors and the Firm do not believe that there exist any circumstances or relationships, as disclosed herein and in the attached Declaration, in which the Firm holds or represents an interest adverse to the Debtors' estates, or which otherwise create or raise any conflict of interest, prohibiting the Debtors' employment of the Firm as bankruptcy counsel, or which result in the Firm being disqualified as Debtors' bankruptcy counsel.

13. The Firm has received the following retainer payments from the Debtors: a \$100,000 retainer on September 28, 2011, a \$50,000 retainer on October 18, 2011, and a \$250,000 retainer on February 17, 2012 (collectively the "Retainer"). The Firm received payments on account of its work for the Debtors by billing against the Retainer as follows: \$400,000 on February 20, 2012 (including approximately \$382,000 for fees, and approximately \$18,000 for expenses). As of the Petition Date, the Retainer held by the Firm, after application of the Payments, was \$0. As to its fees and expense incurred in this case, the Firm will follow the procedures established in this case for post-petition allowances of compensation and reimbursement of expenses. In the last twelve (12) months, the Firm also received payments on account of restructuring, bankruptcy preparation and non-bankruptcy related work for the Debtors through the Firm's normal invoicing and payment processes. The total amount of such payments for the period of January 1, 2011 through February 20, 2012 is approximately \$1,234,678.

14. As to its fees and expenses incurred in this case, the Firm will bill the Debtors monthly, subject to this Court's interim compensation order and be paid in the manner set forth in the interim compensation order.

15. There are no arrangements between the Firm and any other entity for the sharing of compensation received or to be received in connection with the Debtors' cases, except insofar as such compensation may be shared among the partners, of counsel, and associates of the Firm.

16. Except as set forth in the Declaration, to the best of the Debtors' knowledge and based upon the Declaration, neither the Firm nor any of its partners, of counsel, or associates have any connection with the Debtors or any insiders of the Debtors, any major creditors of the Estates, any other party in interest, their respective attorneys or accountants, the United States Trustee, or any person employed in the Office of the United States Trustee, except as noted above and as set forth in the Declaration.

17. To the best of the Debtors' knowledge and based upon the attached Declaration, neither the Firm nor any of its partners, of counsel, or associates are creditors, equity security holders, or "insiders" of the Debtors as that term is defined in section 101(31) of the Bankruptcy Code. To the best of the Debtors' knowledge and based upon the attached Declaration, neither the Firm nor any of its partners, of counsel, or associates are or were, within two (2) years before the date of the filing of the petition, a director, officer, or employee of the Debtors. To the best of the Debtors' knowledge and based upon the attached Declaration, neither the Firm nor any of its partners, of counsel, or associates have any interest materially adverse to the interest of the Estates or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors or for any other reason. Accordingly, the Firm and its partners, of counsel, and associates are "disinterested persons" as that term is defined and used in sections 101(14) and 327 of the Bankruptcy Code.

**PROFESSIONAL COMPENSATION**

18. Subject to the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and this Court’s rules, the Debtors propose to pay the Firm its customary hourly rates in effect from time to time and to reimburse the Firm according to its customary reimbursement policies. The current hourly rates charged by the Firm for attorneys and paralegals employed in its offices are:

Partners	\$290 - \$600
Of-Counsel	\$150 - \$650
Associates	\$190 - \$335
Paralegals	\$165 - \$190

The hourly rates set forth above are subject to periodic adjustments to reflect economic and other conditions.

19. The attorneys currently expected to be responsible for these matters, and their respective hourly rates are as follows: John C. Tishler (\$550); Don Moody (\$450); Katie G. Stenberg (\$370); Robert P. Sweeter (\$335); and Janae N. Magee (\$240). The hourly rate for Christine Cronk, the paralegal assigned to the cases, is \$190. The Firm will use other attorneys and paraprofessionals during the course of the cases that it and the Debtors deem appropriate.

20. It is the Firm’s policy to charge its clients in all areas of practice for all other expenses incurred in connection with the client’s case. The expenses charged to clients include, among other things, conference call and telecopier toll and other charges, mail and express mail charges, special or hand delivery charges, document retrieval, photocopying charges, charges for mailing supplies (including, without limitation, envelopes and labels) provided by the Firm to outside copying services for use in mass mailings, travel expenses, expenses for “working

meals,” computerized research, transcription costs, as well as non-ordinary overhead expenses such as secretarial and other overtime. The Firm will charge the Debtors for these expenses in a manner and at rates consistent with charges made generally to the Firm’s other clients and within the guidelines of the Local Rules of this Court. The Firm believes that it is fairer to charge these expenses to the clients incurring them than to increase the hourly rates and spread the expenses among all clients.

21. It is contemplated that the Firm will seek monthly compensation, and at least interim compensation, during the cases as permitted by the Court, sections 330 and 331 of the Bankruptcy Code, and Bankruptcy Rule 2016. The Firm understands that its compensation in the cases is subject to the prior approval of this Court. No compensation will be paid except in compliance with any procedures hereafter approved by further order of this Court or upon application to and approval by this Court after notice and a hearing in accordance with sections 330 and 331 of the Bankruptcy Code, Bankruptcy Rule 2016, and Local Bankruptcy Rule 2016-1.

**NOTICE**

22. Notice of this Application has been given to the following parties or, in lieu thereof, to their counsel, if known, via telephone, e-mail, facsimile, overnight courier, or hand delivery: (a) the Office of the United States Trustee for the Middle District of Tennessee; (b) the Debtors’ prepetition secured lenders and counsel to the administrative agent for the Debtors’ prepetition secured lenders; (c) the holders of the fifty (50) largest unsecured claims on a consolidated basis against the Debtors; and (d) the Debtors’ proposed debtor in possession lenders and their counsel. Due to the urgency of the circumstances surrounding this Application

and the nature of the relief requested herein, the Debtors respectfully submit that no further notice of this Application is required.

23. No previous application for relief sought herein has been made to this or any other Court.

**[Remainder of page left intentionally blank]**

**WHEREFORE**, the Debtors respectfully request that this Court grant this Application and approve the employment of Waller Lansden Dortch & Davis LLP as bankruptcy counsel, effective as of the Petition Date, to render services as described above, with compensation to be paid by the Estates as administrative expenses in such amount as this Court may hereafter determine and allow.

Dated: February 20, 2012  
Nashville, Tennessee

CHURCH STREET HEALTH MANAGEMENT, LLC  
(on behalf of itself and its affiliated Debtors and Debtors  
in Possession)

By: /s/ Tore Nelson  
Name: Tore Nelson  
Title: Chief Executive Officer

