

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA
FAMILY DIVISION

NANCY JENNINGS,)	Civil Action No.
)	2020CV337822
Petitioner,)	
vs.)	
)	
JEFFREY GALLUPS,)	
)	
Respondent.)	

**RECEIVER’S MOTION FOR APPROVAL OF PROCEDURES TO WIND DOWN AND
CLOSE RECEIVERSHIP AND FOR RELATED RELIEF**

S. Gregory Hays, solely in his capacity as Receiver herein (“**Receiver**”), appointed pursuant to the Court’s *Order Compelling Compliance, Appointing Receiver, and Granting Injunctive Relief* (the “**Receivership Order**”),¹ entered in this civil action August 16, 2023 (the “**Appointment Date**”), files this *Receiver’s Motion for Approval of Procedures to Wind Down and Close Receivership and for Related Relief*, and respectfully shows the Court as follows:

I. Introduction

1. As discussed at the most recent hearings in this case, the Receiver is eager to conclude this case and terminate the Receivership. The Receiver appreciates that the Court, creditors of the Receivership Estate, and other parties in interest likewise want closure in this case.

2. To bring this case to a proper conclusion, however, the Receiver is compelled to adequately administer certain remaining, potentially valuable assets and undertake certain administrative procedures including filing final tax returns. The remaining potential assets are (i)

¹ Unless otherwise indicated, capitalized terms in this Interim Report will have the meanings attributed them in the Receivership Order and the *Receiver’s First Interim Report* filed November 1, 2023, both being incorporated herein.

the Receivership Estate's claims against Milton Hall Surgical Associates LLC's ("**MHSA**") former CEO (the "**D&O Claims**"), (ii) claims against Blue Cross/Blue Shield ("**BCBS**") for payment of previously declined patient medical services charges and a claim filed in certain Antitrust action (the "**BCBS Claims**"), (iii) MHSA's prepaid extended tail policies for medical malpractice and other insurance coverage, and (iv) cash (collectively, the "**Remainder Assets**"). Additionally, the Receiver is required to file final tax returns and reserve against potential contingent liabilities. Specifically, the IRS may have a claim of over \$153,060 that is currently under appeal (the "**IRS Claim**").

3. Desiring to close this case, but not wanting to abandon all or some of the Remainder Assets, the Receiver planned to seek the Court's approval to assign the Remainder Assets under an Assignment for the Benefit of Creditors ("**ABC**") pursuant to O.C.G.A. §§ 18-2-40 through -59, which would allow the termination of the Receivership while the ABC Assignee pursued recovery of the D&O Claims and BCBS claims, and distributed recovered funds to holders of previously approved claims.

4. The Receiver and his counsel discussed this strategy in open Court at the September 17, 2025, status hearing.

5. Two circumstances following that hearing, however, have necessitated a change in the Receiver's plan for terminating the Receivership.

6. First, the IRS's Taxpayer Advocate has been assisting the Receiver in attempting to resolve this almost ten-year-old issue while the Receiver has appealed the claim and waiting for a response from the IRS. The Taxpayer Advocate referred the Receiver to IRS-published information regarding receiverships and confirmed the IRS's claim would come behind administrative claims of the Receivership pursuant to the exception provided in 31 U.S.C. S

3713(a)(2). In addition, the Taxpayer Advocate confirmed the Receiver would not face personal liability on account of the IRS Claim. The Taxpayer Advocate anticipates having an update before the hearing scheduled for October 22, 2025, in this Court. While the Receiver remains concerned about this issue, he has now determined that it is appropriate to pay administrative claims of the Receivership Estate and consider payment on account of the IRS Claim only if substantial funds are recovered above the total priority administrative and receivership period claims. *See* the Receiver's Final Report for more information on the IRS claim.

7. Second, the Receiver determined that certain anti-assignment provisions in MHSA's D&O insurance policy could be triggered by filing the ABC and raised by the D&O carrier as defenses to liability for the D&O Claims.² Assigning the D&O Claims *via* an ABC would therefore carry with it unacceptable risks.

8. Assigning the BCBS Claims *via* an ABC would carry similar risks, though to a lesser degree. The Receiver has experienced extreme difficulties in dealing with BCBS and does not want any potential disruption in potential pending payments.

9. Considering the potential risks of an ABC to the Receiver's ability to recover payments and damages on account of the D&O Claims and BCBS Claims, the Receiver, by this motion, requests that the Court segregate the Remainder Assets, maintain the Receivership on limited terms as to the Remainder Assets, and authorize the Receiver to file final tax returns and close the Receivership as to all other claims, property, and entities.

10. These matters are more thoroughly discussed below.

² The Receiver does not concede that any such defenses are valid or that any specific restriction in the D&O policy is enforceable.

II. Background

Commencement of this Civil Action and Appointment of Receiver

11. On June 30, 2020, Petitioner Dr. Nancy Jennings (“**Petitioner**”) filed this civil action against her former spouse, Respondent Dr. Jeffrey Gallups (“**Respondent**”), to enforce Respondent’s obligations under a January 2017 Final Judgment and Decree of Divorce entered in Nancy H. Gallups v. Jeffrey M. Gallups, Civil Action No. 2016CV274575, including Respondent’s obligation to pay Petitioner \$10,250,000 from the sale of Respondent’s medical practice.

12. On February 8, 2023, the Court appointed Frank B. Strickland as Special Master to oversee and facilitate Respondent’s marketing and sale of the medical practice.

13. The Special Master attempted to work with Respondent toward that end for six (6) months.

14. On August 8, 2023, the Special Master filed his *Special Master’s Report and Recommendation Respecting Status of Incremental Transfer of the Companies*, in which he detailed Respondent’s refusal to cooperate and misconduct.

15. Due in part to the matters reported in the Special Master’s Report, the Court, on its own motion, entered the Receivership Order on August 16, 2023 (the “**Appointment Date**”), appointing the Receiver as receiver of (i) Respondent; (ii) the Companies (consisting of Milton Hall Surgical Associates LLC (“**MHSA**”), Alpharetta Surgery Center LLC, and ENTI Surgery Center LLC), HCENTI LLC, ENTI Anesthesia LLC, Milton Hall Management LLC, MHSA Management LLC, Milton Hall Trust, Nutmeg Management LLC, Marble Management LLC, DRG Media LLC, and all other operating entities, holding companies, debt arrangements, voting trusts, or other trusts or entities of any kind, known or unknown, directly or indirectly controlled

by Respondent or Melissa Moritz (collectively, the “**Affiliated Entities**”); (iii) all of Respondent’s Assets and all assets of the Affiliated Entities, in each case consisting of assets of all class and manner and wherever situated (the “**Receivership Assets**”).

Receiver’s Administration of Receivership Estate

16. Following the Appointment Date, the Receiver operated the Affiliated Entities’ business and marketed the business for sale, and through his counsel represented and defended the Affiliated Entities in multiple legal proceedings brought by vendors, landlords, and the United States Department of Justice, and negotiated resolution of creditor claims.

17. With the Court’s approval, the Receiver has liquidated and disposed of all real property, personal property and hard assets of the Receivership Estate.

18. The only Receivership Assets still to be administered are the Remainder Assets which are more fully discussed below.

Claims Process

19. By order entered November 21, 2024, the Court approved the Receiver’s proposed procedures for the filing and disposition of claims against the Receivership Estate.

20. Pursuant to and in compliance with the Court’s order, the Receiver provided written notice to creditors of the claims filing deadline and provided creditors with the approved form of Creditor Claim Form and W-9 Form.

21. Following the claim filing deadline, the Receiver reviewed all submitted Creditor Claim Forms and, on May 5, 2025, filed his Omnibus Objection to Claims. On June 18, 2025, the Court conducted a hearing on the Receiver’s Omnibus Objection, considering all written responses in opposition to the Receiver’s objections and hearing from the Receiver, Petitioner Nancy Jennings, Respondent Jeffrey Gallups, and creditors in attendance.

22. By order entered June 27, 2025, as further modified by order entered September 12, 2025 (collectively, the “**Claims Allowance Order**”), the Court allowed the claims in amounts and classifications identified in the Claims Allowance Order. Remaining allowed claims payable are identified in Exhibit “A” attached to this motion.

23. The Receiver incorporates into this motion his November 1, 2023, *Receiver’s First Interim Report*, March 20, 2024, *Receiver’s Second Interim Report*, September 6, 2024, *Receiver’s Third Interim Report*, September 12, 2025, *Receiver’s Fourth Interim Report*, and October 8, 2025, *Receiver’s Final Report*. Those reports provide a detailed description of the background of this civil action, including the Court’s appointment of the Receiver, challenges faced and actions taken by the Receiver, the Receiver’s disposition of property of the Receivership Estate, and legal actions and proceedings, and copies of those reports may be obtained from the Clerk of this Court, on the Receiver’s website at <https://haysconsulting.net/milton-hall-surgical-associates-llc>, or by request to Receiver’s counsel, John Rezac, at jrezac@taylorduma.com.

III. Contingent Liabilities and Remainder Assets

24. The Receiver by this motion is requesting the Court’s approval of procedures to wind down the Receivership Estate while allowing and facilitating the Receiver’s further administration of certain Contingent Liabilities and Remainder Assets, further addressed here.

Contingent Liability - IRS Claims

25. In 2024 and 2025, the IRS sent several demands to the Receiver for Taxes payable from MHSA dating back to 2016 and 2017. The most recent demands were dated February 10, 2025, and included \$93,970.00 for 2016 and \$58,100.82 for 2017, totaling \$153,060.82 for taxes which had accrued almost ten years ago. The IRS has previously sent demands that exceeded \$185,000.00.

26. Over the past year, the Receiver has diligently attempted to resolve issues with the IRS and has delivered several responses to the IRS and to the IRS's Taxpayer Advocate. The Receiver has argued that the IRS Claim should not be treated as having priority over administrative and unsecured creditors

27. On April 17, 2025, the Receiver filed an appeal of fines and penalties with the IRS 490H Response Unit. The Receiver has not received any response and has sent copies of the appeal multiple times. The key issues cited in the 85-page appeal include the following:

- Lack of timely response and communication under Taxpayer Assistance Order filed October 5, 2024. The matter was not formally closed out with the Taxpayer Advocate, and notwithstanding other reasons discussed, any Enforcement action regarding the assessment should at a minimum be suspended during the pendency of the case with the Taxpayer Advocate. There was never any formal closure in writing (or otherwise), to the best of Receiver's knowledge, regarding the matter as presented to the Taxpayer Advocate when seeking assistance with resolving this assessment.
- As communicated in prior correspondence, the company has not operated since May 31, 2024. The 100% owner is incarcerated in a Federal penitentiary for healthcare fraud. Due to the passage of time (nearly 10 years since the matter which gave rise to the penalty assessment occurred), the court-appointed Receiver is in no position to be able to challenge the propriety of the assessment. There are several questions of fact, including but not limited to, the FTE or non-FTE status of the employees involved, the inability to contact most of them as support for any position, the fact that the employees were actually employed by a related management company, and finally, the lack of records available since this matter passed nearly 10 years ago.
- The taxpayer is out of business. Penalties of this nature are generally assessed to encourage future voluntary compliance. In this case, in light of the termination of Milton Hall Surgical Associates and the fact that it is not a going concern, the incarceration of the principal Jeffrey M. Gallups, and general insolvency of the business (currently in final liquidation stage by court order), the penalty assessment serves no policy purpose, and if paid, will accomplish nothing, other than punishing aggrieved parties who truly are at risk in this matter and have been paid nothing.

28. As of September 17, 2025, the Receiver had not received any response for the IRS and the Taxpayer Advocate was unable to bring about a resolution.

29. On May 5, 2025, the Receiver filed in this case an objection to the IRS Claim, raising multiple grounds for objection, including the necessity that, until the claim is resolved, the Receiver must reserve against the IRS Claim. The Receiver had reserved \$185,000.00 on account of the IRS Claims and now believes that reserve is not mandatory given the IRS's administrative expense exception noted above.

30. Despite having filed an objection to the IRS Claim in this Court, the Receiver is nevertheless aware that resolution of this federal tax claim would likely fall to the jurisdiction of federal courts.

31. The Receiver had intended that the IRS Claim liability would be assigned *via* the ABC, to allow the Receivership to be closed without requiring the Receiver to pay the IRS Claim in full at this time.

32. Following the September 17, 2025, status hearing, the Receiver continued to work with the IRS Taxpayer Advocate, who, on September 19, 2025, acknowledged that the IRS Claims should be subordinate to any administrative priority claims. *See* 31 U.S.C. § 3713(a)(2)(b).

33. The court-approved administrative claims in this case are currently greater than the funds available for distribution to all receivership administrative creditors.

34. Accordingly, Since the IRS Claim is not entitled to payment unless and until all court-approved administrative claims have been paid, and at this time the Receiver does not reasonably anticipate that the Court-approved administrative claims will be paid in full, payment of the IRS Claim is a moot issue,. The IRS Claim and the Receiver's dealings with the IRS are more fully discussed in the Receiver's Final Report.

Remainder Asset -D&O Claims

35. Since the Receiver's appointment, the Receiver has conducted a thorough investigation into MHSA's prior management, including a review of MHSA's books and records and management's dealings with creditors and the United States Department of Justice.

36. On May 5, 2025, the Receiver deposed MHSA's former Chief Executive Officer.

37. Through his investigation, the Receiver has determined that the Receivership Estate has claims against the former CEO, including claims for negligence and mismanagement.

38. By letter delivered August 29, 2025, the Receiver gave notice of these claims to MHSA's Director & Officer Liability insurance carrier, RSUI Group, Inc. ("**RSUI**"), and demanded RSUI cover the claims. A copy of the letter, including the Receiver's draft complaint (without exhibits) is attached to this motion as Exhibit "B-1."

39. By letter delivered September 30, 2025, RSUI responded and advised the Receiver that RSUI was denying coverage. A copy of the letter is attached to this motion as Exhibit "B-2."

40. By letter delivered October 6, 2025, the Receiver responded to RSUI, challenging RSUI's grounds for denying coverage, and again demanding that RSUI cover the claims. A copy of the letter is attached to this motion as Exhibit "B-3."

41. The Receiver is continuing to pursue an acceptable resolution with RSUI and, if such resolution is reached prior to the Court's October 22, 2025, hearing, the Receiver will file with the Court a report disclosing the terms of the resolution and how the resolution impacts the Receiver's plan to wind down and terminate the Receivership as presented here.

42. If a timely resolution is not achieved, the Receiver plans to move the D&O Claim to a Qualified Settlement Fund ("**QSF**") and will engage counsel on a contingency fee basis to file suit and pursue recovery in a separate civil action. A QSF is a government-approved trust designed to hold and distribute settlement money to claimants and minimize court supervision. QSFs are

established under court or governmental authority, are subject to more limited supervision. Mr. Hays would serve as the neutral QSF Administrator and would obtain a tax ID (EIN), manage tax reporting, and pursue the litigation and make distributions to claimants. The QSF would allow the MHSA receivership entities to be closed. It is anticipated that the Receiver will know within 45 days if this is the direction the case will take. The establishment of a QSF is a new concept to conclude this case and the Receiver and counsel to Receiver are diligently investigating how this would work and will report further to the court at the October 22nd hearing.

Remainder Asset - BCBS Claims

43. Since mid-2024, the Receiver and MHSA's billing manager, Professional Healthcare Solutions, have been in frequent (weekly/bi-weekly) communication and negotiation with BCBS regarding the Receiver's recovery of unpaid claims for services.

44. Those services were provided during the period of July 2023 through January 2024 when the Receiver established a new contract with BCBS.

45. The Receiver has continued to pursue recovery of those claims and has stayed in communication with the purchaser of MHSA's Southside Facilities, Iron Magnolia LLC. Iron Magnolia has the same or similar concerns respecting BCBS claims arising after mid- 2024.

46. The Receiver reported this activity to the Court at the September 17, 2025, status hearing. Since that hearing, BCBS has begun paying some claims of Iron Magnolia.

47. The Receiver has been informed by PHS that BCBS may soon begin paying some claims of MHSA.

48. The Receiver cannot predict the total amount of claims that may be paid by BCBS but believes keeping the BCBS Claims in Receivership for a reasonable time is in the best interests of creditors and the most efficient and prudent way to deal with the asset.

Remainder Asset – Medical Malpractice Insurance Policy

49. The Receiver pre-paid for a tail policy to extend medical malpractice coverage.

50. The Receiver believes that keeping the policy in Receivership until final closure of the Receivership is prudent.

51. Because the tail coverage has been pre-paid, there is no further expense associated with keeping the coverage, and keeping the coverage in the Receivership will provide coverage for any medical malpractice claims. One claim was recently filed and the Receiver referred to the carrier.

IV. Procedures for Winding Down and Terminating the Receivership

52. The Receiver is eager to conclude and terminate this Receivership.

53. However, the Receiver has a fiduciary duty to maximize recovery for creditors of the Receivership Estate.

54. The Receiver continues to consider the burdens of continuing the Receivership versus the benefits to creditors if the Receiver is successful in recovering further funds which would be available partly for distribution to creditors.

55. For the reasons discussed above, the Receiver's initial strategy—*i.e.*, the assignment of the Remainder Assets and the contingent IRS Claim under an ABC—is no longer a viable strategy, but a limited receivership with the possible establishment of a QSF may be an appropriate strategy to conclude the case.

56. The Receiver is comfortable paying administrative claims given the expectation that the IRS Claim is subordinate to the Court-approved administrative claims. Additionally, there no longer is a need to reserve against the IRS Claim because no reasonably anticipated distribution

will include distributions to sub-administrative claims, including the IRS Claim. The assignment of the IRS Claim under an ABC no longer offers any benefit to the Receivership.

57. As discussed further, above, the Receiver is concerned that assignment of the D&O Claims, and possibly the BSBC Claims, under an ABC might jeopardize the Receivership Estate's collection on those claims, which would defeat the purpose of the ABC in the first place.

58. With these considerations in mind, the Receiver believes that the best strategy for maximizing recovery is to narrow the scope of the Receivership, leaving in the Receivership only MHSA and the Remainder Assets.

59. The Receiver therefore seeks the entry of an order (the “**Wind-Down Order**”) expressly terminating the Receivership as to all entities, property, and interests except as to the following, which will constitute the “**Wind-Down Receivership**”:

- a. MHSA;
- b. The D&O Claims;
- c. The BCBS Claims;
- d. MHSA's medical malpractice insurance policy; and
- e. Cash on Hand.

60. The Receiver requests that the Wind-Down Order provide that the Receiver thus far has faithfully discharged his duty under the Receivership Order and applicable Georgia law respecting all aspects of the Receivership.

61. The Receiver will remain Receiver as to the Wind-Down Receivership, with the same powers and responsibilities set forth in the Receivership Order except as provided to the contrary by the Wind-Down Order.

62. The Receiver will be charged with pursuing the D&O Claims, and will be authorized to:

- a. commence a separate civil action to pursue recovery on the D&O Claims;
- b. pursue the D&O Claims to judgment, compromise and settle the D&O Claims, or abandon and dismiss the D&O Claims, as in his sole discretion the Receiver determines such action to be in the best interests of the holders of remaining allowed claims.
- c. Pursue the case as a QSF Administrator.

63. The Receiver will be charged with receiving payments from BCBS on the BCBS Claims and authorized to take all reasonable and necessary action to collect on the BCBS Claims, compromise and settle any or all of the BCBS Claims, and abandon any or all of the BCBS Claims, as in his sole discretion the Receiver determines such action to be in the best interests of the holders of remaining allowed claims.

64. Upon the Receiver's determination, in his sole discretion, to discontinue further collection efforts respecting both the D&O Claims and the BCBS Claims, the Receiver shall pay any unpaid administrative expenses, including reasonable professional fees, and distribute all remaining money of the Receivership Estate to the holders of allowed claims as allowed and according to the priorities established by the Court's Claims Allowance Order.

65. Upon the Receiver's completion of the distributions set forth above, the Receiver shall prepare and file with the Court a "**Final Notice of Distribution**" disclosing all distributions made and advising that all matters in this Receivership, including the Wind-Down Receivership, have been concluded.

66. Upon filing of the Final Notice of Distribution, this Receivership, including the Wind-Down Receivership, shall be terminated *instantly*, this case shall be closed without the necessity of further Order of this Court, and the Receiver shall be relieved of all of his duties and obligations under the Receivership Order and the Wind-Down Order.

67. Upon the filing of the Final Notice of Distribution, S. Gregory Hays, the Receiver, is and shall be fully relieved and discharged of all of his duties and obligations under the Receivership Order and the Wind-Down Order, and any other duties or obligations incident to his service or appointment as Receiver in this case.

68. Upon the filing of the Final Notice of Distribution, the Receiver and his attorneys, accountants, consultants, and other professionals (the “**Receiver Team**”) shall be fully released and discharged from any and all claims and causes of action which might be brought against them for matters arising from their administration of the assets turned over to the Receiver, including without limitation any claim concerning or relating to the filing of any local, state, or federal tax returns for the Receivership Estate and/or the reporting of any income, assets, or tax consequences to any person or entity.

69. Neither the Receiver nor any member of the Receiver Team shall have any liability to any person or entity for any action taken in good faith in connection with carrying out the procedures set forth in the Receivership Orders and/or the Wind-Down Order.

70. In the event that such a claim or cause of action is asserted against the Receiver or any member of the Receiver Team, the Receiver or Receiver Team member shall be entitled to a defense by counsel of his or her choice, payable as any other fee or expense incurred in connection with this Receivership, even if willful misconduct is alleged.

71. This Court shall retain jurisdiction over any and all matters relating to the Receivership and the Receivership Estate. To the extent any dispute arises concerning the Receiver's administration of the Receivership Estate or to the extent any person or entity seeks to pursue or assert any claim or action against the Receiver or any member of the Receiver Team arising out of or related to this Receivership, the Court shall retain jurisdiction to hear and resolve any such dispute or claim.

V. Release of Professionals' Holdback Funds and Approval of Final Fee Applications

72. Beginning in April, 2025, the, the Special Master directed that approved professionals' fees would be paid at 75%, with a 25% "Holdback" to ensure that the Receivership had sufficient cash for ongoing expenses other than professional fees. The Receivership professionals including Petitioner's counsel voluntarily agreed to the holdback of the allowed fees.

73. The accrued Holdbacks presently are:

<u>Professional</u>	<u>Holdback</u>
Receiver	\$ 37,400.00
Taylor Duma	\$ 34,208.76
Special Master	\$ 7,171.75
Cielo Partners/Scott Wilkins	\$ 14,428.13
Harrison LP	<u>\$ 53,801.96</u>
	<u>\$ 147,010.60</u>

74. By this motion, the Receiver requests authority to release these previously approved fees that were Holdbacks to the appropriate professionals.

75. No later than Monday, October 13, 2025, the Receiver professionals and Petitioner's counsel will file with the Court a report of Receiver and Professional fees and expenses through the filing of this motion and the Receiver's Final Report.

76. The Receiver requests that the Court consider and approve the Receiver's payment of those fees and expenses.

WHEREFORE, the Receiver requests that the Court grant this motion and the relief requested herein, and grant the Receiver such additional relief as is warranted under the circumstances.

Respectfully submitted, October 8, 2025.

TAYLOR DUMA LLP

By: /s/ John K. Rezac
JOHN K. REZAC
Georgia Bar No. 601935
jrezac@taylorduma.com

1600 Parkwood Circle, Ste. 200
Atlanta, Georgia 30339
678/336-7195
770/434-7376 (fax)

Attorneys for S. Gregory Hays, Receiver

CERTIFICATE OF SERVICE

This is to certify that I have on this day filed the foregoing *RECEIVER'S MOTION FOR APPROVAL OF PROCEDURES TO WIND DOWN AND CLOSE RECEIVERSHIP AND FOR RELATED RELIEF* document with the Court using the Court's electronic filing system, which will automatically email a copy on all registered users, and have served a copy upon the following persons by e-mail, as follows:

Skip Sugarman skip@sugarman-law.com
C. Knox Withers Knox.Withers@agg.com
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October 8, 2025.

By: /s/ John K. Rezac
JOHN K. REZAC

EXHIBIT "A"

Milton Hall Surgical Associates, LLC & Related Entities
Distribution Priorities

Receivership Administrative Priority

Approve Fees with Hedbacks	\$147,010.60	
Outstanding fee for August to October 8th	n/a	To be filed by 10/13/25
	<u>\$147,010.60</u>	

Allowed Priority Claims for Post Receivership Services (after 8/17/23)

A1 Shredding & Recycling, Inc	\$898.80	
Advanced Medical Resources	\$4,830.50	See also allowed unsecured claim
Dan Smolczynski	\$4,701.56	
e3 Diagnostics	\$1,700.52	See also allowed unsecured claim
Kim Smith	\$300.00	See also allowed unsecured claim
MEDispose Waste Solutions	\$945.92	
Professional Healthcare Solutions	\$358,889.42	
PSK Document Solutions	\$657.19	
Starkey Hearing Technologies	\$1,083.54	See also allowed unsecured claim
Stryker Instruments	\$210,325.72	See also allowed unsecured claim
United Healthcare Insurance	\$15,789.67	
United Office Systems	\$80.81	
	<u>\$600,203.65</u>	

Allowed Unsecured Claims for Pre Receivership Claims (before 8/17/23)

Advanced Medical Resources	\$27,349.45
AMEX TRS Co., Inc.	\$402.99
Anthony Products, Inc.	\$39,650.81
Assurgent Medical Staffing	\$240,870.00
Capitol Strategy Group, Inc	\$66,666.60
CFG, LLC	\$137,500.00
CMG Atlanta TV / WSB TV	\$43,642.40
Curtis Lord (Consultant)	\$6,750.00
e3 Diagnostics	\$17,245.46
Environmental @Medical Gas Serv.	\$32,025.69
Euro Vison LLC*	\$1,365.32
Hemostasis LLC	\$3,151.76
Kim Smith	\$525.00
Martenson, Hasbrouck & Simon, LLP	\$98,308.32
McDermott Will & Emery	\$259,366.40
Prime Power Services	\$19,501.29
Pulmonary Sleep Specialists Pc	\$2,600.00
Radar Healthcare Providers Inc	\$91,330.61
Starkey Hearing Technologies	\$47,745.06
Stephano Slack	\$19,850.00
Stryker Instruments	<u>\$1,352,097.69</u>
	<u>\$2,507,944.85</u>

Disputed Subordinated Unsecured Claims

Internal Revenue Service - Potential Claim for ESRP Penalty	\$150,060.00
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Equity Claims

Nancy Jennings	\$11,386,420.00
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EXHIBIT "B"

B-1

John K. Rezac

Direct Dial: (678) 336-7195

E-mail: jrezac@taylorduma.com

August 29, 2025

*Via Email to reportclaims@rsui.com,
and Via Hand-Delivery/Courier*

RSUI Group, Inc.
ATTN: CLAIMS DEPARTMENT
945 East Paces Ferry Rd.
Suite 1800
Atlanta, GA 30326-1160

Via Hand-Delivery/Courier

RSUI Group, Inc.
ATTN: PHILLIP MCCRORIE, CEO
Chief Executive Officer
945 East Paces Ferry Rd.
Suite 1800
Atlanta, GA 30326-1160

Via Hand-Delivery/Courier

RSUI Group, Inc.
ATTN: CASSANDRA FERGUSON,
CLAIMS SVP
945 East Paces Ferry Rd.
Suite 1800
Atlanta, GA 30326-1160

RE: Notice of Potential Claim under Directors & Officers Liability Policy
Date of Loss: January 2020 through and including any time up to the present
RSUI Policy Prefix and Number: PP705538
Insured Entity: Milton Hall Surgical Associates, LLC & Affiliates

Date of Loss: January 2020 through August 16, 2023

Dear Mr. McCrorie, Ms. Ferguson, and Claims Department,

We represent S. Gregory Hays, as Receiver of Milton Hall Surgical Associates, LLC (“MHSA”) pursuant to the *Order Compelling Compliance, Appointing Receiver, and Granting Injunctive Relief* entered August 16, 2023 (the “**Appointment Date**”), in and by the Superior Court of Fulton County, Georgia, Civil Action No. 2020CV337822 (the “**Receiver**”).

This letter serves as formal notice to RSUI of a potential claim under the above-referenced Directors and Officers (D&O) Liability Insurance Policy, as required by the policy's terms and conditions. The Receiver, on behalf of MHSA, has become aware of circumstances that could reasonably give rise to a claim covered under the policy.

The claims arise out of Ms. Melissa Moritz, acting in her capacity as Chief Executive Officer of MHSA, and are described more fully and in considerable detail in the attached, draft *Receiver's Complaint Against CEO Melissa Moritz* (the "**Complaint**"). Ms. Moritz accepted the responsibilities of CEO in 2020 and was employed in that capacity until her removal by the Receiver shortly after the Appointment date. The Complaint, which is the result of the Receiver's 2-year investigation into MHSA, details the numerous instances of negligence and mismanagement by Ms. Moritz.

To date, the Receiver has not determined the full amount of damages suffered by MHSA and its affiliates because of its CEO's negligence but anticipates total damages will easily exceed \$10 million to \$15 million.

Pursuant to the policy, the Receiver hereby demands that RSUI acknowledge receipt of this notice and confirm coverage for this claim, subject to the policy's terms and conditions.

The Receiver has not yet filed the Complaint and wishes to have an in-person meeting with RSUI, ideally within the next 7 to 14 days, to discuss these claims and possible settlement options. Please confirm your availability. It will be helpful if you can provide one or two alternate dates and times.

The Receiver reserves all rights under the policy and looks forward to your prompt response. We are committed to cooperating fully with your investigation.

Thank you.

Sincerely,



John K. Rezac

cc: S. Gregory Hays, Receiver
Frank B. Strickland, Special Master per Court Order

**IN THE SUPERIOR COURT OF FULTON COUNTY
BUSINESS DIVISION
STATE OF GEORGIA**

S. GREGORY HAYS, solely in his capacity)
as Receiver of and on behalf of Milton Hall)
Surgical Associates, LLC (“MHSA”);) Civil Action No.
Alpharetta Surgery Center, LLC; ENTI)
Surgery Center LLC; HCENTI, LLC; ENTI)
Anesthesia, LLC; Milton Hall Management,)
LLC; MHSA Management, LLC; Milton Hall)
Trust; Nutmeg Management LLC; Marble)
Management LLC; and DRG Media, LLC,)
)
Plaintiff,)
vs.)
)
MELISA MORITZ,)
)
)
Defendant.)
_____)
)

RECEIVER’S COMPLAINT AGAINST CEO MELISSA MORITZ

Plaintiff S. Gregory Hays (“**Plaintiff**” or “**Receiver**”), solely in his capacity as Receiver of and on behalf of Milton Hall Surgical Associates, LLC; Alpharetta Surgery Center, LLC; ENTI Surgery Center LLC; HCENTI, LLC; ENTI Anesthesia, LLC; Milton Hall Management, LLC; MHSA Management, LLC (collectively the “**Milton Hall Operating Entities**”); Milton Hall Trust; Nutmeg Management LLC; Marble Management LLC; and DRG Media, LLC (collectively with the Milton Hall Operating Entities, the “**Milton Hall Companies**”), appointed as Receiver pursuant to the Court’s *Order Compelling Compliance, Appointing Receiver, and Granting Injunctive Relief* (the “**Receivership Order**”) entered August 16, 2023 (the “**Appointment Date**”), in Civil Action No. 2020CV337822 (the “**Receivership Action**”), files this *Receiver’s Complaint Against CEO Melissa Moritz* (the “**Complaint**”) and shows the Court as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is a resident of Fulton County, Georgia and the Receiver of, *inter alia*, the Milton Hall Companies pursuant to judicial appointment on August 16, 2023.

2. Defendant Melissa Moritz (“**Defendant Moritz**”) is a resident of Connecticut and may be served at 22 Argail Drive, Westbrook, Middlesex County, Connecticut 06498, or wherever she may be found.

3. This Court has personal jurisdiction over Defendant Moritz and venue is proper in this Court because Defendant Moritz transacted business within the State of Georgia and committed tortious acts or omissions within the State of Georgia, a substantial part of which was in Fulton County, Georgia. *See* O.C.G.A. § 9-10-91(1) and (2); O.C.G.A. § 9-10-93.

STATEMENT OF FACTS

A. Introduction

4. The Milton Hall Operating Entities were formed by Dr. Jeffrey Gallups (“**Gallups**,” and at times, collectively with Defendant Moritz, as “**Management**”) or by Gallups and Defendant Moritz acting in concert, to provide ENT, surgical, and other medical services. The Milton Hall Operating Entities’ business grew between 1998 and 2017. In mid-2017, Gallups was named as a defendant in a whistleblower action based on violations of federal and state false claims, anti-kickback, and Medicaid fraud prevention laws. That same year, Gallups appointed his then-future wife, Defendant Moritz, to the position of Chief Accountability Officer of the Milton Hall Operating Entities. In 2020, Gallups appointed Defendant Moritz Chief Executive Officer of the Milton Hall Operating Entities. Defendant Moritz was not qualified for either appointment. In 2021, Gallups consented to judgment in the whistleblower action and agreed to pay between \$3 million and \$5.38 million. In 2022, Gallups pleaded guilty to felony healthcare fraud in a criminal

action brought by the United States Department of Justice. Between 2020 and August 2023, Management grossly mismanaged the Milton Hall Operating Entities, failed to take reasonable, necessary steps to mitigate the damage of Gallups' criminal conviction, caused and allowed the assets of the Milton Hall Operating Entities to be diverted for their personal use and to the detriment of the business, and allowed the Milton Hall Operating Entities to deteriorate beyond any reasonable state of recovery. The Receiver has been and is presently liquidating the Milton Hall Companies' assets. Creditors have filed claims in the Receivership Action of more than \$14.9 million. The assets of the Receivership Estate, however, will be insufficient to pay the vast majority of the creditor claims.

B. Milton Hall Operating Entities' Business History and Structure

5. The Milton Hall Operating Entities were formed between 1998 and 2014.

6. Until 2023, Gallups was the sole owner of the Milton Hall Operating Entities except as follows: (1) Alpharetta Surgery Center, LLC was owned 99% by Gallups, and 1% by Dr. Nancy Jennings; (2) Milton Hall Management, LLC was owned 99% by Gallups and 1% by MHSA Management LLC which, in turn, was owned 100% by Gallups; and DRG Media LLC ("DRG") was owned 51% by Defendant Moritz and 49% by Gallups.

7. Gallups' ownership interest changed in 2023 when, in violation of court order, Defendant Moritz and Gallups orchestrated a transfer of the Milton Hall Operating Entities to a third-party and management of the Milton Hall Operating Entities to the then-newly formed entity, Nutmeg Management LLC ("Nutmeg"), of which Defendant Moritz was the 100% owner. That transaction is addressed more fully below.

8. In time, the Milton Hall Operating Entities came to include twelve ENT clinics and two surgery centers.

9. Gallups was the Chief Executive Officer (“CEO”) of the Milton Hall Operating Entities until 2020.

10. In or about 2017, Defendant Moritz accepted the position of Chief Accountability Officer (“CAO”) of the Milton Hall Operating Entities.

11. In or about 2020, Defendant Moritz accepted the position of CEO of the Milton Hall Operating Entities. *See February 2022 Management Presentation*, excerpts of which are attached to this Complaint as Exhibit “A” and are incorporated in this Complaint by reference.

12. Defendant Moritz married Gallups on or about January 2, 2021.

13. According to her resume, Defendant Moritz’s post-college employment history before joining the Milton Hall Companies consisted of a four-year employment as Cox Media account executive, and a 17-month employment as “chief revenue officer” for Celtic Testing Experts.

C. Gallups’ Criminal Action

14. In September 2021, the United States of America filed a *Criminal Information* against Gallups on charges of and related to healthcare fraud. *United States of America vs. Jeffrey M. Gallups*, United States District Court for the Northern District of Georgia, Case No. 1:21-cr-00370-SCJ (the “**Gallups Criminal Action**”).

15. On June 22, 2022, Gallups was adjudicated guilty therein of healthcare fraud under 18 U.S.C. § 1347.

16. Gallups began serving his 33-month sentence at FPC Montgomery Federal Prison Camp, Maxwell Air Force Base, Montgomery, Alabama, in early 2023.

17. At all times relevant to this Complaint, Defendant Moritz, in her capacity as CEO, knew or should have known that Gallups' criminal activity, criminal charges, and criminal adjudication would have a material, adverse impact on the Milton Hall Operating Entities.

D. Gallups' Whistleblower Action

18. On June 30, 2017, the United States of America, *ex rel*, and other plaintiffs filed a *qui tam* action against Gallups and Milton Hall Surgical Associates, LLC ("MHSA") for violation of federal and state false claims, anti-kickback, and Medicaid fraud laws. *See United States of America, ex rel., et al. vs. Milton Hall Surgical Associates, LLC d/b/a The ENT Institute a/k/a Ear, Nose & Throat Institute, et al.*, United States District Court for the Northern District of Georgia, Case No. 1:17-cv-02472-SDG (the "**Gallups Whistleblower Action**").

19. Effective November 30, 2021, Gallups agreed to pay the United States Department of Justice ("**DOJ**") \$3,068,434 (the "**Settled Amount**") prior to November 30, 2022 (the "**DOJ Settlement**").

20. Failure to pay the Settled Amount in full by that deadline would have entitled the DOJ to record a *Consent Judgment* in the amount of \$5,388,863 (the "**Full Judgment Amount**") against Gallups and MHSA.

21. At all times relevant to this Complaint, Defendant Moritz, as CEO, knew or should have known of the consequences to MHSA and the Milton Hall Operating Entities of Gallups' failure to pay the Settled Amount in full by the agreed deadline.

22. The \$3,068,434 was not paid in full by November 30, 2022, and was not paid by the time of the Receivership Order.

E. Mismanagement of the Milton Hall Operating Entities

23. Defendant Moritz and Gallups grossly mismanaged the Milton Hall Operating Entities for years, particularly beginning at or around 2000.

24. By August 2023, the Milton Hall Operating Companies were in the late stages of rapid decline.

25. The management failures and the dire condition of the Milton Hall Operating Companies is more fully discussed in the *Receiver's First Interim Report*¹ filed in the Receivership Action on November 12, 2023, and include the following:

i. Failure to Pay Rent and Manage Leased Space

26. During the two years prior to the Appointment Date, Management, including CEO Defendant Moritz intentionally discontinued paying recurring facilities rents to many of the Milton Hall Operating Entities' critical commercial landlords.

27. Defendant Moritz's purposeful decision to ignore the Milton Hall Operating Entities' rent obligations resulted in no fewer than six (6) eviction and/or collection actions by landlords, including:

- a. On September 29, 2023, Landlord Four Plus Corporation, filed a legal action to evict the Milton Hall Operating Entities from leased premises at 3330 Preston Ridge Rd., Alpharetta, Georgia, and to collect unpaid rent;
- b. On August 11, 2023, Landlord CPI/AHP Brookhaven MOB Owner, LLC filed a legal action to evict the Milton Hall Operating Entities from leased premises at 3929 Peachtree Rd., Suite 100, Atlanta, Georgia, and to collect unpaid rent;

¹ A copy of the *Receiver's First Interim Report* is attached to this Complaint as Exhibit "N" and is incorporated in this Complaint by reference.

- c. On August 29, 2023, Landlord Parkway Professional MOB I filed a legal action to evict the Milton Hall Companies from leased premises at 1485 Jesse Jewell Parkway, Suite 220, Gainesville, Georgia, and to collect unpaid rent;
 - d. On August 22, 2023, Landlord LaGrange Med Ventures, LLC served a written notice of default, alleging an arrearage of \$52,092.07, under a lease of premises at 1015 LaFayette Parkway, Suite 130, LaGrange, Georgia;
 - e. On or about October 11, 2023, GAHC4 Lawrenceville GA MOB II, LLC filed a legal action for damages and/or possession of leased premises at 600 Professional Dr., Lawrenceville, Georgia, alleging an arrearage of \$807,000.00;
 - f. On or about October 11, 2023 GAHC3 Stockbridge GA MOB II, LLC filed a legal action for damages and/or possession of leased premises at 1365 Rock Quarry Road, Stockbridge, Georgia, alleging an arrearage of \$376,000.00;
28. During CEO Defendant Moritz's official fiduciary oversight and direction, the Milton Hall Operating Entities leased additional space at the Brookhaven facility, at significant expense, for a surgery center that was never completed and never used, resulting in material and unnecessary waste of money.
29. On CEO Defendant Moritz's official fiduciary oversight and direction, the Milton Hall Operating Entities entered into a long-term lease for the Lagrange, Georgia facility, leaving a landlord claim of \$1.8 million when that lease was allowed to go into default.
30. CEO Defendant Moritz allowed the Gainesville, Georgia lease to expire without exercising the available option to renew.
31. Upon his appointment, the Receiver had to renegotiate a temporary lease extension with the landlord at considerable cost to continue using the premises.

32. CEO Defendant Moritz's mismanagement of the Milton Hall Operating Entities left several locations operating at significant losses such that, by the Appointment Date, those locations were beyond saving and the Receiver was forced to close them.

33. The foregoing closings resulted in significant early lease termination penalties.

ii. Failure to Pay Vendors

34. During the two years prior to the Appointment Date, Management, including CEO Defendant Moritz, discontinued paying significant and necessary vendors of the Milton Hall Companies.

35. Defendant Moritz's decision to neglect the Milton Hall Companies' vendor obligations resulted in supply and service disruptions and the accumulation of more than \$4 million in unpaid accounts receivable as of late 2023

iii. Failure to pay DOJ

36. In sworn testimony, Gallups admitted that he withdrew between \$400,000 and \$500,000 (the "**DOJ Earmarked Funds**") from the Milton Hall Companies during 2022 and 2023. See relevant portions of the transcript of the Videoconference Deposition of Dr. Jeffrey Gallups, August 31, 2023, Page 37, Line 12 through Page 39, Line 13, a copy of relevant portions of which is attached to this Complaint as Exhibit "B" and is incorporated in this Complaint by reference.

37. Pursuant to forbearance terms established by the Milton Hall Operating Entities' secured lender, Georgia Banking Company ("**GBC**"), the DOJ Earmarked Funds were to be used only for payment to the DOJ to satisfy the DOJ Settlement.

38. Gallups, Defendant Moritz, and/or an employee they directed to speak on their behalf advised the Milton Hall Operating Entities' secured lender that the DOJ Earmarked Funds would be used to pay the DOJ.

39. The DOJ Earmarked Funds were instead deposited into a joint account in the names of Gallups and Defendant Moritz.

40. CEO Defendant Moritz failed to take reasonable steps to ensure that the DOJ Earmarked Funds were in fact paid to the DOJ.

41. CEO Defendant Moritz caused and/or allowed the DOJ Earmarked Funds to be used instead for purposes other than payment of the DOJ Settlement, including payment of Defendant Moritz's and/or Gallups' personal expenses.

42. As a result of Gallups' and MHSA's failures to satisfy the DOJ Settlement, the DOJ filed a motion in the Gallups Whistleblower Action (the "**DOJ Motion**"), seeking a judgment against Gallups and MHSA for the Full Judgment Amount that increased the total payment obligation by \$2.3 million.

43. If the DOJ Motion had been granted, MHSA and the other Milton Hall Companies would have been unable to satisfy the Full Judgment Amount and would have been forced out of business and into bankruptcy.

44. The Receiver opposed the DOJ Motion and negotiated a resolution with the DOJ to satisfy MHSA's obligation under the DOJ Settlement with proceeds from the court-approved sale of Receivership assets.

45. Defendant Moritz, as CEO, knew or should have known of Gallups' withdrawal of these funds and of the improper use thereof.

46. Defendant Moritz, as CEO, neglected to exercise any business judgment or to protect the Milton Hall Operating Entities from Gallups' depletion of company funds or from the fallout of Gallups' and MHSA's failure to satisfy the DOJ Settlement.

47. CEO Defendant Moritz's neglect subjected MHSA, and by affiliation the other Milton Hall Companies, to potentially \$2.3 million in additional payment obligations.

iv. Failure to protect Medicare and Insurance Provider Revenue

48. As CEO, Defendant Moritz neglected to take the necessary steps to preserve the Milton Hall Operating Entities' eligibility to participate in Medicare and other critical health insurance programs.

49. Like almost all other healthcare service providers, the revenue of the Milton Hall Operating Entities derived almost exclusively from their participation as contracted providers in their patient's health insurance plans.

50. Historically, the Milton Hall Operating Entities received approximately 24% of their total income from Blue Cross Blue Shield of Georgia ("BCBSGA") and 7% from Medicare.

51. As discussed more fully below, CEO Defendant Moritz refused or failed to take serious and necessary steps to, or to sell the Milton Hall Operating Entities; and further failed to take any steps to remove Gallups as an owner, officer and manager of the Milton Hall Operating Entities.

52. Given this refusal or failure, Medicare terminated the Milton Hall Operating Entities' eligibility in April of 2023 due to Gallups' convicted felon status during his ownership of the Milton Hall Operating Entities.

53. BCBSGA gave written notice in January 2022 of its decision that Gallups, and by extension all of the Milton Hall Operating Entities, should be terminated from the BCBSGA network. A true copy of the January 28, 2022, letter from Anthem is attached to this Complaint as Exhibit "C" and is incorporated in this Complaint by reference.

54. Because certain patients continued to receive medical services, BCBSGA regarded the Milton Hall Operating Entities to be “out of network” providers and paid the covered amounts directly to the patients.

55. Defendant Moritz’s failure to resolve the situation with BCBSGA resulted in the Milton Hall Operating Entities’ accumulation of \$1.5 million in medical bills which BCBSGA refused to pay.

56. Those bills were not paid and over \$1.5 million in receivables from BCBSGA remain outstanding.

57. The Receiver was unable to achieve reinstatement of the BCBSGA contract until December 2023.

58. CEO Defendant Moritz’s failure to take necessary action to maintain BCBSGA plan eligibility caused the Milton Hall Operating Entities’ loss of BCBSGA reimbursements and materially and detrimentally impacted the companies’ cash flow.

59. In the case of the CBS State Health Plan HMO, CEO Defendant Moritz neglected to renew the Milton Hall Operating Entities' contract.

60. That contract was effective beginning January 1, 2017, with an annual renewal deadline in 2023 of July 19, 2023.

61. CEO Defendant Moritz did not ensure that the contract was renewed.

62. The Milton Hall Operating Entities' staff did not become aware that the contract had lapsed until August 2023 when the CBS State Health Plan HMO delivered a denial of Medicare claims and confirmed that the contract was allowed to terminate.

v. Failure to Address IRS Claims

63. On May 17, 2023, the United States Internal Revenue Service (“**IRS**”) issued a written Notice of Determination to MHSA respecting MHSA’s Employer Shared Responsibility

Payment (“**ESRP**”) liability. A copy of the IRS’s May 17, 2023, letter is attached to this Complaint as Exhibit “D” and is incorporated in this Complaint by reference.

64. The IRS advised MHSA that, despite the IRS’s prior notice of potential ESRP liability, Management had failed to provide adequate documentation contradicting the allegation of such liability.

65. The IRS notified MHSA of the deadline by which it may appeal the IRS’s decision.

66. CEO Defendant Moritz failed to respond to the IRS's notice of appeal deadline.

67. Consequently, the Milton Hall Companies did not contest the allegation of liability.

68. The IRS's ESRP claim totals \$185,000.

69. The Receiver continues to attempt a resolution of this purported obligation with the IRS.

70. To date, the IRS has not relented, the time for appeal having expired long before the Appointment Date.

vi. Failure to Maintain Facilities/Non-compliance with Applicable Regulations

71. The Milton Hall Operating Entities included two ambulatory surgery centers—one in Alpharetta, Georgia and one in Newnan, Georgia.

72. The Alpharetta Surgery Center, LLC (“**Alpharetta ASC**”) operated under a Special Purpose Certificate of Need.

73. By letter dated September 19, 2023, the Accreditation Association for Ambulatory Health Care, Inc. (“**AAAH**C”) gave written notice that, during its discretionary survey of Alpharetta ASC and after proper investigation, AAAHC identified areas of non-compliance which

constituted Immediate Jeopardy (“IJ”).² A copy of AAAHC’s September 19, 2023, letter is attached to this Complaint as Exhibit “E” and is incorporated in this Complaint by reference.

74. By letter dated October 13, 2023, AAAHC gave written notice that Alpharetta ASC failed to substantially comply with the AAAHC’s standards and that AAAHC’s accreditation of Alpharetta ASC would be revoked following the end of the applicable appeal period.

75. AAAHC’s determination was the result of its September 19, 2023, Discretionary Survey of Alpharetta Surgery Center, LLC. (the “ASC Survey”). A copy of AAAHC’s October 13, 2023, letter, including the ASC Survey, is attached to this Complaint as Exhibit “F” and is incorporated in this Complaint by reference.

76. The Newnan, Georgia, location was in even worse condition and also out of compliance.

77. With no reasonable expectation that the Newnan, Georgia, facility could be brought into compliance, the Receiver was forced to close it permanently.

78. In both instances, the circumstances that precipitated the violations existed long before the Appointment Date.

vii. Failure to Pay Physicians and Staff, and Comply with Physicians’ Agreements

79. As CEO, Defendant Moritz intentionally or negligently failed to ensure that the Milton Hall Operating Entities’ physicians were compensated according to their Physician Agreements.

² “Immediate Jeopardy means a situation in which the provider’s or supplier’s non-compliance with one or more requirements, conditions of participation, conditions for coverage, or conditions for certification has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident or patient.” 42 C.F.R. § 489.3.

80. Beginning 2021 or earlier, the Milton Hall Operating Entities' physicians were not provided contractually their required support staff.

81. As of the Appointment Date, physician bonuses were in serious arrears.

82. As of the Appointment Date, physicians were threatening to terminate their relationships with the Milton Hall Companies. *See, e.g.,* September 28, 2023, Notice of Default from Ronald J. Alvarez, M.D., a copy of which is attached to this Complaint as Exhibit "G" and is incorporated in this Complaint by reference.

83. At least one highly profitable physician did in fact resign, blaming his resignation on Defendant Moritz's mismanagement.

84. Additionally, CEO Defendant Moritz stopped or neglected to ensure payment to necessary personnel, including the Milton Hall Companies' temporary and contract staffing services.

85. For example, Assurant Medical, a medical staffing provider, was not paid for the personnel it provided the Milton Hall Companies over several months prior to the Appointment Date.

86. Assurant Medical filed a claim in the receivership Action in excess of \$400,000.00.

viii. Failure to Pay Secured Lenders

87. As CEO, Defendant Moritz neglected to maintain debt service respecting the Milton Hall Companies' secured creditors; failed to adequately plan or budget for debt service; and failed to cooperate with the secured creditors to resolve debt service defaults

88. In 2020 and 2021, Gallups, on behalf of ENTI Surgery Center, LLC, executed promissory notes for \$11,929,000.00 and \$10,160,618.00, respectively, in favor of Global One Financial ("GF").

89. These GF obligations were secured by security interests in five (5) life insurance policies owned by Gallups.

90. As of the Appointment Date, the total outstanding balance of the loans exceeded \$1.25 million.

91. As of the Appointment Date, these loans were in default and GF was threatening legal action to collect and to seize its collateral.

92. In October 2021, the Milton Hall Operating Entities entered into a \$2 million line of credit with GBC.

93. As of the Appointment Date, that line of credit was in default due to nonpayment in a balance exceeding \$500,000.00.

94. Additionally, it was discovered that CEO Defendant Moritz caused or allowed Gallups to withdraw the DOJ Earmarked Funds, knowing the funds were to be used exclusively for payment to the DOJ; deposited those funds into a joint account held by Defendant Moritz and Gallups; and spent that money on personal expenses: *not* in satisfaction of the DOJ Settlement—all in violation of GBC's loan covenants.

95. GBC demanded payment and was threatening to exercise its right to seize the Milton Hall Operating Entities' accounts receivable which were subject to GBC's security interest.

96. Such action would have caused the Milton Hall Operating Entities to cease operations.

97. The Receiver was forced to resolve both secured creditor defaults by committing to aggressive repayment plans using much needed available cash.

98. The defaults and resulting expense and disruption to the business could have been avoided had Defendant CEO Moritz been diligent, properly planned and budgeted for that debt

service, and chosen not to engage in self-dealing respecting the Milton Hall Companies' cash on hand and on deposit.

ix. *Negligent Payment of Unnecessary Insurance Coverage*

99. As CEO, Defendant Moritz neglected to adequately monitor and control expenses for insurance, resulting in considerable money being spent on unnecessary insurance coverage.

100. For example, as of the Appointment Date, the Milton Hall Companies were still paying insurance on a building that had been sold three years earlier in 2020.

101. Further, the Milton Hall Companies were paying for forty (40) life insurance policies covering Gallups, his family, and retired doctors.

102. The premium expenses on those insurance policies (exceeding \$65,000.00 per month) depleted much-needed funds at a time when cash flow was critical.

103. Those insurance expenses were unnecessary and wasteful.

104. Defendant Moritz was either negligently ignorant of those unnecessary and wasteful expenses or deliberately chose to disregard them.

x. *Bankruptcy*

105. Defendant Moritz's oversight of the Milton Hall Companies was so lacking that it became necessary for Management to engage bankruptcy counsel in June 2023 and pay a \$15,000.00 retainer.

106. Upon information and belief, the Milton Hall Companies' bankruptcy counsel concluded that bankruptcy would not resolve the Medicare issues.

107. Accordingly, counsel advised against filing bankruptcy.

108. In addition to corporate bankruptcy considerations, Gallups sought personal bankruptcy counsel in Florida and paid a \$10,000.00 retainer on August 22, 2023.

109. Gallups ultimately filed individually for relief under Chapter 13 of Title 11 of the United States Code on March 21, 2024, *In re Jeffrey Mark Gallups*, Case No. 24-12653, United States Bankruptcy Court for the Southern District of Florida.

110. Gallups' bankruptcy case was converted to Chapter 7, and he was granted a discharge on July 10, 2024.

xi. Failure to Mitigate Damage of Gallups' Criminal Conviction

111. As CEO, Defendant Moritz failed to take reasonably necessary steps to protect the Milton Hall Operating Entities from the fallout of Gallups' criminal and whistleblower liability.

112. Federal law prohibits convicted felons from owning any debt or equity interest in, or engaging as an officer, director or principal manager of, an entity participating in the Medicare program. *See*, 42 CFR 424.535(a)(3).

113. Failure of a felon to transfer his ownership in a Medicare enrolled entity within thirty (30) days of conviction is cause for revocation of the entity's Medicare participation.

114. Gallups had complete or controlling ownership of each of the Milton Hall Operating Entities.

115. The majority of the Milton Hall Operating Entities participated in the Medicare program.

116. It was therefore essential that Gallups ownership and control of the Milton Hall Operating Entities terminate, and that he resign or otherwise remove himself as an officer, director or principal manager of the Milton Hall Operating Entities.

117. CEO Defendant Moritz failed to insist on that mandatory action.

118. Despite considerable expense, exploration of company sale opportunities were fruitless.

119. Sale of the companies, however, faced significant hurdles, including both compliance and financial deficiencies resulting from gross mismanagement.

120. According to a BRG May 10, 2022, compliance audit, a copy of which is attached to this Complaint as Exhibit “H” and is incorporated in this Complaint by reference, the Milton Hall Operating Entities suffered from the following deficiencies:

- a. A potentially systemic overbilling situation respecting antigen services billed to government payers;
- b. Outdated clinic and office policies;
- c. No compliance committee, despite internal policy requiring such committee existence;
- d. Inadequate auditing and monitoring of risk areas;
- e. Outdated and inaccurate compliance program manual;
- f. Outdated and unprotected network (e.g., inactive computers and anti-virus installation);
- g. Significant HIPAA compliance risks;
- h. Inadequate documentation of supposed remediation efforts; and
- i. Inadequate documentation of audits.

121. During the period from 2019 to 2022, the Milton Hall Operating Entities retained two investment bankers and spent over \$1.5 million in legal and restructuring cost to sell the business.

122. The Milton Hall Operating Entities incurred over \$500,000.00 in additional professional fees in connection with a Quality of Earnings report, legal restructuring fees, and legal fees for a doctor in connection with a proposed transaction.

123. Most of these fees were not paid. *See* Receiver's Accounts Payable Report, a copy of which is attached to this Complaint as Exhibit "I" and is incorporated in this Complaint by reference.

124. In early 2022, the Milton Hall Operating Entities, under CEO Defendant Moritz's management, engaged broker Westcove to market the business, paying a \$25,000.00 monthly retainer (and ultimately, \$251,475.52 in total).

125. Despite the expense, nothing ever materialized from the Westcove engagement.

126. By August 2022, CEO Defendant Moritz and Gallups appeared to have abandoned any meaningful effort to sell the Milton Hall Operating Entities. Instead, they began to explore selling the business to a "friendly doctor" and creating a management company wherein Defendant Moritz would own 100%.

127. Sale efforts failed. In July 2022, CEO Moritz and Gallups attempted to obtain a \$35 million loan from Colbeck Capital Management ("Colbeck"). Defendant Moritz caused or allowed the Milton Hall Operating Entities to pay Colbeck a \$200,000.00 due diligence fee to obtain such loan.

128. On August 24, 2022, Colbeck notified Defendant Moritz, Gallups, and CFO Daniel Smolczynski that Colbeck was rejecting the loan request, citing issues with compliance and financial performance. Of particular concern were the BRG audits and coding discrepancies referenced above.

129. Colbeck advised Defendant Moritz, Gallups, and CFO Daniel Smolczynski, as follows:

Unfortunately, we were turned down by our committee earlier this afternoon. The compliance issues and financial performance were the two areas of focus for committee, the later of which drove the final committee decision. Below is some incremental color.

- The opinion of our third-party diligence partners is that there is potential for incremental liability at the Company level given some of the coding discrepancies historically.
- However, the gating item for committee was the materially lower adjusted EBITDA level relative to what had been previously understood from the materials and sell side QoE.

130. Despite the Milton Hall Operating Entities' \$200K expenditure to pursue this financing, Colbeck denied the loan request.

F. Disregard for Obligations of CEO of the Milton Hall Companies

131. In May 2025, the Receiver deposed Defendant Moritz. A copy of relevant transcript portions of the Remote Deposition of Melissa Moritz, May 5, 2025 ("**Moritz Deposition Transcript**"), is attached as Exhibit "J" and is incorporated in this Complaint by reference.

132. During her deposition under penalty of perjury, Defendant Moritz denied any knowledge of or claimed no recollection of the following:

- when she became CEO;
- whether she had a written employment contract;
- what her responsibilities as CEO were ("Q Okay. Do you know, independent of looking at the résumé, what your responsibilities were? A No. I wrote the résumé as those were my responsibilities") (Page 14, l. 24 to page 15, l.2).
- the Global One loan;
- the ENT Institute's staffing provider, Assurgent Medical Staffing, or its \$292,671.47 claim against the Milton Hall Operating Entities;
- physician search agreements bearing her signature;
- August 8, 2022, IRS notice of taxes due totaling \$62,082.54;
- February 14, 2020, IRS notice of taxes due totaling \$56,217.47;
- September 13, 2021, IRS notice of taxes due totaling \$58,503.32;

- j. March 2nd, 2020, IRS notice of taxes due totaling \$93,960.00;
- k. August 8, 2022, IRS notice of taxes due totaling \$62,082.54;
- l. August 8, 2022, IRS notice of taxes due totaling \$62,082.54;
- m. any written communications from the IRS to Milton Hall Surgical Associates;
- n. who the Milton Hall Operating Entities' Director of Finance was during her term as CEO;
- o. BCBS State Health Plan HMO's denial of claims and the expiration of its contract;
- p. what types of contracts the Milton Hall Operating Entities had with Blue Cross Blue Shield;
- q. the Milton Hall Operating Entities' May 10, 2022, compliance audit by BRG;
- r. who BRG is;
- s. any of the systemic overbilling issues identified by BRG in 2022;
- t. BRG's audit or being interviewed by BRG on April 20, 2022, as reported by BRG (*see* Exhibit "H");
- u. whether certain Milton Hall Operating Entities had a designated HIPAA privacy or security officer during her term as CEO;
- v. whether certain Milton Hall Operating Entities had a compliance committee during her term as CEO;
- w. whether the Milton Hall Operating Entities had a compliance manual during her term as CEO;
- x. when DRG (the company of which she was the 51% owner) was formed;
- y. when DRG (the company of which she was the 51% owner) last conducted;

- z. what marketing services DRG (the company of which she was the 51% owner) provided;
- aa. whether she was ever paid by or through DRG (the company of which she was the 51% owner);
- bb. whether she ever took a distribution from DRG (the company of which she was the 51% owner);
- cc. whether DRG (the company of which she was the 51% owner) had employees;
- dd. whether DRG (the company of which she was the 51% owner) had a bank account;
- ee. whether the Milton Hall Operating Entities paid DRG \$1,255,000.00 between August 2021 and August 2023, as reflected in the Milton Hall Operating Entities' financial records;
- ff. anything about Marble LLC, the company of which she was the 100% owner and operator;
- gg. signing a \$50 million promissory note on behalf of Marble Inc. in favor of Gallups in August 2023;
- hh. her reason for signing a \$50 million promissory note on behalf of Marble Inc. in favor of Gallups in August 2023;
- ii. signing the Amended and Restated Operating Agreement of Nutmeg Management LLC (the company of which she was the 100% owner);
- jj. whether she had any ownership interest in Nutmeg (the company of which she was the 100% owner);
- kk. anything about Nutmeg (the company of which she was the 100% owner);
- ll. the services provided by the Milton Hall Operating Entities at specific locations;

- mm. written notices of default from landlords;
- nn. whether the Milton Hall Operating Entities' Brookhaven lease was ever in default;
- oo. whether the Milton Hall Operating Entities' Alpharetta lease was ever in default;
- pp. whether the Milton Hall Operating Entities' Dawsonville lease was ever in default;
- qq. whether the Milton Hall Operating Entities' East Cobb lease was ever in default;
- rr. whether the Milton Hall Operating Entities' West Cobb lease was ever in default;
- ss. whether the Milton Hall Operating Entities' Peachtree City lease was ever in default;
- tt. whether the Milton Hall Operating Entities' Lawrenceville lease was ever in default;
- uu. the denial of Medicare eligibility;
- vv. the liabilities of the Milton Hall Companies;
- ww. the financial condition of the Milton Hall Companies;
- xx. whether, as CEO, she took any steps to protect the company following Gallups' criminal conviction;
- yy. whether the Milton Hall Companies were ever notified that health insurance providers were refusing to release funds;
- zz. ever seeing any letters regarding the revocation of the Milton Hall Operating Entities' Medicare privileges;
- aaa. whether the Milton Hall Operating Companies ever considered filing bankruptcy;

- bbb. whether she ever had any conversations with anyone at the Milton Hall Operating Companies about the possibility of the Milton Hall Operating Companies' filing bankruptcy;
- ccc. steps were taken to sell or transfer the Milton Hall Operating Companies to remove Gallups as an owner;
- ddd. the Milton Hall Operating Companies' \$30 million loan request to Colbeck;
- eee. Colbeck's denial of the Milton Hall Operating Companies' loan request;
- fff. the Milton Hall Operating Companies' compliance deficiencies;
- ggg. the \$200,000.00 paid by the Milton Hall Operating Entities to Colbeck for due diligence relating to the loan request;
- hhh. whether she ever received any valuation reports that showed
- iii. the Milton Hall Operating Companies' financial performance issues; and
- jjj. the Milton Hall Operating Companies' coding discrepancies.

[Moritz Deposition Transcript, Pages 8 through 145].

133. Defendant Moritz testified that she doesn't know if she was qualified to be the CEO of the Milton Hall Operating Companies.

134. Defendant Moritz testified further that she did not exercise her own business judgment with respect to crucial decisions made and actions taken on behalf of the Milton Hall Companies, deferring instead to Gallups, testifying, as follows:

Q: In the context of these dire circumstances, the company not surviving, did you as CEO, have any responsibility to protect the company?

A: The owner of the company did. And he tried his best with all you guys.

Q: And what about you?

A: I was an employee.

G. The Receivership Action

135. In 2020, Dr. Nancy Jennings (“**Dr. Jennings**”) brought the Receivership Action against her former spouse, Gallups, to enforce Gallups’ obligations under the January 2017 *Final Judgment and Decree of Divorce* entered in Nancy H. Gallups v. Jeffrey M. Gallups, Superior Court of Fulton County, Georgia; Civil Action No. 2016CV274575, including Gallups’ obligation to pay Dr. Jennings \$10,250,000 from the sale of the medical practice.

i. Appointment of Special Master

136. On February 8, 2023, Superior Court Judge Craig L. Schwall, Sr. entered the *Order for Appointment of Special Master* (the “**Special Master Order**”) appointing Frank B. Strickland, Esq. as Special Master (“**Special Master**”) to oversee and facilitate the marketing and sale of the Milton Hall Operating Entities. A copy of the Special Master Order is attached to this Complaint as Exhibit “K” and is incorporated in this Complaint by reference.

137. The Special Master Order authorized the Special Master to explore and oversee the sale of the Milton Hall Operating Entities as necessitated by Gallups’ guilty plea to charges of felony healthcare fraud.

138. At that time, Defendant Moritz was aware that the Milton Hall Operating Entities stood to lose their Medicare and BCBSGA eligibility unless the Milton Hall Operating Entities were transferred out of Gallups’ name and were no longer under Gallups’ control.

139. For six months, the Special Master tried to work with the Milton Hall Operating Entities to achieve a successful sale or other structured transfer of the business out of Gallups’ name.

140. Assisted by the Court, the Special Master and Gallups reached an agreement as to

the terms of a transaction that would remove Gallups from ownership and control and would put all management decisions for the Milton Hall Operating Entities in the hands of a three-member Board of Directors.

141. That structure would have ensured that decisions impacting the Milton Hall Operating Entities could be made independent of Gallups' influence.

142. Defendant Moritz deliberately or negligently allowed Gallups to deny the Special Master access to necessary books and records, including financial records.

143. Defendant Moritz deliberately or negligently allowed Gallups to delay repeatedly the Special Master's efforts toward the orderly removal of Gallups from ownership and control of the Milton Hall Operating Entities.

144. Further, and as confirmed in written communications by Gallups' attorney to the court in the Receivership Action, CEO Defendant Moritz actively obstructed the Special Master's efforts to complete a transfer of control which would have removed Gallups from ownership and control and helped the Milton Hall Operating Entities preserve or regain their Medicare and BCBSGA eligibility. *See* August 4, 2023, letter from Attorney Peter Hasbrouck, a copy of which is attached to this Complaint as Exhibit "L" and is incorporated in this Complaint by reference ("A major "stumbling block" in the negotiations is that Melissa Mortiz (who is represented by Skip Sugarman, Esq., copied below), the current CEO of Milton Hall Surgical Associates, LLC and the agreed upon and contemplated CEO of the "new company" being formed as part of Dr. Gallups' ownership transfer of the Companies, does not agree with Special Master Strickland on the terms of her contemplated role in the new company").

145. Instead, and unknown to the Special Master or the court at that time, Defendant Moritz and Gallups were orchestrating a covert transfer of the Milton Hall Operating Entities

which would give Defendant Moritz full ownership of the entity managing the Milton Hall Companies and would assure Gallups' indirect control of the Milton Hall Companies.

146. In August 2023, the Special Master filed his *Special Master's Report and Recommendation Respecting Status of Incremental Transfer of the Companies*, ("**Special Master's Report**") in which he detailed Gallups' misconduct and obstruction of the Special Master's court-ordered efforts and Management's refusal to cooperate with the orderly marketing and sale process. A copy of the Special Master's Report is attached to this Complaint as Exhibit "M" and is incorporated in this Complaint by reference.

147. A hearing on the Special Master's Report was scheduled for August 16, 2023.

148. Shortly before the hearing was to begin, Gallups' counsel notified the Special Master that, on August 7, 2023, Defendant Moritz and Gallups, acting without the knowledge or consent of his counsel, caused the Milton Hall Operating Entities to convey all their non-clinical assets to a newly formed physician practice management company, Nutmeg.

149. Defendant Moritz and Gallups formed and structured Nutmeg to be owned 100% by Defendant Moritz.

150. At or around that time Gallups reported that he and Defendant Moritz had recently divorced such that vesting ownership of Nutmeg in Moritz would resolve the concern over delisting by Medicare and BCBSGA.

151. Simultaneously, Gallups transferred all his equity interests in certain of the Milton Hall Operating Entities to another Georgia physician.

152. This unauthorized and previously undisclosed transaction is identified in the Receivership Order as the "**Covert Transfer.**"

ii. Appointment of Receiver

153. At the August 16, 2023, hearing, due to the matters raised in the Special Master's Report and upon learning of the Covert Transfer orchestrated by Gallups and Defendant Moritz, the Court, on its own motion, entered the Receivership Order, appointing Plaintiff as receiver of, *inter alia*, the Milton Hall Companies.

154. The Receivership Order authorized the Receiver to unwind the Covert Transfer retroactively.

COUNT I
BREACH OF FIDUCIARY DUTY AND VIOLATION OF STANDARDS OF CARE

155. Plaintiff realleges and incorporates by reference the allegations set forth in Paragraphs 151, above.

156. Defendant Moritz's acts and omissions outlined above were not the product of independent business judgment or a good faith belief by Defendant Moritz that her acts and omissions were in the best interests of the Milton Hall Companies.

157. Defendant Moritz's acts and omissions were not approved by disinterested directors of the Milton Hall Companies after full disclosure of the relevant facts.

158. In fact, Defendant Moritz was aware at all times relevant to this Complaint that the Milton Hall Companies did not have any disinterested directors.

159. As CEO, Defendant Moritz was obligated to install a disinterested director or directors, particularly respecting any decisions for which Defendant Moritz had a conflict of interest.

160. Defendant Moritz, however, failed to cooperate with the Special Master and, in concert with Gallups, interfered with and unobstructed the implementation of the agreement between the parties and the Special Master.

161. Defendant Moritz, as CEO, owed the Milton Hall Companies the duty of care,

duty of loyalty, duty of candor, duty of full disclosure, and duty of good faith and fair dealing.

162. As CEO, Defendant Moritz was prohibited from abusing her position of power and authority to engage in self-dealing to the detriment of the Milton Hall Companies.

163. Defendant Moritz breached her fiduciary duties owing to the Milton Hall Companies in the following ways, among others:

- a. By failing to remove Gallups as an owner, officer, and manager of the Milton Hall Companies, knowing that, given his felon status, his occupying those roles put the Milton Hall Companies at risk;
- b. by failing to monitor the Milton Hall Companies' financial affairs, including without limitation obligations to pay landlord's, obligations to pay vendors, obligations to pay physicians, and obligations to pay the DOJ;
- c. by mismanaging the Milton Hall Companies;
- d. by failing to keep proper accounting records and appropriate financial staff;
- e. by failing to have the Milton Hall Companies' financial records properly audited;
- f. by operating the Milton Hall Companies in a manner that was not in the best interests of the Milton Hall Companies and was not consistent with the care that an ordinarily prudent person in the like position would exercise under similar circumstances;
- g. by failing to ensure that the Milton Hall Operating Entities were transferred out of Gallups' ownership and control to protect the Milton Hall Operating Entities' right to participate in Medicare and BCBSGA programs; and
- h. by failing to take action to resolve payment disputes with landlords, the DOJ,

GF, GBC, and trade creditors.

164. The Milton Hall Companies have suffered injury as a direct and proximate result of the wrongdoing of CEO Defendant Moritz outlined above in an amount to be proven with specificity at trial.

165. CEO Defendant Moritz is further liable for the costs and expenses of this action, including reasonable attorneys' fees, pursuant to O.C.G.A. § 13-6-11 and other provisions of Georgia law.

COUNT II
**AIDING AND ABETTING BREACHES OF FIDUCIARY DUTY AND VIOLATION
OF STANDARDS OF CARE**

166. Plaintiff realleges and incorporates by reference the allegations set forth in Paragraphs 151, above.

167. CEO Defendant Moritz knew that she and Gallups owed fiduciary duties to the Milton Hall Companies, including duties of care and loyalty and a duty not to use the Milton Hall Operating Entities' assets for his personal benefit.

168. CEO Defendant Moritz aided and abetted Gallups' of duty and materially assisted his breaches of duty by the acts and omissions described above.

169. The Milton Hall Companies have suffered injury as a direct and proximate result of the wrongdoing of CEO Defendant Moritz outlined above in an amount will be proven with specificity at trial.

170. CEO Defendant Moritz is further liable for the costs and expenses of this action, including reasonable attorneys' fees, pursuant to O.C.G.A. § 13-6-11 and other provisions of Georgia law.

COUNT III
WASTE AND MISMANAGEMENT

171. Plaintiff realleges and incorporates by reference the allegations set forth in Paragraphs 151, above.

172. CEO Defendant Moritz wasted the assets of the Milton Hall Operating Entities by the acts and omissions described above and grossly mismanaged the Milton Hall Operating Entities.

173. The Milton Hall Companies have suffered injury as a direct and proximate result of the wrongdoing of CEO Defendant Moritz outlined above in an amount will be proven with specificity at trial.

174. CEO Defendant Moritz is further liable for the costs and expenses of this action, including reasonable attorneys' fees, pursuant to O.C.G.A. § 13-6-11 and other provisions of Georgia law.

COUNT IV
GROSS NEGLIGENCE

175. Plaintiff realleges and incorporates by reference the allegations set forth in Paragraphs 151, above

176. As CEO, Defendant Moritz exercised control over the Milton Hall Operating Entities and therefore owed the Milton Hall Operating Entities a duty to act, at a minimum, without gross negligence in exercising such control.

177. CEO Defendant Moritz breached her duty by managing the Milton Hall Operating Entities in a grossly negligent manner, as evidenced by the acts and omissions described above.

178. The Milton Hall Companies have suffered injury as a direct and proximate result of the wrongdoing of CEO Defendant Moritz outlined above in an amount will be proven with specificity at trial.

179. Defendant Moritz is further liable for the costs and expenses of this action, including reasonable attorneys' fees, pursuant to O.C.G.A. § 13-6-11 and other provisions of Georgia law.

WHEREFORE, Plaintiff respectfully requests that the Court:

- a. Enter judgment in favor of Plaintiff and against CEO Defendant Moritz under each of Count I through and including Count IV of this Complaint in an amount to be proven with specificity at trial; and
- b. grant the Receiver and the Receivership Estate such additional relief as the Court deems appropriate under the circumstances.

Respectfully submitted, _____, 2025.

TAYLOR DUMA LLP

By: /s/ John K. Rezac
JOHN K. REZAC
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678/336-7195
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Attorneys for S. Gregory Hays, Receiver

EXHIBIT "B"

B-2



Joe Magaro
945 E Paces Ferry Rd NE | Suite 1800
Atlanta, Georgia 30326
404.682.7768
jmagaro@rsui.com

September 30, 2025

**VIA EMAIL ONLY/
RETURN RECEIPT REQUESTED**

Milton Hall Surgical Associates, LLC & Affiliates
Attention: John Rezac, Esq.
2365 Milton Hall, Suite 200
Alpharetta, GA 30009

(sent via email: jrezac@taylorduma.com)

RE:	Our Insured	:	Milton Hall Surgical Associates, LLC & Affiliates
	Claimant	:	S. Gregory Hays, as Receiver of Milton Hall Surgical Associates, LLC
	Policy #	:	NPP705538
	Policy Period	:	6/15/23 – 6/15/24
	Limit of Liability	:	\$2,000,000
	Deductible	:	\$50,000
	Issuing Company	:	RSUI Indemnity Company
	Claim #	:	7030215229

Dear John Rezac:

I will be handling the above referenced claim for RSUI Indemnity Company (“RIC”). Please be sure to reference the above referenced claim number (7030215229) whenever you are sending me correspondence with respect to this matter. Please accept this letter as a denial of coverage for the reasons set forth herein. To the extent that you are not acting on behalf of the insured for insurance coverage purposes, we ask that you forward a copy of this letter to such insurance representatives for their information and advise us with whom we should communicate in the future.

On September 2, 2025, RIC received a copy of an attorney letter dated August 29, 2025 along with an enclosed draft court complaint to be filed in the Superior Court of Fulton County, Business Division, State of Georgia. The draft pleading is captioned as *S. Gregory Hays, solely in his capacity as Receiver of and on behalf of Milton Hall Surgical Associates, LLC (“MHSA”); Alpharetta Surgery Center, LLC; ENTI Surgery Center LLC; HCENTI, LLC; ENTI Anesthesia, LLC; Milton Hall Management, LLC; MHSA Management, LLC; Milton Hall Trust; Nutmeg Management LLC; Marble Management LLC; and DRG Media, LLC, v. Melisa Moritz*. On June 30, 2017, apparently the United States of America, ex rel, and other plaintiffs filed a qui tam action

against Dr. Jeffrey Gallups (Gallups) and Milton Hall Surgical Associates LLC (MHSA) for violation of federal and state false claims, anti-kickback, and Medicaid fraud laws. In 2020, Gallups allegedly appointed Melisa Moritz (Moritz) as Chief Executive Officer (CEO) of the Milton Hall Operating Entities. In 2021, Gallups allegedly consented to a judgment in the whistleblower action and agreed to pay between \$3 million and \$5.38 million. Gallups apparently also pleaded guilty to felony healthcare fraud in a criminal action brought by the U.S. Department of Justice (DOJ).

The allegations indicate that Moritz knew or should have known of the consequences to MHSA and the Milton Hall Operating Entities of Gallups' failure to pay the false claims settlement amounts as agreed. Allegedly Gallups admitted that he withdrew between \$400,000 and \$500,000 from accounts intended for the DOJ, which were allegedly DOJ earmarked funds that were to be used for the settlement. The allegations indicate that because of Gallups' and MHSA's failures to satisfy the DOJ settlement, the DOJ filed a motion in the whistleblower action seeking a judgment. The receiver allegedly negotiated a resolution. Allegedly Medicare terminated the Milton Hall Operating Entities' eligibility in April 2023 due to Gallups' convicted felon status during his ownership of the operating entities.

Gallups apparently reported that vesting ownership would resolve the concern over delisting by Medicare and Blue Cross Blue Shield of Georgia (BCBSGA). The receiver's allegations against Moritz include that she breached her fiduciary duties by failing to remove Gallups from his positions; by failing to monitor financial affairs such as obligations to pay landlords, obligations to pay vendors, obligations to pay physicians, and obligations to pay the DOJ; by failing to keep proper accounting records and appropriate financial staff; and by failing to ensure that the Milton Hall Operating Entities were transferred out of Gallups' ownership and control to protect their ability to participate in Medicare and BCBSGA programs; and by failing to take action to resolve payment disputes.

As we provide this description of the allegations, bear in mind that our account does not suggest that the allegations have any merit.

RIC has reviewed the allegations in the correspondence in conjunction with the terms, conditions and exclusions of the captioned policy. The following is recitation of RIC's current coverage position with respect to the above referenced matter.

Policy

RIC issued Policy NPP705538 to Milton Hall Surgical Associates, LLC & Affiliates for the Claims first made from June 15, 2023 to June 15, 2024 that are reported in accordance with Policy conditions governing notice of Claim. Subject to Policy terms, conditions, and exclusions, the Policy affords a \$2,000,000 aggregate limit of liability, subject to a \$50,000 retention.

We direct your attention to the Policy's Insuring Agreements found in Policy Section I of the Directors and Officers Coverage Section, which provide as follows:

The Insurer agrees...

- A. With the **Insured Person**, that if a **Claim** for a **Wrongful Act** is first made against any **Insured Person** during the **Policy Period** and reported in accordance with SECTION V. – CONDITIONS, C. Notice of Claim or Circumstance in the Common Policy Terms and Conditions of this policy, the **Insurer** will pay on behalf of such **Insured Person** all **Loss** such **Insured Person** is legally obligated to pay, except and to the extent that the **Insured Organization** is required or permitted to indemnify such **Insured Person** for such **Loss**.
- B. With the **Insured Organization**, that if a **Claim** for a **Wrongful Act** is first made against the **Insured Person** during the **Policy Period** and reported in accordance with SECTION V. – CONDITIONS, C. Notice of Claim or Circumstance in the Common Policy Terms and Conditions of this policy, the **Insurer** will pay on behalf of the **Insured Organization** all **Loss** for which the **Insured Organization** is required or permitted to indemnify the **Insured Person**.
- C. With the **Insured Organization**, that if a **Claim** for a **Wrongful Act** is first made against the **Insured Organization** during the **Policy Period** and reported in accordance with SECTION V. – CONDITIONS, C. Notice of Claim or Circumstance in the Common Policy Terms and Conditions of this policy, the **Insurer** will pay on behalf of the **Insured Organization** all **Loss** the **Insured Organization** is legally obligated to pay.

RIC has reviewed the matter in detail, in conjunction with the Policy's terms and conditions, and has determined that there is no coverage. The basis for RIC's position is set forth below.

As you can see from the above-quoted Insuring Agreement(s), the Policy is triggered, subject to all other Policy terms, conditions and exclusions, by "Claims" for "Wrongful Acts" that are "first made" against the "Insured Organization" and reported in accordance with conditions for notice of Claim.

Claim is defined in Policy Section III. of the Directors and Officers Liability Coverage Section as:

- A. **Claim**, either in the singular or the plural, means:
 - 1. A written demand for monetary or non-monetary relief;
 - 2. A civil, criminal, administrative, regulatory or arbitration proceeding, or arbitration demand for monetary or non-monetary relief which is commenced by:
 - a. Receipt or service of a complaint or similar pleading;
 - b. Return of an indictment or filing of information; or
 - c. Receipt of a notice of charges;

3. A written request to an **Insured** to toll or waive a statute of limitations regarding a potential **Claim**, commenced by the receipt of such request by the **Insured**;
4. A civil, criminal, administrative or regulatory investigation of an **Insured Person** by the Securities Exchange Commission ("SEC") or similar state or foreign government authority, after the **Insured Person** is identified in a written "Wells" or other notice from the SEC or a similar state or foreign government authority that describes actual or alleged violations of laws by such **Insured Person**;

Wrongful Act is defined in relevant part in Policy Section III. of the Directors and Officers Liability Coverage Section as:

- H. Wrongful Act** means any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by:
1. An **Insured Person** *acting in his or her capacity as such and on behalf of the Insured Organization* or any matter claimed against them solely by reason of their status as an **Insured Person**; or
 2. The **Insured Organization**.

(Italics added).

It is RIC's understanding that Melisa Moritz was the insured organization's CEO, and thus qualifies as an **Insured Person**. However, in order for a matter to trigger coverage, a Claim for a Wrongful Act must be made against an Insured Person while acting in his or her capacity as such. The receiver's draft complaint appears to allege issues which would not constitute Melisa Moritz acting in her capacity with respect to her duties and obligations on behalf of the Insured Organization. As such, RIC specifically reserves any and all rights as to whether wrongful acts have been alleged against Melisa Moritz in her capacity as an Insured Person.

Notwithstanding the potential capacity issue outlined above, RIC would also like to call your attention to the definition of Insured within the Common Policy Terms and Conditions Coverage Section as well as the Directors and Officers Liability Coverage Section, which in relevant part provides:

C. Insured means any **Insured Organization** and/or any **Insured Person**.

H. Insured Organization means:

1. The organization named in Item 1. of the Declarations Page and any **Subsidiary** existing prior to or at the inception date of this policy; or
2. Subject to SECTION V. - CONDITIONS, G. Merger, Consolidation or Acquisition of this policy, **Insured Organization** shall include any **Subsidiary** created or acquired after the inception date of this policy; or
3. In the event a bankruptcy proceeding shall be instituted by or against the

foregoing entities, the resulting debtor-in-possession (or equivalent status outside the United States), if any.

D. Insured Person means

1. Any past, present or future director, officer, trustee, **Employee**, advisory board member or any committee member of a duly constituted committee of the **Insured Organization**; or
2. In the event the **Insured Organization** or a **Subsidiary** thereof operates outside the United States, then the term **Insured Person** also means those titles, positions or capacities for such foreign **Insured Organization** or **Subsidiary** that are equivalent to the positions of directors or officers in the United States.

In review of the receiver's draft complaint, it appears that the allegations are directed at Melisa Moritz as the only proposed defendant. Based on information provided to date, Melisa Moritz held the position of Chief Accountability Officer and subsequently the position of CEO for the **Insured Organization**, and as such, qualifies as an **Insured Person**.

RIC would like to call your attention to Section V. – Conditions, Subsection B.4. of the Common Policy Terms and Conditions Coverage Section, which provides in pertinent part:

All **Claims** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the same or related facts, circumstances, situations, transactions or events, or the same or related series of facts, circumstances, situations, transactions or events, shall be deemed to be a single **Claim** for all purposes under this policy, shall be subject to the Retention stated in Item 3. of the Declarations Page for each applicable **Coverage Section**, or other applicable Retention, and shall be deemed first made when the earliest of such **Claims** is first made, regardless of whether such date is before or during the **Policy Period**.

Based on the materials tendered, the qui tam action apparently filed in the U.S. District Court for the Northern District of Georgia during 2017 captioned as *United States of America, ex rel., et al. vs. Milton Hall Surgical Associates, LLC d/b/a The ENT Institute a/k/a Ear, Nose & Throat Institute, et al.* and the recent attorney correspondence dated August 29, 2025 enclosing the draft receiver's complaint against Melisa Moritz to be filed in Superior Court of Fulton County, Business Division, State of Georgia involve the same or related series of facts, circumstances, situations, transactions or events. As such, they are one Claim. Therefore, this matter is a claim deemed first made when the earliest that the insured received the first court action.

RIC would like to call your attention to Section V. – Conditions, Subsection C. Notice of Claim or Circumstance in the Common Policy Terms and Conditions Coverage Section, as modified by the Amended Notice of Claim or Circumstance – Specific Position Trigger, which provides in pertinent part:

1. If, during the **Policy Period** or Extended Reporting Period (if applicable), any

Claim is first made, it shall be a condition precedent to the **Insurer's** obligation to pay, that the **Insured** give written notice of such **Claim** to the **Insurer** as soon as practicable after the **Insured's** Chief Executive Officer, Chief Financial Officer, General Counsel or Risk Manager first becomes aware of the **Claim**, but in no event shall such notice be given later than sixty (60) days after the expiration or earlier cancellation date of this Policy.

In order to trigger coverage, a Claim for a Wrongful Act must be first made within the Policy Period, and reported in accordance with the Policy's notice provision cited above. The Policy defines a Claim to be made, in pertinent part, when the Insured first receives a written demand for monetary or non-monetary relief, a complaint, or other proceeding necessary to making it a Claim as defined in the policy. Based on the materials tendered, the qui tam action filed during 2017 and the recent attorney correspondence dated August 29, 2025 enclosing the draft receiver's complaint involve the same or related series of facts, circumstances, and events. As such, they are one Claim first made during 2017. As the Policy (NPP705538) was issued on June 15, 2023 and expired on June 15, 2024, the Claim appears to have been first made prior to the Policy Period. As noted the policy became effective on June 15, 2023, and the claim appears to have been first made during or before 2017. As such, because this matter was a claim prior to the inception date of the Policy, this does not comport with the Policy's notice provisions, and thus, the Policy has not been triggered under the subject Policy. As such, RIC declines coverage for this matter.

RIC would like to call your attention to Section IV. Exclusions of the Common Policy Terms and Conditions Coverage Section, as modified by the Exclusion – Specific Litigation endorsement, which states in pertinent part as follows:

The **Insurer** shall not be liable to make any payment for **Loss** arising out of or in connection with any **Claim** made against any **Insured** alleging, arising out of, based upon or attributable to, directly or indirectly, in whole or in part, the following litigation:

False claims act issue involving Dr. Gallups, Milton Hall Surgical Associates, and Entellus Medical

The receiver's draft complaint is a Claim alleging, arising out of, based upon or attributable to the litigation filed against Dr. Gallops and Milton Hall Surgical Associates for violations of federal and state false claims, anti-kickback, and Medicaid fraud prevention laws. Since this matter involves issues arising out of or in connection with any Claim alleging, arising out of, based upon or attributable to, directly or indirectly, in whole or in part, the false claims act issue involving Dr. Gallups and Milton Hall Surgical Associates, the Exclusion - Specific Litigation endorsement excludes coverage for this matter.

RIC would like to call your attention to Section IV. Exclusions of the Common Policy Terms and Conditions Coverage Section, as modified by the Absolute Exclusion – Specific Entities and Individuals endorsement, which states in pertinent part as follows:

The **Insurer** shall not be liable to make any payment for **Loss** arising out of or in connection with any **Claim** made against any **Insured** which is brought by, on behalf of, or against the following entities or individuals:

Gallups

including, but not limited to any **Claim** brought by any director, officer, heir, trustee or partner of the entity, or by any security holder thereof, whether such **Claim** is brought directly or derivatively.

The receiver's draft complaint is a Claim for Loss arising out of or in connection with the qui tam action filed against Dr. Gallops. Since this matter involves issues arising out of or in connection with a Claim made against Dr. Gallups, the Absolute Exclusion – Specific Entities and Individuals endorsement excludes coverage for this matter.

RIC reserves its right to deny coverage based upon grounds other than those expressly set forth in this letter and to supplement and/or amend this letter to address additional coverage issues as they may arise, based upon all of the provisions, terms, conditions, exclusions, endorsements and definitions found in the Policy and additional facts that may come to RIC's attention. Moreover, any investigation or further action taken by RIC, or anyone on RIC's behalf, or any action not taken, should not be considered a waiver of any of RIC's rights, privileges, or defenses under the Policy, at law or in equity.

RIC's position is necessarily based upon information that has been made available to us at this point. If you believe that any of the facts or provisions of the Policy which have been cited in this letter are incorrect, please advise us so that we can discuss those statements with you and either clarify or correct them. Further, RIC is willing to reevaluate its coverage position and to consider any new information that you may wish to present, subject to its full and complete reservation of rights. Because we have denied coverage for this matter, we plan to close our file shortly.

If you have any questions or comments concerning anything stated in this letter, or if you wish to discuss any aspect of this coverage position, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, reading "Joseph E. Magaro II". The signature is fluid and cursive, with a stylized "J" and "M".

Joseph E. Magaro II, Esq.
RSUI Group, Inc.
Management Liability Claims
Email at: JMagaro@rsui.com
Direct Dial: 404-682-7768

EXHIBIT "B"

B-3

John K. Rezac
Direct Dial: (678) 336-7195
E-mail: jrezac@taylorduma.com

October 6, 2025

Via Email to JMagaro@rsui.com
and First Class United States Mail

Joseph E. Magaro II, Esq.
RSUI Group, Inc.
945 East Paces Ferry Rd., Suite 1800
Atlanta, GA 30326-1160

RE: RSUI Insured - Milton Hall Surgical Associates, LLC & Affiliates
RSUI Policy Number: NPP705538
Claim No. 7030215229

Dear Mr. Magaro:

Thank you for your September 30, 2025, letter regarding RSUI Claim # 7030215229. We submitted that claim on behalf of S. Gregory Hays, solely in his capacity as Court-appointed Receiver of Milton Hall Surgical Associates, LLC and its affiliates.

Your letter advises that RSUI Indemnity Company ("RIC") concedes that Melissa Moritz, the named defendant in the Receiver's draft Complaint and CEO of the Insured Organization, qualifies as an Insured Person. RIC nevertheless has determined that there is no coverage on this claim.

The Receiver rejects that determination and RIC's stated grounds for that determination, all of which are either unsupported by or directly contrary to the facts.

RIC asserts essentially two grounds for its denial of coverage. First, RIC contends that Ms. Moritz was not "acting in her capacity with respect to her duties and obligations on behalf of the Insured Organization." Second, RIC contends that the circumstances upon which the Receiver's draft Complaint are based, "involve the same or related series of facts, circumstances, situations, transactions, or events," as the facts underlying the *qui tam* action against Dr. Jeffrey Gallups in

the U.S. District Court for the Northern District of Georgia, Case No. 1:20-cv-00566-SCJ, *United States of America ex rel. et al v. Milton Hall Surgical Associates, LLC et al.* (together with U.S. District Court for the Northern District of Georgia, Case No. 1:21-cr-00370-SCJ, *USA v. Gallups*, the “**Gallups Proceedings**”).

Ms. Moritz’s actions were taken in her capacity as CEO of the Insured Organization.

Your letter at Page 4 states that the Receiver’s draft Complaint alleges issues which do not constitute Ms. Moritz’s acting in her capacity with respect to her duties and obligations as CEO of Milton Hall Surgical Associates LLC. No explanation is given, however, for how RIC reached such conclusion. The Receiver’s allegations in the draft Complaint certainly do not support RIC’s position. The Receiver’s claims against Ms. Moritz are based on her mismanagement and/or failure to act respecting the Insured Organization’s ordinary course payables, including landlords, vendors, corporate taxes, physician compensation, and secured creditors, maintenance of and compliance respecting the Insured Organization’s facilities, control over unnecessary and/or excessive costs, and her failure generally to properly manage the Insured Organization’s business or have any familiarity with crucial aspects of the business. RIC is not acting in good faith when it denies these functions are not within the scope of a small company CEO’s responsibilities.

The Receiver’s claims do not involve the same or related series of facts, circumstances, situations, transactions or events as the Gallups Proceedings.

The Gallups Proceedings involved actions taken by Dr. Jeff Gallups between 2015 and 2017. That was between three and five years prior to Ms. Moritz’s appointment as CEO. None of the Receiver’s claims in the draft Complaint are based on Ms. Moritz’s conduct prior to 2020, when she served in a lesser capacity. Ms. Moritz is not named in either of the Gallups Proceedings. To the Receiver’s knowledge, Ms. Moritz has not been accused of any of the crimes involved in the Gallups Proceedings. She never made an appearance in the Gallups Proceedings and was not a party to the negotiations between the Government and Dr. Gallups. Further, whereas the United States’ claims against Dr. Gallups in the Gallups Proceedings related to Dr. Gallups’ fraud and violation of healthcare laws and regulations, the Receiver’s claims against Ms. Moritz have nothing to do with healthcare fraud or fraud of any other nature. Ms. Moritz’s conduct involved the operation of the Insured Organization and its affiliates’ business. There is no nexus between the allegations of the Receiver’s draft Complaint and any of the claims or allegations raised in the Gallups Proceedings. The Receiver’s draft Complaint does not “involve the same or related series of facts, circumstances, situations, transactions or events” as the Gallups Proceedings. Again, RIC’s position is not taken in good faith.

On behalf of the Receiver, we repeat our demand that RIC confirm these claims are covered under RSUI Policy No. NPP705538, and, as the damages arising from Ms. Moritz’s conduct, including her failure to act, far exceed the policy limits, immediately pay the Receiver \$1,950,500.00, representing the policy limit in full less the applicable deductible.

Please respond to this letter no later than 12:00 p.m. Eastern Time, Friday, October 10, 2025. While the Receiver is willing to discuss this claim further, he is compelled to proceed with litigation absent a timely resolution.

Sincerely,



John K. Rezac

cc: S. Gregory Hays, Receiver