

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IN RE:)
)
ITT EDUCATIONAL SERVICES, INC., *et al.*¹) Case No. 16-07207-JMC-7A
)
Debtors.) Jointly Administered

**TRUSTEE’S AGREED MOTION TO SET OFF A
PORTION OF CIGNA HEALTH AND LIFE INSURANCE COMPANY’S
PREPETITION CLAIM AGAINST FUNDS HELD IN ITT’S PLAN ACCOUNT**

Deborah J. Caruso, the chapter 7 trustee in this case (the “Trustee”), by counsel, requests entry of an order, pursuant to 11 U.S.C. §§ 105(a), 506(a) and 553, (a) authorizing the Trustee and Cigna Health and Life Insurance Company (“Cigna”) to set off a portion of Cigna’s prepetition claim against funds held in the Plan Account (defined below), and (b) directing Cigna to cause the transfer of the remaining balance in the Plan Account to the Trustee, on the following grounds:

I. JURISDICTION

1. The Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b).
2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates for relief are sections 105(a), 506(a), and 553 of the United States Code (the “Bankruptcy Code”).

II. BACKGROUND

4. On September 16, 2016 (the “Petition Date”), ITT Educational Services, Inc. (“ITT”), ESI Service Corp. (“ESI”) and Daniel Webster College, Inc. (“DWC,” and together with

¹ The debtors in these cases, along with the last four digits of their respective federal tax identification numbers are ITT Educational Services, Inc. [1311]; ESI Service Corp. [2117]; and Daniel Webster College, Inc. [5980].

ITT and ESI, the “Affiliated Debtors”) filed voluntary petitions for relief under chapter 7 of the Bankruptcy Code. The Trustee was appointed interim trustee under section 701 of the Bankruptcy Code in each of the Affiliated Debtors’ bankruptcy cases on the Petition Date, and in accordance with section 702(d) of the Bankruptcy Code, became the permanent case trustee on November 1, 2016 following the conclusion of the meeting of creditors held pursuant to section 341(a) of the Bankruptcy Code.

5. On October 4, 2016, the Court entered its *Order Granting Motion for Joint Administration of Chapter 7 Cases* [Docs 221 & 222], directing the Affiliated Debtors’ bankruptcy cases to be jointly administered for procedural purposes only.

6. Prior to the Petition Date, ITT and Cigna entered into a certain Administrative Services Only Agreement, together with all amendments, exhibits, appendices, schedules, and benefit booklets thereto (the “Services Agreement”), whereby Cigna provided administrative services to ITT related to ITT’s employee healthcare benefit plans.

7. Pursuant to the terms and conditions of the Services Agreement, ITT opened a bank account at Citibank Delaware, Account No. XXXX7974 (the “Plan Account”) that was in the name of ITT and was funded by ITT. The Plan Account was utilized by Cigna to pay employee medical, dental and pharmaceutical claims and vendor charges (“Payable Claims”), all of which were to be funded from the Plan Account. Under the Services Agreement, once all Payable Claims have been satisfied, any funds remaining in the Plan Account are to be transferred to an account designated by ITT and the Plan Account is to be closed.

8. Prior to the Petition Date, ITT failed to sufficiently fund the Plan Account to cover Payable Claims, and Cigna advanced \$70,181.80 to pay Payable Claims. The Service Agreement was terminated in September, 2016.

9. On January 27, 2017, Cigna timely filed Claim No. 2487 in Case No. 16-07207, asserting a claim in the total amount of \$84,136.06 (the “Cigna POC”). The Cigna POC is attached and incorporated as Exhibit 1.

10. Pursuant to the Cigna POC, Cigna asserts, under section 507(a)(5) of the Bankruptcy Code, a priority claim in the amount of \$84,136.06 in connection with contributions to ITT’s employee benefit plans arising from services rendered within 180 days before the Petition Date. In addition, Cigna asserts that \$70,181.80 of its priority claim is secured (“Secured Claim”) by virtue of its setoff rights against the cash balance in the Plan Account. The current cash balance in the Plan Account is \$196,802.43.

III. RELIEF REQUESTED

11. The Trustee requests entry of an order, pursuant to sections 105(a), 506(a) and 553 of the Bankruptcy Code, (a) authorizing the Trustee and Cigna to set off the secured portion of the Cigna POC in the amount of \$70,181.80 against the funds held in the Plan Account, (b) authorizing and directing Cigna to cause the transfer of the remaining balance in the Plan Account in the approximate amount of \$126,620.63 (“Transfer”) to the Trustee following such setoff, (c) authorizing and directing the Trustee and Cigna to cause the Plan Account to be closed following the Transfer, and (d) authorizing and directing Cigna to amend the Cigna POC to assert only an unsecured priority claim pursuant to section 507(a)(5) of the Bankruptcy Code in the amount of \$13,954.26.

IV. GROUNDS FOR GRANTING RELIEF

12. Section 105(a) of the Bankruptcy Code provides that “[t]he Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.”

13. Cigna has an independent contractual right of setoff pursuant to the Services Agreement. The Secured Claim asserted by the Cigna POC is *prima facie* valid. Fed. R. Bankr. P. 3001(f). The Cigna POC has not been disallowed, transferred to a third party, or incurred for the purpose of obtaining a right of setoff against ITT.

14. Section 506(a) of the Bankruptcy Code treats a right to setoff as a secured claim to the extent of the funds subject to setoff on the Petition Date. Accordingly, Cigna does hold a valid secured claim against the funds in the Plan Account in the amount of \$70,181.80.

15. Counsel for Cigna, Jeffrey C. Wisler, has reviewed this motion and consents to the requested relief and has agreed to waive any requirement, under Rule 7001(1) of the Federal Rules of Bankruptcy Procedure, for the Trustee to file an adversary proceeding related to the relief sought herein.

V. NOTICE

16. Pursuant to the *Notice, Case Management and Administrative Procedures* (the “Case Management Procedures”) approved by the Court on October 4, 2016 [Doc 220], the Trustee will serve a copy of this motion on the following (as defined in the Case Management Procedures): (a) the Core Group; (b) the Request for Notice List; and (c) the Appearance List.

NOTICE IS GIVEN, that pursuant to the Case Management Procedures, any objection to this motion must be in writing and filed with the Bankruptcy Clerk by no later than **4:00 p.m.** (prevailing Eastern time) on **December 8, 2021**. Parties not represented by an attorney may deliver any written objection to this motion as follows: (a) by U.S. mail, courier, overnight/express mail at Clerk, United States Bankruptcy Court, Re: *In re ITT Educational Services, Inc., et al.*, 116 U.S. Courthouse, 46 East Ohio Street, Indianapolis, IN 46204; or (b) by publicly accessible drop box available at the Indianapolis Division located at the New York Street and Pennsylvania Street entrance.

The objecting party must also serve a copy of the written objection upon the Trustee’s counsel, at Counsel for Trustee Deborah J. Caruso, Rubin & Levin, P.C., 135 N. Pennsylvania Street, Suite 1400, Indianapolis, IN 46204 (mtheisen@rubin-levin.net). **If an objection is NOT timely filed, the requested relief may be granted without a hearing.**

NOTICE IS FURTHER GIVEN that in the event an objection to this motion is timely filed, a hearing on this motion and such objection will be conducted on **December 15, 2021** at **1:30 p.m.** (prevailing Eastern Time), in Room 325 of the United States Courthouse, 46 East Ohio Street, Indianapolis, IN 46204. Interested parties may also participate at the hearing by conference call by calling 1-888-273-3658, passcode 6349352#.

WHEREFORE, the Trustee requests entry of an order, (i) authorizing the Trustee and Cigna to set off the secured portion of the Cigna POC in the amount of \$70,181.80 against the funds held in the Plan Account, (ii) authorizing and directing Cigna to cause the transfer of the remaining balance in the Plan Account in the approximate amount of \$126,620.63 (“Transfer”) to the Trustee following such setoff, (iii) authorizing and directing the Trustee and Cigna to cause the Plan Account to be closed following the Transfer, and (iv) authorizing and directing Cigna to amend the Cigna POC to assert only an unsecured priority claim pursuant to section 507(a)(5) of the Bankruptcy Code in the amount of \$13,954.26, and (v) granting the Trustee all other just and proper relief.

Respectfully submitted,

RUBIN & LEVIN, P.C.

By: /s/ Meredith R. Theisen

Meredith R. Theisen

Deborah J. Caruso (Atty. No. 4273-49)
Meredith R. Theisen (Atty. No. 28804-49)
RUBIN & LEVIN, P.C.
135 N. Pennsylvania Street, Suite 1400
Indianapolis, Indiana 46204
Tel: (317) 634-0300
Fax: (317) 263-9411
Email: dcaruso@rubin-levin.net
mtheisen@rubin-levin.net
Attorneys for Deborah J. Caruso, Trustee

CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2021, a copy of the foregoing *Trustee's Agreed Motion to Set Off a Portion of Cigna Health and Life Insurance Company's Prepetition Claim Against Funds Held in ITT's Plan Account* was filed electronically. Pursuant to Section IV.C.3(a) of the Case Management Procedures, notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

John Joseph Allman jallman@hbkfirm.com, dadams@hbkfirm.com
Richard Allyn rallyn@robinskaplan.com
Robert N Amkraut ramkraut@foxrothschild.com
Scott S. Anders scott.anders@jordanramis.com, litparalegal@jordanramis.com
Reuel D Ash rash@ulmer.com, mure@ulmer.com
Todd Allan Atkinson todd.atkinson@wbd-us.com
George Bach george@georgebachlaw.com
Kay Dee Baird kbaird@kdlegal.com, rhobdy@kdlegal.com;crbpgpleadings@kdlegal.com
Christopher E. Baker cbaker@hbkfirm.com, thignight@hbkfirm.com
James David Ballinger jim@kentuckytrial.com, jennifer@kentuckytrial.com
Joseph E. Bant jebant@lewisricekc.com
William J. Barrett william.barrett@bfkn.com, mark.mackowiak@bfkn.com
Ashley Flynn Bartram ashley.bartram@oag.texas.gov
Alex M Beeman alex@beemanlawoffice.com, abeeman@reminger.com
Thomas M Beeman tom@beemanlawoffice.com
Richard James Bernard rbernard@foley.com
Thomas Berndt tberndt@robinskaplan.com, jgerboth@robinskaplan.com
John J Berry john.berry@dinsmore.com, Christina.Lee@DINSMORE.COM
Brandon Craig Bickle bbickle@gablelaw.com
Jill B. Bienstock jillbienstock@hotmail.com
Michael Blumenthal michael.blumenthal@hklaw.com
David J. Bodle dbodle@hhclaw.com, layres@hhlaw-in.com
Robert A. Breidenbach rab@goldsteinpressman.com
Wendy D Brewer wbrewer@fmdlegal.com, cbellner@fmdlegal.com
Kayla D. Britton kayla.britton@faegredrinker.com, noticeFRindy@faegrebd.com
Robert Bernard Bruner bob.bruner@nortonrosefulbright.com
Jason R Burke jburke@bbrlawpc.com, kellis@bbrlawpc.com
Erin Busch ebusch@nebraska.edu
John Cannizzaro john.cannizzaro@icemiller.com, julia.yankula@icemiller.com
Kevin M. Capuzzi kcapuzzi@beneschlaw.com,
lmolinaro@beneschlaw.com;docket@beneschlaw.com
James E. Carlberg jcarlberg@boselaw.com,
mwakefield@boselaw.com;rmurphy@boselaw.com
Steven Dean Carpenter scarpenter1@dor.in.gov
Deborah Caruso dcaruso@rubin-levin.net, dwright@rubin-levin.net;csprague@rubin-levin.net;atty_dcaruso@bluestylus.com
Deborah J. Caruso trustecarusos@rubin-levin.net,

DJC@trustesolutions.net;cdjc11@trustesolutions.net
Joshua W. Casselman jcasselman@rubin-levin.net, angie@rubin-levin.net;atty_jcasselman@bluestylus.com
Ben T. Caughey ben.caughey@merchocaughey.com
Sonia A. Chae chaes@sec.gov
John Andrew Chanin jchanin@lindquist.com, srummery@lindquist.com
Courtney Elaine Chilcote courtney@ckhattorneys.com, ckh@ckhattorneys.com;tracy@ckhattorneys.com
Dale C Christensen christensen@sewkis.com
Eboney Delane Cobb ecobb@pbfcm.com
Tiffany Cobb tscobb@vorys.com
Michael Edward Collins mcollins@manierherod.com
Michael Anthony Collyard mcollyard@robinskaplan.com, rhoule@robinskaplan.com
Eileen Connor econnor@law.harvard.edu
Lawrence D. Coppel lcoppel@gfrlaw.com
Heather M. Crockett Heather.Crockett@atg.in.gov, marie.baker@atg.in.gov
J Russell Cunningham rcunningham@dnlc.net, reaster@dnlc.net
Erica Dausch edausch@babstcalland.com
Dustin R. DeNeal dustin.deneal@faegredrinker.com, noticeFRindy@faegredrinker.com;faegrebddocket@faegredrinker.com
Laura A DuVall Laura.Duvall@usdoj.gov, Catherine.henderson@usdoj.gov
Annette England annette.english@btlaw.com
Charles Anthony Ercole cercole@klehr.com, acollazo@klehr.com
Carolyn Meredith Fast carolyn.fast@ag.ny.gov
Elaine Victoria Fenna elaine.fenna@morganlewis.com
Andrew W Ferich awf@chimicles.com
Scott Patrick Fisher sfisher@drewrysimmons.com, lgarrison@DSVlaw.com
John David Folds dfolds@bakerdonelson.com, sparson@bakerdonelson.com
Jennifer N Fountain jfountain@iislaw.com, sfilippini@iislaw.com
Sarah Lynn Fowler sfowler@ofattorneys.com, deidre@ofattorneys.com,ellen@ofattorneys.com
Lauren Freeman lauren.freeman@doj.ca.gov
Robert W. Fuller rf Fuller@rbh.com, shaupt@robinsonbradshaw.com,docketing@robinsonbradshaw.com
Carlos Galliani carlos@thelidjfirm.com
Jonathan William Garlough jgarlough@foley.com, mstockl@foley.com;mdlee@foley.com
Lisa Giandomenico lgiandomenico@nmag.gov
Lea Pauley Goff lea.goff@skofirm.com, emily.keith@skofirm.com
John C Goodchild john.goodchild@morganlewis.com
Douglas Gooding dgooding@choate.com
John Andrew Goodridge jagoodridge@jaglo.com, angray@jaglo.com;dwhiggs@jaglo.com
Michael Wayne Grant michael.w.grant@doj.state.or.us
Richard Grayson Grant rgrant@rgglaw.com, grantecf@gmail.com
Alan Mark Grochal agrochal@tydingslaw.com
Elizabeth N. Hahn ehahn@rubin-levin.net, mralph@rubin-levin.net
Gregory Forrest Hahn ghahn@boselaw.com, jmcneeley@boselaw.com

Julian Ari Hammond Jhammond@hammondlawpc.com, ppecherskaya@hammondlawpc.com
Wallace M Handler whandler@swappc.com, kkloock@swappc.com
William J. Hanlon whanlon@seyfarth.com
Adam Craig Harris adam.harris@srz.com
Jeffrey M. Hawkinson jhawkinson@pcslegal.com, danderson@pcslegal.com
Michael J. Hebenstreit mhebenstreit@lewiskappes.com,
ktierney@lewiskappes.com;pkerr@lewiskappes.com
Amanda Marie Hendren amanda@indianalawgroup.com
Claude Michael Higgins Michael.Higgins@ag.ny.gov
Michael W. Hile mhile@jacobsonhile.com, assistant@jacobsonhile.com
Sean M Hirschten shirschten@psrb.com
Robert M. Hirsh rhirsh@lowenstein.com
John C. Hoard johnh@rubin-levin.net, lking@rubin-levin.net;atty_jch@trustesolutions.com;sturpin@rubin-levin.net
Curt Derek Hochbein chochbein@rubin-levin.net, kelly.paberzs@mbcblaw.com
Jeffrey A Hokanson jeff.hokanson@icemiller.com,
bgnotices@icemiller.com,david.young@icemiller.com
Steven Howard Holinstat sholinstat@proskauer.com
Diana Hooley diana.hooley@state.ma.us
Thomas Ross Hooper hooper@sewkis.com
George Wade Hopper ghopper@cohenandmalad.com, klandeck@cohenandmalad.com
Andrew E. Houha bkecfnotices@johnsonblumberg.com
Andrew W. Hull awhull@hooverhullturner.com, fgipson@hooverhullturner.com
James C Jacobsen jjacobsen@nmag.gov, eheltman@nmag.gov
Christine K. Jacobson cjacobson@jacobsonhile.com,
5412@notices.nextchapterbk.com,9992889420@filings.docketbird.com
Jay Jaffe jay.jaffe@faegredrinker.com, noticeFRindy@faegrebd.com
David Januszewski djanuszewski@cahill.com
Benjamin F Johns bfj@chimicles.com, klw@chimicles.com
Russell Ray Johnson russj4478@aol.com
Kenneth C. Jones kcjones@lewisricekc.com
Anthony R. Jost tjost@rbelaw.com, rmclintic@rbelaw.com;baguado@rbelaw.com
David J. Jurkiewicz DJurkiewicz@boselaw.com,
mwakefield@boselaw.com;rmurphy@boselaw.com;dlingenfelter@boselaw.com
Aaron Kappler akappler@tokn.com
Timothy Q. Karcher tkarcher@proskauer.com
Steven Joseph Kasyjanski sjk-yount-atty@ameritech.net, skasyjan@gmail.com
Alan Katz akatz@lockelord.com
Richard B. Kaufman richardkfmn@gmail.com
Carly Kessler carly@oandzlaw.com
John M. Ketcham jketcham@psrb.com, scox@psrb.com
Taejin Kim tae.kim@srz.com
Edward M King tking@fbtlaw.com, lsugg@fbtlaw.com;tking@ecf.inforuptcy.com
Roy F. Kiplinger bankruptcy@kiplingerlaw.com, bankruptcy@kiplingerlaw.com
Jackson Taylor Kirklin taylor.kirklin@usdoj.gov, melanie.crouch@usdoj.gov
James A. Knauer jak@kgrlaw.com, tjf@kgrlaw.com

Kevin Dale Koons kkoons@kgrlaw.com, cjh@kgrlaw.com
Harris J. Koroglu hkoroglu@shutts.com, fsantelices@shutts.com
Lawrence Joel Kotler ljkotler@duanemorris.com
Robert R Kracht rrk@mccarthylebit.com
Andrew L. Kraemer akraemer@johnsonblumberg.com, akraemerlawoffice@att.net
David R. Krebs dkrebs@hbkfirm.com, dadams@hbkfirm.com
Jerrold Scott Kulback jkulback@archerlaw.com
Jay R LaBarge jlabarge@stroblpc.com
Darryl S Laddin bkrfilings@agg.com
Michael J. Langlois mlanglois@shouselanglois.com, rshouse@shouselanglois.com
Vilda Samuel Laurin slaurin@boselaw.com
Jordan A Lavinsky jlavinsky@hansonbridgett.com
Todd Evan Leatherman todd.leatherman@ky.gov
David S Lefere dlefer@mikameyers.com, jfortney@mikameyers.com
Anthony Darrell Lehman alehman@hlpwlaw.com
Martha R. Lehman mlehman@salawus.com,
marthalehman87@gmail.com;ispells@salawus.com;lengle@salawus.com
Gary H Leibowitz gleibowitz@coleschotz.com,
pratkowiak@coleschotz.com;gleibowitz@coleschotz.com
Donald D Levenhagen dlevenhagen@landmanbeatty.com
Elizabeth Marie Little elizabeth.little@faegredrinker.com, noticeFRindy@faegredrinker.com
Edward J LoBello elobello@msek.com
Melinda Hoover MacAnally Melinda.MacAnally@atg.in.gov,
Carrie.Spann@atg.in.gov;Kenyatta.Peerman@atg.in.gov
John A. Majors jam@morganandpottinger.com, majormajors44@yahoo.com
Steven A. Malcoun dsmith@mayallaw.com
John Marshall JMarshall@JMPartnersLLC.com
Jonathan Marshall jmarshall@choate.com, jonathan-marshall-4638@ecf.pacerpro.com
Thomas Marvin Martin tmmartin@lewisricekc.com
Jeff J. Marwil jmarwil@proskauer.com
Charles Edward Massey mbracken@nkylawyers.com, cedmassey@nkylawyers.com
Ann Wilkinson Matthews amatthews@ncdoj.gov
Rachel Jaffe Mauceri rmauceri@rc.com
Sarah Thomas Mayhew sarah.t.mayhew@usdoj.gov, northern.taxcivil@usdoj.gov
Melissa J. McCarty mdegroff@kgrlaw.com, cresler@kgrlaw.com
Michael K. McCrory mmccrory@btlaw.com, bankruptcyindy@btlaw.com
Maureen Elin McOwen molly.mcowen@cfpb.gov
Harley K Means hkm@kgrlaw.com,
kwhigham@kgrlaw.com;cjs@kgrlaw.com;tfroelich@kgrlaw.com
Toby Merrill toby.merrill@ed.gov, ppsl@law.harvard.edu
Robert W. Miller rmiller@manierherod.com
Sherry Millman smillman@stroock.com
Jason Milstone jason.milstone@cmsenergy.com
Thomas E Mixdorf thomas.mixdorf@icemiller.com, brandy.matney@icemiller.com
James P Moloy jmoloy@boselaw.com,
dlingenfelter@boselaw.com;mwakefield@boselaw.com

Ronald J. Moore Ronald.Moore@usdoj.gov
Hal F Morris hal.morris@oag.texas.gov
Michael David Morris michael.morris@ago.mo.gov
Kevin Alonzo Morrissey kmorrissey@lewis-kappes.com, soliver@lewis-kappes.com;leckert@lewis-kappes.com;kwilliams@lewis-kappes.com
Whitney L Mosby whitney.mosby@dentons.com,
faith.wolfe@dentons.com;nancy.branham@dentons.com
C Daniel Motsinger cmotsinger@kdlegal.com,
cmotsinger@kdlegal.com;rhobdy@kdlegal.com;crbpgpleadings@kdlegal.com
Lee Duck Moylan lmoylan@klehr.com, acollazo@klehr.com
Joseph L. Mulvey joseph@mulveyllc.com, linda@mulveyllc.com
Abraham Murphy murphy@abrahammurphy.com
Justin Scott Murray jmurray@atg.state.il.us
Alissa M. Nann anann@foley.com, DHeffer@foley.com
Henry Seiji Newman hsnewman@dglaw.com
Kevin M. Newman knewman@menterlaw.com, kmnbk@barclaydamon.com
Cassandra A. Nielsen cnielsen@rubin-levin.net,
atty_cnielsen@bluestylus.com,mralph@rubin-levin.net;lking@rubin-levin.net
Ryan Charles Nixon rcnixon@lamarcalawgroup.com
Isaac Nutovic inutovic@nutovic.com
Michael O'Donnell mike.odonnell@nortonrosefulbright.com
Gregory Ostendorf gostendorf@scopelitis.com, agregory@scopelitis.com
Weston Erick Overturf wes@ofattorneys.com,
deidre@ofattorneys.com;ellen@ofattorneys.com
Pamela A. Paige ppaige@plunkettcooney.com, amiller@plunkettcooney.com
Kenneth Pasquale kpasquale@stroock.com
Eric Pendergraft ependergraft@slp.law, dwoodall@slp.law;bss@slp.law
Danielle Ann Pham danielle.pham@usdoj.gov
Anthony Pirraglia anthony.pirraglia@hklaw.com
Jack A Raisner jar@raisnerroupinian.com, rrlp@ecf.courtdrive.com
Jonathan Hjalmer Reischl jonathan.reischl@cfpb.gov
Michael Rella mrella@mmlawus.com
Caroline Ellona Richardson caroline@paganelligroup.com,
robin@paganelligroup.com;buffy@paganelligroup.com
James Leigh Richmond James.Richmond@fldoe.org
John M. Rogers johnr@rubin-levin.net, csprague@rubin-levin.net;atty_rogers@bluestylus.com;lking@rubin-levin.net
Melissa M. Root mroot@jenner.com, wwilliams@jenner.com
David A. Rosenthal darlaw@nlci.com
James E Rossow jim@rubin-levin.net, mralph@rubin-levin.net;ATTY_JER@trustesolutions.com
Rene Sara Roupinian rsr@raisnerroupinian.com, warnlawyers@raisnerroupinian.com;jenny--hoxha--5459@ecf.pacerpro.com;rrlp@ecf.courtdrive.com
Victoria Fay Roytenberg vrotyenberg@law.harvard.edu, eschmidt@law.harvard.edu
Steven Eric Runyan ser@kgrlaw.com
Karl T Ryan info@ryanesq.com, kryan@ryanesq.com

Joseph Michael Sanders jsanders@atg.state.il.us
Thomas C Scherer thomas.scherer@dentons.com, faith.wolfe@dentons.com
James R. Schrier jrs@rtslawfirm.com, jar@rtslawfirm.com
Ronald James Schutz rschutz@robinskaplan.com
H. Jeffrey Schwartz jschwartz@robinskaplan.com
Courtney Michelle Scott cscott1@dor.in.gov
Joseph E Shickich jshickich@foxrothschild.com, vmagda@foxrothschild.com
Mary Alexandra Shipley ashipley@mcguirewoods.com
William Shotzbarger wshotzbarger@duanemorris.com
Randall R Shouse rshouse@shouselanglois.com, mlanglois@shouselanglois.com
William E Smith wsmith@k-glaw.com, cshaughnessy@k-glaw.com
Lauren C. Sorrell lsorrell@kdlegal.com,
ayeskie@kdlegal.com;swaddell@kdlegal.com;cmotsinger@kdlegal.com;shammersley@kdlegal.com
Berry Dan Spears berrydspears616@gmail.com
Catherine L. Steege csteege@jenner.com,
mhinds@jenner.com;thooker@jenner.com;aswingle@jenner.com
LaChelle D Stepp lstepp@steppjaffe.com, lastepp@yahoo.com
Jason V Stitt jstitt@kmklaw.com
Sharon Stolte sstolte@sandbergphoenix.com
Jesse Ellsworth Summers esummers@burr.com, sguest@burr.com
Matthew G. Summers summersm@ballardspahr.com, lanoc@ballardspahr.com
Jonathan David Sundheimer jsundheimer@btlaw.com
Nathan L Swehla nswehla@graydon.law
Nancy K. Swift nswift@buchalter.com, cbohnsack@buchalter.com
Andrew W.J. Tarr atarr@robinsonbradshaw.com,
jrobey@robinsonbradshaw.com,docketing@robinsonbradshaw.com
Eric Jay Taube eric.taube@wallerlaw.com,
annmarie.jezisek@wallerlaw.com;sherri.savala@wallerlaw.com
Meredith R. Theisen mtheisen@rubin-levin.net, dwright@rubin-levin.net;mcruser@rubin-levin.net
Meredith R. Theisen mtheisen@rubin-levin.net,
atty_mtheisen@bluestylus.com;mralf@rubin-levin.net;csprague@rubin-levin.net
Jessica L Titler jt@chimicles.com
David Tocco djtocco@vorys.com, mdwalkuski@vorys.com
Todd Christian Toral todd.toral@dlapiper.com, todd-toral-9280@ecf.pacerpro.com
Ronald M. Tucker rtucker@simon.com, cmartin@simon.com, bankruptcy@simon.com
Christopher Turner christopher.turner@lw.com, DClitserve@lw.com
Michael Tye michael.tye@usdoj.gov
U.S. Trustee ustpregion10.in.ecf@usdoj.gov
Lauren Valkenaar lvalkenaar@chasnoffstribling.com
Sally E Veghte sveghte@klehr.com, acollazo@klehr.com
Rachel Claire Verbeke rverbeke@stroblpc.com
Aimee Vidaurri aimee.vidaurri@nortonrosefulbright.com
Amy L VonDielingen amy.vondielingen@woodenlawyers.com
Amy E Vulpio vulpioa@whiteandwilliams.com

Carolyn Graff Wade Carolyn.G.Wade@doj.state.or.us
Christopher D Wagner cwagner@hooverhullturner.com
Louis Hanner Watson louis@watsonnorris.com
Jeffrey R. Waxman jwaxman@morrisjames.com,
jdawson@morrisjames.com;wweller@morrisjames.com
Philip A. Whistler philip.whistler@icemiller.com, holly.minnis@icemiller.com
Bradley Winston bwinston@winstonlaw.com, lwheaton@winstonlaw.com
Brandon Michael Wise bwise@prwlegal.com
Cathleen Dianne Wyatt cwyatt@fbtlaw.com, tacton@fbtlaw.com
James T Young james@rubin-levin.net, lking@rubin-levin.net;atty_young@bluestylus.com
James E. Zoccola jzoccola@lewis-kappes.com

I further certify that on October 28, 2021, pursuant to Section IV.C.3(c) of the Case Management Procedures, a copy of the foregoing *Trustee's Agreed Motion to Set Off a Portion of Cigna Health and Life Insurance Company's Prepetition Claim Against Funds Held in ITT's Plan Account* was emailed to the following:

CEC Red Run, LLC: Alan M. Grochal at agrochal@tydingslaw.com
SWRE Deal V Building, LLC: Paul Weiser at pweiser@buchalter.com
Tarrant County/Dallas County: Elizabeth Weller at dallas.bankruptcy@publicans.com
Northwest Natural Gas Company: Ashlee Minty at Ashlee.Minty@nwnatural.com
Solar Drive Business, LLC: Chris W. Halling at challing@hallingmeza.com
Market-Turk Company: Jordan A. Lavinsky at jlavinsky@hansonbridgett.com
Taxing Authority for Harris County, Texas: John P. Dillman at houston_bankruptcy@lgbs.com
Texas Comptroller of Public Accounts: Rachel Obaldo at rachel.obaldo@oag.texas.gov
Clear Creek Independent School District: Carl O. Sandin at csandin@pbfcm.com
Synchrony Bank: Recovery Management Systems Corporation at claims@recoverycorp.com
Bexar County: Don Stecker at sanantonio.bankruptcy@publicans.com
SWRE Deal V Building, LLC: Nancy K. Swift at nswift@buchalter.com
TN Dept. of Revenue: Michael Willey at michael.willey@ag.tn.gov
Florida Department of Education: Jason Borntreger at jason.borntreger@fldoe.org
Last Second Media, Inc.: T. Todd Eglan at tegland@beldenblaine.com
Hung Duong: Kevin Schwin at kevin@schwinlaw.com
Travis County: Kay D. Brock at kay.brock@traviscountytexas.gov
Able Building Maintenance: Scott D. Fink at bronationalecf@weltman.com
Marathon Ventures, LLC: Daniel M. Karger at kargerlaw@gmail.com
Oklahoma County Treasurer: Tammy Jones at tammy.jones@oklahomacounty.org
JM Partners LLC: John Marshall at jmarshall@jmpartnersllc.com

/s/ Meredith R. Theisen
Meredith R. Theisen

EXHIBIT 1

[Cigna POC]

Fill in this information to identify the case:

Debtor ITT Educational Services, Inc.

United States Bankruptcy Court for the: Southern District of Indiana

Case number 16-07207

FILED
 U.S. BANKRUPTCY CT.
 INDIANAPOLIS DIVISION
 2017 JAN 27 AM 10:35
 SOUTHERN DISTRICT
 OF INDIANA
 KEVIN P. DEMPSEY
 CLERK

Official Form 410
Proof of Claim

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor? Cigna Health and Life Insurance Company
 Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor Cigna

2. Has this claim been acquired from someone else?
 No
 Yes. From whom? _____

3. Where should notices and payments to the creditor be sent?
 Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?
Cigna, c/o Wilhelmina Bergland, Legal Dept.
 Name
900 Cottage Grove Road, B6LPA
 Number Street
Bloomfield CT 06002
 City State ZIP Code
 Contact phone 860-226-5551
 Contact email mina.bergland@cigna.com

Where should payments to the creditor be sent? (if different)
 Name _____
 Number Street _____
 City State ZIP Code _____
 Contact phone _____
 Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. Does this claim amend one already filed?
 No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
 MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?
 No
 Yes. Who made the earlier filing? _____

207-2487

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: 4 8 6 6

7. How much is the claim? \$ 84,136.06 Does this amount include interest or other charges? No Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.
See Attached.

9. Is all or part of the claim secured? No Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: Cash
Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ 155,227.07
Amount of the claim that is secured: \$ 70,181.80
Amount of the claim that is unsecured: \$ 13,954.26 (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

No

Yes. Check all that apply:

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Amount entitled to priority

\$ _____

Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ 84,136.06

Other. Specify subsection of 11 U.S.C. § 507(a)(2) that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 01/23/2017
MM / DD / YYYY



Signature

Print the name of the person who is completing and signing this claim:

Name Jonathan Miller
First name Middle name Last name

Title Financial Analysis Manager

Company Cigna Health and Life Insurance Company
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address See creditor address above.
Number Street

City State ZIP Code

Contact phone Email

**ATTACHMENT TO PROOF OF CLAIM OF
CIGNA LIFE AND HEALTH INSURANCE COMPANY**

1. Pursuant to an Administrative Services Only Agreement, including all amendments, exhibits, appendices, schedules and benefit booklets thereto (collectively, the "Agreement"),¹ Cigna Health and Life Insurance Company ("CHLIC") provided administrative services for Debtor ITT Educational Services, Inc. ("Debtor") medical, dental, vision and flexible spending account employee benefit plans upon the terms and conditions set forth in the Agreement.

2. On or about September 16, 2016 ("Petition Date"), the Debtor filed a voluntary petition under chapter 7 of title 11 of the United States Code.

3. Debtor failed to pay all amounts due under the Agreement prior to the Petition Date. The amount due under the Agreement is **\$84,136.06**, subject to ongoing reconciliation and adjustment ("Claim").

4. \$70,181.80 of CHLIC's Claim is fully secured by the cash balance of the Plan Bank Account ("Account") through which, *inter alia*, pharmaceutical claims and vendor charges are paid. Further, CHLIC asserts all rights of setoff against the cash in the Account.

5. CHLIC's entire Claim is for contributions to the Debtor's employee benefit plan arising from services rendered within 180 days before the Petition Date, and is entitled to priority status and treatment under 11 U.S.C. § 507(a)(5).

6. To the best of CHLIC's knowledge, its Claim is not subject to any setoff or counterclaim.

7. CHLIC expressly reserves all rights and remedies that it has or may have against Debtor or any other person or persons liable for all or part of the indebtedness claimed herein. This proof of claim is filed to protect CHLIC from forfeiture of its Claim. The filing of this proof of claim is not: (a) a waiver or release of CHLIC's rights or remedies against any person, entity or property; (b) an election of a remedy; or (c) a waiver of the right to assert a different or enhanced classification or priority in respect of the Claim asserted herein.

8. CHLIC expressly reserves its right to amend or supplement this proof of claim or to file additional proofs of claim.

#05290701v2

¹ The Agreement is confidential and proprietary, and the Debtor has copies of the Agreement in its files.