

Shawn R. Fox  
MCGUIREWOODS LLP  
1345 Avenue of the Americas, 7th Floor  
New York, NY 10105-0106  
Telephone: (212) 548-2165  
Facsimile: (212) 548-2150

*Counsel to Aetna Inc. and Certain Affiliates*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X	
In re:	: Chapter 11
	: :
THE CHRISTIAN BROTHERS'	: :
INSTITUTE, <i>et al.</i> ,	: Case No. 11-22820 (RDD)
	: :
Debtors.	: Jointly Administered
	: :
-----X	

**LIMITED OBJECTION TO DEBTORS' PROPOSED ASSUMPTION PURSUANT TO  
FIRST AMENDED PLAN AND RESERVATION OF RIGHTS OF AETNA INC. AND  
CERTAIN AFFILIATED ENTITIES**

Aetna Inc. and certain affiliated entities ("Aetna"), by and through undersigned counsel, files this limited objection to the proposed assumption by the above-captioned debtors (the "Debtors") of certain prepetition agreements with Aetna (the "Aetna Agreements") pursuant to the *First Amended Joint Chapter 11 Plan of Reorganization Proposed by the Christian Brothers' Institute and the Christian Brothers of Ireland, Inc. and the Official Committee of Unsecured Creditors* (the "First Amended Plan") [Docket No. 620] and, in support thereof, respectfully states as follows:

**Background**

1. Pursuant to the Aetna Agreements, Aetna provides various types of insurance products to the Debtors' enrolled employees.

2. On April 28, 2011, the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101, *et seq.* (the “Bankruptcy Code”) commencing the above-captioned cases in the United States Bankruptcy Court for the Southern District of New York (the “Court”).

3. The Debtors continue to operate their businesses and property as debtors-in-possession in accordance with Sections 1107 and 1108 of the Bankruptcy Code. A creditors’ committee (the “Committee”) has been appointed in these chapter 11 cases.

4. On December 9, 2013, the Debtors and the Committee filed the First Amended Plan, which provides that “[t]o the extent not previously assumed, all employee and retiree benefit plans to which the Debtors are a party will be deemed assumed by the Reorganized Debtors on the Effective Date.” *See* First Amended Plan, § 16.1. The First Amended Plan further provides that “[a]ll payments to cure defaults that may be required under Section 365(b)(1) of the Bankruptcy Code will be made by the Reorganized Debtors.” *See id.* at § 16.2.

#### **Limited Objection**

5. In order for the Debtors to assume and assign any executory contract or unexpired lease, the Debtors must cure any amounts outstanding thereunder pursuant to section 365 of the Bankruptcy Code. *See* 11 U.S.C. § 365(b)(1).

6. In the past, the Debtors have typically paid Aetna the amounts due and owing under the Aetna Agreements in the ordinary course of business. Pursuant to section 363 of the Bankruptcy Code, the Debtors are authorized to continue paying Aetna post-petition all amounts due and owing under the Aetna Agreements in the ordinary course of business. *See* 11 U.S.C. § 363(c).

7. To the extent the Debtors make all payments under the Aetna Agreements for the January 2014 period in the ordinary course of business, Aetna has no objection to the Debtors' assumption of the Aetna Agreements. However, because Aetna has not yet received payment under the Aetna Agreements for the January 2014 period, Aetna files this limited objection to ensure that it remains entitled to collect such amounts.

8. As of the date hereof, the total amount of \$83,258.19 is due and owing under the Aetna Agreements. Pursuant to section 365 of the Bankruptcy Code, unless these amounts are paid in the ordinary course of business prior to assumption, the Debtors must cure these outstanding amounts before the Aetna Agreements can be assumed.

**Reservation of Rights**

9. Aetna reserves the right to modify, supplement and/or amend this limited objection as further information becomes available, including as to any additional amounts that may become due prior to the assumption date. Aetna reserves and retains all rights to assert post-assumption any overpayment or other claims that may arise under the Aetna Agreements relating to pre-assumption events.

**WHEREFORE**, Aetna objects to the Plan and requests that the Court enter an order consistent with this limited objection and grant Aetna such further relief as the Court deems appropriate.

Dated: January 3, 2014  
New York, New York

Respectfully submitted,

**McGUIREWOODS LLP**

/s/ Shawn R. Fox  
Shawn R. Fox  
1345 Avenue of the Americas  
7th Floor  
New York, NY 10105-0106  
Telephone: (212) 548-2165  
Facsimile: (212) 548-2150

-and-

Aaron G. McCollough  
77 West Wacker Drive  
Suite 4100  
Chicago, IL 60601-1818  
Telephone: (312) 849-8256  
Facsimile: (312) 698-4522

-and-

Whitney R. Travis  
One James Center  
901 East Cary Street  
Richmond, VA 23219-4030  
Telephone: (804) 775-1125  
Facsimile: (804) 775-1061

*Counsel to Aetna Inc. and Certain Affiliates*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 3, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to all counsel of record, and I caused a copy of the foregoing to be served by FedEx to chambers of the Honorable Robert D. Drain and by e-mail to:

TARTER KRINSKY & DROGIN LLP

Scott Markowitz, Esq. (e-mail: [smarkowitz@tarterkrinsky.com](mailto:smarkowitz@tarterkrinsky.com))  
Anthony Dougherty, Esq. (e-mail: [adougherty@tarterkrinsky.com](mailto:adougherty@tarterkrinsky.com))  
1350 Broadway, 11<sup>th</sup> Floor  
New York, NY 10017  
***Attorneys for the Debtor***

PACHULSKI STANG ZIEHL & JONES LLP

Ilan D. Scharf, Esq. (e-mail: [ischarf@pszjlaw.com](mailto:ischarf@pszjlaw.com))  
780 Third Avenue, 36<sup>th</sup> Floor  
New York, NY 10017

-and-

James I. Stang, Esq. (e-mail: [jstang@pszjlaw.com](mailto:jstang@pszjlaw.com))  
10100 Santa Monica Blvd., 13<sup>th</sup> Floor  
Los Angeles, CA 90067  
***Attorneys for the Committee***

Paul Schwartzberg, Esq. (e-mail: [Paul.Schwartzberg@usdoj.gov](mailto:Paul.Schwartzberg@usdoj.gov))  
33 Whitehall Street, 21<sup>st</sup> Floor  
New York, NY 10004  
***Office of the U.S. Trustee***

/s/ Shawn R. Fox  
Shawn R. Fox