

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

## ORDER GRANTING THE SETTLEMENT TRUST'S MOTION FOR ENTRY OF A HIPAA-QUALIFIED PROTECTIVE ORDER

Upon the motion [Docket No. 11363] (the “Motion”)<sup>2</sup> of the Honorable Barbara J. Houser (Ret.), Trustee of the BSA Settlement Trust, pursuant to section 105 of title 11 of the United States Code (the “Bankruptcy Code”), 45 C.F.R. § 164.512(e)(1)(i), the Settlement Trust Agreement, the Trust Distribution Procedures approved as part of the Plan, and Article XI.C.31 of the Plan, for entry of an order authorizing Governmental Payors,<sup>3</sup> Medicare Part C and Part D Program sponsors,<sup>4</sup> Federal Employee Health Benefit (FEHB) plans, other private health plans

<sup>1</sup> The Reorganized Debtors in these chapter 11 cases, together with the last four digits of each Reorganized Debtor's federal tax identification number, are as follows: Boy Scouts of America (6300) and Delaware BSA, LLC (4311). The Reorganized Debtors' mailing address is 1325 West Walnut Hill Lane, Irving, Texas 75038.

<sup>2</sup> Capitalized terms not defined herein have the meanings used in the Motion.

<sup>3</sup> “Governmental Payors” means any federal, state or other governmental body, agency, department, plan, program, or entity that administers, funds, pays, contracts for, or provides medical items, services, and/or prescription drugs. These include the federal Medicare fee-for-service (Parts A and B) program administered by the Centers for Medicare and Medicaid Services (“CMS”), the Office of Financial Management, and its respective recovery contractors; the Medicaid programs (including Medicaid Managed Care Organizations/Plans) of each state and territory and of the District of Columbia, and their respective recovery contractors, including but not limited to, Health Management Systems; the U.S. Department of Veterans’ Affairs, by and through its Office of General Counsel, and/or its Revenue Law Group; the Defense Health Agency (previously managed by TRICARE) and/or the respective Medical Cost Recovery Units of the Judge Advocate General’s Corps for the Air Force, Army, Navy, and Coast Guard, respectively; and Indian Health Services.

<sup>4</sup> “Medicare Part C or Part D Program” means the program(s) under which Medicare Advantage, Medicare cost, and Medicare health care prepayment plan benefits and Medicare Part D prescription drug plan benefits are administered by private entities that contract with CMS.

(whether insured or self-funded), payors, or providers, and other Covered Entities,<sup>5</sup> and any Business Associate<sup>6</sup> of one of the foregoing persons or entities (each, a “Healthcare Entity”) to exchange Protected Health Information<sup>7</sup> with the Settlement Trust and its Lien Resolution Administrator in the performance of their duties and functions reconciling claims consistent with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by the Health Information Technology for Economic and Clinical Health Act, and all applicable regulations issued by the Secretary of the United States Department of Health and Human Services; and the Court having jurisdiction to consider the Motion and the relief requested therein; and consideration of the Motion and the relief requested therein being a core proceeding under 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to (a) the U.S. Trustee; (b) counsel to the Reorganized Debtors; (c) each of the members of the Settlement Trust Advisory Committee; and (d) any party that has requested notice pursuant to Bankruptcy Rule 2002, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion and held a hearing to consider the relief requested therein (the “Hearing”); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted in this Order; and the Court having determined that the relief requested is necessary for the most efficient administration of the Direct Abuse Claims and for the protection of healthcare-related information that may be produced or otherwise disclosed in connection with the administration of the Settlement Trust, and is in the best interests of the holders of Direct Abuse Claims; and upon all of the

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<sup>5</sup>“Covered Entity” has the meaning set forth in 45 C.F.R. § 160.103.

<sup>6</sup> “Business Associate” has the meaning set forth in 45 C.F.R. § 160.103.

<sup>7</sup> “Protected Health Information” has the meaning set forth in 45 C.F.R. § 160.103.

proceedings had before the Court and after due deliberation and good and sufficient cause appearing therefor;

**IT IS HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** as provided herein.
2. The Garretson Resolution Group d/b/a Epiq Mass Tort (the “Lien Resolution Administrator”), acting on behalf of the Settlement Trust and as directed by the Trustee, is authorized to act as the agent for the holders of all Direct Abuse Claims for the purpose of identifying and resolving potential liens or recovery claims for medical items, services, and/or prescription drugs pertaining to the Direct Abuse Claims with all Healthcare Entities in any manner deemed necessary or advisable by the Lien Resolution Administrator in consultation with the Trustee, including, but not limited to, (a) *en masse* data submissions with Healthcare Entities for the purpose of identifying healthcare coverage and related claims itemizations for Plaintiffs, and (b) accessing Internet-based healthcare coverage information sources, including, but not limited to, [www.mymedicare.gov](http://www.mymedicare.gov). The Lien Resolution Administrator’s obligation to resolve any such liens or recovery claims, however, shall be governed by the terms of the Lien Resolution Administrator’s engagement agreement with the Settlement Trust and nothing in this Order shall be construed to impose any additional duties or obligations on the Lien Resolution Administrator.
3. Any Healthcare Entity who receives a request from the Lien Resolution Administrator, in the performance of its functions and duties as the Lien Resolution Administrator for the Settlement Trust, for Protected Health Information is authorized and required to disclose that information to the Lien Resolution Administrator in response to its request. If the Lien Resolution Administrator requests that the Healthcare Entity disclose

Protected Health Information in a list or other aggregated format, the Healthcare Entity may disclose Protected Health Information to the Lien Resolution Administrator in the format requested in lieu of submitting such information on a case-by-case basis.

4. The Lien Resolution Administrator is authorized to disclose Protected Health Information to Healthcare Entities in the performance of its functions and duties as the Lien Resolution Administrator for the Settlement Trust. In making such disclosures, the Lien Resolution Administrator is authorized to disclose Protected Health Information to Healthcare Entities in lists or other aggregated formats in lieu of submitting such information on a case-by-case basis.

5. Consistent with 45 C.F.R. § 164.512(a), (e)(1)(i), HIPAA authorizations are not required for any disclosure requested or made pursuant to this Order.

6. As used herein, “HIPAA” shall mean the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936 (1996) and the implementing regulations issued thereunder, 45 C.F.R. Parts 160, 162, and 164, and shall incorporate by reference the provisions of the Health Information Technology for Economic and Clinical Health Act (Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (2009)).

7. As used herein, “Medicare Part C or Part D Program” means the program(s) under which Medicare Advantage, Medicare cost, and Medicare health care prepayment plan benefits and Medicare Part D prescription drug plan benefits are administered by private entities that contract with CMS.

8. This Order is being issued in connection with the Court’s *Order, Pursuant to 11 U.S.C. § 502(B)(9), Bankruptcy Rules 2002 and 3003(c)(3), and Local Rules 2002-1(e)*,

*3001-1, and 3003-1, (I) Establishing Deadlines For Filing Proofs of Claim, (II) Establishing the Form and Manner of Notice Thereof, (III) Approving Procedures for Providing Notice of Bar Date and Other Important Information to Abuse Survivors, and (IV) Approving Confidentiality Procedures for Abuse Survivors [Docket No. 695].*

9. A copy of this Order will be posted on the Scouting Settlement Trust website. In connection with submission of a Claims Questionnaire, the Settlement Trust will advise holders of Direct Abuse Claims of the entry of this Order together with a general explanation of the purpose of the confidential exchange of Protected Health Information.

10. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Order.

Dated: July 31st, 2023  
Wilmington, Delaware

  
LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE