

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

In re) Chapter 11
)
INTEGRATED HEALTH SERVICES, INC., *et al.*,) Case No. 00-00389(MFW)
)
Debtors.) (Jointly Administered)
)
)
)
)
) **Re: Docket No. 10766**

**LIMITED OBJECTION OF ABE BRIARWOOD CORP. TO VERIFIED
APPLICATION OF CAPOZZI AND ASSOCIATES FOR FINAL APPROVAL
AND ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF
EXPENSES**

Abe Briarwood Corp. (“Briarwood”), by its undersigned counsel, hereby submits its limited objection (the “Objection”) to the Verified Application of Capozzi and Associates, P.C. (“Capozzi”) For Final Approval and Allowance of Compensation and Reimbursement of Expenses [Docket No. 10766] (the “Application”). In support of this Objection, Briarwood states as follows:

Background

By its Application Capozzi requests approval and allowance of compensation and reimbursement for professional services and related expenses incurred relating to its representation of Integrated Health Services, Inc. (“IHS”) for the period February 2, 2000 through May 12, 2003. Capozzi’s professional services are comprised of legal representation in connection with the recovery of monies related to Medicaid on behalf of IHS in the State of Pennsylvania. Capozzi’s compensation is primarily contingency based, with a significantly smaller hourly component.

Objection

1. The fees and expenses sought by Capozzi are Excluded Liabilities under the terms of the Stock Purchase Agreement dated as of January 28, 2003 between IHS and Briarwood (the “Stock Purchase Agreement”).¹ Under the Stock Purchase Agreement, “Excluded Liabilities” include “[a]ll administrative expenses incurred by Seller for professional services rendered in connection with its reorganization.” (Stock Purchase Agreement at Exhibit G). Pursuant to the terms of the Stock Purchase Agreement, Capozzi’s fees and expenses are payable by the IHS Liquidating LLC

2. Under the Stock Purchase Agreement, “Excluded Liabilities” also include “Liabilities relating to Excluded Assets.” (Stock Purchase Agreement at Exhibit G). In turn, “Excluded Assets” include “Cash (which excludes deposits and prepaid items).” (Stock Purchase Agreement at Exhibit G). Capozzi’s claimed fees and expenses are related to directly related to a cash asset, namely the cash recovery that gave rise to almost 80 percent of Capozzi’s fees and expenses. A cash recovery, according to Capozzi’s billing records that equaled, in aggregate, \$256,767.30, none of which was ever received by Briarwood.² The cash asset resulting from Capozzi’s efforts presumably flowed through to the Liquidating LLC, so too should their fee obligation.

¹ Due to the voluminous nature of the Stock Purchase Agreement, already filed with the Court, a true and correct copy is not attached as an exhibit hereto. Delaware counsel for the undersigned will, however, make copies available upon written request.

² It is of no consequence whether Capozzi’s fees were contingent, hourly or blended. In the end, the fees are related to the monies they are collecting.

WHEREFORE, Briarwood respectfully requests that the Court deny the application insofar as it seeks to impose liability upon Briarwood.

Dated: March 23, 2004
Wilmington, Delaware

BACKENROTH FRANKEL & KRINSKY, LLP

By: /s/ Abraham Backenroth
Abraham Backenroth, Esq.
489 Fifth Avenue
New York, New York 11023
Telephone: (212) 593-1100

-- and --

JASPAN SCHLESINGER HOFFMAN LLP

By: /s/ Dmitry Pilipis
Dmitry Pilipis, Esq. (No. 4297)
1201 North Orange Street, Suite 1001
Wilmington, Delaware 19801
Telephone: (302) 351-8000

Co-Counsel for Abe Briarwood Corp.