


DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Singleton</i>	DATE <i>11-30-06</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>000379</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Mr. Kyr, Booking</i> 	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
	<input type="checkbox"/> FOIA DATE DUE _____
	<input checked="" type="checkbox"/> Necessary Action

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			

NEXSEN | PRUET

William A. Prince
Member
Admitted in SC

November 29, 2006

RECEIVED

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Department of Health & Human Services
OFFICE OF THE DIRECTOR

VIA FACSIMILE AND U.S. MAIL

Stephanie Davis

Chief of Long Term Care Enforcement Branch
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Howard Lewis, Esquire
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Charlotte

Columbia

Greensboro

Greenville

Hilton Head

Myrtle Beach

Re: Richard C. Cooke, A&R Enterprises, Inc., and Cooke Associates,
Inc.

Dear Ms. Davis and Mr. Lewis:

This letter is written as a follow up to our telephone conference on November 17, 2006 concerning the Richard C. Cooke ("Cooke"), A&R Enterprises, Inc. ("A&R"), and Cooke Associates debarment by the United States Department of Housing and Urban Development ("HUD") for a three year period beginning May 7, 2004 due to "irregularities of a serious nature" in A&R's providing management services to Ridgeview Manor, an FHA-insured nursing home and assisted living facility located in Hopkins, South Carolina. We further understand that the Centers for Medicare and Medicaid Services ("CMS") is currently considering the affect the HUD debarment may have on Cooke, A&R and Cooke Associates' ability to participate in Medicaid and Medicare. As you are aware, Cooke, A&R, and Cooke Associates either

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through ownership, leases or management services arrangements, provide nursing home and assisted living services to approximately 875 Medicare and Medicaid beneficiaries in South Carolina. This letter is written to provide you with a revised proposal that hopefully would allow each of the facilities currently owned, operated or managed by Cooke, A&R or Cooke Associates to continue to participate in Medicare and Medicaid, thereby avoiding any disruption in the provision of services to these Medicare and Medicaid beneficiaries.

Our client proposes the following: (1) Cooke to divest himself of all of his equity interests in the following: (i) all entities that participate in the Medicare and Medicaid programs, (ii) all entities that operate entities that participate in the Medicare and Medicaid programs, and (iii) all entities that provide management or other services to entities that participate in Medicare and Medicaid programs; (2) following the foregoing actions by Cooke, take the actions necessary to have Cooke Associates, Inc. removed from HUD debarment; (3) Cooke to resign from all Director, Manager, Officer or any other positions in any entity that participates in the Medicare and Medicaid programs; and (4) Cooke to take the necessary steps to replace A&R with Cooke Associates of Fountain Inn, LLC as the operating entity and licensee of Fountain Inn Nursing Home and replace A&R with Cooke Management, Inc. as the entity managing Bethesda Baptist Health Care Center. A brief review of each of these proposals is set forth below.

1. Transfer of Equity Interests

Cooke proposes to transfer all of the equity interests he has in any of the entities that receive Medicaid or Medicare reimbursement including the following: (1) Kingstree Nursing Facility (owned by Kingstree Nursing Facility, Inc.); (2) Sunny Acres (owned by Cooke Associates of Fork, LLC); (3) Azalea Woods (owned by Aiken Nursing Home, Inc.); and (4) Carolina MedCare, Inc.

Cooke additionally proposes to transfer all of the equity interests he has in any entity that operates any entity that receives Medicaid or Medicare reimbursement including the following: (1) Cooke Associates, Inc.¹ which operates McCoy Memorial Nursing Center through a lease arrangement; and (2) Cook Associates of Florence, Inc. which operates Clark Nursing Home also through a lease arrangement.

¹ See Section 2 of this letter for a further explanation of actions to be taken in regard to Cooke Associates.

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Cooke also proposes to transfer all equity interests in Cooke Associates of Fountain Inn, LLC and have Cooke Associates of Fountain Inn, LLC apply to the South Carolina Department of Health and Environmental Control Division of Health Licensing ("DHEC Health Licensing") to become the licensee of and operate Fountain Inn Nursing Home. Currently, A&R is the entity that operates Fountain Inn Nursing Home.

Cooke further proposes to transfer all equity interests in Cooke Management Company, Inc. Cooke Management Company, Inc. provides various management services to each of the foregoing entities.

Cooke prefers to transfer all of his equity interests to Tony R. Cooke, Cooke's brother. Tony R. Cooke has no and has never had any equity interests in A&R and was not involved in the management of Ridgeview Manor. Tony R. Cooke is and has been an equity owner in Kingstree Nursing Facility, Inc., Cooke Associates of Fork, Inc., Cooke Associates, Inc., and Fountain Inn Nursing Home, Inc. Tony R. Cooke is currently the Vice President of each of these entities. He has been involved in the day to day operations of these facilities since 1985 and currently is the Vice President of Operations for all of the Cooke family facilities. Tony R. Cooke has the requisite knowledge and experience to own and operate these facilities.

If and only if the transfer of the equity interests to Tony R. Cooke is not acceptable, then Cooke proposes to transfer all of his interests to Ryan Finklea, who is not a member of Cooke's immediate family. Mr. Finklea is the current Chief Financial Officer of Cooke Management, Inc.

The foregoing transfers will be made in arm's length transactions evidenced by stock/equity interest purchase and option agreements (the "Agreements"). The consideration for the transfers will be set forth in the Agreements and evidenced by Promissory Notes. The Agreements will provide an option for Cooke to repurchase the equity interests if and only if Cooke is eligible to participate in the Medicare and Medicaid programs.

2. Take the Steps Necessary to Have Cooke Associates, Inc. Removed from HUD Debarment

Following a telephone conversation on November 21, 2006 with Mr. Art Orton, Director of the Departmental Enforcement Compliance Division, we understand that Cooke Associates we debarred from HUD participation solely because of its affiliation with Cooke. We further understand that once Mr.

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Cooke divests himself of all interest in Cooke Associates, Inc. and is no longer a principal, as such is defined at 24 C.F.R. §24.995, in Cooke Associates, Inc., there would be no basis to continue the debarment of Cooke Associates, Inc. See the attached letter written to Ms. Margarita Maisonet, Director of the HUD Departmental Enforcement Center, asking for a written confirmation that once Mr. Cooke is no longer a principal in Cooke Associates, Inc., that Cooke Associates, Inc. could be removed from HUD debarment. We will keep you informed of our correspondence with Ms. Maisonet.

3. Cooke's Resignation as a Director, Manager, or Officer or Other Position

In the Agreements, Cooke will agree that, as of the closing of the transfer of equity interests, without further action, he has effectively resigned from all capacities with each of the foregoing entities including as a Director, Manager, Officer, Employee, Independent Contractor, Advisor, Consultant or Agent of any of the entities. The resignations will be further evidenced by an officer's certificate from each of the foregoing entities.

4. Replace the Operational Entity of Fountain Inn Nursing Home and the Managing Entity of Bethea Baptist Health Care Center

As previously stated, A&R is the current licensee of Fountain Inn Nursing Home. Cooke proposes, after he has transferred all equity interests in Fountain Inn Nursing Home, LLC, that Fountain Inn Nursing Home, LLC apply with DHEC Health Licensing to become the new licensee and operating entity.

Bethea Baptist Health Care Center is managed by A&R. Cooke proposes to, with the consent of Bethea Baptist Health Care Center and after Cooke has transferred his equity interests in Cooke Management Company, Inc., replace A&R with Cooke Management Company, Inc. as the managing entity.

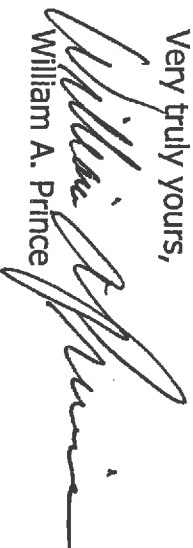
Cooke and A&R will provide CMS with supporting documentation for the transactions discussed in this letter.

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Finally, Cooke Management, Inc. is hiring an unrelated third party to act as its president and to be involved in the administration and operations of each of the foregoing facilities. Rick Cranford is joining Cooke Management, Inc. in early December. Mr. Cranford has been involved in long term care administration since 1995, was an area manager for a large multi-facility long term care company for three years, has experience as a human resources director for four years and, most recently, has operated a religious based nonprofit entity in North Carolina consisting of four nursing homes and four assisted living facilities.

Thank you for your consideration of this very important matter.

Very truly yours,



William A. Prince

BAP/cwb

Enclosures

cc: Robert Kerr, Director, South Carolina Department of
Health and Human Services ("DHHS")
Deidra Singleton, General Counsel to SCDHHS
Jeanne M. Born, Esquire