

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 82694 / February 12, 2018**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-18370**

**In the Matter of**

**ARA CHACKERIAN,**

**Respondent.**

**ORDER INSTITUTING CEASE-AND-  
DESIST PROCEEDINGS PURSUANT TO  
SECTION 21C OF THE SECURITIES  
EXCHANGE ACT OF 1934, MAKING  
FINDINGS, AND IMPOSING A CEASE-  
AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Ara Chackerian (“Chackerian” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

**III.**

On the basis of this Order and Respondent’s Offer, the Commission finds<sup>1</sup> that:

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<sup>1</sup> The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

## **A. SUMMARY**

1. This case involves insider trading by Ara Chackerian in the securities of Emeritus Corporation (“Emeritus”) based on material, non-public information, in advance of the February 20, 2014, announcement that Brookdale Senior Living Inc. (“Brookdale”) would acquire Emeritus.

2. At all relevant times, Chackerian served on the board of managers and as the secretary of In Home Medical Solutions, LLC (“In Home Medical”), a medical products distributor. One of In Home Medical’s largest customers in terms of revenue during the relevant period was a subsidiary of Emeritus (“Emeritus Subsidiary”).

3. Beginning in or about September 2013, Emeritus senior management engaged in highly confidential merger negotiations with Brookdale senior management. In or about late December 2013 or early January 2014, a senior officer of Emeritus Subsidiary, who was aware of the merger negotiations, provided confidential information about the impending merger to In Home Medical’s chief operating officer (“COO”). Because the impending merger potentially had significant business implications for In Home Medical, which obtained over thirty percent of its revenue from sales to Emeritus Subsidiary, In Home Medical’s COO relayed the news to In Home Medical’s CEO. At the direction of In Home Medical’s CEO, In Home Medical’s COO also relayed the information to Chackerian, in Chackerian’s capacity as an officer and board member of In Home Medical.

4. After learning of the potential merger from In Home Medical’s COO, Chackerian purchased Emeritus securities in advance of the merger’s public announcement. By purchasing Emeritus securities while aware of material nonpublic information concerning the impending Emeritus merger, Chackerian misappropriated the information and converted it to his personal use and profit, thereby breaching the duties that he owed to In Home Medical.

5. After the merger was publicly announced on February 20, 2014, the price of Emeritus stock increased by over thirty-six percent. Chackerian sold his securities the day after the announcement, realizing a profit of \$157,207.

## **B. RESPONDENT**

6. Ara Chackerian, at all relevant times, resided in Oakland, California, and was the sole member of an LLC that invested in early-stage private companies, including In Home Medical. Chackerian sat on In Home Medical’s board of managers and was In Home Medical’s secretary.

## **C. RELEVANT ENTITIES**

7. Brookdale Senior Living Inc., an operator of senior living communities, is a Delaware corporation with its headquarters in Brentwood, Tennessee. Brookdale common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and trades on the New York Stock Exchange under the symbol “BKD.” On July 31, 2014, Brookdale acquired Emeritus pursuant to a merger agreement that was publicly announced on February 20, 2014.

8. Emeritus Corporation, a senior living service provider, was a Washington corporation with its principal place of business in Seattle, Washington. Emeritus's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was traded on the New York Stock Exchange under the symbol "ESC." Emeritus Subsidiary, a home healthcare provider, was an operating unit of Emeritus until Emeritus was acquired by Brookdale on July 31, 2014.

9. In Home Medical Solutions, LLC, a medical product distribution company, with revenue of \$7-8 million in 2013, was a Delaware limited liability company with its principal place of business in Jacksonville, Florida.

#### **D. FACTS**

10. Beginning in September 2013, Brookdale and Emeritus executives conducted highly confidential and nonpublic negotiations regarding a potential acquisition of Emeritus by Brookdale. In or around November 2013, a senior officer of Emeritus Subsidiary ("Emeritus Subsidiary Executive") signed a confidentiality agreement with Emeritus concerning the proposed transaction between Brookdale and Emeritus and was made aware of the highly confidential merger discussions that were under way at that time. On or about December 22, 2013, Emeritus's board authorized management to negotiate a transaction with Brookdale on an exclusive basis.

11. In late December 2013 or early January 2014, Emeritus Subsidiary Executive told In Home Medical's COO about the impending merger between Emeritus and Brookdale. Because the impending merger potentially had significant business implications for In Home Medical, which obtained over thirty percent of its revenue from sales to Emeritus Subsidiary, In Home Medical's COO relayed the news to In Home Medical's CEO. In Home Medical's COO believed that, if the merger occurred, Emeritus Subsidiary might expand into new markets and purchase more medical supplies from In Home Medical.

12. Between January 17 and 20, 2014, at the direction of In Home Medical's CEO, In Home Medical's COO also relayed the news of the potential merger to Chackerian, in Chackerian's capacity as an officer and board member of In Home Medical.

13. In Home Medical's board often discussed confidential information during its meetings. During at least one call among members of In Home Medical's board in January 2014, the members and In Home Medical's COO discussed the potential business implications for In Home Medical of the potential merger.

14. The information concerning the potential merger was confidential and significant to In Home Medical, and the disclosure or misuse of the information by In Home Medical had the potential to harm In Home Medical's relationship and reputation with Emeritus Subsidiary.

15. As a member of In Home Medical's board and as In Home Medical's secretary, Chackerian owed a duty to In Home Medical to maintain the information in confidence and refrain from trading on it.

16. Chackerian knew, or was reckless in not knowing, that the information he received from In Home Medical's COO regarding the potential merger was material nonpublic information.

17. Chackerian also knew, or was reckless in not knowing, that the information he received from In Home Medical's COO regarding the potential merger was conveyed to him in his capacity as an officer and board member of In Home Medical, was intended to be used to evaluate In Home Medical's future business prospects, was confidential to In Home Medical, and was not intended for him to use for his personal purpose or benefit.

18. On or about January 23, 2014, Chackerian purchased 10,000 shares of Emeritus stock for approximately \$220,799.80. On or about February 5, 2014, Chackerian purchased 100 Emeritus call option contracts<sup>2</sup> for approximately \$17,000. Chackerian did not disclose his purchase of Emeritus securities to In Home Medical.

19. Chackerian purchased these Emeritus securities while aware of material nonpublic information concerning the impending Emeritus merger, which was imparted to him in his capacity as an officer and board member of In Home Medical. In doing so, Chackerian misappropriated the information and converted it to his personal use and profit.

20. Chackerian knew, or was reckless in not knowing, that these securities transactions breached the duties that he owed to In Home Medical.

21. Due diligence and negotiations between Brookdale and Emeritus continued into February 2014. On February 20, 2014, Brookdale and Emeritus publicly announced a final merger agreement pursuant to which Brookdale would acquire Emeritus.

22. On February 21, 2014, the price of Emeritus common stock increased by over thirty-six percent over the previous day's closing price.

23. On February 21, 2014, Chackerian sold his Emeritus shares and options, realizing a profit of \$157,207.

## **E. VIOLATIONS**

24. As a result of the conduct described above, Chackerian violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

## **IV.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Chackerian's Offer.

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<sup>2</sup> A call option contract entitles the holder to purchase 100 shares of the underlying common stock at a specified price per share by or before a date specified in the option contract.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Chackerian cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent shall, within 10 days of the entry of this Order, pay disgorgement of \$157,207.80 and prejudgment interest of \$18,635.55, and pay a civil money penalty in the amount of \$157,207.80, to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600, and if timely payment of the civil money penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Ara Chackerian as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Antonia Chion, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., N.E., Washington, DC 20549.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a

Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

**V.**

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Brent J. Fields  
Secretary