CARLTON FIELDS

Restructuring Distressed Entities for a Clean Financial Bill of Health

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Carlton Fields' Distressed Health Care Group advised a nationally renowned hospital and its health care system in the restructuring of one of its subsidiaries, a for-profit surgery center that was experiencing financial stress. The multimillion-dollar merger transaction helped restore the surgery center to a clean financial bill of health. Carlton Fields' Distressed Health Care Group advised a nationally renowned hospital and its health care system in the restructuring of one of its subsidiaries, a for-profit surgery center that was experiencing financial stress. The restructuring was accomplished through a merger transaction, resulting in a new well-capitalized company. The multimillion-dollar transaction included analysis of complex debt structures, various restructure options, and state and federal health care regulations. As a leading regional trauma center and one of the busiest transplant centers in the nation, our client delivers world-class health care to numerous residents and visitors. In providing health care to the community, our client has multiple locations throughout the region. After the surgery center fell into financial distress, Carlton Fields assisted the hospital in a merger transaction to restore the surgery center to a clean financial bill of health. Our multidisciplinary team of health care and insolvency attorneys provided the client with various restructuring options tailored to the client's business objectives. Based on those objectives, we facilitated a merger transaction that allowed the client to restructure the surgery center's debt obligations while maintaining control of the surgery center and avoiding negative publicity. The transaction involved extensive analysis of various restructuring options, as well as a deep understanding of the client's corporate structure and the myriad state and federal regulations applicable to health care entities. The hospital's corporate structure included multiple layers of for-profit and not-for-profit entities, requiring our attorneys to navigate the differing and competing interests of each entity. The corporate makeup also included a minority interest in the surgery center — owned by a physician who frequently performs procedures at the hospital — which required consideration of the physician's investment and his working relationship with the client. Although selling the surgery center to a third party would stop the economic losses and avoid negative publicity, the time needed to find a third-party purchaser would require the hospital to fund shortfalls. A sale would likely result in the hospital and minority shareholder forfeiting most of their investments and result in the loss of control of the surgery center. Continuing operations, on the other hand, would maintain the status quo but would result in continued economic loss and continual financing that could limit the client's ability to invest in new ventures or support other projects. To lower operating costs and relieve overcrowding in the main inpatient facility, the client could convert the surgery center to an outpatient facility, which would require dissolution or merger of the surgery center, elimination of the minority interest, and amendment of existing managed care agreements. Another possible solution in this situation, a prepackaged Chapter 11 bankruptcy, seemed to satisfy many of the client's goals — reduce the total debt owed, eliminate the minority shareholder's interest, allow the assumption or rejection of leases and executory contracts, and give sole ownership of the surgery center to our client — but at too high a cost. A bankruptcy filing would most certainly garner negative press and involve significant legal expenses and the potential loss of control, as the plan of reorganization would hinge on obtaining bankruptcy court approval. Further, the legal fees associated with this restructure would be significant. Focusing on our client's goals, our team proposed a solution that met our client's foremost objectives: restructure the debt obligations, be cost-efficient, retain control, and avoid negative publicity. By forming a well-capitalized new company and merging the surgery center into the new company, our client could recapitalize — without incurring new debt or modifying existing bond covenants and restrictions — in a cost-effective manner with relatively low legal costs. Carlton Fields advised the hospital in all aspects of the transaction, including financial, regulatory, and corporate issues. After completing the merger transaction, the surgery center was able to sell a substantial ownership interest to a group of referring physicians, and the surgery center has increased the number of physicians using it, as well as a substantial increase in the number of procedures performed. As the surgeries increase, the surgery center expects to grow its profit margin and make distributions to its owners. The transaction has allowed the surgery center to continue operations and further the health care system's mission of providing world-class health care services to the community in a cost-effective setting. Carlton Fields' Distressed Health Care service team has more than 20 professionals with active health care and insolvency experience. Our attorneys have wide-ranging experience in all aspects of bankruptcy, insolvency, and restructuring, including acquisitions, loan workouts, restructurings, recapitalization, and financing of health care-related entities. Working with our nationally ranked health care group, we provide a full spectrum of services focused on clients in the health care industry, including hospitals and health systems, skilled nursing and senior living facilities, ambulatory surgery centers, physician practices, and medical professionals.

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