

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

**COMMISSIONERS: Jon Leibowitz, Chairman
William E. Kovacic
J. Thomas Rosch
Edith Ramirez
Julie Brill**

_____)	
In the Matter of)	
)
Alan B. Miller,)	
a natural person;)	
)
Universal Health Services, Inc.,)	
a corporation;)	
)
and)	Docket No. C-4309
)
Psychiatric Solutions, Inc.,)	File No. 101 0142
a corporation.)	
_____)	

**APPLICATION FOR APPROVAL OF DIVESTITURE OF THE PUERTO RICO
DIVESTITURE ASSETS**

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- Exhibit A Asset Purchase Agreement, dated September 28, 2011 (Confidential)
- Exhibit B Disclosure Schedules to Asset Purchase Agreement (Confidential)
- Exhibit C Form of Transition Services Agreement (Confidential)
- Exhibit D Commitment Letter by Citibank and Scotiabank, dated August 1, 2011
(Confidential)

Introduction

Pursuant to Section 2.41(f) of the Federal Trade Commission (the “Commission”), Rules of Practice and Paragraph IV of the Decision and Order approved for issuance by the Commission on April 19, 2011, Respondents Alan B. Miller and Universal Health Services, Inc. (“UHS”), respectfully submit this Application for Approval of Divestiture of the Puerto Rico Divestiture Assets (the “Application”), in connection with the matter entitled *In the Matter of Alan B. Miller, a natural person; Universal Health Services, Inc., a corporation; and Psychiatric Solutions, Inc., a corporation*, Docket No. C-4309, FTC File No. 101 0142.

This matter arose out of UHS’s acquisition of Psychiatric Solutions, Inc. (“PSI”), on or about November 15, 2010. On October 26, 2010, Alan B. Miller and UHS executed an Agreement Containing Consent Orders that included a Decision and Order and an Order to Hold Separate and Maintain Assets. On November 15, 2010, the Commission accepted the Agreement Containing Consent Orders, the Decision and Order, and the Order to Hold Separate and Maintain Assets for public comment. The Commission subsequently approved the issuance of a final modified Decision and Order on April 19, 2011 and placed it on the public record on April 22, 2011. Pursuant to Commission Rule 2.34(c), the Decision and Order became final on April 29, 2011.

In this Application, UHS seeks approval of the proposed divestiture of the divestiture assets primarily used in connection with or primarily relating to Hospital San Juan Capistrano and its affiliated outpatient centers as defined in Paragraph I.R. of the

Decision and Order (the “Puerto Rico Divestiture Assets”),¹ to Donald R. Dizney and David A. Dizney through two companies, Capestrano Realty Company, Inc. and San Juan CP Hospital, Inc., both of which are members of the United Medical Corporation (“UMC” or the “Company”) family of companies. The UMC family of companies is controlled by Donald R. Dizney and David A. Dizney. The terms of the proposed divestiture are described in the following agreements (collectively, the “Puerto Rico Divestiture Agreements”): (i) an Asset Purchase Agreement between UHS and UMC, dated September 28, 2011, attached hereto as Confidential Exhibit A (the “Asset Purchase Agreement”); (ii) Disclosure Schedules to the Asset Purchase Agreement, attached hereto as Confidential Exhibit B; (iii) a Transition Services Agreement, to be dated and entered into on the Closing Date, the agreed-upon form of which is attached hereto as Confidential Exhibit C; and (iv) a Commitment Letter between Citibank and Scotiabank and the two newly-formed entities of the UMC family of companies, dated August 1, 2011, attached hereto as Confidential Exhibit D. This Application describes how the proposed divestiture will satisfy the terms and purposes of the Decision and Order.²

¹ Capitalized terms have the definitions given to them in the Decision and Order and the Order to Hold Separate and Maintain Assets.

² Because this Application and accompanying Confidential Exhibits contain confidential and competitively-sensitive commercial and financial information relating to the Puerto Rico Divestiture Assets that neither UHS nor UMC discloses in the ordinary course of business, the disclosure of which may harm the ongoing competitiveness of Hospital San Juan Capestrano and its affiliated outpatient centers and thereby prejudice UHS and/or UMC, UHS has redacted confidential information from the public version of this Application. Pursuant to Sections 2.41(f)(4) of 4.9(c) of the Commission’s Rules of Practice, UHS requests that the confidential portion of this Application and the confidential material contained herein, including but not limited to portions of the Puerto Rico Divestiture Agreements, be afforded confidential treatment under Section 4.10(a)(2)

For over a year, UHS has in good faith engaged in the divestiture process as contemplated by Paragraph IV of the Decision and Order in order to divest the Puerto Rico Divestiture Assets. As a result of that divestiture process, which involved discussions and negotiations with over twenty parties, UHS entered into the Asset Purchase Agreement with Donald R. Dizney and David A. Dizney, principal shareholders of UMC, a leading provider of inpatient and outpatient behavioral health services, headquartered in Windermere, Florida. Throughout the process, UHS has kept the Commission staff informed of the manner in which UHS was conducting the divestiture process and the parties that expressed an interest in the Puerto Rico Divestiture Assets. In addition to the required compliance reports that UHS has filed, UHS has communicated additional information to the Commission staff regarding the divestiture process.

The proposed divestiture to UMC would accomplish the Decision and Order's purposes by "ensur[ing] the continuation of the Puerto Rico Divestiture Assets as an ongoing, viable Psychiatric Hospital Facility" and by "remedy[ing] the lessening of the competition resulting from the Acquisition alleged in the Commission's complaint". (Decision and Order, ¶ IV.D.) Specifically, by divesting the Puerto Rico Divestiture Assets as contemplated by the Decision and Order and the Puerto Rico Divestiture Agreements, the Puerto Rico Divestiture Assets will continue operating under the competent and capable direction of the UMC family of companies and the

of the Commission's Rules of Practice. See 16. C.F.R. § 4.10(a)(2); see also 15 U.S.C. §§ 46(f), 57b-2(c). Further, the confidential portions of this Application and accompanying Confidential Exhibits are exempt from disclosure under the Freedom of Information Act and the Hart Scott Rodino Act. See 5 U.S.C. § 552; 15 U.S.C. § 18a(h).

Commonwealth of Puerto Rico will have the benefit of another significant competitor fully capable of and engaged in the provision of Acute Inpatient Psychiatric Services. As described in detail below, the Dizneys, and UMC family of companies, have the financial, professional and operational resources to be strong and effective competitors in the Commonwealth of Puerto Rico for the provision of Acute Inpatient Psychiatric Services.

I. UHS CONDUCTED A ROBUST DIVESTITURE PROCESS FOR THE PUERTO RICO DIVESTITURE ASSETS.

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On September 28, 2011, UHS’s discussions and negotiations with

the Dizneys culminated in the Puerto Rico Divestiture Agreements. During the divestiture process and while UHS was in negotiations with interested parties, UHS has updated the Commission staff on progress of the negotiations and the identity of interested parties. Indeed, UHS informed the Commission staff of the execution of the Asset Purchase Agreement on September 28, 2011—the same day it was executed. As described below, the Puerto Rico Divestiture Agreements are structured to meet the requirements of the Decision and Order. The contemplated divestiture of Hospital San Juan Capestrano to the Dizneys through UMC meets the purposes and requirements of the Decision and Order by adding a viable competitor with the financial, professional and operational resources to provide Acute Inpatient Psychiatric Services in the Commonwealth of Puerto Rico.

II. THE DIZNEYS, THROUGH UMC, ARE WELL-QUALIFIED PROSPECTIVE ACQUIRERS AND ARE READY, WILLING AND ABLE TO COMPETE FOR THE PROVISION OF ACUTE INPATIENT PSYCHIATRIC SERVICES IN THE COMMONWEALTH OF PUERTO RICO.

A. Prospective Acquirers' Name and Address.

Donald R. Dizney and David A. Dizney
Capestrano Realty Company, Inc. and San Juan CP Hospital, Inc.
Both members of the UMC family of companies controlled by Donald R. Dizney and David A. Dizney
603 Main Street
Windermere, Florida
(407) 876-2200

B. UMC's Corporate Officers Have Significant Experience in Operating Inpatient Psychiatric Services.

UMC's corporate team is well-qualified and experienced in operating Psychiatric Hospitals including Acute Inpatient Psychiatric Services and has substantial experience in operating hospitals in the Commonwealth of Puerto Rico. Members of the UMC executive team include:

- David A. Dizney, President and Chief Executive Officer. Mr. Dizney has been President, Chief Executive Officer and a Director of the Company since 2001 and has served in various key capacities since 1993. Mr. Dizney is currently on the Florida Board of Managers of the Nemours Foundation and has served on the Board of Trustees of the National Association of Psychiatric Health Systems. Mr. Dizney received an M.B.A. from the Kellogg School of Management at Northwestern University and a B.S. in Finance from the University of South Florida. Since 2008, Mr. Dizney has been a member of the Board of Directors of XHale, Inc., an advanced biotech products company which develops intellectual property from the University of Florida.
- Kevin Barkman, Executive Vice President. Mr. Barkman has served as Executive Vice President of the Company since 1994 and in various key roles with the Company since 1981. Mr. Barkman served as the Administrator of the Company's Ten Broeck Louisville behavioral hospital. Mr. Barkman is principally involved with the Company's development activities and oversees all legal activities. Since 2001, Mr. Barkman has overseen the

Management Services Division of the Company. Mr. Barkman graduated from the University of Central Florida in 1977 and currently serves on the UCF Foundation Board of Directors.

- David Corddry, CPA, Vice President of Finance, CFO.
Mr. Corddry has served as the Chief Financial Officer of the Company since 2007. Mr. Corddry is responsible for oversight of the Company's financial functions including cash management, financial reporting, budgeting, capital expenditures, information systems and human resources. Mr. Corddry earned a B.A. in Business from Michigan State University in 1989, a Master's in Business Administration from Rollins College in 1997 and a B.S. in Accounting from Florida Southern College.
- James Ledbetter, Ph.D., Chief Operating Officer PremierCare, Inc.
Mr. Ledbetter has been responsible for the day-to-day operation of the Company's Management Services Division since 2008. Mr. Ledbetter served as the Company's Administrator of its Ten Broeck Ocala behavioral hospital. Mr. Ledbetter has served in various administrative and regional executive roles with behavioral delivery companies including Charter Behavioral Healthcare Services and Psychiatric Solutions, Inc. Mr. Ledbetter received his undergraduate degree from the University of Tennessee in 1970, his Master's in 1972 and his doctoral degree from the University of South Carolina in 1985.
- Domingo Cruz Vivaldi, Senior Vice President Operations San Jorge Children's Healthcare, Inc. Mr. Cruz is based in San Juan, Puerto Rico and has served as the Administrator of the Company's San Jorge Children's Hospital since 1988. He has previously overseen the operation of multiple Psychiatric Hospitals owned by the Company in Puerto Rico. Mr. Cruz currently serves as an appointed director of the Commonwealth of Puerto Rico ASES which oversees the government-sponsored Medicaid programs. Mr. Cruz currently serves on the Board of Directors of the San Jorge Children's Foundation, the Puerto Rico Hospital Association, the Pediatric Diabetes Foundation, the Leukemia and Lymphoma Association, and was previously the assistant administrator of the Company's Hospital Pavia, a full-service open heart surgery hospital in San Juan. Mr. Cruz received his undergraduate degree from Houston Baptist University and his Master's of Health Administration degree from the University of Houston.
- Julio Colon Ruiz, CPA, CHFP, Senior Vice President, CFO San Jorge Children's Healthcare, Inc. Mr. Colon is responsible for the oversight of all of the Company's Puerto Rico financial functions. He has been instrumental in developing the Company's network of

hospitals located in Puerto Rico, including numerous behavioral operations which have since been sold to a strategic buyer. Mr. Colon heads up the Company's Puerto Rico Regional Office which provides all strategic services to the Company's Puerto Rico hospitals and clinic operations. He has previously been responsible for the financial aspects of the Company's large-scale reference laboratory. Mr. Colon received his B.S. degree in accounting from the University of Puerto Rico in 1984.

C. UMC Is in the Business of Operating Psychiatric Hospital Facilities.

UMC is a national healthcare company incorporated in 1974, which, through affiliated entities and subsidiaries, provides Acute Inpatient Psychiatric Services to individuals who have a variety of behavioral health disorders and is recognized as a quality provider of healthcare services in Puerto Rico. UMC is privately held and maintains its corporate headquarters in Windermere, Florida. It also has regional offices in Houston, Texas and San Juan, Puerto Rico.

The Company, through its PaviaHealth affiliate, was the original consolidator of healthcare services in Puerto Rico commencing with its acquisition of Hospital Pavia in 1985. Over the next twenty years, the Company became the largest single provider of healthcare services in Puerto Rico with a peak of 819 acute care and behavioral beds which accounted for 18% of all private hospital beds in Puerto Rico with over 1,607 active physicians (including psychiatrists). The Company has developed behavioral beds for its own operation and has been contracted by the Commonwealth of Puerto Rico to manage behavioral beds at a government-owned hospital. After 20 years of operations, UMC sold all of its adult acute care and behavioral beds in a single transaction to Metropolitano Systems, Inc., which has now become the island's largest healthcare provider, while retaining San Jorge Children's Hospital. The company continues to be committed to healthcare services in Puerto Rico. Indeed, a 64,000 square

foot, \$31,000,000 expansion is currently under construction at San Jorge Children's Hospital and UMC is also in the process of commencing construction on a new children's behavioral inpatient facility on the same campus.

UMC, through its affiliate Ten Broeck Hospitals, Inc., has also overseen the development, construction and operation of freestanding inpatient behavioral hospitals in Kentucky and Florida. The Company, in 1986, converted the former 94 acre site of the Kentucky Military Institute, located in Louisville, Kentucky, into an inpatient behavioral hospital known as Ten Broeck KMI that is nationally recognized. The Company operated a second behavioral hospital in Louisville known as Ten Broeck Dupont (specialty children's behavioral services) as well as Ten Broeck Jacksonville and Wekiva Springs (a specialty women's only behavioral hospital), both located in Jacksonville, Florida and Ten Broeck Ocala, a 96-bed freestanding behavioral hospital in Ocala, Florida.

The Company, through Ten Broeck Hospitals, provided the full continuum of behavioral services, including inpatient, involuntary admissions, partial hospitalization, intensive outpatient, residential, substance abuse, ECT, group counseling and mobile assessments. The Company has operated behavioral services for all age groups, including children as young as five years old, adolescents, adults and seniors. UMC, through its Management Services Division PremierCare, Inc., currently operates behavioral services at eighteen locations in six states (i.e., Florida, Kentucky, South Carolina, Tennessee, Illinois and Oklahoma). The company provides a full spectrum of services including inpatient and outpatient services. The company also provides acute care hospitals with a turnkey operation of memory disorder and diagnostic clinics.

As demonstrated above, the Company has the operating experience and the management team to operate the full spectrum of behavioral services and is uniquely qualified to operate a free standing behavioral hospital in Puerto Rico.

Further information about UMC is available (i) on the UMC website, <http://www.unitedmedical.com>; (ii) on the PremierCare website, <http://www.premier-care.net>; and (iii) on the San Jorge Children's Hospital website, <http://www.sanjorgechildrenshospital.com>.

D. UMC Has the Financial Resources to Ensure that the Puerto Rico Divestiture Assets Continue as a Viable Competitor in the Commonwealth of Puerto Rico.

UMC has entered into a Commitment Letter with a syndication of Citibank and Scotiabank to provide financing for a new senior secured term loan of up to [REDACTED] which is intended to finance the acquisition of the Puerto Rico Divestiture Assets. The Commitment Letter also includes [REDACTED] [REDACTED]. The terms of the financing are set forth in the Commitment Letter attached hereto as Confidential Exhibit D.

E. UMC Has Developed a Comprehensive Business Plan to Compete for the Provision of Acute Inpatient Psychiatric Services in the Commonwealth of Puerto Rico.

UMC has spent considerable effort in connection with its decision to enter into the Puerto Rico Divestiture Agreements, having made the determination that it sees an excellent long-term business opportunity in the Puerto Rico Divestiture Assets. UMC has developed a business plan setting forth how it plans to compete aggressively on a going-forward basis, consistent with the Commission's desire to ensure the continuation of the Puerto Rico Divestiture Assets as ongoing, viable Psychiatric Hospital Facilities. (See Decision and Order ¶ IV.D.) UMC has announced that it intends to retain the

existing staff at San Juan Capestrano Hospital under UMC management.

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UMC has the requisite experience, administrative, management, financial and clinical, as well as the operating experience in Puerto Rico, to compete aggressively on a going-forward basis if its purchase of the Puerto Rico Divestiture Assets from UHS is approved by the Commission. Furthermore, UMC has the financial and operational resources to ensure that the Puerto Rico Divestiture Assets will be financially and competitively viable and that it will be able to provide its patients with Acute Inpatient Psychiatric Services well into the future.

III. THE PUERTO RICO DIVESTITURE ASSETS BEING DIVESTED ARE CONSISTENT WITH THE TERMS AND PURPOSES OF THE DECISION AND ORDER.

As required by the Decision and Order, to the extent allowable by law, the transaction has been structured to divest all of the Puerto Rico Divestiture Assets to the Dizneys through two newly-formed UMC entities. The transaction has been structured as an asset transaction, so that, upon closing, the two newly-formed UMC entities will receive all of the Puerto Rico Divestiture Assets. Capestrano Realty Company, Inc. will receive all transferable rights, title and interest to the Puerto Rico Divestiture Assets and San Juan CP Hospital will be the sole operator of the Puerto Rico Divestiture Assets. As a result, the Asset Purchase Agreement is consistent with the terms and purposes of the Decision and Order. In addition, the related Transition Services Agreement will further enable UMC to ensure the continuation of the Puerto Rico Divestiture Assets as ongoing, viable Psychiatric Hospital Facilities.

A. Transfer of the Puerto Rico Divestiture Assets.

As required by the Decision and Order, the transaction will transfer the Puerto Rico Divestiture Assets, absolutely and in good faith, as an on-going business, that are financially and competitively viable Psychiatric Hospital Facilities operating as ongoing businesses providing Acute Inpatient Psychiatric Services. To the extent permitted by law, and subject to certain exceptions, the transfer will include, but not be limited to, (i) real property interests; (ii) tangible personal property; (iii) contracts and agreements; (iv) intellectual property; (v) intangible rights other than intellectual property; (vi) approvals, consents, licenses, certificates, registrations, permits, waivers or other authorizations by any governmental body or pursuant to any legal requirement and all pending applications or renewals thereof; (vi) inventories, stores and supplies; (vii) accounts receivables (other than receivables from Medicare and Medicaid cost reports for pre-closing periods); (viii) rights under warranties and guaranties; (ix) books, records, files, and other business records; (x) rights with respect to Medicare provider number 40-4005 and Medicaid provider number 12569505 accruing to or arising after the closing; and (xi) all depository accounts. To the extent permitted by law, UHS also will cooperate as necessary to ensure that UMC obtains all governmental approvals needed to operate the Puerto Rico Divestiture Assets.

The Excluded Assets (as defined in the Asset Purchase Agreement), will not be transferred to UMC. Such Excluded Assets include, but are not limited to, (i) cash; (ii) certain rights, claims and credits of UHS and its subsidiaries (such as insurance policies and certain guarantees, warranties, and indemnities); (iii) certain trademarks and names; (iv) rights of UHS under the Asset Purchase Agreement; (v) financial and tax records that constitute part of UHS's or one of its subsidiaries'

general ledger; (vi) credits and related rights and claims from any taxing authority with respect to certain taxes; (vii) certain assets of or relating to any seller benefit plan; (viii) certain rights, claims and credits relating to third party payor reimbursements; (ix) receivables from Medicare and Medicaid cost reports for pre-closing periods; and (x) certain properties and assets used in or relating to the operation or conduct of a business other than Hospital San Juan Capestrano and its affiliated outpatient centers that are not primarily used in or do not primarily relate to Hospital San Juan Capestrano and its affiliated outpatient centers. UHS will also retain a copy of all business records to be transferred to UHS to the extent necessary to comply with applicable laws, regulations and other legal requirements.

B. Securing Third Party Consents and Waivers.

UHS and UMC have agreed to use their reasonable best efforts to secure all material consents and waivers from all third parties necessary to permit the transfer of the Puerto Rico Divestiture Assets (to the extent permitted by law), including such consents and waivers to grant licenses to UMC. In the event UMC is unable to obtain any permit necessary to operate the Puerto Rico Divestiture Assets prior to the Closing Date, UHS has agreed to provide such lawful assistance to UMC as UMC may reasonably request in connection with its efforts to obtain comparable authorization.

C. UMC's Opportunity to Hire Relevant Employees Currently Working at Hospital San Juan Capestrano and Its Affiliated Outpatient Centers.

As required by the Decision and Order, UHS has made the Relevant Employees who are currently staffing Hospital San Juan Capestrano and its affiliated outpatient centers available to UMC for hire. UMC has agreed to extend an offer of employment before the Closing Date to all employees of UHS whose duties relate

primarily to the Divestiture Business. UHS will allow UMC to interview and inspect the personnel records of any Relevant Employee to the extent permissible under applicable laws. UHS will not (1) interfere, directly or indirectly, with the hiring or employment by UMC of any of these individuals, (2) offer any incentives to any of these individuals to decline employment with UMC, or (3) otherwise interfere with the recruitment of these individuals by UMC. UHS will also provide all such individuals with reasonable financial incentives to continue in their positions until the Closing Date of the divestiture and to the extent necessary, remove any impediments within UHS's control that may deter Relevant Employees from accepting employment with UMC.

D. Transition Services to Be Provided to UMC.

The parties have prepared a Transition Services Agreement (the "TSA"), to be dated and entered into on the Closing Date, a draft of the agreed-upon form is attached hereto as Confidential Exhibit C. Upon execution of the TSA, UHS will provide, at UMC's option, administrative assistance, clinical assistance and support services with respect to the operation of Hospital San Juan Capistrano and its affiliated outpatient centers and the provision of Acute Inpatient Psychiatric Services, including assistance relating to billing, accounting, governmental regulation, human resources management, information systems, managed care contracting and purchasing, as well as assistance with respect to acquiring, obtaining access and customizing all software used in the provision of such services. UHS shall perform such services, to the extent necessary, at substantially the same level and quality as such services were provided by UHS to Hospital San Juan Capistrano and its affiliated outpatient centers prior to the Closing Date. The fee payable by UMC for services provided under the TSA will be equal to the cost directly incurred by UHS to provide such services (the parties have agreed to a fee

schedule attached to the TSA which sets forth the direct cost to UHS, including labor costs, for providing certain services).

E. The Proposed Divestiture Will Achieve the Remedial Purposes of the Decision and Order.

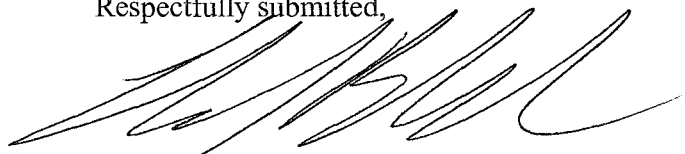
The proposed divestiture will ensure the continuation of the Puerto Rico Divestiture Assets as ongoing, viable Psychiatric Hospital Facilities by giving control of the Divestiture Businesses to UMC, which owns and operates established national healthcare companies experienced in the operation of Psychiatric Hospital Facilities and the provision of Acute Inpatient Psychiatric Services. In addition, UHS believes that the TSA provides any transitional support necessary to ensure that Hospital San Juan Capestrano and its affiliated outpatient centers continue to remain viable competitors for the provision of Acute Inpatient Psychiatric Services in Puerto Rico. The TSA was purposefully designed to enable UMC to request essentially any transition assistance that it may need. In addition, UMC's considerable existing behavioral health service capabilities provide the Commission additional assurances that UMC is well-poised to be a viable competitor for the provision of Acute Inpatient Psychiatric Services in Puerto Rico. As set forth more fully above in Section II, UMC owns and operated established national healthcare companies already providing behavioral health services in six other states. With its strong national presence and operational know-how, as well as its prior experience operating hospitals in Puerto Rico, UMC is an ideal candidate to acquire the Puerto Rico Divestiture Assets in light of the purposes of the Decision and Order. The Puerto Rico Divestiture Assets will strengthen UMC's competitive position and provide a solid foothold to create a strong new competitor for the operation of Psychiatric Hospital Facilities and the provision of Acute Inpatient Psychiatric Services in Puerto Rico.

CONCLUSION

Because the proposed divestiture of the Puerto Rico Divestiture Assets to Donald R. Dizney and David A. Dizney through UMC is pro-competitive, in the public interest and addresses the competitive concerns raised in the Decision and Order as they relate to the Puerto Rico Divestiture Assets, and for the additional reasons set forth above, UHS respectfully requests that the Commission approve the divestiture of the Puerto Rico Divestiture Assets to Donald R. Dizney and David A. Dizney as detailed in the Puerto Rico Divestiture Agreements.

Dated: October 4, 2011

Respectfully submitted,



Christopher D. Belelieu

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