

Rauner Campaign Statement on False and Disgusting Attack

Pat Quinn's allies launched a desperate and disgusting false attack ad against Bruce Rauner.

"It's shameful that Pat Quinn and his special interest friends are blatantly ignoring the truth and invoking others' personal tragedies in an attempt at political gain," said Chip Englander, campaign manager for Bruce Rauner. "This is politics at its worst and Pat Quinn, the Democratic Governors Association and the government union bosses behind this ad should be ashamed."

Below is a fact sheet outlining the multitude of ways in which this ad is misleading and false. The first set of facts detail the wrongful statements made in the TV ad, the second set of facts outlines the nature of GTCR's investment in the nursing home company, Trans Healthcare Inc., referenced in the ad. Following those facts are a series of facts about the specific cases referenced in the ad.

The facts are drawn from publicly available court filings, media outlets and other third party entities. Taken together they prove that the ad purposefully ignores the truth.

GTCR NURSING HOME ATTACK AD FACT CHECK

Ad Voiceover: "It was called 'severe corporate greed,' a 'scheme' to cash in on the elderly. And in the middle of it - Bruce Rauner's company."

REALITY - IT WAS ONLY "CALLED" THAT BY THE PLAINTIFFS' ATTORNEYS

The Claim Of "Severe Corporate Greed" Appears In A Trial Lawyer Blog Post That Identifies Wilkes & McHugh, The Trial Lawyers Suing Trans Healthcare, As The Source Of The Information. "The jury agreed that defendant, Trans Health Care, Inc. (THI), deserved to be punished for such severe corporate greed that it caused Ms. Arlene Townsend to suffer for years in a nursing home that was short-staffed and under-supplied." ("Jury Awards \$1.1 Billion in Lawsuit Against Nursing Home Conglomerate," [Jere Beasley Report](#), 8/7/13)

- **"Source: Wilkes & McHugh, P.A."** ("Jury Awards \$1.1 Billion in Lawsuit Against Nursing Home Conglomerate," [Jere Beasley Report](#), 8/7/13)

The Claim Of "Severe Corporate Greed" Is Repeated In A Web Article By WTSP 10 News, A Florida Television Station, But The Identical Verbiage Suggests The Information Also Came From The Plaintiffs' Attorneys. "A jury agreed that defendant, Trans Health Care, Inc. (THI), deserved to be punished for such severe corporate greed that it caused Arlene Townsend to suffer for years in a nursing home that was short-staffed and under-supplied." (Kristin Weber, Jury Awards \$1.1B In Polk Nursing Home Case," [WTSP](#) 7/25/13)

The Claim Of A "Scheme" To "Cash In On The Elderly," Appears In The Trial Lawyer Blog Post That Identifies The Plaintiffs' Attorneys As The Source Of The Information. "The Plaintiff's lawyers presented evidence showing how Ms.

Townsend was the victim of a scheme by an enterprise that included: New York real estate investors; financiers General Electric Capital Corporation (GECC) (a private bank) and Ventas, Inc. (a real estate investment firm); and multi-billion dollar Chicago private equity fund GTCR Golder Rauner, LLC. According to trial testimony, this group conspired to run a nursing home chain into insolvency without regard to the harm the nursing home residents would experience." ("Jury Awards \$1.1 Billion in Lawsuit Against Nursing Home Conglomerate," [Jere Beasley Report](#), 8/7/13)

Ad Voiceover: "Rauner's company was accused of draining money from nursing homes, leaving seniors to suffer from malnutrition and dehydration."

REALITY - RAUNERS COMPANY INVESTED, AND LOST, MILLIONS

GTCR Did Not "Drain Money" From Trans Healthcare. In Fact, As Part Of A 2006 Restructuring Of The Company, GTCR Contributed \$20 Million In Fresh Capital And Forgave \$10 Million In Loans. "As part of the same restructuring, the GTCR Funds invested \$20 million in cash into THI through a newly formed holding company, Atlantic Health Holdings, LLC. The GTCR Funds made this investment with the expectation that the restructuring would allow THI to reestablish itself and ultimately return to profitability. Also on March 28, 2006, the GTCR Funds contributed to Holdings promissory notes from loans that the GTCR Funds had made to THI, with amounts then due on the notes in excess of \$10 million. The GTCR Funds received no equity in exchange for this contribution. Holdings, in turn, contributed these notes to the capital of THI." (In re: FUNDAMENTAL LONG TERM CARE, INC , GTCR Et. Al, COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, U.S Bankruptcy Court For The Middle District Of Florida, Case No. 8:11-bk-22258 (MGW), 10/7/13, p.13)

Ad Voiceover: "Court after court ruled that victims died from abuse and neglect."

REALITY - WERE NEVER PROVEN IN COURT

As The *Chicago Tribune* Reported Last Month, The Plaintiffs' Claims Were Never Proven In Court Because Trans Healthcare No Longer Existed And Was Not Defended At Trial. " At issue are lawsuit awards in a half-dozen wrongful death and patient-neglect cases that at one point totaled more than \$2.3 billion, as well as allegations by personal injury attorneys that GTCR and other nursing home investors failed to provide proper funding for care and later moved to shield assets to avoid paying damage claims. But most of those big-dollar jury awards were reached without any defense being presented because the former GTCR-backed firm that was being sued was no longer in existence after ending up in receivership." (Rick Pearson and Ray Long, " Nursing Home Problems May Dog Rauner," [The Chicago Tribune](#), 1/25/14)

The Court-Appointed Receiver Of Trans Healthcare Ceased Defending The Firm Against Lawsuits In 2010. "But Trans Healthcare couldn't stave off its financial problems and entered receivership in 2009. A year later, its appointed receiver opted to stop representing the firm in lawsuits. Fundamental Long Term Care went into involuntary bankruptcy after damages were awarded in a negligence case, court documents show." (Rick Pearson and Ray Long, " Nursing Home Problems May Dog Rauner," [The Chicago Tribune](#), 1/25/14)

Wilkes & McHugh, The Plaintiffs' Attorneys, Had Promised To Cease Litigation Against Trans Healthcare, But Then Continued The Lawsuits Anyway. “Trans Health Management Inc., meanwhile, has since folded, and its parent, Trans Healthcare Inc. is in receivership in Maryland. Trans Healthcare’s receivership stopped defending Webb’s case in 2010 after Lazarra’s firm promised not to bring any further claims, said Maria Ellena Chavez-Ruark, the receivership’s attorney.” (Anne Geggis, “Viability Unclear Of \$900 Million Judgment Against Gainesville Nursing Home,” *Ocala Star-Banner*, 2/11/12)

GE Capital, Another Firm Being Sued By The Plaintiffs, Asked The Receivership Judge In Maryland To Hold Wilkes & McHugh In Contempt For Violating His Order To Cease Litigation. “In 2010, a jury rendered a \$114 million verdict against Trans Health companies for a death at an Auburndale nursing home. Same lawyers, same alleged money shuffling, same no-show at trial. After the verdict, Wilkes & McHugh won court approval to depose executives and examine documents of GE Capital, Fundamental and a private equity fund that created Trans Health. GE Capital is appealing. The company simply lent money and did not control patient care, its lawyers wrote. Wilkes & McHugh is on a wholesale “fishing expedition,” seeking eight years of documents on “30 broad topics unrelated to any claim or defense.” GE Capital also punched back in Maryland, asking the receivership judge to hold Wilkes & McHugh in contempt for disobeying his order to cease litigation. That action is pending.” (Stephen Nohlgren, “Who Should Pay The \$200 Million For Nursing Home Death? It’s Complicated,” [The Tampa Bay Times](#), 2/5/12)

Ad Voiceover: "Trust Bruce Rauner to be Governor? His company's nursing homes made over \$1 billion while seniors paid the ultimate price."

REALITY - GTCR LOST MONEY

GTCR Did Not Make "Over \$1 Billion" From Trans Healthcare. GTCR Invested \$60 Million In The Company, And Lost "Substantially All" Of The Investment. “And, since THI’s founding, the GTCR Funds invested, directly or through Holdings, more than \$60 million in THI, substantially all of which they lost.” (In re: FUNDAMENTAL LONG TERM CARE, INC., GTCR Et. AL. COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, U.S. Bankruptcy Court For The Middle District Of Florida, Case No. 8:11-bk-22258 (MGW), 10/7/13, p.3)

FACTS ABOUT GTCR’S INVESTMENT

- A GTCR fund invested in a company called Trans Healthcare Inc. (THI). GTCR did not make operational decisions for any THI facilities; THI had management that made those decisions.
- In the cases referenced in the ad, no deaths occurred at the nursing homes during THI or THMI’s involvement.
- Contrary to the ad’s assertion, GTCR lost approximately \$60 million on its investment.

- GTCR was not a defendant during the trial stage of any of the nursing-home lawsuits referenced in the ad.
- Bruce did not sit on the corporate board of THI during the time period of any of the allegations.
- The verdicts that were entered in no way reflected the merits of the claims. Rather, most of the verdicts were in empty-chair jury trials, after the plaintiffs obtained default judgments against THI and its former subsidiary, THMI. In other words, plaintiffs' counsel put on whatever facts they wanted, and made whatever arguments they wanted, to a jury without any presentation of the other side of the story.
- GTCR entities have never taken a default in any of these cases.
- THI has been in court-ordered receivership since January 2009, and all litigation decisions for THI have been made by that receiver. (THMI is a former subsidiary of THI, and was sold to a third party buyer in 2006.) It was the court-appointed receiver that made the decision not to defend the lawsuits against THI and THMI; according to the receiver, he did so largely because the state-court plaintiffs had not filed a claim in the receivership and therefore wasn't eligible to receive assets from the receivership. The job of the receiver is to distribute assets to creditors who have made timely claims, and the receiver apparently didn't want to spend money on litigation against plaintiffs that had not made claims. So the receiver decided to stop defending the lawsuits.
- GTCR entities had no involvement with or input whatsoever on the receiver's decision not to defend the lawsuits against THI and THMI.
- The plaintiffs have a two-step strategy. The first is to obtain these empty-chair judgments against THI and THMI. The second is to seek to collect on the judgments from more than a dozen individuals and entities -- including THI's former investors, lenders, lawyers, and third parties that purchased assets from THI. It is in that collection context that plaintiff has asserted claims against GTCR, GE Capital, and others. GTCR and the other targets of these collection efforts are vigorously defending themselves against those claims. This is a clear effort by plaintiff to use empty chair trials to go after as many deep-pocketed entities as possible.

TRUTH ABOUT CASES REFERENCED IN THE AD

Arlene Townsend

By the plaintiff expert's own admission, the cause of death was a fall that occurred in August 2007. THMI had stopped providing management services effective October 1, 2004. The owner and operator of the nursing home was an unrelated third party, Briar Hill, Inc. (an indirect subsidiary of Lyric Health Care Holdings), and an unrelated management company (Encore Healthcare) that provided management

services for the nearly three years that immediately preceded Ms. Townsend's death.

According to plaintiffs' filings, Ms. Townsend fell 12 times at the nursing home after October 1, 2004, including a fall in August 2007 that caused her death. Townsend's estate sued and settled with the facility's actual owner/operator and with the company that managed the facility after October 1, 2004.

Arlene Townsend Lived At Auburndale Oaks Healthcare Center From 2004 Until Her Death In 2007. "The lawsuit focused on the treatment of Arlene Townsend, who stayed at Auburndale Oaks Healthcare Center. The Lake Wales woman lived at the facility from 2004 until her death in 2007. She was 69." (Jason Geary, "Polk Jury Awards \$1.1 Billion Verdict in Nursing Home Negligence Case," [The Ledger](#), 7/22/13)

Lawyers Argued That Townsend's Final Fall In 2007 Resulted In A Hip Fracture That Ultimately Resulted In Her Death. "The final fall resulted in a hip fracture that went undiagnosed and untreated for a week. She also endured severe infections, including Clostridium difficile and cellulitis, as well as chronic stomach pains with fecal impaction, skin tears, malnutrition, and dehydration while at Auburndale Oaks. She died on September 18, 2007, at 69 years old. Trial testimony showed that Auburndale Oaks did not have enough employees or supplies to properly care for all of the residents there, including Ms. Townsend." ("Jury Awards \$1.1 Billion in Lawsuit Against Nursing Home Conglomerate" [Jere Beasley Report](#), 8/7/13)

Trans Healthcare (THI) Only Provided Operational Support Services to Auburndale Oaks Only from June 1, 2002 to October 1, 2004

The State-Appointed Receiver Of Trans Healthcare Stated In A Court Filing That THMI Only Provided Operational Support Services To [Auburndale Oaks] From June 1, 2002 To October 1, 2004.

"Neither THI nor THMI owned or operated Auburndale Oaks Healthcare Center. THMI provided operational support services to the facility from June 1, 2002 to October 1, 2004, and THI had not relationship with the facility at all."

(Alan M. Grochal, As Receiver For Trans Healthcare, Inc. v. The Estate Of Juanita Amelia Jackson, The Estate Of Elvira Nunziata And The Estate Of Joseph Webb, Complaint For Declaratory Relief And Demand For Jury Trial, U.S. District Court For The Middle District Of Florida, 3/4/13, p. 6)

Additionally, According To Chris Warrick, The Regional Director Of Operations For Encore Healthcare, The Current Operator Of Auburndale, The Facility "Terminated Its Management Agreement With Trans Healthcare And Trans Health Management On Sept. 30, 2004." "Regarding the July 22 front-page article '\$114 Million Awarded in Abuse Case,' Auburndale Oaks Healthcare Center terminated its management agreement with Trans Healthcare and Trans Health Management on Sept. 30, 2004. Trans Healthcare and Trans Health Management have not managed Auburndale Oaks since Sept. 30, 2004. (Chris Warrick, Letter To The Editor, "Auburndale Oaks Management," [The Ledger](#), 8/5/10)

The Latest: Plaintiff obtained a default judgment and a \$1.1 billion verdict against THI in Townsend in state court. GTCR was and is not a defendant. Post-judgment, the plaintiff's counsel asked the judge to amend judgment to include certain GTCR entities, GECC, and other entities. Without providing notice to these entities, any opportunity

for them to be heard, or any other due process, the court entered the amended judgment that added the GTCR entities and others. The appellate court promptly issued an order staying any enforcement of that judgment and is expected to issue a ruling on appeals from that amended judgment shortly.

Elvira Nunziata (\$200 Million Award)

The Facility Where Elvira Nunziata Fell To Her Death In October Of 2004 (Pinellas Park Care and Rehabilitation Center), Was Managed At The Time By Home Quality Management – Not THI or THMI. THMI Ceased Providing Services To This Facility on March 8, 2004 -- 7 Months Before Ms. Nunziata's Death.

Nunziata's Death. "On Tuesday, 92-year-old Elvira Nunziata slipped away from the group and was gone for almost an hour before her nurse realized she had disappeared. The nurse searched her room and the downstairs dining room with no success. They found her at the bottom of a short flight of fire stairs, where she had fallen to her death while strapped in her wheelchair. Pinellas Park police said an alarm designed to sound when the fire door opened was working, but no one at the nursing home heard it. An autopsy Wednesday did not determine whether Ms. Nunziata had died instantly. An investigation is continuing, even though no one is suspected of a crime, police said. 'This is an unfortunate isolated incident, which is currently under investigation. We offer our deepest sympathy to the resident's family,' said a statement from Home Quality Management, the for-profit Palm Beach Gardens company that runs Pinellas Park Care and Rehabilitation Center." (Anne Lindberg, "Missing Woman Found Dead In Nursing Home," [St. Petersburg Times](#), 10/14/04)

According to Court Filings, THMI Provided "Back-Office Functions" To Elvira Nunziata's Nursing Home, And Severed That Relationship Several Months Before Nunziata's Fatal Accident. "Respondent Richard Nunziata is the personal representative of the estate of his mother, Elvira Nunziata. Ms. Nunziata died in 2004 after she sustained severe injuries in the nursing home where she was a patient. Mr. Nunziata instituted a nursing home malpractice case against the nursing home's corporate licensee, several other corporations, and its supervisory staff, including respondent Trans Health Management, Inc. (THMI). THMI had provided back-office functions at the nursing home until several months before Ms. Nunziata's accident that led to her death." (General Electric Capital Corp v. Richard Nunziata et. al, [Petition for Writ of Certiorari to the Circuit Court for Pinellas County](#), District Court Of Appeal Of Florida Second District, Case No. 2D13-422, 8/14/13, p. 2)

In a court ruling, the judge explicitly states that "THMI was no longer under contract for back-office functions at the time of Ms. Nunziata's accident."

(General Electric Capital Corp v. Richard Nunziata et. al, Petition for Writ of Certiorari to the Circuit Court for Pinellas County, District Court Of Appeal Of Florida Second District, Case No. 2D13-422)

Additionally, The State-Appointed Receiver Of Trans Healthcare States In A Court Filing That THMI Provided Operational Support Services To [Pinellas Park Care And Rehabilitation Center] From November 1, 2002 To March 8, 2004, and THI had no relationship with the facility at all:

"Neither THI nor THMI owned or operated Pinellas Park Care and Rehabilitation Center. THMI provided operational support services to the facility from November 1, 2002 to March 8, 2004, and THI had no relationship with the facility at all." (Alan M. Grochal,

Moreover, a news story on the death includes a statement from the company, Home Quality Management, which was actually managing the nursing home at the time:

“This is an unfortunate isolated incident, which is currently under investigation. We offer our deepest sympathy to the resident's family,” said a statement from Home Quality Management.” (Anne Lindberg, “Missing Woman Found Dead In Nursing Home,” *St. Petersburg Times*, 10/14/04)

Latest: \$200 million judgment against THMI is currently being appealed.

Juanita Jackson (\$110 Million Award)

According To The Lawyers Representing Juanita Jackson’s Estate, She Was Ill Before Entering Nursing Home. “The family of Juanita Jackson, a 76-year-old homemaker and mother of four, had to place her in nursing home for rehabilitation in March 2003. Their plan was for Juanita to regain her strength at IHS of Florida at Auburndale (now known as Auburndale Oaks Healthcare Center) so her children could resume caring for her at home. But that was not to be.” (Press Release, “Jury Awards \$114 Million In Nursing Home Lawsuit,” [Wilkes & McHugh](#), 7/21/2010)

Passed Away More Than A Month After Leaving The Nursing Home.

“Jackson's family removed her from the nursing home on May 30, 2003... Her health continued to deteriorate, and she died July 6, 2003.” (Press Release, “Jury Awards \$114 Million In Nursing Home Lawsuit,” [Wilkes & McHugh](#), 7/21/2010)

The State-Appointed Receiver Of Trans Healthcare Stated In A Court Filing That THMI Only Provided Operational Support Services To [Auburndale Oaks].

"Neither THI nor THMI owned or operated Auburndale Oaks Healthcare Center. THMI provided operational support services to the facility from June 1, 2002 to October 1, 2004, and THI had no relationship with the facility at all."

(Alan M. Grochal, As Receiver For Trans Healthcare, Inc. v. The Estate Of Juanita Amelia Jackson, The Estate Of Elvira Nunziata And The Estate Of Joseph Webb, Complaint For Declaratory Relief And Demand For Jury Trial, U.S. District Court For The Middle District Of Florida, 3/4/13, p. 6)

The Latest: In Jackson, after \$110 million judgment was entered, Wilkes sued more than a dozen third parties, including certain GTCR entities, GECC, and others, to collect on that judgment. Earlier this month a federal judge granted GTCR’s motion to dismiss the case.

Nursing Home Staffing Averages

When associated with THI/THMI, the nursing homes in question exceeded state requirements for nurse staffing levels as well as national staffing averages.

Pinellas Park (November 1, 2002 – March 8, 2004):
Certified Nursing Assistants

2002 Q4: 2.3
2003 Q1: 2.6
2003 Q2: 2.6
2003 Q3: 2.9
2003 Q4: N/A
2004 Q1: 2.7

Licensed Nurses

2002 Q4: 1.2
2003 Q1: 1.2
2003 Q2: 1.4
2003 Q3: 1.7
2003 Q4: N/A
2004 Q1: 1.2

Auburndale (June 1, 2002 – October 1, 2004):

Certified Nursing Assistants

2002 Q4: 2.4
2003 Q1: 2.7
2003 Q2: 2.7
2003 Q3: 2.7
2003 Q4: 2.7
2004 Q1: 2.8
2004 Q2: 2.8
2004 Q3: 3.1

Licensed Nurses

2002 Q4: 1.1
2003 Q1: 1.1
2003 Q2: 1.1
2003 Q3: 1.1
2003 Q4: 1.1
2004 Q1: 1.1
2004 Q2: 7.1
2004 Q3: 8.1

National Staffing Averages (Certified Nursing Assistants)

2002: 2.2 hours per patient per day
2003: 2.2 hours per patient per day
2004: 2.3 hours per patient per day

National Staffing Averages (Licensed Nurses)

2002: 0.7 hours per patient per day
2003: 0.7 hours per patient per day
2004: 0.7 hours per patient per day

Source: <http://www.pascenter.org/documents/OSCAR2007.pdf> (page 61)