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Case No. 11149-

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

HAVERHILL RETIREMENT SYSTEM, on behalf of itself and all other similarly situated stockholders of THE PROVIDENCE SERVICE CORPORATION, and derivatively on behalf of THE PROVIDENCE SERVICE CORPORATION, Plaintiff, v. RICHARD A. KERLEY, KRISTI L. MEINTS, WARREN S. RUSTAND, CHRISTOPHER SHACKELTON, and COLISEUM CAPITAL MANAGEMENT, LLC, Defendants, and THE PROVIDENCE SERVICE CORPORATION, Nominal Defendant.	C.A. No. _____

VERIFIED CLASS ACTION AND DERIVATIVE COMPLAINT

Plaintiff Haverhill Retirement System ("Haverhill" or "Plaintiff"), on behalf of itself and all other similarly situated public stockholders of The Providence Service Corporation ("Providence" or the "Company"), and derivatively on behalf

of nominal defendant Providence, brings the following Verified Class Action and Derivative Complaint (the "Complaint") against the members of the board of directors of Providence (the "Providence Board" or "Board") for breaching their fiduciary duties and against Coliseum Capital Management, LLC ("Coliseum")[1] for aiding and abetting such breaches. The allegations of the Complaint are based on the knowledge of Plaintiff as to itself, and on information and belief, including the investigation of counsel and review of publicly available information as to all other matters.

INTRODUCTION

1. This case arises from breaches of fiduciary duty by the Providence Board in connection with a series of transactions designed to improperly benefit Coliseum, the Company's largest stockholder.

2. Coliseum is Providence's largest stockholder and Christopher Shackelton, Coliseum's co-founder and Managing Partner, has been Providence's Board Chairman since 2012.

3. In September 2014, Providence agreed to acquire CCHN Group Holdings, Inc. ("Matrix") for $400.0 million (the "Matrix Acquisition"). While the

[1] As used herein, "Coliseum" also includes Coliseum Capital Partners, L.P., Coliseum Capital Partners II, L.P., Blackwell Partners, LLC, and Coliseum Capital Co-Invest, L.P.

bulk of the purchase price was funded through cash on-hand and Providence's credit facility bearing interest at approximately 3.0% to 4.0%, Coliseum caused the Company to fund the remainder of the purchase price with a $65.5 million subordinated note with Coliseum bearing interest at between 14.0% to 18.5% (the "Subordinated Note"). The Board's decision to fund a significant portion of the purchase price with the related-party Subordinated Note dramatically and unnecessarily increased the Company's interest expense. In all likelihood, Providence had less expensive financing alternatives available.

4. On the same day that the Board entered into the Subordinated Note, the Board also entered into a standby purchase agreement (the "Standby Purchase Agreement") with Coliseum pursuant to which Providence agreed to complete a rights offering (the "Rights Offering") for $65.5 million of preferred stock (the "Preferred Stock"), which would pay a 5.5% per annum cash dividend or a 8.5% per annum payment-in-kind dividend ("PIK Dividend"), at the Company's option.

5. The Company agreed that it would use the proceeds from the Rights Offering to repay the Subordinated Note in full, effectively eliminating any risk of default on a debt instrument that nonetheless paid Coliseum interest at an exceedingly generous rate of 14.0% to 18.5% per annum.

6. In exchange for a nearly $3 million commitment fee, Coliseum agreed

to "backstop" the Rights Offering (*i.e.*, purchase all shares of Preferred Stock not otherwise sold in the offering). Coliseum also received the right to purchase an additional $15.0 million in Preferred Stock within 30 days of the closing of the Rights Offering (the "Option").

7. The Rights Offering was undersubscribed. As a result of Coliseum's "backstop" commitment and Coliseum's decision to exercise the Option, Coliseum purchased approximately 700,000 shares of Providence Preferred Stock. Thus, Coliseum substantially increased its equity stake in Providence while simultaneously pocketing approximately $3 million in interest on the Subordinated Note and another $3 million in commitment fees. Furthermore, Coliseum received a $4.6 million stock option grant for Shackelton's purported contributions to the Matrix Acquisition and another 2014 acquisition by Providence.

8. Had Providence simply funded the remainder of the purchase price of the Matrix Acquisition by negotiating with its lenders for an even larger credit facility, Providence could have avoided the dilutive Preferred Stock issuance entirely and thereby avoided paying millions of dollars in unnecessary interest and fees to Coliseum.

9. Because the issuance of Preferred Stock to Coliseum (the "Issuance") could result in a change of control at the Company, NASDAQ rules require

Providence to subject it to a stockholder vote. Providence has agreed to do so at the Company's upcoming 2015 annual meeting of stockholders (the "2015 Annual Meeting").

10. The Providence Board, however, is wrongfully coercing the Company's stockholders into approving the Issuance. Specifically, the Providence Board has agreed that if stockholders do not approve the Issuance by November 7, 2015, then the dividend rate payable on the Preferred Stock held by Coliseum will increase from 5.5% to 10.5% and the PIK Dividend rate payable will increase from 8.5% to 13.5% (the "Dividend Rate Increase"). This coercive mechanism leaves stockholders with no choice but to approve the Issuance regardless of their views on its merits, because rejecting it would subject the Company to a steep economic penalty.

11. Further exacerbating this affront to the stockholder franchise, the Providence Board has failed to disclose all material information necessary to allow stockholders to cast an informed vote on the Issuance. Among other deficiencies, Providence has failed to disclose (a) why the Board agreed to issue the high-interest Subordinated Note instead of pursuing cheaper financing alternatives; (b) any of the negotiations surrounding the Subordinated Note, commitment fee, Option and Dividend Rate Increase; (c) whether Shackelton recused himself from

the process culminating in the Issuance; (d) who negotiated on the Company's behalf in connection with the transactions described herein; (e) whether the Board retained advisors in connection with these transactions, and the identity of any such advisors; and (f) whether the Board sought to obtain any protection against Coliseum obtaining majority control over the Company without paying a control premium.

12. Through this action, Plaintiff seeks to (a) enjoin the stockholder vote on the Issuance at the 2015 Annual Meeting unless and until the Board provides stockholders with all material information and the wrongfully coercive Dividend Rate Increase has been eliminated as a "thumb on the scale" of the stockholder franchise, (b) hold the Providence Board accountable for its breaches of fiduciary duty, and (c) hold Coliseum liable for aiding and abetting the Board's breaches of fiduciary duty, and for unjust enrichment.

THE PARTIES

13. Plaintiff Haverhill is a stockholder of Providence and has been a stockholder of Providence at all relevant times alleged in this Complaint.

14. Nominal defendant Providence provides and manages government-sponsored human services, innovative global employment services, comprehensive health assessment and care management services, and non-emergency

transportation services. Providence is incorporated in the State of Delaware and has its corporate headquarters at 64 East Broadway Boulevard, Tucson, Arizona 85701. Providence's stock trades on the NASDAQ under the ticker symbol "PRSC".

15. Defendant Christopher Shackelton has served as a director on the Providence Board since July 2012. Shackelton was appointed Chairman of the Providence Board in November 2012 and continues to serve in that role. Shackelton assumed the role of Providence's interim Chief Executive Officer ("CEO") effective June 1, 2015. Shackelton is a Managing Partner of Coliseum, which he co-founded in January 2006.

16. Defendant Richard A. Kerley ("Kerley") has served as a director on the Providence Board since May 2010. Kerley is retired. In 2012, 2013 and 2014, Kerley received $309,925, $463,175 and $289,691 in director compensation, respectively.

17. Kristi L. Meints ("Meints") has served as a director on the Providence Board since August 2003. Meints is retired and serves on no other public company's board of director. In 2012, 2013 and 2014, Meints received $309,925, $463,175 and $289,691 in director compensation, respectively.

18. Defendant Warren S. Rustand ("Rustand") served as a director on the

Providence Board from May 2005 until June 1, 2015. Rustand served as the Company's CEO from November 2012 to June 1, 2015. Rustand has agreed to remain with the Company as a Senior Advisor for the remainder of 2015.

19. The individual defendants listed above are collectively referred to herein as the "Individual Defendants."

20. Coliseum is a Stamford, Connecticut-based hedge fund co-founded by Shackelton in 2006.

SUBSTANTIVE ALLEGATIONS

I. Background on the Company and Coliseum's Initial Investment in Providence

21. Providence is an Arizona-based, Delaware incorporated company that provides and manages government-sponsored human services. Providence offers specialized counseling, social services, and transportation for both healthcare providers and schoolchildren that are eligible for government assistance pursuant to federal mandate. Providence is unique because it provides these services in the client's own home or in community-based settings versus institutional settings, which is said to reduce the government's costs for the services while affording clients a better quality of life.

22. Coliseum is an activist hedge fund founded by Defendant Shackelton and Adam Gray in January 2006. Shackelton serves as Coliseum's Managing

Partner. Coliseum's equity portfolio is mainly focused on healthcare stocks.

23. Throughout May and June 2012, Coliseum accumulated an approximately 12% equity stake in Providence.

24. In July 2012, Shackelton was appointed to serve as a director on the Providence Board.

25. By August 16, 2012, Coliseum reported owning 14.4% of Providence's common stock.

26. On November 19, 2012, Fletcher McCusker ("McCusker"), Providence's founder and then-Chairman and CEO announced his retirement from the Company. In connection with McCusker's retirement, Shackelton assumed the position of Providence's Board Chairman and Defendant Rustand, Providence's then-lead director, was named the Company's interim CEO.

27. On November 26, 2012, Coliseum bought an additional 109,600 shares of Providence stock, increasing its equity stake to 17.3% of the Company's total outstanding shares of common stock. At that time and continuing through the date of this Complaint, Coliseum was and is the largest stockholder of Providence.

II. In Connection with the Company's Acquisition of Matrix, Coliseum Causes Providence to Enter a Series of Transactions to Dramatically Increase Coliseum's Equity Stake in the Company

A. The Providence Board Agrees to Fund a Portion of the Purchase Price of the Matrix Acquisition with High-Interest Financing from Coliseum

28. On September 17, 2014, Providence entered an agreement to acquire Matrix, a Scottsdale, Arizona-based in-home health assessment and care management services company. In connection with the Matrix Acquisition, Providence agreed to pay Matrix an aggregate purchase price of $400 million, including $360 million in cash and 946,722 shares of Providence common stock worth $40 million, valued as of the close of trading on September 17, 2014.

29. To fund the cash portion of the purchase price, Providence utilized four different sources of funding:

a. The cash proceeds from a new $250.0 million term loan (the "New Term Loan"), which bears interest at a per annum rate equal to, at the Company's election, either (i) LIBOR plus 2.25% to 3.25% or (ii) a certain base rate plus 1.25% to 2.25%;

b. The cash proceeds from approximately $23.4 million of borrowings under Providence's existing revolving credit facility (the "Revolver"), which bears interest at the same rate as the New Term Loan;

c. Approximately $48.0 million of cash on-hand; and

d. The cash proceeds from the issuance of the 14.0% Subordinated Note to Coliseum in aggregate principal amount of $65.5 million.[2]

30. The Board's decision to fund a significant portion of the cash purchase price for the Matrix Acquisition with the related-party Subordinated Note dramatically and unnecessarily increased the Company's interest expense.

31. As detailed above, the annual interest rate payable on the Subordinated Note was 14.0% (and possibly up to 18.5%). By contrast, with LIBOR below 1% on October 23, 2014 (*i.e.,* the date that the Matrix Acquisition closed), the interest payable on borrowings under the New Term Loan and Revolver was approximately 3.0% to 4.0% per annum.

32. A well-intentioned and loyal board acting in the best interests of the Company and its unaffiliated stockholders would have vigorously attempted to increase the size of the New Term Loan (or searched for other lower cost financing) instead of agreeing to a debt instrument with an insider bearing an interest rate ***250%*** greater than that of the New Term Loan.[3]

[2] The Subordinated Note was subject to additional penalty interest up to an aggregate of 18.5% per annum.

[3] Even if this additional borrowing caused an increase in the interest rate payable on the New Term Loan, any increase would have likely been marginal and nowhere close to the 14% to 18.5% interest rate payable on the Subordinated Note.

33. Further highlighting the unfairness of the Subordinated Note is the fact that the 14.0% interest rate is disproportionately generous when compared to the limited risk that Coliseum actually assumed through the debt instrument. As detailed below, on the same day that the Board agreed to the Subordinated Note, the Company also agreed to conduct a Rights Offering in which the proceeds would be used to repay the Subordinated Note in full. Providence agreed to pay Coliseum approximately $3 million to "backstop" the Rights Offering.

34. Thus, Coliseum was able to "double dip" through the receipt of an unreasonably high rate of interest on the Subordinated Note while simultaneously receiving a $3 million fee for a "backstop" that effectively eliminated the risk of default on the Subordinated Note that was already paying Coliseum interest at a minimum rate of 14.0%.

35. Moreover, on September 11, 2014, Providence granted Coliseum 200,000 stock option equivalent units – valued at $4,608,934 on the grant date – "in compensation of Mr. Shackelton's services with respect to the acquisition of Ingeus and Matrix." This outsized grant to Coliseum for Shackelton performing what appears to be his role as Providence's Chairman is highly questionable.

B. The Providence Board Agrees to Conduct a Rights Offering, Which Effectively Converts the Subordinated Note into Preferred Stock

36. As indicated above, in connection with the Matrix Acquisition and the issuance of the Subordinated Note, on October 23, 2014, the Company entered into the "Standby Purchase Agreement with Coliseum. Pursuant to the Standby Purchase Agreement, Providence agreed to complete a registered rights offering within a certain period of time, providing all of Providence's common stockholders the non-transferrable right to purchase their pro rata share of $65.5 million of Preferred Stock at a price of $100.00 per share.

37. Pursuant to the terms of the certificate of designations that governs the Preferred Stock, the Preferred Stock is convertible into shares of Providence common stock at an initial conversion price of $39.88 per share, which was the closing price of the Company's common stock on October 22, 2014—the last trading day before the consummation of the Matrix Acquisition.

38. The Company may pay non-cumulative cash dividends on each share of Preferred Stock at a rate of 5.5% per annum on the liquidation preference then in effect. In the event that Providence does not declare and pay a cash dividend, holders of the Preferred Stock are entitled to the PIK Dividend, whereby the liquidation preference on the Preferred Stock will be increased to an amount equal

to the liquidation preference in effect at the start of the applicable dividend period, plus an amount equal to such then-applicable liquidation preference multiplied by 8.5% per annum.

39. Pursuant to the Standby Purchase Agreement, Coliseum agreed to purchase all of the available Preferred Stock not otherwise sold in the Rights Offering. The Company also agreed that it would use the proceeds from the Rights Offering to repay the Subordinated Note held by Coliseum in full.

40. In connection with entering the Standby Purchase Agreement, the Company paid Coliseum a fee of $2,947,000.

41. In addition, Coliseum was provided with the additional right, exercisable within 30 days following the completion of the Rights Offering, to purchase additional preferred stock valued at $15.0 million at a price per share of $105 (previously defined as the “Option”).

42. On January 6, 2015, Providence commenced the Rights Offering, which subsequently expired on February 5, 2015.

43. 130,884 shares of Preferred Stock were sold in the Rights Offering and Coliseum purchased the remaining 524,116 shares of Preferred Stock.

44. On February 11, 2015, Providence repaid the Subordinated Note in full. During the approximately four month life-span of the Subordinated Note, the Company paid Coliseum $3,014,794 in cash interest.

45. On March 6, 2015, Coliseum exercised the Option in full, causing the issuance of 150,000 additional shares of Preferred Stock to Coliseum on March 12, 2015.

46. Given the possible outcomes, the above-described transactions represented a virtual "can't lose" situation for Coliseum:

a. **Possible Outcome #1** – If Providence's non-Coliseum stockholders had elected to participate in full in the Rights Offering, Coliseum would have ended up with a much smaller number of shares of Preferred Stock, but Coliseum would be faced with none of the risk associated with increased equity ownership, and would have walked away with approximately $3 million in interest payments on the Subordinated Note (which for the reasons detailed above was effectively risk-free), a nearly $3 million commitment fee, and an approximately $4.6 million stock option grant as consolation prizes.

b. **Possible Outcome #2** – If none of Providence's non-Coliseum stockholders had elected to participate in the Rights Offering, Coliseum would have dramatically increased its equity stake in Providence through the high dividend-paying Preferred Stock (possibly even taking majority control of the Company through the PIK Dividends) and would have received nearly $6 million in cash interest and commitment fees and the $4.6 million stock option grant.

c. **Possible Outcome #3** – If some but not all of Providence's non-Coliseum stockholders elected to participate in the Rights Offering (which is what happened), Coliseum would significantly increase its equity stake in Providence through the high dividend-paying Preferred Stock and would have received nearly $6 million in cash interest and commitment fees and the $4.6 million stock option grant.

47. The unreasonably generous series of events by which Coliseum secured millions of dollars in cash while also significantly increasing its equity stake in Providence can only be explained by Coliseum's power and influence at the Company.

III. The Providence Board Attempts to Wrongfully Coerce Stockholders into Approving the Issuance of Preferred Stock to Coliseum

48. As indicated above, Providence's common stock is listed on NASDAQ.

49. NASDAQ Listing Rule 5635(b) requires that a listed company seek stockholder approval for the issuance of securities when the issuance or potential issuance could result in a change of control of the company.

50. The Company has stated that the PIK Dividend feature of the Preferred Stock could result in a change of control of the Company.

51. Thus, Providence is required to seek, and is seeking, stockholder approval of the Issuance of Preferred Stock to Coliseum.

52. Unless and until Providence's stockholders approve the Issuance, the Preferred Stock that is owned by Coliseum is subject to the following restrictions:

a. The Preferred Stock may only be voted to the extent that the aggregate voting power of all of the Company's voting stock beneficially owned by Coliseum does not exceed 19.99% of the aggregate voting power of all the Company's voting stock outstanding on the applicable record date for such vote (the "Voting Cap");

b. The Preferred Stock may not be voted in connection with the vote on the Issuance; and

c. The Preferred Stock may not be converted to the extent that after the conversion, Coliseum would beneficially own in excess of 19.99% of the Company's outstanding common stock (the "Conversion Cap" and together with the Voting Cap, the "Caps").

53. The Providence Board has included approval of the Issuance (and the accompanying Caps) on the ballot for the Company's upcoming 2015 annual meeting of stockholders. Specifically, proposal number four on the Company's proxy statement filed with the SEC on June 1, 2015 (the "Proxy") reads as follows:

> To approve a proposal to authorize, approve and ratify the issuance of convertible preferred stock to certain affiliates of our largest stockholder, Coliseum Capital Management, LLC, in accordance with NASDAQ Listing Rule 5635(b) …

54. The Providence Board has recommended that the Company's stockholders vote in favor of the following resolution:

> RESOLVED, that the stockholders of the Company approve,

> authorize and ratify the issuance and sale of the Preferred Stock to [Coliseum] and authorize [Coliseum] to (a) vote and (b) convert into Common Stock all of the Preferred Stock beneficially owned by [Coliseum], each in accordance with the listing standards of The Nasdaq Stock Market (or any successor thereto or other trading market on which the Common Stock is listed), including Nasdaq Stock Market Rule 5635(b).

55. The Providence Board, however, is attempting to wrongfully coerce the Company's unaffiliated stockholders into approving the Issuance and removing the Caps.

56. The Board has agreed that in the event that Providence stockholders do not approve the Issuance and removal of the Caps by November 7, 2015, then pursuant to the exchange agreement between the Company and Coliseum (the "Exchange Agreement"), dated as of February 11, 2015, Coliseum's Preferred Stock will be immediately exchanged into a new series of preferred stock, which will have a significantly higher dividend rate. Specifically, the cash dividend rate payable will increase from 5.5% to 10.5%, ***an increase of over 90%***, and the PIK dividend rate payable will increase from 8.5% to 13.5%, ***an increase of nearly 60%***.

57. Thus, Providence stockholders face the "choice" of either (a) approving the issuance of the Preferred Stock and the removal of the Caps or (b) rejecting the Issuance and causing the Company to pay a dramatically higher

dividend rate to its largest stockholder.

58. Indeed, the Proxy threatens Providence stockholders that:

> Given the significant amount of Preferred Stock that is held by [Coliseum], the increased dividend rate would result in a significant cost to the Company.

59. Due to this coercive mechanism, Providence stockholders are not able to vote on the Issuance and removal of the Caps based solely on their merits. Instead, the Company's stockholders are being coerced into approving the Issuance and the removal of the Caps through the threat of draconian consequences should they have the temerity to exercise their voting rights in a manner that displeases the Company's largest stockholder.

60. The NASDAQ Stock Market Corporate Governance Rules and Associated Interpretative Material make plain that the vote on removal of the Caps is coercive. In IM-5635-2, Interpretive Material Regarding the Use of Share Caps to Comply with Rule 5635, adopted March 12, 2009, NASDAQ recognized that caps on conversion of convertible preferred stock are defective where there is an increased coupon or conversion ratio if stockholders refuse to approve elimination of the caps. Such defective caps may subject the Company to delisting.

61. IM-5635-2 provides in pertinent part:

> Nasdaq has observed situations where Companies have attempted to cap the issuance of shares at below 20% but have also provided ***an***

> ***alternative outcome based upon whether shareholder approval is obtained***, including, but not limited to a ***"penalty"*** or a "sweetener." Instead, if the terms of a transaction can change based upon the outcome of the shareholder vote, no common shares may be issued prior to the approval of the Shareholders. ***Companies that engage in transactions with defective caps may be subject to delisting***. For example, a Company issues a convertible preferred stock or debt instrument that provides for conversions of up to 20% of the total shares outstanding with any further conversions subject to shareholder approval. However, ***the terms of instrument provide that if Shareholders reject the transaction, the coupon or conversion ratio will increase*** or the Company will be penalized by a specified monetary payment, including a rescission of the transaction. Likewise, a transaction may provide for improved terms if shareholder approval is obtained. ***Nasdaq believes that in such situations the cap is defective because the presence of the alternative outcome has a coercive effect on the shareholder vote, and thus may deprive Shareholders of their ability to freely exercise their vote***. Accordingly, Nasdaq will not accept a cap that defers the need for shareholder approval in such situations.

(emphasis added).

IV. Providence Fails to Disclose All Material Information Concerning the Issuance and Removal of the Caps

62. As explained above, because the Issuance to Coliseum could result in a change of control at Providence, NASDAQ Listing Rule 5635(b) requires the Company to seek and obtain stockholder approval.

63. Delaware law imposes an affirmative duty on directors to disclose fully and fairly all material information reasonably available when stockholder action is sought. The Proxy filed by Providence in connection with the stockholder

vote on the Issuance and removal of the Caps, however, fails to disclose all material information necessary to allow stockholders to cast an informed vote.

64. Among other things, the Proxy fails to disclose:

a. Who first suggested that the Providence Board fund a portion of the cash purchase price for the Matrix Acquisition with the Subordinated Note;

b. The reason that the Providence Board agreed to issue the high-interest Subordinated Note to Coliseum instead of pursuing less costly financing alternatives;

c. Any negotiations concerning the interest rate payable on the Subordinated Note;

d. What additional services, beyond those associated with serving as Board Chairman, Defendant Shackelton performed in connection with the Ingeus and Matrix acquisitions that justified the issuance of approximately $4.6 million in stock grants to Coliseum;

e. Who negotiated on behalf of the Company in connection with the Subordinated Note, Standby Purchase Agreement, Option and Exchange Agreement;

f. Whether Shackelton recused himself from Board deliberations concerning the Subordinated Note, Standby Purchase Agreement, Rights Offering, Option, Exchange Agreement and stock option grant to Coliseum (the "Transactions");

g. Any negotiations concerning the commitment fee paid by Providence to Coliseum in connection with the Standby Purchase Agreement;

h. Whether the Providence Board retained financial and/or

legal advisors in connection with the Transactions and the identity of such advisors;

i. The Board's rationale for issuing the Option to Coliseum;

j. Any negotiations regarding the Dividend Rate Increase;

k. Whether the Providence Board sought to obtain any protection against Coliseum obtaining majority control over the Company without paying a control premium; and

l. The circumstances surrounding Rustand's resignation as the Company's CEO, which came about without a succession plan in place and has served to further empower Shackelton.

V. Shackelton, Coliseum's Managing Partner, Becomes Providence's CEO

65. The months following the consummation of the Transactions have marked a turbulent period for Providence.

66. On May 11, 2015, Providence announced that Rustand had informed the Board that he would be resigning from his role as CEO and a member of the Board, effective June 1, 2015. Simultaneously, the Company also announced that Chairman Shackelton would assume the role of CEO on an interim basis until a replacement is named.

67. Rustand agreed to remain with the Company as a Senior Advisor for the remainder of 2015.

68. On June 1, 2015, Rustand stepped down as CEO and Shackelton assumed the Company's CEO position. This recent and drastic increase in Shackelton's power at Providence heightens the significance of the vote on the Issuance and removal of the Caps.

69. Additionally, Shackelton stepped down from each of the Company's Audit Committee, Compensation Committee and Nominating and Governance Committee. As a result, Providence was forced to notify NASDAQ that it was no longer in compliance with the "three independent member audit committee" requirement of NASDAQ's listing rules.[4]

CLASS ACTION ALLEGATIONS

70. Plaintiff brings this action pursuant to Rule 23 of the Rules of the Court of Chancery, individually and on behalf of all other holders of Providence's common stock (except Defendants herein and any persons, firm, trust, corporation or other entity related to or affiliated with them and their successors in interest)

[4] NASDAQ Listing Rule 5065 provides a "cure period" for Providence to regain compliance with NASDAQ's "three independent member audit committee" requirement. This cure period will run through the earlier of the Company's next annual stockholders' meeting or June 1, 2016 or, if the Company's next annual stockholders' meeting is held before November 30, 2015, then the Company must evidence compliance no later than November 30, 2015. Providence has publicly stated that it intends to appoint an additional independent director to the Board and each of its committees, including the Audit Committee, prior to the end of the cure period provided by NASDAQ rules.

who are or will be threatened with injury arising from Defendants' wrongful actions, as more fully described herein (the "Class").

71. This action is properly maintainable as a class action.

72. The Class is so numerous that joinder of all members is impracticable. The Company has thousands of stockholders who are scattered throughout the United States. As of May 6, 2015, there were 16,037,711 shares of Providence common stock outstanding.

73. There are questions of law and fact common to the Class including, *inter alia*, whether:

a. The Individual Defendants breached their fiduciary duties by attempting to coerce the stockholder vote on the Issuance and removal of the Caps;

b. The Individual Defendants breached their fiduciary duties by failing to disclose all material information necessary to allow Providence stockholders to cast an informed vote on the Issuance and the removal of the Caps;

c. Coliseum aided and abetted the Individual Defendants' breaches of fiduciary duty;

d. Plaintiff and the other members of the Class are being and will continue to be injured by the wrongful conduct alleged herein and, if so, what is the proper remedy and/or measure of damages; and

e. Plaintiff and the other members of the Class will be damaged irreparably by Defendants' conduct.

74. Plaintiff is committed to prosecuting the action and has retained competent counsel experienced in litigation of this nature. Plaintiff's claims are typical of the claims of the other members of the Class, and Plaintiff has the same interests as the other members of the Class. Plaintiff is an adequate representative of the Class.

75. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class that would establish incompatible standards of conduct for Defendants or adjudications with respect to individual members of the Class that would as a practical matter be disjunctive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

76. Defendants have acted, or refused to act, on grounds generally applicable to, and causing injury to, the Class and, therefore, preliminary and final injunctive relief on behalf of the Class, as a whole, is appropriate.

COUNT I

DIRECT CLAIM RELATING TO INVALIDITY OF DIVIDEND RATE INCREASE PROVISION

77. Plaintiff repeats and realleges each and every allegation above as if set

forth in full herein.

78. The Dividend Rate Increase provision of the Exchange Agreement provides that if stockholders do not approve the Issuance by November 7, 2015, then the cash dividend rate payable on the Preferred Stock held by Coliseum will increase from 5.5% to 10.5% and the PIK Dividend rate payable will increase from 8.5% to 13.5%.

79. The Dividend Rate Increase provision is invalid as a coercive measure that impairs the voting rights of Providence stockholders.

80. As a direct and proximate consequence of the foregoing, Plaintiff and the Class have been and will be harmed and have no adequate remedy at law.

COUNT II

DIRECT CLAIM FOR BREACH OF FIDUCIARY DUTY
AGAINST THE INDIVIDUAL DEFENDANTS

81. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

82. The Individual Defendants, as Providence directors, owe the Class the utmost fiduciary duties of care and loyalty. By virtue of their positions as directors and/or officers of Providence and/or their exercise of control and ownership over the business and corporate affairs of the Company, the Individual Defendants have, and at all relevant times had, the power to control and influence and did control

and influence and cause the Company to engage in the practices complained of herein. Each Individual Defendant was required to: (a) use their ability to control and manage Providence in a fair, just, and equitable manner; d (b) act in furtherance of the best interests of Providence and ***all*** of its stockholders (and not just their own); and (c) fully disclose all material information relating to the Issuance and removal of the Caps so that stockholders can make a fully informed voting decision.

83. The Individual Defendants have breached their fiduciary duties by (a) attempting to wrongfully coerce Providence stockholders into approving the Issuance and removal of the Caps by threatening stockholders with a significant economic penalty if the Issuance and removal of the Caps are not approved by November 7, 2015 and (b) failing to disclose all material information relating to the Issuance and removal of the Caps necessary to allow Providence stockholders to cast a fully informed vote.

84. As a result of the Individual Defendants' breaches of fiduciary duty, the Class will be harmed by being deprived of their right to cast a fully informed vote on the Issuance and removal of the Caps free of wrongful coercion.

85. Plaintiff and the Class have no adequate remedy at law.

COUNT III

DIRECT CLAIM AGAINST COLISEUM FOR AIDING AND ABETTING THE INDIVIDUAL DEFENDANTS' BREACHES OF FIDUCIARY DUTY

86. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

87. Coliseum knew the Individual Defendants were breaching their fiduciary duties as alleged herein and materially participated in and assisted the Individual Defendants' breaches.

88. For example, Coliseum knowingly insisted upon including invalid and coercive terms in the Exchange Agreement. In addition, Coliseum formulated transaction terms and a transaction process that risks the delisting of Providence's common stock.

89. As a direct and proximate result of the foregoing, Plaintiff and the Class have been harmed and have no adequate remedy at law.

DERIVATIVE ALLEGATIONS

90. In addition to bringing this action on behalf of the Class, Plaintiff also brings this action derivatively to redress certain injuries suffered by the Company as a direct result of breaches of fiduciary duty by the Individual Defendants.

91. Plaintiff currently owns Providence stock and has owned Providence stock continuously during the relevant period.

92. Plaintiff will adequately and fairly represent the interests of

Providence and its stockholders in enforcing and prosecuting their rights, and has retained counsel competent and experienced in stockholder derivative litigation.

DEMAND ON THE DEMAND BOARD IS EXCUSED AS FUTILE

93. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

94. Plaintiff has not made a demand on the three-member Demand Board[5] to investigate or prosecute the derivative claims asserted herein because such demand is excused as futile.

95. Such demand would be futile and useless, and is thereby excused, for at least two independent reasons: (a) a majority of the Demand Board is comprised of individuals who (i) have a direct interest in the Transactions, (ii) have a financial interest in not jeopardizing their continued tenure as Providence directors by taking actions contrary to the wishes of the Company's Chairman, CEO and largest stockholder, and/or (iii) have a direct interest in defending the terms of the Transactions; and (b) the Transactions were not the product of a valid exercise of business judgment.

I. A Majority of the Members of the Demand Board Have a Direct

[5] In light of Defendant Rustand's recent resignation from the Providence Board, the Company's Board currently consists of directors Shackelton, Kerley and Meints. These three directors are referred to collectively herein as the "Demand Board."

Financial Interest in the Transactions or are Otherwise Incapable of Objectively Considering a Demand

96. **Defendant Shackelton** is the Managing Partner of Coliseum and has an ownership stake in Coliseum. Thus, Shackelton has a direct financial interest in the Transactions.

97. Accordingly, it would be antithetical to Shackelton's economic interest to investigate or pursue claims relating to the Transactions, which benefitted Coliseum (and therefore himself).

98. **Defendant Kerley** is retired. In the last three years alone, Kerley has received more than $1 million from Providence as compensation for his service as a director. On information and belief, this director compensation is material to the retired Kerley.

99. If Kerley was to aggressively pursue claims antithetical to the economic interests of Shackelton, who is now Providence's Chairman, CEO and largest stockholder, it could result in the end of Kerley's tenure as a director and the end of his receipt of lucrative director compensation.

100. Additionally, Kerley faces a substantial likelihood of liability in connection with his approval of the Transactions and it would be against his personal interest to aggressively investigate or pursue claims relating to them.

101. Further, Kerley has exhibited undue loyalty to Shackelton, as

evidenced in part by the Board's approval of the excessive and undeserved $4.6 million stock option award to Coliseum in September 2014. Kerley served as Chair of the Compensation Committee when the Board issued the award. Kerley is therefore even less likely to investigate or prosecute the derivative claims alleged herein as that would be adverse to Shackelton's interests, which Kerley has shown to prioritize in his role as a member of the Providence Board.

102. **Defendant Meints** is retired and serves on no other public company's board of directors. In the last three years alone, Meints has received more than $1 million from Providence as compensation for her service as a director. On information and belief, this director compensation is material to the retired Meints.

103. If Meints were to aggressively pursue claims antithetical to the economic interests of Shackelton, who is now Providence's Chairman, CEO and largest stockholder, it could result in the end of Meints' tenure as a director and the end of her receipt of lucrative director compensation.

104. Additionally, Meints faces a substantial likelihood of liability in connection with her approval of the Transactions and it would be against her personal interest to aggressively investigate or pursue claims relating to them.

105. Further, Meints has exhibited undue loyalty to Shackelton, as evidenced in part by the Board's approval of the excessive and undeserved $4.6

million stock option award to Coliseum in September 2014. Meints is therefore even less likely to investigate or prosecute the derivative claims alleged herein as that would be adverse to Shackelton's interests, which Meints has shown to prioritize in her role as a member of the Providence Board.

106. As a result, each member of the three-member Demand Board is incapable of objectively considering a demand to investigate or prosecute the derivative claims alleged herein, and demand on the Demand Board is therefore excused as futile.

II. The Transactions Were Not the Product of a Valid Exercise of Business Judgment

107. As detailed herein, the process leading to the Transactions was fatally flawed and conflicted. During that process, the Board, among other things, (a) allowed Shackelton to steer Providence into a series of transactions unreasonably favorable to Coliseum, (b) agreed to enter into the Subordinated Note with Coliseum instead of legitimately attempting to secure lower cost financing, (c) allowed Coliseum to "double dip" through the high-interest Subordinated Note and commitment fee for the "backstop" to the Rights Offering, (d) allowed Coliseum to exploit the Company's desire to consummate the Matrix Acquisition as an opportunity to dramatically increase its equity stake in the Company (possibly to a controlling stake) for a discounted price, (e) provided Coliseum with

the Option to acquire additional Preferred Stock and further increase its ownership over Providence, and (f) granted Coliseum an excessive $4.6 million in stock options for what appears to be Shackelton simply performing his duties as the Company's Chairman.

108. The Transactions are so one-sided that they are beyond the bounds of reasonable judgment and are inexplicable on any ground other than bad faith.

109. Thus, demand on the Demand Board is excused as futile.

COUNT IV

DERIVATIVE CLAIM FOR BREACH OF FIDUCIARY DUTY AGAINST THE INDIVIDUAL DEFENDANTS

110. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

111. The Individual Defendants, as Providence directors, owe the Company the utmost fiduciary duties of care and loyalty. By virtue of their positions as directors and/or officers of Providence and/or their exercise of control and ownership over the business and corporate affairs of the Company, the Individual Defendants have, and at all relevant times had, the power to control and influence and did control and influence and cause the Company to engage in the practices complained of herein. Each Individual Defendant was required to: (a) use their ability to control and manage Providence in a fair, just, and equitable

manner; and (b) act in furtherance of the best interests of Providence and its stockholders and not their own.

112. The Individual Defendants breached their fiduciary duties owed to the Company by, among other things, (a) allowing Shackelton to steer Providence into a series of transactions unreasonably favorable to Coliseum, (b) failing to insulate negotiation of the Transactions from the undue influence of Shackelton and Coliseum, (c) agreeing to enter into the Subordinated Note with Coliseum instead of legitimately attempting to secure lower cost financing, (d) allowing Coliseum to "double dip" through the high-interest Subordinated Note and commitment fee for the "backstop" to the Rights Offering, (e) allowing Coliseum to exploit the Company's desire to consummate the Matrix Acquisition as an opportunity to dramatically increase Coliseum's equity stake in the Company (possibly to a controlling stake) for a discounted price, (f) providing Coliseum with the Option to acquire additional Preferred Stock and further increase its ownership over Providence, and (g) granting Coliseum an excessive $4.6 million in stock options for what appears to be Shackelton simply performing his duties as the Company's Chairman.

113. The Company has and will be harmed in the amount of the undue cost inflicted upon the Company through the Transactions and through the

inappropriate dilution that occurred as a result of the Rights Offering and Option, which would likely have been unnecessary had the Company sought and obtained a lower cost financing alternative for the Matrix Acquisition.

COUNT V

DERIVATIVE CLAIM AGAINST COLISEUM FOR AIDING AND ABETTING THE INDIVIDUAL DEFENDANTS' BREACHES OF FIDUCIARY DUTY

114. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

115. Defendant Coliseum knowingly (a) exploited the Company's desire to complete the Matrix Acquisition; and (b) negotiated for unreasonable and unfair terms in the Transactions.

116. Defendant Coliseum caused the Individual Defendants to breach their fiduciary duties.

117. As a result of Coliseum's conduct, the Company has and will be harmed by the undue cost inflicted upon the Company through the Transactions and through the inappropriate dilution that occurred as a result of the Rights Offering and Option, which would likely have been unnecessary had the Company sought and obtained a lower cost financing alternative for the Matrix Acquisition.

COUNT VI

DERIVATIVE CLAIM FOR UNJUST ENRICHMENT AGAINST COLISEUM

118. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

119. The Transactions were the product of breaches of fiduciary duty by the Individual Defendants.

120. The terms of the Transactions are unreasonable and unfair to the Company and provide improper benefits to Coliseum.

121. The process by which the Transactions were orchestrated was also improper and unduly influenced by Coliseum.

122. Coliseum was the direct and primary recipient of the benefits bestowed by the Transactions, and those benefits were derived by improper and unlawful means.

123. It would be unconscionable for Coliseum to be permitted to retain these benefits that were derived by improper and unlawful means.

124. Coliseum has therefore been unjustly enriched as a result of the Transactions, and the Company is entitled to rescission and/or restitution.

RELIEF REQUESTED

WHEREFORE, Plaintiff demands judgment as follows:

a. Enjoining Defendants from holding the stockholder vote on the Issuance and the removal of the Caps unless and until (a) the wrongfully coercive Dividend Rate Increase provision has been declared invalid or is otherwise eliminated and (b) all material information necessary to allow Providence stockholders to cast a fully informed ballot on the Issuance and removal of the Caps has been fully disclosed;

b. Finding the Individual Defendants liable for breaching its fiduciary duties owed to the Class and the Company;

c. Finding Coliseum liable for aiding and abetting the Individual Defendants' breaches of fiduciary duty;

d. Finding Coliseum liable for unjust enrichment;

e. Finding that demand on the Demand Board is excused as futile;

f. Revising or rescinding the terms of the Subordinated Note and Preferred Stock as necessary and/or appropriate;

g. Requiring the Company to reform its corporate governance profile to protect against future misconduct similar to that alleged herein;

h. Certifying the proposed Class and awarding its members compensatory damages, together with pre- and post-judgment interest;

i. Awarding Plaintiff the costs and disbursements of this action, including attorneys', accountants', and experts' fees; and

j. Awarding such other and further relief as is just and equitable.

Dated: June 15, 2015

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