

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(CENTRAL DIVISION)

In re:)	
)	
)	Chapter 11
COMMUNITY INTERVENTION SERVICES, INC.,)	
COMMUNITY INTERVENTION SERVICES)	
HOLDINGS, INC., SOUTH BAY MENTAL HEALTH)	Case No. 21-40002-EDK
CENTER, INC., and FUTURES BEHAVIOR)	
THERAPY CENTER, LLC)	
)	(Jointly Administered)
Debtors.)	

**SUPPLEMENTAL DISCLOSURE REGARDING DEBTORS’
MOTION TO SELL SUBSTANTIALLY ALL ASSETS OF SOUTH BAY
MENTAL HEALTH CENTER, INC. AND CERTAIN ASSETS OF
COMMUNITY INTERVENTION SERVICES, INC.**

The debtors Community Intervention Services, Inc. (“CIS”), Community Intervention Services Holdings, Inc. (“Holdings”), South Bay Mental Health Center, Inc. (“South Bay”) and Futures Behavior Therapy Center, LLC (“Futures” and, together with CIS, Holdings and South Bay, the “Debtors”) submit this Supplemental Disclosure to assist the Bankruptcy Court and creditors in connection with their consideration of the Debtors’ Motion For Authority to Sell Substantially All Assets of South Bay Mental Health Center, Inc. and Certain Assets of Community Intervention Services, Inc., Including Certain Unexpired Leases and Executory Contracts, Pursuant to Sections 363 and 365 of the Bankruptcy Code, Free and Clear of Liens, Claims, and Interests [Doc. No. 9] (the “Sale Motion”). The Sale Motion, a copy of which accompanies this Supplemental Disclosure, contains a detailed description of the proposed sale of the assets of South Bay and CIS (the “Proposed Sale”). In addition to the information contained in the Sale Motion, the Debtors provide the following supplemental information:

1. The proposed purchaser of the assets of South Bay and CIS (the “Sale Assets”) is SB Transitional Sub, LLC, a Delaware limited liability company formed to acquire the Sale Assets by The Mentor Network (the “Purchaser”). The Mentor Network, headquartered in Boston, is a national leader in providing behavioral health services, and the Debtors therefore believe that its acquisition affiliate is well positioned to continue the business of South Bay without interruption or erosion in the quality of services provided. More information on The Mentor Network is available on its website, at <https://www.thementornetwork.com>.

2. Prior to the commencement of the Debtors’ Chapter 11 cases, the Debtors agreed to implement a management incentive program, under which key members of the Debtors’ executive team—some of whom are considered “insiders” under the Bankruptcy Code--would receive incentive compensation upon the closing of a sale of the Debtors’ assets (the “Incentive Program”). A description of the Incentive Program is attached to this Supplemental Disclosure at Exhibit A. The Debtors’ senior secured creditors, Capital One, National Association and Fifth Third Bank (the “Senior Secured Creditors”), have agreed that amounts due under the Incentive Program resulting from the consummation of the Proposed Sale will be funded by the Senior Secured Creditors by means of a carve-out from the proceeds of the Proposed Sale received by the Senior Secured Creditors.¹ The Debtors have also committed to pay up to \$400,000 under a retention plan for non-insider employees, and will seek Court authority to make any such payments from estate funds; it is possible that these payments will instead be funded from a carve-out of the Senior Secured Creditors’ collateral proceeds from the Debtors’ planned asset sales. All of the foregoing payments will be made only if and at such time as there are consummated sales of the Debtors’ assets.

¹ Because the funding for the Incentive Program is being supplied by the Senior Secured Creditors from closing proceeds, the Debtors do not believe that Bankruptcy Code Section 503(c) applies to the Program.

3. Section 363(b)(1) of the Bankruptcy Code places certain restrictions on sales of assets involving “personally identifiable information” collected by a debtor in connection with services provided by such debtor. To the extent South Bay collects such “personally identifiable information” from its clients that will be part of the Sale Assets, the Asset Purchase Agreement executed by South Bay and the Purchaser dated January 5, 2021 (the “APA”) provides, at Section 6.13, as follows:

Following the Closing, (i) Purchaser shall maintain the Client Records in such a manner as to protect their integrity, ensure their confidentiality and proper use, and ensure their accessibility and availability to Seller and Seller’s clients or their authorized representatives as required by Law....

Schedule 7.2(F) of the APA also provides that:

Seller shall obtain authorization and consent from each patient of Seller’s “Part 2 Program” (as that term is defined in 42 C.F.R. § 2.11) in compliance with HIPAA, applicable state law, and 42 C.F.R. Part 2 prior to disclosing and transferring the Facilities’ “Substance Use Disorder” “Records” (as such terms are defined in 42 C.F.R. § 2.11) to Purchaser in order to effectuate the transition described in this Agreement.

Respectfully submitted,

/s/ Michael J. Goldberg
Michael J. Goldberg (BBO #551869)
A. Davis Whitesell (BBO #551462)
Hanna J. Ciechanowski (BBO #705222)
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Date: January 14, 2021

EXHIBIT A

Gross Purchase Price			Futures		AFS/FBR		South Bay		Total	
			\$ 7,500,000		\$ 8,000,000		\$ 32,000,000		\$ 47,500,000	
Name	Position		%	Amount	%	Amount	%	Amount	%	Amount
Andrew	Calkins	CEO	1.50%	\$ 112,500	1.50%	\$ 120,000	1.81%	\$ 579,167	1.71%	\$ 811,667
Matt	Lesniewski	CFO	1.25%	\$ 93,750	0.75%	\$ 60,000	0.90%	\$ 289,583	0.93%	\$ 443,333
Pam	Burke	Futures Pres	0.50%	\$ 37,500					0.08%	\$ 37,500
Brianne	Smith	AFS Pres			1.00%	\$ 80,000			0.17%	\$ 80,000
Mark	Nemenz	FBR Pres			0.50%	\$ 40,000			0.16%	\$ 77,500
Sara	Hart	SB President					0.16%	\$ 50,000	0.11%	\$ 50,000
Other	TBD		0.50%	\$ 37,500						
Total			3.75%	\$ 281,250	3.75%	\$ 300,000	2.87%	\$ 918,750	3.16%	\$ 1,500,000

NOTES:

1. The Debtors’ Management Incentive Plan (the “Incentive Plan”) provides for payments to the members of the Debtors’ executive management team based on (i) the consummated transactions involving Access Family Services, Inc. (“AFS”) and Family Behavioral Resources, Inc. (“FBR”), (ii) the purchase price expected to be received in connection with the asset sales involving Futures Behavior Therapy Center, LLC (“Futures”) and South Bay Mental Health Center, Inc. (“South Bay”) and Community Intervention Services, Inc. (“CIS”), and (iii) the application of the “cap” discussed in note 2, below. If either of the Futures or South Bay/CIS transactions are not consummated, or if the terms thereof are modified, the above percentages and/or amounts may change as well.

2. The maximum amount that may be paid to the participants in the Incentive Program from the carve-out provided by the Senior Secured Creditors is \$1,500,000. \$300,000 of the Incentive Program amount was already paid in connection with the sale of the assets of AFS and FBR; thus, the cap on the Futures and South Bay/CIS transactions is \$1,200,000. To the extent that the aggregate incentive payments exceed the remaining \$1,200,000 cap, the incentive payments payable to Mr. Calkins and Mr. Lesniewski in connection with the South Bay sale are reduced proportionately.

3. Pursuant to the Debtors’ agreement with the Senior Secured Creditors respecting the carve-out, all payments to be made under the Incentive Program are conditioned upon, *inter alia*, the closing of the applicable asset sale, and the continued employment of the Incentive Program participant through closing.