

Shari L. Heyen  
Aimee M. Housinger  
Emily D. Nasir  
**GREENBERG TRAUIG, LLP**  
1000 Louisiana St., Suite 6700  
Houston, Texas 77002  
Telephone: (713) 374-3500  
Facsimile: (713) 374-3505  
Email: Shari.Heyen@gtlaw.com  
HousingerA@gtlaw.com  
Emily.Nasir@gtlaw.com

Nancy A. Peterman  
**GREENBERG TRAUIG, LLP**  
360 North Green St., Suite 1300  
Chicago, Illinois 60607  
Telephone: (312) 456-8410  
Facsimile: (312) 899-0341  
Email: PetermanN@gtlaw.com

*Proposed Co-Counsel to the Official  
Committee of Unsecured Creditors*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re: § Chapter 11  
§  
Buckingham Senior Living Community, § Case No. 25-80595 (MVL)  
Inc., §  
§  
Debtor. § Related to Docket No. 22

**OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS  
TO DEBTOR’S MOTION FOR ENTRY OF AN ORDER (I)(A) APPROVING  
BIDDING PROCEDURES AND BID PROTECTIONS, (B) APPROVING THE  
DEBTOR’S ENTRY INTO THE STALKING HORSE APA, (C) SCHEDULING  
CERTAIN DATES AND DEADLINES, (D) APPROVING THE FORM AND  
MANNER OF NOTICE THEREOF, AND (E) ESTABLISHING NOTICE AND  
PROCEDURES FOR THE ASSUMPTION AND ASSIGNMENT OF CONTRACTS  
AND LEASES; AND (II)(A) AUTHORIZING THE SALE OF THE ASSETS FREE  
AND CLEAR OF ALL ENCUMBRANCES AND (B) APPROVING THE  
ASSUMPTION AND ASSIGNMENT OF THE ASSUMED CONTRACTS, AND  
(III) GRANTING RELATED RELIEF**

The Official Committee of Unsecured Creditors (the “Committee”) objects to the *Debtor’s Motion for Entry of an Order (I)(A) Approving Bidding Procedures and Bid Protections, (B) Approving the Debtor’s Entry into the Stalking Horse APA, (C) Scheduling Certain Dates and Deadlines, (D) Approving the Form and Manner of Notice Thereof, and (E) Establishing Notice and Procedures for the Assumption and Assignment of Contracts and Leases, and (II)(A)*

*Authorizing the Sale of the Assets Free and Clear of All Encumbrances; (B) Approving the Assumption and Assignment of the Assumed Contracts; and (III) Granting Related Relief* [Docket No. 22] (the “Bid Procedures Motion”)<sup>1</sup> as follows:

### **PRELIMINARY STATEMENT**

1. The Debtor’s rushed sale process will have a devastating impact on the 366 residents living at the community and the former residents and family members who are owed substantial sums of money. For the current residents, their ability to remain in their home is in jeopardy. For both current and former residents, much, if not all, of their life savings is at risk, with the Debtor seeking to consummate a sale that extinguishes nearly \$150 million in Entrance Fee refund obligations with nothing more than an illusory recovery for only current residents and no recovery to former residents and their family members.

- For the current residents with \$75 million of Entrance Fees at risk, their ability to remain in their home is in jeopardy unless they agree to egregious terms, including releasing claims against the Debtor, Indenture Trustee and their representatives, waiving any rights to a refund of their Entrance Fee (sharing in a \$12 million recovery over time) and signing a new rental agreement.
- For current residents with Life Care Agreements, the residents are being offered “credits” of \$750,000. The Life Care Agreements are unique, irreplaceable contracts that secure housing and long-term care for residents. A mere \$750,000 in “credits” offers no meaningful recovery at all.
- For former residents and their family members who are owed at least \$72 million in Entrance Fees refunds, including from the 2021 bankruptcy case,<sup>2</sup> they get nothing.

---

<sup>1</sup> Capitalized terms not specifically defined herein shall have the meanings set forth in the Bid Procedures Motion, the Bidding Procedures (as defined therein), or the Stalking Horse APA (as defined therein), as applicable.

<sup>2</sup> See *In re Buckingham Senior Living Community, Inc.*, Case No. 21-32155 (Bankr. S.D. Tex. June 25, 2021).

This outcome is devastating and inequitable and places substantial burden, risk and stress on this elderly population and their families. Sufficient time must be provided to get to a better financial and humane result for *all* parties in interest in this Chapter 11 case (the “Case”).

2. As the Court may imagine, the current and former residents want to understand how the Debtor ended up in bankruptcy yet again—only four years after undergoing a comprehensive restructuring—and are demanding more transparency regarding the Debtor’s financial condition, the use of millions of dollars in Entrance Fees, and the sale process. After emerging from bankruptcy in 2021, the Debtor entered into its first forbearance agreement with the Indenture Trustee in May 2023, less than two years after emerging from bankruptcy. The Debtor and its professionals have been working on this sale process since March 2025. Throughout this entire period, additional Residency Agreements have been entered into, and additional Entrance Fees have been paid to the Debtor. Given the financial struggles of the Debtor, these facts are concerning to the residents who want to preserve their home and receive the benefit of their bargain—payment of substantial fees in exchange for a promise to have a place to live, have healthcare for their entire life, and receive a portion of their Entrance Fees back at some point in the future. With the Debtor’s proposed sale process, all of these promises will be broken with the current and former residents and their family members bearing the brunt of the Debtor’s repeated financial failure.

3. The proposed Bid Procedures Motion and the Bidding Procedures promote speed over value, favor the Stalking Horse Bidder and DIP Lender, and deprive unsecured creditors (particularly residents with claims based upon Entrance Fees and the Life Care Agreements) of a fair, transparent, and competitive process designed to maximize estate value. The compressed timeline, onerous bid requirements, and excessive bid protections collectively chill bidding and

undermine confidence in the sale process. These flaws not only depress competition but also disproportionately harm residents, whose contractual rights under the Residency Agreements remain uncertain and at risk under the current sale structure. **The Court should modify the Bidding Procedures to ensure a competitive process that maximizes value for the estate and provides clear, enforceable protections for residents.**

4. As set forth herein, the Committee's concerns with the Bid Procedures Motion and proposed Bidding Procedures include:

- **An Aggressive Sale Timeline.** The proposed sale timeline, including a Bid Deadline of January 9, 2026, an Auction on January 13, 2026, and a sale hearing on January 22, 2026, falls during the holiday season and imposes an unnecessarily compressed schedule. This fast-paced process, combined with requirements for fully financed, non-contingent bids, risk chilling bidder participation, limiting diligence, and foreclosing restructuring alternatives. The Stalking Horse APA, attached as Exhibit 2 to the Bidding Procedures Order, does not require this expedited sale process. It requires an auction 90 days after the Petition Date (in February 2026), a sale hearing 100 days after the Petition Date (in February or March 2026), and a final order approving the sale 121 days after the Petition Date (in May 2026). *See* Stalking Horse APA, § 5.7(i). The outside closing date is 121 days after entry of the sale order. **Based on the Debtor's filings, there were other interested buyers, and the Committee should be given time to explore these sale options to determine whether a better outcome for all constituents in this Case is possible.** Moreover, rushing through the sale process will not lead to a quick closing of the sale transaction. Any buyer will need to obtain regulatory approvals from the attorney general and others. In addition, the Stalking Horse APA allows the Stalking Horse Bidder to bill under the Debtor's Medicare and Medicaid numbers and requires the Debtor to maintain its provider agreements for an indefinite period of time. By providing additional time for the sale process, other bidders may enter into the sale process and all relevant considerations for evaluating bids can be considered, including whether a non-profit buyer is a better option and whether other bids may offer a better outcome to current and former residents. **If the proposed sale timeline is approved with bids being sought during the last two weeks of December and first week of January when the business and transaction world largely shuts down, value will not be maximized.**
- **High Initial Overbid Requirement.** The steep threshold of the Initial Overbid (\$105 million) risks deterring competitive bidders. The Initial Overbid should be an amount equal to \$100 million cash plus the Break-Up Fee plus the Expense Reimbursement plus \$100,000. If subsequent bids are set at \$100,000 cash or non-

cash increments, the foregoing Initial Overbid amount should be sufficient for a competing bidder to be included in the sale and auction process.

- **Excessive Bid Protections**. The Bid Procedures grant the Stalking Horse Bidder a \$3.5 million Break-Up Fee, \$350,000 Expense Reimbursement, which is roughly 4% of the Stalking Horse Bidder's cash Purchase Price. These protections risk chilling participation from other bidders. The Break-Up Fee should be reduced and if an Expense Reimbursement is provided, the Stalking Horse Bidder should be required to provide evidence of documented out of pocket costs equal to or greater than the Expense Reimbursement. **In addition, the Stalking Horse Bidder is receiving these sizeable Bid Protections while having a material contingency in its agreement—“[a]t least 272 units occupied by paying residents (who are paying the prevailing rate) across any level of care shall have signed New Residency Agreements with Buyer as of the Closing Date.” See Stalking Horse APA, § 6.2(j).** Given that the Stalking Horse Bidder plans to convert this community into a rental community, there is no guaranty that this condition will be met or how long it might take for this condition to be met.
- **Inequities of the Sale Process and Lack of Protection for Resident**. **The proposed sale structure is fundamentally inequitable to the residents and unsecured creditors. Out of the total Stalking Horse Bid, only \$12 million is allocated as “Rent Rebate Funds” to Current Residents, and only for those who remain at the Buckingham for 25 months after a sale closing and sign releases of liabilities in favor of current members of the Board of Directors, among others. Under the proposed terms, former residents receive no recovery. Additionally, holders of the Life Care Agreements fare even worse because they are offered an undefined and minimal \$750,000 credit pool. These terms fail to provide meaningful recovery or stability for the most vulnerable stakeholders in this Case.**
- **Stalking Horse Bidder As Back Up Bidder**. The Stalking Horse Bidder is only obligated to act as the Back-Up Bidder for 60 days after the Sale Hearing. *See* Stalking Horse APA, § 7.1(g). Other bidders must be willing to act as the Back-Up Bidder for 90 days. Strategically, the Stalking Horse Bidder may be advantaged in an auction process given the shortened period of time that the Debtors can force the Stalking Horse Bidder to remain as a Back-Up Bidder.

5. If a sale process moves forward, the process must be extended to ensure that the value of the estate's assets is maximized and to provide competing bidders a chance at proposing a competing offer for the Assets. The residents deserve an opportunity to explore the possibility of a better outcome for themselves and the community. A rushed sale process over the holidays will not accomplish that. **For all of these reasons, the Committee cannot support the proposed Bid**

Procedures Motion or Bidding Procedures, with the residents and unsecured creditors receiving little to no recovery on account of nearly \$150 million in claims, and no meaningful opportunity for the Committee to maximize value, protect the interests of its constituency and explore other options for its constituency.

## **BACKGROUND**

### **A. The Debtor's Chapter 11 Case**

6. On November 17, 2025 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in this Case. Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtor continues to operate its businesses as debtor-in-possession. No trustee or examiner has been appointed in this Case.

7. The Debtor filed the Bid Procedures Motion on November 18, 2025, seeking entry of an order (a) approving the Bidding Procedures, by which the Debtor will solicit and select the highest or otherwise best offer for the sale of all, substantially all of the Debtor's Assets pursuant to Bankruptcy Code section 363 and (b) authorizing the Debtor to select Focus SH Acquisitions LLC as the Stalking Horse Bidder pursuant to the Stalking Horse APA, among other relief.

8. On December 3, 2025, the United States Trustee appointed the Committee, which consists of the following members: (i) Thomas C. Ryan; (ii) Lee Adcock Hunnell; (iii) Thomas A. Willet, Trustee of the Prillaman Living Trust; (iv) Manuel Ariel Payan, Co-Executor of the Estate of Margaret Payan; and (v) Steven Dyer, for the Estate of Robert Dyer. *See Notice of Appointment of the Official Unsecured Creditors' Committee* [Docket No. 102].

9. On December 5, 2025, the Committee selected Greenberg Traurig, LLP as proposed counsel. On December 11, 2025, the Committee selected Berkeley Research Group, LLC as its financial advisor.

**B. Summary of the Bid Procedures Motion**

10. The Debtor seeks authority to sell substantially all of its assets free and clear of liens, claims, and encumbrances under section 363 of the Bankruptcy Code pursuant to the following proposed expedited timeline:

Date	Event
<b>December 19, 2025</b>	<i>Proposed</i> date for the Debtor to file a notice of contracts that may be assumed and assigned to any Successful Bidder
<b>January 9, 2026, at 12:00 p.m., prevailing Central Time</b>	<i>Proposed</i> Bid Deadline <i>Proposed</i> Sale Objection Deadline: The deadline by which objections to the Transaction must be made.
<b>January 13, 2026, at 10:00 p.m., prevailing Central Time</b>	<i>Proposed</i> Auction (if any)
<b>Within two (2) business days upon the conclusion of the Auction (if any).</b>	<i>Proposed</i> deadline by which the Debtor will file on the docket, but not serve, a notice identifying the Successful Bidder, the applicable Successful Bidder, the Assets, and the key terms of the agreement.
<b>January 20, 2026, at 4:00 p.m., prevailing Central Time</b>	<i>Proposed</i> deadline by which objections to the Successful Bidder, if any, or to dispute the ability of the Successful Bidder to provide adequate assurance of future performance with respect to any Executory Contract or Unexpired Lease must be made.
<b>January 22, 2026, at 9:00 a.m., prevailing Central Time</b>	<i>Proposed</i> Sale Hearing

11. The material terms of the Bidding Procedures and the Stalking Horse APA are summarized on pages 8–18 and 19–25, respectively, of the Bid Procedures Motion.

**OBJECTION**

**A. The Aggressive Sale Timeline Chills Bidding and Undermines the Marketing Process**

12. Under the Bid Procedures Motion, the proposed deadline to submit bids is January 9, 2026, the Auction is tentatively set for January 13, 2026, and a Sale Hearing to be held on January 22, all squarely within the holiday season. This compressed timeline, combined with a requirement that Qualified Bids be fully financed and non-contingent, will severely limit bidder participation, jeopardize diligence, and foreclose restructuring alternatives. Indeed, the proposed milestones do not provide sufficient time to solicit additional bidders beyond the Stalking Horse Bidder, allow professionals to meaningfully evaluate bids and the sale structure, or run a competitive, value-maximizing process.

13. The Committee strongly objects to rushing through a sale process over the holidays. Speed cannot come at the expense of value. As currently structured, the timeline risks leaving significant value and strategic options on the table, options that could materially improve outcomes for all residents. Importantly, the Stalking Horse Bidder APA does not require this expedited schedule. It provides for (i) an auction 90 days after the Petition Date (in February 2026), (ii) a sale hearing 100 days after the Petition Date (in February or March 2026), and (iii) a final sale order 121 days after the Petition Date (in May 2026). The outside closing date is 121 days after entry of the sale order. *See* Stalking Horse APA § 5.7(i).

14. What's more, the transfer of a continuing care retirement community ("CCRC") requires compliance with regulatory authorities, a process that is inherently time-consuming and cannot be compressed into the proposed schedule. Rushing the sale risks a defective closing or post-closing compliance issues that could jeopardize the transaction and harm residents.

15. The Committee seeks an extension of the sale milestones in order for the process to allow for (i) thorough marketing to additional bidders; (ii) adequate time for diligence and

competitive bidding; (iii) consideration of restructuring alternatives beyond a quick sale under section 363 of the Bankruptcy Code; and (iv) evaluation of alternative outcomes for entrance fee residents and claimants.

16. Courts in the Fifth Circuit apply a flexible business judgment standard that permits expedited sale procedures when justified by legitimate business emergencies but requires adequate marketing and competitive bidding opportunities to ensure fair value for the estate. *See, e.g., In re Cont'l Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986) (“Whether the proffered business justification is sufficient depends on the case.”). Courts will approve compressed timelines when supported by sound business justification, such as financing deadlines, deteriorating assets, or perishable property, but will deny expedited procedures that constitute mere convenience or fail to provide meaningful competitive opportunities. *See, e.g., In re Gulf Coast Oil Corp.*, 404 B.R. 407, 423 (Bankr. S.D. Tex. 2009) (examining whether there was evidence of a need for speed based on perishable nature of assets or looming, adverse market conditions). Speed of a sale process cannot come at the expense of unsecured creditors. *See id.* (“[W]hen assets are sold immediately after the case is filed, the court can have very little confidence that all parties in interest have adequately organized, have received adequate notice, have obtained appropriate information, and have been able to participate in the proceedings. It takes time for official committees of creditors . . . to organize and to engage counsel, for the committees to hire financial or other experts if necessary, for government regulatory agencies to mobilize to participate in cases where they have a regulatory or other public interest, and for other creditors and parties in interest to determine whether (and how) to participate in the case. Proposals for quick sales, understood only by a few parties who would benefit from the sale, *are inherently suspect.*”) (emphasis added).

17. A sale timeline must allow sufficient marketing, diligence, and financing to promote a competitive auction and maximize value. The present timeline does not. This concern is heightened by the results of the initial marketing process. Although the Debtor's proposed investment banker reportedly contacted over 1,230 parties, only 31 executed non-disclosure agreements. These numbers raise questions about the marketing materials, outreach, and whether the Debtor's and its professionals targeted the right pool of prospective buyers.

### **B. The High Initial Overbid Requirement Discourages Competition**

18. According to the Bidding Procedures, the Initial Overbid must be \$105 million in cash, *i.e.*, \$5 million above the Stalking Horse Bid, and inclusive of the Break-Up Fee and Expense Reimbursement coverage.

19. The Committee objects to this steep threshold that may deter competitive entry and artificially advantages the Stalking Horse Bidder. The Initial Overbid should be an amount equal to \$100 million cash plus the Break-Up Fee plus the Expense Reimbursement plus \$100,000. If subsequent bids are set at \$100,000 cash or non-cash increments, the foregoing Initial Overbid amount should be sufficient for a competing bidder to be included in the sale and auction process.

### **C. The Bidding Procedures Grant the Stalking Horse Bidder Excessive Protections that May Chill Participation**

20. The Bidding Procedures allow for the excessive Bid Protections for the Stalking Horse Bidder that may chill participation among other bidders. For example, if a bid other than the Stalking Horse Bid is selected and an alternative transaction closes, the Stalking Horse Bidder receives the following Bid Protections: (i) a \$3.5 million Break-Up Fee; and (ii) \$350,000 Expense Reimbursement, an aggregate amount roughly 4% of the Stalking Horse Bidder's cash Purchase Price. *See* Bid Procedures Motion, ¶ 15. Moreover, the Bid Protections are treated as a

superpriority administrative claim. *Id.* Such protections risk chilling bids from other prospective buyers.

21. The Break-Up Fee should be reduced, and if an Expense Reimbursement is provided, the Stalking Horse Bidder should be required to submit evidence of documented out-of-pocket costs equal to or greater than the reimbursement amount. Moreover, these sizeable Bid Protections are being granted while the Stalking Horse APA contains a material contingency—requiring that “[a]t least 272 units occupied by paying Residents (who are paying the prevailing rate) across any level of care shall have signed New Residency Agreements with Buyer as of the Closing Date.” *See* Stalking Horse APA, § 6.2(j). Given the Stalking Horse Bidder’s plan to convert the community into a rental model, there is no guarantee this condition will be met or how long it might take, adding further uncertainty to the transaction.

#### **E. Inequities of the Sale Process and Resident Protections**

22. After allegedly extensive negotiations, the Debtor selected Focus SH Acquisition LLC as the Stalking Horse Bidder pursuant to the Stalking Horse APA, which is attached to the Bid Procedures Motion as Exhibit B. The Stalking Horse Bid includes \$100 million in cash, \$12 million in Rent Rebate Funds for eligible Current Residents, and \$750,000 in credits for eligible Current Residents. This Stalking Horse Bid establishes a floor for competitive bidding and was deemed the best available option to maximize value.

23. Residents hold significant claims based on unpaid refunds, Entrance Fees, and/or Reservation Deposits that must be addressed in the sale process. As currently structured, the sale offers no committed recoveries to residents owed Entrance Fees, and proposes a minimal, contingent, illusory credit pool (including an undefined \$750,000 credits for certain eligible Current Residents) that lacks enforceable terms. The proposed Bid Procedures Motion and Bidding

Procedures fail to provide clarity or enforceable protection for these unsecured creditors, which creates unacceptable risk and inequity.

24. To protect the residents from these inequities, first, the Debtor must explain the interaction between the proposed \$12 million Rent Rebate Fund and existing refund claims, ensuring that the fund is not illusory or duplicative.

25. Second, the Bidding Procedures must prioritize maximizing value for all constituents, not just for the Bond Trustee and ensure the winning bidder is a financially strong, stable owner-operator capable of honoring resident obligations and maintaining continuity of care.

Without these safeguards, the residents face the risk of inadequate protection and further disruption after the sale process is confirmed. Stability is essential to avoid compounding hardship for individuals who rely on the Life Care Agreements.

#### **F. Unequal Back-Up Bidder Obligations**

26. The Bidding Procedures unfairly advantage the Stalking Horse Bidder by imposing unequal Back-Up Bidder obligations. Specifically, the Stalking Horse Bidder is only required to remain obligated as the Back-Up Bidder for 60 days following the Sale Hearing, whereas all other bidders must agree to remain bound for 90 days. *See* Stalking Horse APA § 7.1(g).

27. This discrepancy creates a strategic advantage for the Stalking Horse Bidder in the auction process, as competing bidders face a longer period of uncertainty and potential capital commitment. Such unequal treatment may chill participation and undermine the integrity of a fair and competitive auction. The Committee requests that the Back-Up Bidder obligations be harmonized across all bidders to ensure a level playing field.

**RESERVATION OF RIGHTS**

28. The Committee expressly reserves all rights with respect to the proposed Bid Procedures Motion and expressly reserves and preserves all rights to raise any additional objections to the relief requested in the Bid Procedures Motion or in connection with the proposed Bidding Procedures at or prior to the Hearing.

Dated: December 12, 2025

**GREENBERG TRAUIG, LLP**

/s/ Shari L. Heyen

Shari L. Heyen (TX Bar No. 09564750)  
Aimee M. Housinger (TX Bar No. 24083203)  
Emily D. Nasir (TX Bar No. 24118477)

**GREENBERG TRAUIG, LLP**

1000 Louisiana St., Suite 6700

Houston, Texas 77002

Telephone: (713) 374-3500

Facsimile: (713) 374-3505

Email: Shari.Heyen@gtlaw.com

HousingerA@gtlaw.com

Emily.Nasir@gtlaw.com

-and-

Nancy A. Peterman (application *pro hac vice* pending)

**GREENBERG TRAUIG, LLP**

360 North Green St., Suite 1300

Chicago, Illinois 60607

Telephone: (312) 456-8410

Facsimile: (312) 899-0341

Email: PetermanN@gtlaw.com

*Proposed Co-Counsel to the Official  
Committee of Unsecured Creditors*

-and-

Casey Roy (TX Bar No. 00791578)

Mark Taylor (TX Bar No. 19713225)

**KANE RUSSEL COLEMAN LOGAN PC**

401 Congress Avenue, Suite 2100

Austin, Texas 78701

Telephone: (512) 487-6572  
Email: croy@krcl.com  
mtaylor@krcl.com

*Proposed Co-Counsel and Conflicts Counsel to the Official  
Committee of Unsecured Creditors*

**CERTIFICATE OF SERVICE**

I hereby certify that on December 12, 2025, a true and correct copy of the foregoing pleading was served via CM/ECF to all parties authorized to receive electronic notice in this Case.

*/s/ Emily D. Nasir* \_\_\_\_\_

Emily D. Nasir