Form **990**

Department of the Treasury
Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

▶ The organization may have to use a copy of this return to satisfy state reporting requirements.

OMB No 1545-0047

2009

Open to Public Inspection

A For the 2009 calendar year, or tax year beginning and ending

B Check if applicable: [X] Address change; [ ] Name change; [ ] Initial return; [ ] Terminated; [ ] Amended return; [ ] Application pending

Please use IRS label or print or type. See Specific Instructions.

C Name of organization: CARE FOUNDATION OF AMERICA, INC.

Doing Business As

Number and street (or P.O. box if mail is not delivered to street address) / Room/suite: 750 OLD HICKORY BLVD, SUITE 150

City or town, state or country, and ZIP + 4: BRENTWOOD, TN 37027

D Employer identification number: 62-1802653

E Telephone number: 615-257-0633

G Gross receipts $ 6,366,501.

F Name and address of principal officer: C. THOMAS DAVENPORT, JR 750 OLD HICKORY BLVD, SUITE 150, BRENTWOOD,

H(a) Is this a group return for affiliates? [ ] Yes [X] No

H(b) Are all affiliates included? [ ] Yes [ ] No
If "No," attach a list (see instructions)

H(c) Group exemption number ▶

I Tax-exempt status: [X] 501(c) (3) ◀ (insert no.) [ ] 4947(a)(1) or [ ] 527

J Website: ▶ N/A

K Form of organization: [X] Corporation [ ] Trust [ ] Association [ ] Other ▶

L Year of formation: 1999 **M** State of legal domicile: TN

Part I Summary

Activities & Governance

1 Briefly describe the organization's mission or most significant activities. THE ORGANIZATION OWNS SIX SKILLED NURSING LONG TERM CARE FACILITIES AND LEASES THEM TO AN

2 Check this box ▶ [ ] if the organization discontinued its operations or disposed of more than 25% of its net assets.

3	Number of voting members of the governing body (Part VI, line 1a)	3	5
4	Number of independent voting members of the governing body (Part VI, line 1b)	4	5
5	Total number of employees (Part V, line 2a)	5	3
6	Total number of volunteers (estimate if necessary)	6	0
7a	Total gross unrelated business revenue from Part VIII, column (C), line 12	7a	0.
b	Net unrelated business taxable income from Form 990-T, line 34	7b	0.

		Prior Year	Current Year
Revenue			
8	Contributions and grants (Part VIII, line 1h)		
9	Program service revenue (Part VIII, line 2g)	6,400,000.	6,350,000.
10	Investment income (Part VIII, column (A), lines 3, 4, and 7d)	13,333.	16,501.
11	Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)		
12	Total revenue - add lines 8 through 11 (must equal Part VIII, column (A), line 12)	6,413,333.	6,366,501.
Expenses			
13	Grants and similar amounts paid (Part IX, column (A), lines 1-3)		
14	Benefits paid to or for members (Part IX, column (A), line 4)		
15	Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	106,750.	340,007.
16a	Professional fundraising fees (Part IX, column (A), line 11e)		
b	Total fundraising expenses (Part IX, column (D), line 25) ▶		
17	Other expenses (Part IX, column (A), lines 11a-11d, 11f-24f)	4,471,096.	8,196,911.
18	Total expenses Add lines 13-17 (must equal Part IX, column (A), line 25)	4,577,846.	8,536,918.
19	Revenue less expenses. Subtract line 18 from line 12	1,835,487.	<2,170,417.>

	Net Assets or Fund Balances	Beginning of Current Year	End of Year
20	Total assets (Part X, line 16)	24,177,063.	26,197,585.
21	Total liabilities (Part X, line 26)	23,135,032.	27,325,971.
22	Net assets or fund balances Subtract line 21 from line 20	1,042,031.	<1,128,386.>

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Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge

Sign Here

▶ C. Thomas Davenport Jr. — Signature of officer — Date 11/11/10

▶ C. THOMAS DAVENPORT, JR, OFFICER — Type or print name and title

Paid Preparer's Use Only

Preparer's signature ▶ RICHARD TOMICHEK, JR. — Date 11/11/10 — Check if self-employed ▶ [ ] — Preparer's identifying number (see instructions)

Firm's name (or yours if self-employed), address, and ZIP + 4 ▶ CARR, RIGGS & INGRAM, LLC, 3011 ARMORY DRIVE, SUITE 190, NASHVILLE, TN 37204

EIN ▶

Phone no. ▶ (615) 665-1811

May the IRS discuss this return with the preparer shown above? (see instructions) [X] Yes [ ] No

SEE SCHEDULE O FOR ORGANIZATION MISSION STATEMENT CONTINUATION

17

Part III Statement of Program Service Accomplishments

1 Briefly describe the organization's mission:
THE ORGANIZATION MISSION IS THE SUPPORT OF LONG TERM HEALTH CARE.

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? ☐ Yes ☒ No
If "Yes," describe these new services on Schedule O

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? ☐ Yes ☒ No
If "Yes," describe these changes on Schedule O.

4 Describe the exempt purpose achievements for each of the organization's three largest program services by expenses. Section 501(c)(3) and 501(c)(4) organizations and section 4947(a)(1) trusts are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.

4a (Code:) (Expenses $ 3,118,738. including grants of $) (Revenue $ 6,350,000.)
THE ORGANIZATION OWNS SIX SKILLED NURSING LONG TERM CARE FACILITIES AND LEASES THEM TO AN UNRELATED SECTION 501(C)(3) ORGANIZATION THAT OPERATES THE FACILITIES. THE ENTIRE INCOME, EXCEPT FOR GENERAL EXPENSES, IS USED TO REPAY THE INDEBTEDNESS INCURRED TO PURCHASE THE FACILITIES IN ACCORDANCE WITH REV. RULING 80-309, 1980-2 C.B. 183

4b (Code:) (Expenses $ including grants of $) (Revenue $)

4c (Code:) (Expenses $ including grants of $) (Revenue $)

4d Other program services. (Describe in Schedule O.)
(Expenses $ including grants of $) (Revenue $)

4e Total program service expenses ▶ $ 3,118,738.

Part IV Checklist of Required Schedules

			Yes	No
1	Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? *If "Yes," complete Schedule A*	1	X	
2	Is the organization required to complete Schedule B, Schedule of Contributors?	2		X
3	Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? *If "Yes," complete Schedule C, Part I*	3		X
4	**Section 501(c)(3) organizations.** Did the organization engage in lobbying activities? *If "Yes," complete Schedule C, Part II*	4		X
5	**Section 501(c)(4), 501(c)(5), and 501(c)(6) organizations.** Is the organization subject to the section 6033(e) notice and reporting requirement and proxy tax? *If "Yes," complete Schedule C, Part III*	5		
6	Did the organization maintain any donor advised funds or any similar funds or accounts where donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts? *If "Yes," complete Schedule D, Part I*	6		X
7	Did the organization receive or hold a conservation easement, including easements to preserve open space, the environment, historic land areas, or historic structures? *If "Yes," complete Schedule D, Part II*	7		X
8	Did the organization maintain collections of works of art, historical treasures, or other similar assets? *If "Yes," complete Schedule D, Part III*	8		X
9	Did the organization report an amount in Part X, line 21; serve as a custodian for amounts not listed in Part X; or provide credit counseling, debt management, credit repair, or debt negotiation services? *If "Yes," complete Schedule D, Part IV*	9		X
10	Did the organization, directly or through a related organization, hold assets in term, permanent, or quasi-endowments? *If "Yes," complete Schedule D, Part V*	10		X
11	Is the organization's answer to any of the following questions "Yes"? *If so, complete Schedule D, Parts VI, VII, VIII, IX, or X as applicable*	11	X	
	• Did the organization report an amount for land, buildings, and equipment in Part X, line 10? *If "Yes," complete Schedule D, Part VI.*			
	• Did the organization report an amount for investments - other securities in Part X, line 12 that is 5% or more of its total assets reported in Part X, line 16? *If "Yes," complete Schedule D, Part VII*			
	• Did the organization report an amount for investments - program related in Part X, line 13 that is 5% or more of its total assets reported in Part X, line 16? *If "Yes," complete Schedule D, Part VIII.*			
	• Did the organization report an amount for other assets in Part X, line 15 that is 5% or more of its total assets reported in Part X, line 16? *If "Yes," complete Schedule D, Part IX*			
	• Did the organization report an amount for other liabilities in Part X, line 25? *If "Yes," complete Schedule D, Part X*			
	• Did the organization's separate or consolidated financial statements for the tax year include a footnote that addresses the organization's liability for uncertain tax positions under FIN 48? *If "Yes," complete Schedule D, Part X*			
12	Did the organization obtain separate, independent audited financial statements for the tax year? *If "Yes," complete Schedule D, Parts XI, XII, and XIII.*	12		X
12A	Was the organization included in consolidated, independent audited financial statements for the tax year? *If "Yes," completing Schedule D, Parts XI, XII, and XIII is optional* — 12A: Yes [ ] No [X]			
13	Is the organization a school described in section 170(b)(1)(A)(ii)? *If "Yes," complete Schedule E*	13		X
14a	Did the organization maintain an office, employees, or agents outside of the United States?	14a		X
b	Did the organization have aggregate revenues or expenses of more than $10,000 from grantmaking, fundraising, business, and program service activities outside the United States? *If "Yes," complete Schedule F, Part I*	14b		X
15	Did the organization report on Part IX, column (A), line 3, more than $5,000 of grants or assistance to any organization or entity located outside the United States? *If "Yes," complete Schedule F, Part II*	15		X
16	Did the organization report on Part IX, column (A), line 3, more than $5,000 of aggregate grants or assistance to individuals located outside the United States? *If "Yes," complete Schedule F, Part III*	16		X
17	Did the organization report a total of more than $15,000 of expenses for professional fundraising services on Part IX, column (A), lines 6 and 11e? *If "Yes," complete Schedule G, Part I*	17		X
18	Did the organization report more than $15,000 total of fundraising event gross income and contributions on Part VIII, lines 1c and 8a? *If "Yes," complete Schedule G, Part II*	18		X
19	Did the organization report more than $15,000 of gross income from gaming activities on Part VIII, line 9a? *If "Yes," complete Schedule G, Part III*	19		X
20	Did the organization operate one or more hospitals? *If "Yes," complete Schedule H*	20		X

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Part IV Checklist of Required Schedules *(continued)*

			Yes	No
21	Did the organization report more than $5,000 of grants and other assistance to governments and organizations in the United States on Part IX, column (A), line 1? *If "Yes," complete Schedule I, Parts I and II*	21		X
22	Did the organization report more than $5,000 of grants and other assistance to individuals in the United States on Part IX, column (A), line 2? *If "Yes," complete Schedule I, Parts I and III*	22		X
23	Did the organization answer "Yes" to Part VII, Section A, line 3, 4, or 5 about compensation of the organization's current and former officers, directors, trustees, key employees, and highest compensated employees? *If "Yes," complete Schedule J*	23	X	
24a	Did the organization have a tax-exempt bond issue with an outstanding principal amount of more than $100,000 as of the last day of the year, that was issued after December 31, 2002? *If "Yes," answer lines 24b through 24d and complete Schedule K. If "No", go to line 25*	24a		X
b	Did the organization invest any proceeds of tax-exempt bonds beyond a temporary period exception?	24b		
c	Did the organization maintain an escrow account other than a refunding escrow at any time during the year to defease any tax-exempt bonds?	24c		
d	Did the organization act as an "on behalf of" issuer for bonds outstanding at any time during the year?	24d		
25a	**Section 501(c)(3) and 501(c)(4) organizations.** Did the organization engage in an excess benefit transaction with a disqualified person during the year? *If "Yes," complete Schedule L, Part I*	25a	X	
b	Is the organization aware that it engaged in an excess benefit transaction with a disqualified person in a prior year, and that the transaction has not been reported on any of the organization's prior Forms 990 or 990-EZ? *If "Yes," complete Schedule L, Part I*	25b		X
26	Was a loan to or by a current or former officer, director, trustee, key employee, highly compensated employee, or disqualified person outstanding as of the end of the organization's tax year? *If "Yes," complete Schedule L, Part II*	26	X	
27	Did the organization provide a grant or other assistance to an officer, director, trustee, key employee, substantial contributor, or a grant selection committee member, or to a person related to such an individual? *If "Yes," complete Schedule L, Part III*	27		X
28	Was the organization a party to a business transaction with one of the following parties, (see Schedule L, Part IV instructions for applicable filing thresholds, conditions, and exceptions):			
a	A current or former officer, director, trustee, or key employee? *If "Yes," complete Schedule L, Part IV*	28a		X
b	A family member of a current or former officer, director, trustee, or key employee? *If "Yes," complete Schedule L, Part IV*	28b	X	
c	An entity of which a current or former officer, director, trustee, or key employee of the organization (or a family member) was an officer, director, trustee, or direct or indirect owner? *If "Yes," complete Schedule L, Part IV*	28c		X
29	Did the organization receive more than $25,000 in non-cash contributions? *If "Yes," complete Schedule M*	29		X
30	Did the organization receive contributions of art, historical treasures, or other similar assets, or qualified conservation contributions? *If "Yes," complete Schedule M*	30		X
31	Did the organization liquidate, terminate, or dissolve and cease operations? *If "Yes," complete Schedule N, Part I*	31		X
32	Did the organization sell, exchange, dispose of, or transfer more than 25% of its net assets? *If "Yes," complete Schedule N, Part II*	32		X
33	Did the organization own 100% of an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? *If "Yes," complete Schedule R, Part I*	33	X	
34	Was the organization related to any tax-exempt or taxable entity? *If "Yes," complete Schedule R, Parts II, III, IV, and V, line 1*	34		X
35	Is any related organization a controlled entity within the meaning of section 512(b)(13)? *If "Yes," complete Schedule R, Part V, line 2*	35		X
36	**Section 501(c)(3) organizations.** Did the organization make any transfers to an exempt non-charitable related organization? *If "Yes," complete Schedule R, Part V, line 2*	36		X
37	Did the organization conduct more than 5% of its activities through an entity that is not a related organization and that is treated as a partnership for federal income tax purposes? *If "Yes," complete Schedule R, Part VI*	37		X
38	Did the organization complete Schedule O and provide explanations in Schedule O for Part VI, lines 11 and 19? **Note.** All Form 990 filers are required to complete Schedule O.	38	X	

Part V Statements Regarding Other IRS Filings and Tax Compliance

					Yes	No
1a	Enter the number reported in Box 3 of Form 1096, Annual Summary and Transmittal of U.S. Information Returns. Enter -0- if not applicable	1a	6			
b	Enter the number of Forms W-2G included in line 1a. Enter -0- if not applicable	1b	0			
c	Did the organization comply with backup withholding rules for reportable payments to vendors and reportable gaming (gambling) winnings to prize winners?			1c		
2a	Enter the number of employees reported on Form W-3, Transmittal of Wage and Tax Statements, filed for the calendar year ending with or within the year covered by this return	2a	3			
b	If at least one is reported on line 2a, did the organization file all required federal employment tax returns?			2b	X	
	Note. If the sum of lines 1a and 2a is greater than 250, you may be required to *e-file* this return. (see instructions)					
3a	Did the organization have unrelated business gross income of $1,000 or more during the year covered by this return?			3a		X
b	If "Yes," has it filed a Form 990-T for this year? *If "No," provide an explanation in Schedule O*			3b		
4a	At any time during the calendar year, did the organization have an interest in, or a signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account)?			4a		X
b	If "Yes," enter the name of the foreign country: ▶ See the instructions for exceptions and filing requirements for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts.					
5a	Was the organization a party to a prohibited tax shelter transaction at any time during the tax year?			5a		X
b	Did any taxable party notify the organization that it was or is a party to a prohibited tax shelter transaction?			5b		X
c	If "Yes," to line 5a or 5b, did the organization file Form 8886-T, Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction?			5c		
6a	Does the organization have annual gross receipts that are normally greater than $100,000, and did the organization solicit any contributions that were not tax deductible?			6a		X
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?			6b		
7	**Organizations that may receive deductible contributions under section 170(c).**					
a	Did the organization receive a payment in excess of $75 made partly as a contribution and partly for goods and services provided to the payor?			7a		X
b	If "Yes," did the organization notify the donor of the value of the goods or services provided?			7b		
c	Did the organization sell, exchange, or otherwise dispose of tangible personal property for which it was required to file Form 8282?			7c		X
d	If "Yes," indicate the number of Forms 8282 filed during the year	7d				
e	Did the organization, during the year, receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?			7e		X
f	Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract?			7f		X
g	For all contributions of qualified intellectual property, did the organization file Form 8899 as required?			7g		X
h	For contributions of cars, boats, airplanes, and other vehicles, did the organization file a Form 1098-C as required?			7h		X
8	**Sponsoring organizations maintaining donor advised funds and section 509(a)(3) supporting organizations.** Did the supporting organization, or a donor advised fund maintained by a sponsoring organization, have excess business holdings at any time during the year?			8		
9	**Sponsoring organizations maintaining donor advised funds.**					
a	Did the organization make any taxable distributions under section 4966?			9a		
b	Did the organization make a distribution to a donor, donor advisor, or related person?			9b		
10	**Section 501(c)(7) organizations.** Enter:					
a	Initiation fees and capital contributions included on Part VIII, line 12	10a				
b	Gross receipts, included on Form 990, Part VIII, line 12, for public use of club facilities	10b				
11	**Section 501(c)(12) organizations.** Enter:					
a	Gross income from members or shareholders	11a				
b	Gross income from other sources (Do not net amounts due or paid to other sources against amounts due or received from them.)	11b				
12a	**Section 4947(a)(1) non-exempt charitable trusts.** Is the organization filing Form 990 in lieu of Form 1041?			12a		
b	If "Yes," enter the amount of tax-exempt interest received or accrued during the year	12b				

Part VI Governance, Management, and Disclosure *For each "Yes" response to lines 2 through 7b below, and for a "No" response to line 8a, 8b, or 10b below, describe the circumstances, processes, or changes in Schedule O See instructions.*

Section A. Governing Body and Management

				Yes	No
1a	Enter the number of voting members of the governing body	1a 5			
b	Enter the number of voting members that are independent	1b 5			
2	Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee, or key employee?		2		X
3	Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors or trustees, or key employees to a management company or other person?		3		X
4	Did the organization make any significant changes to its organizational documents since the prior Form 990 was filed?		4		X
5	Did the organization become aware during the year of a material diversion of the organization's assets?		5		X
6	Does the organization have members or stockholders?		6		X
7a	Does the organization have members, stockholders, or other persons who may elect one or more members of the governing body?		7a		X
b	Are any decisions of the governing body subject to approval by members, stockholders, or other persons?		7b		X
8	Did the organization contemporaneously document the meetings held or written actions undertaken during the year by the following:				
a	The governing body?		8a	X	
b	Each committee with authority to act on behalf of the governing body?		8b	X	
9	Is there any officer, director, trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? *If "Yes," provide the names and addresses in Schedule O*		9		X

Section B. Policies *(This Section B requests information about policies not required by the Internal Revenue Code.)*

			Yes	No
10a	Does the organization have local chapters, branches, or affiliates?	10a		X
b	If "Yes," does the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with those of the organization?	10b		
11	Has the organization provided a copy of this Form 990 to all members of its governing body before filing the form?	11	X	
11A	Describe in Schedule O the process, if any, used by the organization to review this Form 990.			
12a	Does the organization have a written conflict of interest policy? *If "No," go to line 13*	12a	X	
b	Are officers, directors or trustees, and key employees required to disclose annually interests that could give rise to conflicts?	12b		X
c	Does the organization regularly and consistently monitor and enforce compliance with the policy? *If "Yes," describe in Schedule O how this is done*	12c		X
13	Does the organization have a written whistleblower policy?	13		X
14	Does the organization have a written document retention and destruction policy?	14		X
15	Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision?			
a	The organization's CEO, Executive Director, or top management official	15a		X
b	Other officers or key employees of the organization	15b		X
	If "Yes" to line 15a or 15b, describe the process in Schedule O (See instructions.)			
16a	Did the organization invest in, contribute assets to, or participate in a joint venture or similar arrangement with a taxable entity during the year?	16a		X
b	If "Yes," has the organization adopted a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable federal tax law, and taken steps to safeguard the organization's exempt status with respect to such arrangements?	16b		

Section C. Disclosure

17 List the states with which a copy of this Form 990 is required to be filed ▶ NONE

18 Section 6104 requires an organization to make its Forms 1023 (or 1024 if applicable), 990, and 990-T (501(c)(3)s only) available for public inspection. Indicate how you make these available. Check all that apply.
☐ Own website ☒ Another's website ☒ Upon request

19 Describe in Schedule O whether (and if so, how), the organization makes its governing documents, conflict of interest policy, and financial statements available to the public.

20 State the name, physical address, and telephone number of the person who possesses the books and records of the organization: ▶
C. THOMAS DAVENPORT, JR. - 615-257-0633
750 OLD HICKORY BLVD, SUITE 150, BRNTWOOD, TN 37027

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02-04-10

Part VII Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors

Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees

1a Complete this table for all persons required to be listed. Report compensation for the calendar year ending with or within the organization's tax year. Use Schedule J-2 if additional space is needed.

- List all of the organization's **current** officers, directors, trustees (whether individuals or organizations), regardless of amount of compensation. Enter -0- in columns (D), (E), and (F) if no compensation was paid.
- List all of the organization's **current** key employees. See instructions for definition of "key employee."
- List the organization's five **current** highest compensated employees (other than an officer, director, trustee, or key employee) who received reportable compensation (Box 5 of Form W-2 and/or Box 7 of Form 1099-MISC) of more than $100,000 from the organization and any related organizations
- List all of the organization's **former** officers, key employees, and highest compensated employees who received more than $100,000 of reportable compensation from the organization and any related organizations.
- List all of the organization's **former directors or trustees** that received, in the capacity as a former director or trustee of the organization, more than $10,000 of reportable compensation from the organization and any related organizations.

List persons in the following order: individual trustees or directors; institutional trustees; officers; key employees; highest compensated employees; and former such persons

☐ Check this box if the organization did not compensate any current officer, director, or trustee

(A) Name and Title	(B) Average hours per week	(C) Position (check all that apply): Individual trustee or director	Institutional trustee	Officer	Key employee	Highest compensated employee	Former	(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
JAMES P. EARLE, III PRESIDENT/DIRECTOR	30.00	X		X	X	X		150,750.	0.	0.
JOSEPH KEANE SECRETARY/DIRECTOR	10.00	X		X				66,150.	0.	0.
JAMES USDAN DIRECTOR	5.00	X						9,500.	0.	0.
LEIGH SPRUILL DIRECTOR	3.00	X						6,000.	0.	0.
C. THOMAS DAVENPORT, JR. DIRECTOR	5.00	X						11,000.	0.	0.

Part VII **Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees** *(continued)*

(A) Name and title	(B) Average hours per week	(C) Position (check all that apply): Individual trustee or director	Institutional trustee	Officer	Key employee	Highest compensated employee	Former	(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
1b Total ▶								243,400.	0.	0.

2 Total number of individuals (including but not limited to those listed above) who received more than $100,000 in reportable compensation from the organization ▶ 1

		Yes	No
3 Did the organization list any **former** officer, director or trustee, key employee, or highest compensated employee on line 1a? *If "Yes," complete Schedule J for such individual*	3		X
4 For any individual listed on line 1a, is the sum of reportable compensation and other compensation from the organization and related organizations greater than $150,000? *If "Yes," complete Schedule J for such individual*	4	X	
5 Did any person listed on line 1a receive or accrue compensation from any unrelated organization for services rendered to the organization? *If "Yes," complete Schedule J for such person*	5		X

Section B. Independent Contractors

1 Complete this table for your five highest compensated independent contractors that received more than $100,000 of compensation from the organization.

(A) Name and business address	(B) Description of services	(C) Compensation
WALLER LANSDEN DORTCH & DAVIS, 511 UNION STREET, SUITE 2700, NASHVILLE, TN 37219	LEGAL FEES	562,189.

2 Total number of independent contractors (including but not limited to those listed above) who received more than $100,000 in compensation from the organization ▶ 1

Part VIII Statement of Revenue

			(A) Total revenue	(B) Related or exempt function revenue	(C) Unrelated business revenue	(D) Revenue excluded from tax under sections 512, 513, or 514
Contributions, gifts, grants and other similar amounts						
1 a Federated campaigns	1a					
b Membership dues	1b					
c Fundraising events	1c					
d Related organizations	1d					
e Government grants (contributions)	1e					
f All other contributions, gifts, grants, and similar amounts not included above	1f					
g Noncash contributions included in lines 1a-1f $						
h **Total.** Add lines 1a-1f						
Program Service Revenue	Business Code					
2 a LEASE INCOME-SIX SKILL	531120		6350000.	6350000.		
b						
c						
d						
e						
f All other program service revenue						
g **Total.** Add lines 2a-2f			6350000.			
Other Revenue						
3 Investment income (including dividends, interest, and other similar amounts)			16,501.			16,501.
4 Income from investment of tax-exempt bond proceeds						
5 Royalties						
	(i) Real	(ii) Personal				
6 a Gross Rents						
b Less: rental expenses						
c Rental income or (loss)						
d Net rental income or (loss)						
7 a Gross amount from sales of assets other than inventory	(i) Securities	(ii) Other				
b Less: cost or other basis and sales expenses						
c Gain or (loss)						
d Net gain or (loss)						
8 a Gross income from fundraising events (not including $ ______ of contributions reported on line 1c). See Part IV, line 18	a					
b Less: direct expenses	b					
c Net income or (loss) from fundraising events						
9 a Gross income from gaming activities. See Part IV, line 19	a					
b Less: direct expenses	b					
c Net income or (loss) from gaming activities						
10 a Gross sales of inventory, less returns and allowances	a					
b Less: cost of goods sold	b					
c Net income or (loss) from sales of inventory						
Miscellaneous Revenue	Business Code					
11 a						
b						
c						
d All other revenue						
e **Total.** Add lines 11a-11d						
12 Total revenue. See instructions.			6366501.	6350000.	0.	16,501.

Part IX Statement of Functional Expenses

Section 501(c)(3) and 501(c)(4) organizations must complete all columns.
All other organizations must complete column (A) but are not required to complete columns (B), (C), and (D).

Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII.	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1 Grants and other assistance to governments and organizations in the U.S. See Part IV, line 21				
2 Grants and other assistance to individuals in the U S. See Part IV, line 22				
3 Grants and other assistance to governments, organizations, and individuals outside the U.S. See Part IV, lines 15 and 16				
4 Benefits paid to or for members				
5 Compensation of current officers, directors, trustees, and key employees	320,238.		320,238.	
6 Compensation not included above, to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)				
7 Other salaries and wages				
8 Pension plan contributions (include section 401(k) and section 403(b) employer contributions)				
9 Other employee benefits				
10 Payroll taxes	19,769.		19,769.	
11 Fees for services (non-employees):				
a Management				
b Legal	4,863,336.		4,863,336.	
c Accounting				
d Lobbying				
e Professional fundraising services. See Part IV, line 17				
f Investment management fees				
g Other	203,179.		203,179.	
12 Advertising and promotion				
13 Office expenses				
14 Information technology				
15 Royalties				
16 Occupancy				
17 Travel	2,034.		2,034.	
18 Payments of travel or entertainment expenses for any federal, state, or local public officials				
19 Conferences, conventions, and meetings				
20 Interest	2,195,076.	2,195,076.		
21 Payments to affiliates				
22 Depreciation, depletion, and amortization	923,662.	923,662.		
23 Insurance				
24 Other expenses. Itemize expenses not covered above. (Expenses grouped together and labeled miscellaneous may not exceed 5% of total expenses shown on line 25 below.)				
a ADMINISTRATIVE EXPENSES	7,404.		7,404.	
b MEALS AND ENTERTAIMENT	2,006.		2,006.	
c BANK SERVICE CHARGES	214.		214.	
d				
e				
f All other expenses				
25 **Total functional expenses.** Add lines 1 through 24f	8,536,918.	3,118,738.	5,418,180.	0.
26 **Joint costs.** Check here ▶ ☐ if following SOP 98-2. Complete this line only if the organization reported in column (B) joint costs from a combined educational campaign and fundraising solicitation				

Part X Balance Sheet

			(A) Beginning of year		(B) End of year
Assets	1	Cash - non-interest-bearing	87,560.	1	8,861.
	2	Savings and temporary cash investments	19,973.	2	3,042,856.
	3	Pledges and grants receivable, net		3	
	4	Accounts receivable, net		4	
	5	Receivables from current and former officers, directors, trustees, key employees, and highest compensated employees Complete Part II of Schedule L		5	
	6	Receivables from other disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B) Complete Part II of Schedule L		6	
	7	Notes and loans receivable, net		7	
	8	Inventories for sale or use		8	
	9	Prepaid expenses and deferred charges	43,208.	9	43,208.
	10a	Land, buildings, and equipment: cost or other basis. Complete Part VI of Schedule D — 10a 32,621,115.			
	b	Less: accumulated depreciation — 10b 9,518,455.	24,026,322.	10c	23,102,660.
	11	Investments - publicly traded securities		11	
	12	Investments - other securities. See Part IV, line 11		12	
	13	Investments - program-related. See Part IV, line 11		13	
	14	Intangible assets		14	
	15	Other assets See Part IV, line 11		15	
	16	**Total assets.** Add lines 1 through 15 (must equal line 34)	24,177,063.	16	26,197,585.
Liabilities	17	Accounts payable and accrued expenses	29,012.	17	4,219,951.
	18	Grants payable		18	
	19	Deferred revenue		19	
	20	Tax-exempt bond liabilities		20	
	21	Escrow or custodial account liability. Complete Part IV of Schedule D		21	
	22	Payables to current and former officers, directors, trustees, key employees, highest compensated employees, and disqualified persons. Complete Part II of Schedule L		22	
	23	Secured mortgages and notes payable to unrelated third parties	22,936,544.	23	22,936,544.
	24	Unsecured notes and loans payable to unrelated third parties		24	
	25	Other liabilities. Complete Part X of Schedule D	169,476.	25	169,476.
	26	**Total liabilities.** Add lines 17 through 25	23,135,032.	26	27,325,971.
Net Assets or Fund Balances		**Organizations that follow SFAS 117, check here ▶ [ ] and complete lines 27 through 29, and lines 33 and 34.**			
	27	Unrestricted net assets		27	
	28	Temporarily restricted net assets		28	
	29	Permanently restricted net assets		29	
		Organizations that do not follow SFAS 117, check here ▶ [X] and complete lines 30 through 34.			
	30	Capital stock or trust principal, or current funds	0.	30	0.
	31	Paid-in or capital surplus, or land, building, or equipment fund	0.	31	0.
	32	Retained earnings, endowment, accumulated income, or other funds	1,042,031.	32	<1,128,386.>
	33	Total net assets or fund balances	1,042,031.	33	<1,128,386.>
	34	Total liabilities and net assets/fund balances	24,177,063.	34	26,197,585.

Part XI Financial Statements and Reporting

			Yes	No
1	Accounting method used to prepare the Form 990: ☐ Cash ☒ Accrual ☐ Other ______ If the organization changed its method of accounting from a prior year or checked "Other," explain in Schedule O.			
2a	Were the organization's financial statements compiled or reviewed by an independent accountant?	2a	X	
b	Were the organization's financial statements audited by an independent accountant?	2b		X
c	If "Yes" to line 2a or 2b, does the organization have a committee that assumes responsibility for oversight of the audit, review, or compilation of its financial statements and selection of an independent accountant?	2c		X
	If the organization changed either its oversight process or selection process during the tax year, explain in Schedule O.			
d	If "Yes" to line 2a or 2b, check a box below to indicate whether the financial statements for the year were issued on a consolidated basis, separate basis, or both: ☒ Separate basis ☐ Consolidated basis ☐ Both consolidated and separate basis			
3a	As a result of a federal award, was the organization required to undergo an audit or audits as set forth in the Single Audit Act and OMB Circular A-133?	3a		X
b	If "Yes," did the organization undergo the required audit or audits? If the organization did not undergo the required audit or audits, explain why in Schedule O and describe any steps taken to undergo such audits.	3b		

SCHEDULE A (Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Public Charity Status and Public Support

Complete if the organization is a section 501(c)(3) organization or a section 4947(a)(1) nonexempt charitable trust.
▶ Attach to Form 990 or Form 990-EZ. ▶ See separate instructions.

OMB No 1545-0047
2009
Open to Public Inspection

Name of the organization	Employer identification number
CARE FOUNDATION OF AMERICA, INC.	62-1802653

Part I Reason for Public Charity Status (All organizations must complete this part.) See instructions

The organization is not a private foundation because it is: (For lines 1 through 11, check only one box.)

1 [ ] A church, convention of churches, or association of churches described in **section 170(b)(1)(A)(i).**
2 [ ] A school described in **section 170(b)(1)(A)(ii).** (Attach Schedule E.)
3 [ ] A hospital or a cooperative hospital service organization described in **section 170(b)(1)(A)(iii).**
4 [ ] A medical research organization operated in conjunction with a hospital described in **section 170(b)(1)(A)(iii).** Enter the hospital's name, city, and state:
5 [ ] An organization operated for the benefit of a college or university owned or operated by a governmental unit described in **section 170(b)(1)(A)(iv).** (Complete Part II.)
6 [ ] A federal, state, or local government or governmental unit described in **section 170(b)(1)(A)(v).**
7 [ ] An organization that normally receives a substantial part of its support from a governmental unit or from the general public described in **section 170(b)(1)(A)(vi).** (Complete Part II)
8 [ ] A community trust described in **section 170(b)(1)(A)(vi).** (Complete Part II.)
9 [X] An organization that normally receives: (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions - subject to certain exceptions, and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975 See **section 509(a)(2).** (Complete Part III.)
10 [ ] An organization organized and operated exclusively to test for public safety. See **section 509(a)(4).**
11 [ ] An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in section 509(a)(1) or section 509(a)(2) See **section 509(a)(3).** Check the box that describes the type of supporting organization and complete lines 11e through 11h.

a [ ] Type I b [ ] Type II c [ ] Type III - Functionally integrated d [ ] Type III - Other

e [ ] By checking this box, I certify that the organization is not controlled directly or indirectly by one or more disqualified persons other than foundation managers and other than one or more publicly supported organizations described in section 509(a)(1) or section 509(a)(2).

f If the organization received a written determination from the IRS that it is a Type I, Type II, or Type III supporting organization, check this box [ ]

g Since August 17, 2006, has the organization accepted any gift or contribution from any of the following persons?

		Yes	No
(i) A person who directly or indirectly controls, either alone or together with persons described in (ii) and (iii) below, the governing body of the supported organization?	11g(i)		
(ii) A family member of a person described in (i) above?	11g(ii)		
(iii) A 35% controlled entity of a person described in (i) or (ii) above?	11g(iii)		

h Provide the following information about the supported organization(s).

(i) Name of supported organization	(ii) EIN	(iii) Type of organization (described on lines 1-9 above or IRC section (see instructions))	(iv) Is the organization in col. (i) listed in your governing document? Yes	No	(v) Did you notify the organization in col. (i) of your support? Yes	No	(vi) Is the organization in col. (i) organized in the U.S.? Yes	No	(vii) Amount of support
Total									

Part II Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi)
(Complete only if you checked the box on line 5, 7, or 8 of Part I)

Section A. Public Support

Calendar year (or fiscal year beginning in) ▶	(a) 2005	(b) 2006	(c) 2007	(d) 2008	(e) 2009	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.")						
2 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
3 The value of services or facilities furnished by a governmental unit to the organization without charge						
4 **Total.** Add lines 1 through 3						
5 The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f)						
6 **Public support.** Subtract line 5 from line 4						

Section B. Total Support

Calendar year (or fiscal year beginning in) ▶	(a) 2005	(b) 2006	(c) 2007	(d) 2008	(e) 2009	(f) Total
7 Amounts from line 4						
8 Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources						
9 Net income from unrelated business activities, whether or not the business is regularly carried on						
10 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part IV)						
11 **Total support.** Add lines 7 through 10						

12 Gross receipts from related activities, etc (see instructions) | 12 |

13 **First five years.** If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and **stop here** ▶ ☐

Section C. Computation of Public Support Percentage

14 Public support percentage for 2009 (line 6, column (f) divided by line 11, column (f)) | 14 | %

15 Public support percentage from 2008 Schedule A, Part II, line 14 | 15 | %

16a **33 1/3% support test - 2009.** If the organization did not check the box on line 13, and line 14 is 33 1/3% or more, check this box and **stop here.** The organization qualifies as a publicly supported organization ▶ ☐

b **33 1/3% support test - 2008.** If the organization did not check a box on line 13 or 16a, and line 15 is 33 1/3% or more, check this box and **stop here.** The organization qualifies as a publicly supported organization ▶ ☐

17a **10% -facts-and-circumstances test - 2009.** If the organization did not check a box on line 13, 16a, or 16b, and line 14 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and **stop here.** Explain in Part IV how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization ▶ ☐

b **10% -facts-and-circumstances test - 2008.** If the organization did not check a box on line 13, 16a, 16b, or 17a, and line 15 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and **stop here.** Explain in Part IV how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization ▶ ☐

18 **Private foundation.** If the organization did not check a box on line 13, 16a, 16b, 17a, or 17b, check this box and see instructions ▶ ☐

Part III Support Schedule for Organizations Described in Section 509(a)(2) (Complete only if you checked the box on line 9 of Part I.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ▶	(a) 2005	(b) 2006	(c) 2007	(d) 2008	(e) 2009	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.")			1,000,000.			1,000,000.
2 Gross receipts from admissions, merchandise sold or services performed, or facilities furnished in any activity that is related to the organization's tax-exempt purpose	5,092,696.	4,861,094.	5,182,354.	6,400,000.	6,350,000.	27,886,144.
3 Gross receipts from activities that are not an unrelated trade or business under section 513						
4 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
5 The value of services or facilities furnished by a governmental unit to the organization without charge						
6 **Total.** Add lines 1 through 5	5,092,696.	4,861,094.	6,182,354.	6,400,000.	6,350,000.	28,886,144.
7a Amounts included on lines 1, 2, and 3 received from disqualified persons						0.
b Amounts included on lines 2 and 3 received from other than disqualified persons that exceed the greater of $5,000 or 1% of the amount on line 13 for the year						0.
c Add lines 7a and 7b						0.
8 **Public support** (Subtract line 7c from line 6.)						28,886,144.

Section B. Total Support

Calendar year (or fiscal year beginning in) ▶	(a) 2005	(b) 2006	(c) 2007	(d) 2008	(e) 2009	(f) Total
9 Amounts from line 6	5,092,696.	4,861,094.	6,182,354.	6,400,000.	6,350,000.	28,886,144.
10a Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources	6,053.	9,776.	21,056.	18,411.	16,501.	71,797.
b Unrelated business taxable income (less section 511 taxes) from businesses acquired after June 30, 1975						
c Add lines 10a and 10b	6,053.	9,776.	21,056.	18,411.	16,501.	71,797.
11 Net income from unrelated business activities not included in line 10b, whether or not the business is regularly carried on						
12 Other income Do not include gain or loss from the sale of capital assets (Explain in Part IV)						
13 **Total support** (Add lines 9, 10c, 11, and 12)	5,098,749.	4,870,870.	6,203,410.	6,418,411.	6,366,501.	28,957,941.

14 **First five years.** If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and **stop here** ▶ ☐

Section C. Computation of Public Support Percentage

15 Public support percentage for 2009 (line 8, column (f) divided by line 13, column (f)) | 15 | 99.75 %

16 Public support percentage from 2008 Schedule A, Part III, line 15 | 16 | 99.79 %

Section D. Computation of Investment Income Percentage

17 Investment income percentage for **2009** (line 10c, column (f) divided by line 13, column (f)) | 17 | .25 %

18 Investment income percentage from **2008** Schedule A, Part III, line 17 | 18 | .21 %

19a **33 1/3% support tests - 2009.** If the organization did not check the box on line 14, and line 15 is more than 33 1/3%, and line 17 is not more than 33 1/3%, check this box and **stop here.** The organization qualifies as a publicly supported organization ▶ ☒

b **33 1/3% support tests - 2008.** If the organization did not check a box on line 14 or line 19a, and line 16 is more than 33 1/3%, and line 18 is not more than 33 1/3%, check this box and **stop here.** The organization qualifies as a publicly supported organization ▶ ☐

20 **Private foundation.** If the organization did not check a box on line 14, 19a, or 19b, check this box and see instructions ▶ ☐

Schedule D (Form 990)

Department of the Treasury
Internal Revenue Service

Supplemental Financial Statements

▶ Complete if the organization answered "Yes," to Form 990, Part IV, line 6, 7, 8, 9, 10, 11, or 12.
▶ Attach to Form 990. ▶ See separate instructions.

OMB No 1545-0047
2009
Open to Public Inspection

Name of the organization: CARE FOUNDATION OF AMERICA, INC.
Employer identification number: 62-1802653

Part I — Organizations Maintaining Donor Advised Funds or Other Similar Funds or Accounts. Complete if the organization answered "Yes" to Form 990, Part IV, line 6.

		(a) Donor advised funds	(b) Funds and other accounts
1	Total number at end of year		
2	Aggregate contributions to (during year)		
3	Aggregate grants from (during year)		
4	Aggregate value at end of year		

5 Did the organization inform all donors and donor advisors in writing that the assets held in donor advised funds are the organization's property, subject to the organization's exclusive legal control? ☐ Yes ☐ No

6 Did the organization inform all grantees, donors, and donor advisors in writing that grant funds can be used only for charitable purposes and not for the benefit of the donor or donor advisor, or for any other purpose conferring impermissible private benefit? ☐ Yes ☐ No

Part II — Conservation Easements. Complete if the organization answered "Yes" to Form 990, Part IV, line 7

1 Purpose(s) of conservation easements held by the organization (check all that apply).
- ☐ Preservation of land for public use (e.g., recreation or pleasure)
- ☐ Protection of natural habitat
- ☐ Preservation of open space
- ☐ Preservation of an historically important land area
- ☐ Preservation of a certified historic structure

2 Complete lines 2a through 2d if the organization held a qualified conservation contribution in the form of a conservation easement on the last day of the tax year.

			Held at the End of the Tax Year
a	Total number of conservation easements	2a	
b	Total acreage restricted by conservation easements	2b	
c	Number of conservation easements on a certified historic structure included in (a)	2c	
d	Number of conservation easements included in (c) acquired after 8/17/06	2d	

3 Number of conservation easements modified, transferred, released, extinguished, or terminated by the organization during the tax year ▶ ____

4 Number of states where property subject to conservation easement is located ▶ ____

5 Does the organization have a written policy regarding the periodic monitoring, inspection, handling of violations, and enforcement of the conservation easements it holds? ☐ Yes ☐ No

6 Staff and volunteer hours devoted to monitoring, inspecting, and enforcing conservation easements during the year ▶ ____

7 Amount of expenses incurred in monitoring, inspecting, and enforcing conservation easements during the year ▶ $ ____

8 Does each conservation easement reported on line 2(d) above satisfy the requirements of section 170(h)(4)(B)(i) and section 170(h)(4)(B)(ii)? ☐ Yes ☐ No

9 In Part XIV, describe how the organization reports conservation easements in its revenue and expense statement, and balance sheet, and include, if applicable, the text of the footnote to the organization's financial statements that describes the organization's accounting for conservation easements

Part III — Organizations Maintaining Collections of Art, Historical Treasures, or Other Similar Assets.
Complete if the organization answered "Yes" to Form 990, Part IV, line 8.

1a If the organization elected, as permitted under SFAS 116, not to report in its revenue statement and balance sheet works of art, historical treasures, or other similar assets held for public exhibition, education, or research in furtherance of public service, provide, in Part XIV, the text of the footnote to its financial statements that describes these items.

b If the organization elected, as permitted under SFAS 116, to report in its revenue statement and balance sheet works of art, historical treasures, or other similar assets held for public exhibition, education, or research in furtherance of public service, provide the following amounts relating to these items
- (i) Revenues included in Form 990, Part VIII, line 1 ▶ $ ____
- (ii) Assets included in Form 990, Part X ▶ $ ____

2 If the organization received or held works of art, historical treasures, or other similar assets for financial gain, provide the following amounts required to be reported under SFAS 116 relating to these items:
- a Revenues included in Form 990, Part VIII, line 1 ▶ $ ____
- b Assets included in Form 990, Part X ▶ $ ____

Part III **Organizations Maintaining Collections of Art, Historical Treasures, or Other Similar Assets** *(continued)*

3 Using the organization's acquisition, accession, and other records, check any of the following that are a significant use of its collection items (check all that apply):

a ☐ Public exhibition
b ☐ Scholarly research
c ☐ Preservation for future generations
d ☐ Loan or exchange programs
e ☐ Other

4 Provide a description of the organization's collections and explain how they further the organization's exempt purpose in Part XIV.

5 During the year, did the organization solicit or receive donations of art, historical treasures, or other similar assets to be sold to raise funds rather than to be maintained as part of the organization's collection? ☐ Yes ☐ No

Part IV **Escrow and Custodial Arrangements.** Complete if organization answered "Yes" to Form 990, Part IV, line 9, or reported an amount on Form 990, Part X, line 21.

1a Is the organization an agent, trustee, custodian or other intermediary for contributions or other assets not included on Form 990, Part X? ☐ Yes ☐ No

b If "Yes," explain the arrangement in Part XIV and complete the following table:

		Amount
c Beginning balance	1c	
d Additions during the year	1d	
e Distributions during the year	1e	
f Ending balance	1f	

2a Did the organization include an amount on Form 990, Part X, line 21? ☐ Yes ☐ No

b If "Yes," explain the arrangement in Part XIV

Part V **Endowment Funds.** Complete if the organization answered "Yes" to Form 990, Part IV, line 10

	(a) Current year	(b) Prior year	(c) Two years back	(d) Three years back	(e) Four years back
1a Beginning of year balance					
b Contributions					
c Net investment earnings, gains, and losses					
d Grants or scholarships					
e Other expenditures for facilities and programs					
f Administrative expenses					
g End of year balance					

2 Provide the estimated percentage of the year end balance held as:

a Board designated or quasi-endowment ▶ ______ %

b Permanent endowment ▶ ______ %

c Term endowment ▶ ______ %

3a Are there endowment funds not in the possession of the organization that are held and administered for the organization by:

		Yes	No
(i) unrelated organizations	3a(i)		
(ii) related organizations	3a(ii)		
b If "Yes" to 3a(ii), are the related organizations listed as required on Schedule R?	3b		

4 Describe in Part XIV the intended uses of the organization's endowment funds.

Part VI **Investments - Land, Buildings, and Equipment.** See Form 990, Part X, line 10.

Description of investment	(a) Cost or other basis (investment)	(b) Cost or other basis (other)	(c) Accumulated depreciation	(d) Book value
1a Land		1,202,155.		1,202,155.
b Buildings		29,041,986.	7,241,975.	21,800,011.
c Leasehold improvements		717,718.	717,718.	0.
d Equipment		1,599,535.	1,558,762.	40,773.
e Other		59,721.		59,721.
Total. Add lines 1a through 1e *(Column (d) must equal Form 990, Part X, column (B), line 10(c).)* ▶				23,102,660.

Part VII Investments - Other Securities. See Form 990, Part X, line 12.

(a) Description of security or category (including name of security)	(b) Book value	(c) Method of valuation: Cost or end-of-year market value
Financial derivatives		
Closely-held equity interests		
Other		
Total. (Col (b) must equal Form 990, Part X, col (B) line 12.) ▶		

Part VIII Investments - Program Related. See Form 990, Part X, line 13.

(a) Description of investment type	(b) Book value	(c) Method of valuation: Cost or end-of-year market value
Total. (Col (b) must equal Form 990, Part X, col (B) line 13.) ▶		

Part IX Other Assets. See Form 990, Part X, line 15.

(a) Description	(b) Book value
Total. *(Column (b) must equal Form 990, Part X, col (B) line 15.)* ▶	

Part X Other Liabilities. See Form 990, Part X, line 25.

1 (a) Description of liability	(b) Amount
Federal income taxes	
ACCRUED INTEREST PAYABLE NHI LOAN	169,476.
Total. *(Column (b) must equal Form 990, Part X, col (B) line 25.)* ▶	169,476.

2. FIN 48 Footnote. In Part XIV, provide the text of the footnote to the organization's financial statements that reports the organization's liability for uncertain tax positions under FIN 48

Part XI Reconciliation of Change in Net Assets from Form 990 to Audited Financial Statements

1	Total revenue (Form 990, Part VIII, column (A), line 12)	1	
2	Total expenses (Form 990, Part IX, column (A), line 25)	2	
3	Excess or (deficit) for the year. Subtract line 2 from line 1	3	
4	Net unrealized gains (losses) on investments	4	
5	Donated services and use of facilities	5	
6	Investment expenses	6	
7	Prior period adjustments	7	
8	Other (Describe in Part XIV)	8	
9	Total adjustments (net). Add lines 4 through 8	9	
10	Excess or (deficit) for the year per audited financial statements. Combine lines 3 and 9	10	

Part XII Reconciliation of Revenue per Audited Financial Statements With Revenue per Return

1	Total revenue, gains, and other support per audited financial statements			1	
2	Amounts included on line 1 but not on Form 990, Part VIII, line 12:				
a	Net unrealized gains on investments	2a			
b	Donated services and use of facilities	2b			
c	Recoveries of prior year grants	2c			
d	Other (Describe in Part XIV.)	2d			
e	Add lines **2a** through **2d**			2e	
3	Subtract line **2e** from line **1**			3	
4	Amounts included on Form 990, Part VIII, line 12, but not on line **1**:				
a	Investment expenses not included on Form 990, Part VIII, line 7b	4a			
b	Other (Describe in Part XIV)	4b			
c	Add lines **4a** and **4b**			4c	
5	Total revenue Add lines **3** and **4c.** *(This must equal Form 990, Part I, line 12.)*			5	

Part XIII Reconciliation of Expenses per Audited Financial Statements With Expenses per Return

1	Total expenses and losses per audited financial statements			1	
2	Amounts included on line 1 but not on Form 990, Part IX, line 25:				
a	Donated services and use of facilities	2a			
b	Prior year adjustments	2b			
c	Other losses	2c			
d	Other (Describe in Part XIV.)	2d			
e	Add lines **2a** through **2d**			2e	
3	Subtract line **2e** from line **1**			3	
4	Amounts included on Form 990, Part IX, line 25, but not on line **1**:				
a	Investment expenses not included on Form 990, Part VIII, line 7b	4a			
b	Other (Describe in Part XIV)	4b			
c	Add lines **4a** and **4b**			4c	
5	Total expenses. Add lines **3** and **4c.** *(This must equal Form 990, Part I, line 18.)*			5	

Part XIV Supplemental Information

Complete this part to provide the descriptions required for Part II, lines 3, 5, and 9; Part III, lines 1a and 4; Part IV, lines 1b and 2b; Part V, line 4; Part X, line 2; Part XI, line 8, Part XII, lines 2d and 4b; and Part XIII, lines 2d and 4b. Also complete this part to provide any additional information.

SCHEDULE J (Form 990)

Department of the Treasury Internal Revenue Service

Compensation Information

For certain Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees

▶ **Complete if the organization answered "Yes" to Form 990, Part IV, line 23.**

▶ **Attach to Form 990.** ▶ **See separate instructions.**

OMB No 1545-0047

2009

Open to Public Inspection

Name of the organization	Employer identification number
CARE FOUNDATION OF AMERICA, INC.	62-1802653

Part I Questions Regarding Compensation

			Yes	No
1a	Check the appropriate box(es) if the organization provided any of the following to or for a person listed in Form 990, Part VII, Section A, line 1a. Complete Part III to provide any relevant information regarding these items. ☐ First-class or charter travel ☐ Housing allowance or residence for personal use ☐ Travel for companions ☐ Payments for business use of personal residence ☐ Tax indemnification and gross-up payments ☐ Health or social club dues or initiation fees ☐ Discretionary spending account ☐ Personal services (e g , maid, chauffeur, chef)			
b	If any of the boxes on line 1a are checked, did the organization follow a written policy regarding payment or reimbursement or provision of all of the expenses described above? If "No," complete Part III to explain	1b		
2	Did the organization require substantiation prior to reimbursing or allowing expenses incurred by all officers, directors, trustees, and the CEO/Executive Director, regarding the items checked in line 1a?	2		
3	Indicate which, if any, of the following the organization uses to establish the compensation of the organization's CEO/Executive Director. Check all that apply. ☐ Compensation committee ☐ Written employment contract ☐ Independent compensation consultant ☐ Compensation survey or study ☐ Form 990 of other organizations ☐ Approval by the board or compensation committee			
4	During the year, did any person listed in Form 990, Part VII, Section A, line 1a, with respect to the filing organization or a related organization:			
a	Receive a severance payment or change-of-control payment?	4a		X
b	Participate in, or receive payment from, a supplemental nonqualified retirement plan?	4b		X
c	Participate in, or receive payment from, an equity-based compensation arrangement? If "Yes" to any of lines 4a-c, list the persons and provide the applicable amounts for each item in Part III.	4c		X
	Only section 501(c)(3) and 501(c)(4) organizations must complete lines 5-9.			
5	For persons listed in Form 990, Part VII, Section A, line 1a, did the organization pay or accrue any compensation contingent on the revenues of:			
a	The organization?	5a		X
b	Any related organization? If "Yes" to line 5a or 5b, describe in Part III.	5b		X
6	For persons listed in Form 990, Part VII, Section A, line 1a, did the organization pay or accrue any compensation contingent on the net earnings of:			
a	The organization?	6a		X
b	Any related organization? If "Yes" to line 6a or 6b, describe in Part III.	6b		X
7	For persons listed in Form 990, Part VII, Section A, line 1a, did the organization provide any non-fixed payments not described in lines 5 and 6? If "Yes," describe in Part III	7		X
8	Were any amounts reported in Form 990, Part VII, paid or accrued pursuant to a contract that was subject to the initial contract exception described in Regs. section 53.4958-4(a)(3)? If "Yes," describe in Part III	8		X
9	If "Yes" to line 8, did the organization also follow the rebuttable presumption procedure described in Regulations section 53 4958-6(c)?	9		

Part II **Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees.** Use Schedule J-1 if additional space is needed.

For each individual whose compensation must be reported in Schedule J, report compensation from the organization on row (i) and from related organizations, described in the instructions, on row (ii). Do not list any individuals that are not listed on Form 990, Part VII.

Note. The sum of columns (B)(i)-(iii) must equal the applicable column (D) or column (E) amounts on Form 990, Part VII, line 1a.

(A) Name		(B) Breakdown of W-2 and/or 1099-MISC compensation			(C) Retirement and other deferred compensation	(D) Nontaxable benefits	(E) Total of columns (B)(i)-(D)	(F) Compensation reported in prior Form 990 or Form 990-EZ
		(i) Base compensation	(ii) Bonus & incentive compensation	(iii) Other reportable compensation				
JAMES P. EARLE, III	(i)	150,000.	0.	750.	0.	0.	150,750.	49,250.
	(ii)	0.	0.	0.	0.	0.	0.	0.
	(i)							
	(ii)							
	(i)							
	(ii)							
	(i)							
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	(i)							
	(ii)							
	(i)							
	(ii)							
	(i)							
	(ii)							

SCHEDULE L
(Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Transactions With Interested Persons

▶ Complete if the organization answered "Yes" on Form 990, Part IV, line 25a, 25b, 26, 27, 28a, 28b, or 28c, or Form 990-EZ, Part V, line 38a or 40b.
▶ Attach to Form 990 or Form 990-EZ. ▶ See separate instructions.

OMB No 1545-0047

2009

Open To Public Inspection

Name of the organization	Employer identification number
CARE FOUNDATION OF AMERICA, INC.	62-1802653

Part I Excess Benefit Transactions (section 501(c)(3) and section 501(c)(4) organizations only).

Complete if the organization answered "Yes" on Form 990, Part IV, line 25a or 25b, or Form 990-EZ, Part V, line 40b

1 (a) Name of disqualified person	(b) Description of transaction	(c) Corrected? Yes	No
NATIONAL HEALTHCARE CORPORATION,	SEE ATTACHED DETAILS FOR SCHEDULE		X

2 Enter the amount of tax imposed on the organization managers or disqualified persons during the year under section 4958 ▶ $

3 Enter the amount of tax, if any, on line 2, above, reimbursed by the organization ▶ $

Part II Loans to and/or From Interested Persons.

Complete if the organization answered "Yes" on Form 990, Part IV, line 26, or Form 990-EZ, Part V, line 38a.

(a) Name of interested person and purpose	(b) Loan to or from the organization? To	From	(c) Original principal amount	(d) Balance due	(e) In default? Yes	No	(f) Approved by board or committee? Yes	No	(g) Written agreement? Yes	No
NATIONAL HEALTH I		X	32707924.	22936544.	X		X			X
Total			▶ $	22936544.						

Part III Grants or Assistance Benefiting Interested Persons.

Complete if the organization answered "Yes" on Form 990, Part IV, line 27.

(a) Name of interested person	(b) Relationship between interested person and the organization	(c) Amount and type of assistance

Part IV Business Transactions Involving Interested Persons.

Complete if the organization answered "Yes" on Form 990, Part IV, line 28a, 28b, or 28c

(a) Name of interested person	(b) Relationship between interested person and the organization	(c) Amount of transaction	(d) Description of transaction	(e) Sharing of organization's revenues? Yes	No
NATIONAL HEALTHCARE CORPOR	SEE ATTACHED INFORM	0.	SEE ATTACHE		X

LHA For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 990 or 990-EZ.

Schedule L (Form 990 or 990-EZ) 2009

SEE SCHEDULE O FOR SCHEDULE L CONTINUATIONS

932131 02-01-10

SCHEDULE O (Form 990) Department of the Treasury Internal Revenue Service	Supplemental Information to Form 990 Complete to provide information for responses to specific questions on Form 990 or to provide any additional information. ▶ Attach to Form 990.	OMB No 1545-0047 2009 Open to Public Inspection

Name of the organization: CARE FOUNDATION OF AMERICA, INC.

Employer identification number: 62-1802653

FORM 990, PART I, LINE 1, DESCRIPTION OF ORGANIZATION MISSION:

UNRELATED SECTION 501(C)(3) ORGANIZATION THAT OPERATES THE FACILITIES.

FORM 990, PART VI, SECTION B, LINE 11: THE FORM 990 WAS SUBMITTED TO THE FULL BOARD FOR THEIR REVIEW PRIOR TO FILING, AND THE PRESIDENT AND TREASURER, ON BEHALF OF THE BOARD, REVIEWED THE FORM 990 IN DETAIL BEFORE IT WAS FILED.

FORM 990, PART VI, SECTION C, LINE 19: THE ORGANIZATION'S GOVERNING DOCUMENTS, CONFLICT OF INTEREST POLICY, AND FINANCIAL STATEMENTS ARE AVAILABLE TO THE PUBLIC UPON REQUEST.

SCHEDULE L, PART I, EXCESS BENEFIT TRANSACTIONS:

(A) NAME OF DISQUALIFIED PERSON:

NATIONAL HEALTHCARE CORPORATION, INC. & NATIONAL HEALTH INVESTORS, INC.

(B) DESCRIPTION OF TRANSACTION: SEE ATTACHED DETAILS FOR SCHEDULE L

SCHEDULE L, PART II, LOANS TO AND FROM INTERESTED PERSONS:

(A) NAME OF PERSON: NATIONAL HEALTH INVESTORS, INC.

(A) PURPOSE OF LOAN: SEE ATTACHED INFORMATION FOR SCHEDULE L

SCH L, PART IV, BUSINESS TRANSACTIONS INVOLVING INTERESTED PERSONS:

(A) NAME OF INTERESTED PERSON:

NATIONAL HEALTHCARE CORPORATION, INC. & NATIONAL HEALTH INVESTORS, INC.

(B) RELATIONSHIP BETWEEN INTERESTED PERSON AND ORGANIZATION:

SEE ATTACHED INFORMATION FOR SCHEDULE L

SCHEDULE O (Form 990)

Department of the Treasury
Internal Revenue Service

Supplemental Information to Form 990

Complete to provide information for responses to specific questions on Form 990 or to provide any additional information.
▶ Attach to Form 990.

OMB No 1545-0047

2009

Open to Public Inspection

Name of the organization	Employer identification number
CARE FOUNDATION OF AMERICA, INC.	62-1802653

(D) DESCRIPTION OF TRANSACTION: SEE ATTACHED INFORMATION FOR SCHEDULE L

SCHEDULE R
(Form 990)
Department of the Treasury
Internal Revenue Service

Related Organizations and Unrelated Partnerships

▶ Complete if the organization answered "Yes" to Form 990, Part IV, line 33, 34, 35, 36, or 37.
▶ Attach to Form 990. ▶ See separate instructions.

OMB No 1545-0047
2009
Open to Public Inspection

Name of the organization: CARE FOUNDATION OF AMERICA, INC.

Employer identification number: 62-1802653

Part I **Identification of Disregarded Entities** (Complete if the organization answered "Yes" to Form 990, Part IV, line 33.)

(a) Name, address, and EIN of disregarded entity	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Total income	(e) End-of-year assets	(f) Direct controlling entity
BEAR CREEK LESSOR, LLC - 62-1832453 611 COMMERCE STREET, SUITE 3125 NASHVILLE, TN 37203	FACILITY OWNER AND LESSOR	TENNESSEE	1028020.	3568530.	
BROOKSVILLE LESSOR, LLC - 62-1832455 611 COMMERCE STREET, SUITE 3125 NASHVILLE, TN 37203	FACILITY OWNER AND LESSOR	TENNESSEE	1165363.	4259103.	
CYPRESS COVE LESSOR, LLC - 62-1832454 611 COMMERCE STREET, SUITE 3125 NASHVILLE, TN 37203	FACILITY OWNER AND LESSOR	TENNESSEE	999,573.	4904565.	
HEATHER HILL LESSOR, LLC - 62-1832434 611 COMMERCE STREET, SUITE 3125 NASHVILLE, TN 37203	FACILITY OWNER AND LESSOR	TENNESSEE	560,000.	3145113.	

Part II **Identification of Related Tax-Exempt Organizations** (Complete if the organization answered "Yes" to Form 990, Part IV, line 34 because it had one or more related tax-exempt organizations during the tax year.)

(a) Name, address, and EIN of related organization	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Exempt Code section	(e) Public charity status (if section 501(c)(3))	(f) Direct controlling entity

Part III **Identification of Related Organizations Taxable as a Partnership** (Complete if the organization answered "Yes" to Form 990, Part IV, line 34 because it had one or more related organizations treated as a partnership during the tax year)

(a) Name, address, and EIN of related organization	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Direct controlling entity	(e) Predominant income (related, unrelated, excluded from tax under sections 512-514)	(f) Share of total income	(g) Share of end-of-year assets	(h) Disproportionate allocations? Yes	(h) No	(i) Code V-UBI amount in box 20 of Schedule K-1 (Form 1065)	(j) General or managing partner? Yes	(j) No

Part IV **Identification of Related Organizations Taxable as a Corporation or Trust** (Complete if the organization answered "Yes" to Form 990, Part IV, line 34 because it had one or more related organizations treated as a corporation or trust during the tax year)

(a) Name, address, and EIN of related organization	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Direct controlling entity	(e) Type of entity (C corp, S corp, or trust)	(f) Share of total income	(g) Share of end-of-year assets	(h) Percentage ownership

Part V **Transactions With Related Organizations** (Complete if the organization answered "Yes" to Form 990, Part IV, line 34, 35, or 36)

Note. Complete line 1 if any entity is listed in Parts II, III, or IV of this schedule.

			Yes	No
1	During the tax year, did the organization engage in any of the following transactions with one or more related organizations listed in Parts II-IV?			
a	Receipt of **(i)** interest **(ii)** annuities **(iii)** royalties or **(iv)** rent from a controlled entity	1a		
b	Gift, grant, or capital contribution to other organization(s)	1b		
c	Gift, grant, or capital contribution from other organization(s)	1c		
d	Loans or loan guarantees to or for other organization(s)	1d		
e	Loans or loan guarantees by other organization(s)	1e		
f	Sale of assets to other organization(s)	1f		
g	Purchase of assets from other organization(s)	1g		
h	Exchange of assets	1h		
i	Lease of facilities, equipment, or other assets to other organization(s)	1i		
j	Lease of facilities, equipment, or other assets from other organization(s)	1j		
k	Performance of services or membership or fundraising solicitations for other organization(s)	1k		
l	Performance of services or membership or fundraising solicitations by other organization(s)	1l		
m	Sharing of facilities, equipment, mailing lists, or other assets	1m		
n	Sharing of paid employees	1n		
o	Reimbursement paid to other organization for expenses	1o		
p	Reimbursement paid by other organization for expenses	1p		
q	Other transfer of cash or property to other organization(s)	1q		
r	Other transfer of cash or property from other organization(s)	1r		

2 If the answer to any of the above is "Yes," see the instructions for information on who must complete this line, including covered relationships and transaction thresholds.

	(a) Name of other organization(s)	(b) Transaction type (a-r)	(c) Amount involved
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			

Part VI **Unrelated Organizations Taxable as a Partnership** (Complete if the organization answered "Yes" to Form 990, Part IV, line 37)

Provide the following information for each entity taxed as a partnership through which the organization conducted more than five percent of its activities (measured by total assets or gross revenue) that was not a related organization See instructions regarding exclusion for certain investment partnerships

(a) Name, address, and EIN of entity	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Are all partners section 501(c)(3) organizations?		(e) Share of end-of-year assets	(f) Disproportionate allocations?		(g) Code V-UBI amount in box 20 of Schedule K-1 (Form 1065)	(h) General or managing partner?	
			Yes	No		Yes	No		Yes	No

932164
02-04-10

SCHEDULE R-1
(Form 990)
Department of the Treasury
Internal Revenue Service

Continuation Sheet for Schedule R (Form 990)

▶ **Attach to Form 990 to list additional information for Schedule R (Form 990), Part I; Part II; Part III; Part IV; Part V, line 2; or Part VI.**

OMB No 1545-0047
2009
Open to Public Inspection

Name of filing organization
CARE FOUNDATION OF AMERICA, INC.

Employer identification number
62-1802653

Part I **Continuation of Identification of Disregarded Entities**

(a) Name, address, and EIN of disregarded entity	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Total income	(e) End-of-year assets	(f) Direct controlling entity
ROYAL OAK LESSOR, LLC - 62-1832435 611 COMMERCE STREET, SUITE 3125 NASHVILLE, TN 37203	FACILITY OWNER AND LESSOR	TENNESSEE	560,000.	2177323.	
AYERS LESSOR, LLC - 62-1832456 611 COMMERCE STREET, SUITE 3125 NASHVILLE, TN 37203	FACILITY OWNER AND LESSOR	TENNESSEE	2037043.	5048026.	

LHA **For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 990.**

Care Foundation of America, Inc.
EIN: 62-1802653
Form 990, Schedule L

Part I: Excess Benefit Transactions

The taxpayer (the "Taxpayer") has reason to believe that it may have engaged in an excess benefit transaction in the year 2000 that was not previously reported. The potential disqualified person is National HealthCare Corporation ("NHC"), a publicly-traded Delaware corporation. In 2000, NHC managed the day-to-day operations of National Health Investors, Inc. ("NHI"), a publicly-traded Maryland real estate investment trust, pursuant to an Advisory, Administrative Services, and Facilities Agreement, and NHC and NHI shared the same executive management team.

Based on the facts and circumstances, the Taxpayer is of the opinion that NHI, acting through NHC as its agent, was the founder of the Taxpayer within the meaning of Treas. Reg. Section 53.4958-3(e)(2)(i). Among the facts and circumstances that show that NHI was the Taxpayer's founder are the following: a member of the board of directors of NHI was the incorporator of the Taxpayer and served as the Taxpayer's initial President and Chairman of the Taxpayer's board of directors; the Vice-President/General Counsel of both NHI and NHC served as legal counsel to the Taxpayer; and NHI, acting through NHC as its agent, asserted control, either directly or indirectly, over the Taxpayer at all times during the period in which the transaction described below occurred.

The potential excess benefit transaction relates to the Taxpayer's purchase of a skilled nursing facility in Chattanooga, Tennessee known as Standifer Place. Whether the purchase of Standifer Place by the Taxpayer constituted an excess benefit transaction depends on whether the purchase price paid by the Taxpayer exceeded the fair market value of Standifer Place, which is a question of fact. In 1999, NHC acquired an option to purchase Standifer Place from Hamilton County, Tennessee, the prior owner of Standifer Place, for $12 million. On December 24, 1999, at the Taxpayer's first board meeting, the Vice-President/General Counsel of NHI and NHC made a presentation to the Taxpayer's board of directors about Standifer Place and advised the board that NHC was willing to sell its option to purchase Standifer Place to the Taxpayer for $3 million. Whereupon, the Taxpayer's board of directors agreed to purchase the option for $3 million, as well as Standifer Place itself for $12 million, such purchase to be fully financed by NHC. In essence, the Taxpayer agreed to pay (and later did pay) $15 million for an asset that NHC had the right to buy for only $12 million. On December 24, 1999, a director of NHI was serving as the Taxpayer's President and Chairman of the Taxpayer's board of directors, and he continued to serve as a director of both NHI and the

Taxpayer through October, 2001, during which time period the Taxpayer actually purchased the option from NHC and Standifer Place itself. As a result of these facts, the Taxpayer believes an economic benefit may have been provided to NHC in excess of the economic benefit provided to the Taxpayer at the time of the transaction.

As noted above, at the time of this transaction, the President and Chairman of the Taxpayer, Robert Webb, who was also a director of NHI, was an organization manager. The Taxpayer believes that Mr. Webb may have willfully and knowingly participated in this transaction without reasonable cause, therefore, Mr. Webb may be subject to the tax on organization managers pursuant to I.R.C. Section 4958(a)(2) with respect to this transaction. With respect to the other members of the Taxpayer's board of directors during such period, the Taxpayer has no basis at this time to assert that they may be subject to the tax on organization managers.

The Taxpayer reported on its 2007 Form 990 certain potential excess benefit transactions involving the purchase by the Taxpayer of six skilled nursing facilities in Florida on January 1, 2000. The Taxpayer has since filed an adversary proceeding complaint relating to the purchase and financing of said nursing facilities. Specifically, the Taxpayer alleges that NHI exercised complete dominion and control over the Taxpayer from its formation in December, 1999 through mid-2008 and, during that time period, caused the Taxpayer to purchase from NHI six skilled nursing facilities located in Florida at a price approximately $9.5 million in excess of fair market value and on financing terms that were not fair to the Taxpayer. A copy of the Taxpayer's Amended Complaint is attached hereto. Trial is set to begin on December 2, 2009.

During the course of discovery in the case against NHI, the Taxpayer has learned many of the facts described above regarding the Standifer Place transaction between the Taxpayer and NHC. The Taxpayer continues to actively investigate the facts and circumstances surrounding the Standifer Place transaction with NHC, however, the potential excess benefit transaction between NHC and the Taxpayer has not yet been corrected at this time.

Part IV: Business Transactions Involving Interested Persons

NHI is an interested person with respect to the Taxpayer as a result of being a corporation that is more than 5% owned by a family member of a former director, W. Andrew Adams, Jr. During 2008, W. Andrew Adams, the father of W. Andrew Adams, Jr., owned more than 5% of NHI. On January 1, 2000, the Taxpayer purchased six skilled nursing facilities located in Florida from NHI, and NHI provided 100% financing for the Taxpayer's purchase. During 2008, the Taxpayer made payments of $5,857,693.41 on its note to NHI.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

CARE FOUNDATION OF AMERICA, INC., Debtor.	Chapter 11 Case No. 08-12367 Judge Keith M. Lundin
CARE FOUNDATION OF AMERICA, INC.; HEATHER HILL LESSOR/LLC; CYPRESS COVE LESSOR/LLC; BROOKSVILLE LESSOR/LLC; BEAR CREEK LESSOR/LLC, and ROYAL OAK LESSOR/LLC; Plaintiffs, vs. NATIONAL HEALTH INVESTORS, INC., Defendant,	Adversary Proceeding Case No. 3:09-00002 **JURY DEMAND**

AMENDED COMPLAINT

Care Foundation of America, Inc. ("Care Foundation"), a Tennessee not-for-profit corporation, is the single-member of the following plaintiff LLCs, each of which owns a nursing home in the State of Florida: Heather Hill Lessor/LLC, Cypress Cove Lessor/LLC, Brooksville Lessor/LLC, Bear Creek Lessor/LLC, and Royal Oak Lessor/LLC. Plaintiffs jointly file this Amended Complaint as follows:

I. NATURE OF COMPLAINT

1. This action arises out of an illicit financial scheme orchestrated by National Health Investors, Inc. and its agents and authorized representatives (collectively referred to as

"NHI") to convert in excess of $25,000,000, plus interest, rightfully belonging to Care Foundation, a charity and Tennessee public benefit corporation. Through NHI's confidential and/or fiduciary relationship and/or adverse domination and control of Care Foundation, NHI, among other wrongful acts, sold Care Foundation six (6) nursing home centers (the "Nursing Centers") for a purchase price which was approximately $9,500,000 higher than fair market value and also then financed 100% of the purchase price at significantly above market rates of interest. Through principal, interest, and various other fees, Care Foundation has already paid NHI approximately $40,000,000 for the Nursing Centers that only had a fair market value at the time of purchase of $23,200,000. NHI wrongfully insists that Care Foundation owes another approximately $23,200,000 on a Note that would have matured on December 31, 2008, if Plaintiffs had not instituted bankruptcy proceedings. But for the bankruptcy proceedings, NHI would have filed foreclosure actions against each of the Nursing Centers owned by Care Foundation and the plaintiff single-member LLCs.

2. NHI fraudulently concealed, and breached its duty to disclose, the facts which entitle Care Foundation to assert its objections and affirmative defenses to NHI's claims and to seek the affirmative relief requested in this Amended Complaint. To the extent NHI seeks to rely on any applicable statutes of limitations, it is estopped from doing so. First, NHI's fraud and other wrongdoing is properly and timely asserted by Care Foundation as an objection and affirmative defense to NHI's claims. Second, Care Foundation did not have a Board of Directors free of NHI's control and abusive influence until 2008 when the wrongdoings outlined in this Amended Complaint were exposed by an investigation opened by the Tennessee State Attorney General into NHI's transactions with several nonprofit organizations, including Care Foundation. As a result of the Attorney General's investigation, which is ongoing, Care Foundation's

conflicted directors resigned and a new independent Board of Directors, which is now cooperating with the Attorney General, discovered for the first time the facts giving rise to Care Foundation's defenses to NHI's claims and to Care Foundation's claims for damages. Care Foundation has properly given notice of the bankruptcy petitions and of the original Complaint initiating this action to the Attorney General.

3. Plaintiffs seek through this Amended Complaint: (i) a determination that NHI's claim against Plaintiffs and any liens NHI asserts against Plaintiffs' assets are invalid and should either be disallowed and/or avoided in full, are subject to setoff, and/or should be reduced to reflect the true fair market value of the Nursing Centers at the time of their purchase on December 31, 1999; (ii) a determination as to the validity, priority, or extent of any lien NHI may have on the Nursing Centers; (iii) a declaration of Care Foundation's rights with respect to NHI and that Plaintiffs have no further obligations to NHI; and (iv) an award of compensatory and punitive damages and/or equitable recoupment or disgorgement against NHI for amounts paid in excess of the true fair market value of the Nursing Centers and/or for above-market interest rates and other improper fees NHI charged to Care Foundation during the period of its confidential and/or fiduciary relationship with and/or adverse domination and control over Care Foundation's Board of Directors or as a result of conflict of interest transactions, and illegal distributions.

II. PARTIES

4. Care Foundation is a Tennessee public benefit not-for-profit corporation with its principal place of business located at 611 Commerce Street, Suite 3125, Nashville, Davidson County, Tennessee 37203. Care Foundation applied for and received a determination from the IRS that it qualified as a public charity under §§ 501(c)(3) and 509(a) of the Internal Revenue

Code of 1986, as amended (the "Code"). It acquired the Nursing Centers from a wholly-owned subsidiary of NHI on December 31, 1999, effective January 1, 2000. On September 13, 2000, the plaintiff single-member LLCs were formed for the purpose of owning each of the separate facilities. Care Foundation itself owns Ayers Health and Rehabilitation Center located in Trenton, Florida.

5. Heather Hill Lessor/LLC is the owner of the Heather Hill Nursing Home in New Port Richey, Florida. It is a Florida Limited Liability Company with its principal place of business located at 611 Commerce Street, Suite 3125, Nashville, Davidson County, Tennessee 37203.

6. Cypress Cove Lessor/LLC is the owner of the Cypress Cove Care Center in Crystal River, Florida. It is a Florida Limited Liability Company with its principal place of business located at 611 Commerce Street, Suite 3125, Nashville, Davidson County, Tennessee 37203.

7. Brooksville Lessor/LLC is the owner of the Brooksville Health Care Center in Brooksville, Florida. It is a Florida Limited Liability Company with its principal place of business located at 611 Commerce Street, Suite 3125, Nashville, Davidson County Tennessee 37203.

8. Bear Creek Lessor/LLC is the owner of the Bear Creek Nursing Center in Hudson, Florida. It is a Florida Limited Liability Company with its principal place of business located at 611 Commerce Street, Suite 3125, Nashville, Davidson County, Tennessee 37203.

9. Royal Oak Lessor/LLC is the owner of the Royal Oak Nursing Center in Dade City, Florida. It is a Florida Limited Liability Company with its principal place of business located at 611 Commerce Street, Suite 3125, Nashville, Davidson County, Tennessee 37203.

10. NHI, a Maryland corporation, is a publicly traded company listed on the New York Stock Exchange under the trading symbol "NHI" maintaining its principal office at 750B South Church Street, Murfreesboro, Tennessee 37130. According to its recent SEC filings, NHI is a real estate investment trust ("REIT") under Code § 856 which invests in income-producing healthcare properties and mortgages primarily in the long-term care industry. At the time of Care Foundation's purchase of the Nursing Centers, and for a significant time thereafter, the day-to-day corporate operations of NHI were managed by its agent and authorized representative, National HealthCare Corporation, a publicly traded Delaware corporation ("NHC")pursuant to and Investment Advisory Agreement, and NHI and NHC shared the same executive management team.

III. JURISDICTION AND VENUE

11. Care Foundation and the plaintiff single-member LLCs each filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. This is an adversary proceeding, pursuant to Rules 7001 and 3007 of the Federal Rules of Bankruptcy Procedure.

12. This Court has jurisdiction over this dispute pursuant to 28 U.S.C. § 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409(a). Moreover, venue is proper in this district because NHI and all of the Plaintiffs reside in this district, and the cause of action arises, in material part, from ongoing business transactions that took place in this district.

13. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(A), (B), (C), (K), and (O).

IV. FACTUAL BACKGROUND

A. <u>The Prior Owner of the Nursing Centers is Forced Into Bankruptcy</u>

14. In December 1993, the Nursing Centers at issue were owned by Stockbridge Investment Partners, Inc. ("Stockbridge") and its wholly-owned subsidiary, York Hannover Nursing Centers, Inc. ("York"). NHI provided first mortgage financing to Stockbridge and York pursuant to a $29,500,000 term loan (the "Term Loan"). The Term Loan was secured by real estate mortgages on the Nursing Centers and security interests in personalty on and in the Nursing Centers.

15. Contemporaneously with the implementation of the Term Loan, York entered into a management agreement with NHI's agent and authorized representative, NHC. The management agreement between York and NHC provided that NHC would be paid a management fee equal to six percent (6%) of all operating revenue generated by the Nursing Centers.

16. NHC also provided Stockbridge and York with a working capital loan in the original principal amount of $2,000,000, which was secured by second real estate mortgages and security interests on the Nursing Centers. Together, NHC and NHI were Stockbridge and York's largest creditors.

17. Upon information and belief, the management agreement between NHC and York required, among other things, that NHC obtain appropriate insurance coverage for the Nursing Centers. Through the efforts of NHC and/or York, the Nursing Centers carried liability insurance comprising both primary and umbrella coverage. The policies were issued on a year-to-year basis. For the year 1999, the policies would expire on December 31, 1999.

18. In 1999, Stockbridge and York fell behind in their payments to both NHI and NHC. On or about April 16, 1999, NHI, NHC and another affiliated entity filed an involuntary petition for relief under Chapter 11 of the Bankruptcy Code against Stockbridge and York in the United States Bankruptcy Court for Middle District of Florida (the "Bankruptcy Court"). The Bankruptcy Court authorized the appointment of a Bankruptcy Trustee (the "York Trustee") for both Stockbridge and York on August 4, 1999, and the York Trustee assumed control over Stockbridge and York and their business operations.

B. The Formation and Management of Care Foundation

19. During the pendency of Stockbridge and York's bankruptcies, NHI director, Robert Webb ("Webb"), and the Senior Vice-President, Secretary, and General Counsel of NHI and NHC, Richard F. LaRoche, Jr. ("LaRoche"), formed Care Foundation, a not-for-profit corporation.

20. Webb adopted Care Foundation's initial Bylaws on November 30, 1999.[1] Care Foundation was formally incorporated by Webb and LaRoche on December 9, 1999.[2] Pursuant to Care Foundation's Articles of Incorporation, Care Foundation was organized and thereafter required to operate exclusively for public charitable uses and purposes within the meaning of § 501(c)(3) of the Code. More specifically, Care Foundation was to establish, acquire, own, maintain, and operate hospitals, nursing homes, and related healthcare facilities, including retirement housing for elderly persons. Care Foundation subsequently obtained a determination letter from the IRS stating that it was being classified as a charity under the provisions of § 501(c)(3) of the Code and that, as a result, it would be exempt from federal income tax.[3]

[1] A true and exact copy of Care Foundation's Bylaws signed by Webb are attached as ***Exhibit A***.

[2] A true and exact copy of Care Foundation's incorporation notice and Articles of Incorporation are attached as ***Exhibit B***.

[3] A true and exact copy of Care Foundation's IRS Determination Letter is attached as ***Exhibit C***.

21. The original members of Care Foundation's Board of Directors were selected by NHI. The Directors were Webb, John Morton, and Mazell Tambornini. Webb was a member of NHI's Board of Directors; John Morton was the next-door neighbor and close friend of Robert Adams, who served on the Board of Directors and management committee of NHI and is the brother of NHI and NHC's Chairman and President, W. Andrew Adams. Mazell Tambornini was a former long-time employee of NHC, and her son is a current long-time employee of NHC. Webb, John Morton, and Mazell Tambornini all owned significant amounts of NHI and NHC stock at the time they were selected by NHI to serve on Care Foundation's Board of Directors. Neither John Morton nor Mazell Tambornini had ever served on any other board of directors, much less on the board of a not-for-profit organization. None of Care Foundation's initial directors had any experience buying, selling or valuing nursing homes and none had any business connection to the State of Florida.

22. In addition to being a director of NHI, Webb also served as Care Foundation's organizer and as its initial President and Chairman of its Board of Directors. Until he was forced to resign as part of a settlement of litigation with the State of Florida's Agency for Health Care Administration in October 2001, neither NHI, nor Webb, disclosed to Mazell Tambornini that Webb was a director of NHI and, as a result, had a conflict of interest with respect to transactions between Care Foundation and NHI. John Morton and Mazell Tambornini (later joined by Allen Richardson) were led, directed by, and at all times relied upon the advice of Webb, LaRoche, and/or other agents and authorized representatives of NHI. Webb, LaRoche, and NHI's other agents led Care Foundation directors John Morton, Mazell Tambornini, and Allen Richardson to believe that NHI was acting in Care Foundation's best interests. Mazell Tambornini, for

example, reasonably believed that NHI's General Counsel, LaRoche, also served as legal counsel for Care Foundation.

23. NHI structured and managed Care Foundation so that it had no means or opportunity to obtain independent advice. NHI's agents and representatives set the agendas for and attended virtually all of Care Foundation Board meetings. NHI's agents and representatives prepared the minutes of the meetings (in at least one case in advance of the meeting). NHI adversely controlled Care Foundation's finances, policies, and business practices such that Care Foundation had no separate or independent mind, will, or existence of its own. Any of Care Foundation's outside consultants engaged to assist with transactions with government agencies or other third parties were selected and managed by NHI. The lessee of the Nursing Centers was affiliated with and selected by NHI. LaRoche formed Care Foundation as a not-for-profit corporation; he prepared and/or reviewed the legal documents relating to Care Foundation's transactions with NHI and the lease of the Nursing Centers; he corresponded with Care Foundation's Board of Directors on Care Foundation letterhead; and, with respect to the transactions with NHI, he communicated to Care Foundation's Board as if he were Care Foundation's legal counsel.

24. Care Foundation had no assets other than what it acquired from NHI and/or NHC, and it received 100% of its financing from NHI and/or NHC. The lease agreements between Care Foundation and AHC Management, Inc. ("AHC"), and later Health Services Management, Inc. ("HSM"), were structured by NHI such that Care Foundation had no funds of its own and the lease payments were exactly equal to the amount needed to service NHI's loan to Care Foundation. Care Foundation served as simply a vehicle to pass on the income from the Nursing Centers to NHI. In order to protect its loan payments, NHI made sure that it stood on all

sides of the transactions referenced in this Amended Complaint. None of the transactions at issue between NHI and Care Foundation were negotiated or concluded at arm's length. By reason of these facts, NHI served as a *de facto* member of Care Foundation's Board, and it had a confidential and/or fiduciary relationship with Care Foundation. Therefore, NHI owed Care Foundation the highest duty of good faith, fair dealing, honesty, loyalty, and full, candid, and adequate disclosure.

C. The York Trustee Seeks Approval To Sell The Nursing Centers to NHI or its Affiliate

25. On December 13, 1999, the York Trustee was advised that there was a liability crisis facing the Nursing Centers and that a renewal premium on the liability insurance policies for the Nursing Centers expiring on December 31, 1999 would increase almost ten-fold from approximately $480,000 annually in 1999 to approximately $4,700,000 for the year 2000.[4] The York Trustee determined that he was unable to pay the increased premium and could not operate the Nursing Centers without liability insurance.

26. On December 20, 1999, NHI formed National Health Investors/Florida, Inc. ("NHI/FLA"), a wholly-owned subsidiary of NHI. The sole purpose of NHI/FLA was to serve as NHI's instrumentality to acquire the Nursing Centers out of York's bankruptcy and then immediately sell them to Care Foundation. NHI/FLA maintained its principal place of business at NHI's then headquarters at 100 Vine Street, Murfreesboro, Tennessee 37130. NHI's President and Chairman, W. Andrew Adams, served as the President of NHI/FLA. NHI's Senior Vice-President, Secretary, and General Counsel, LaRoche, served in the same capacities for NHI/FLA. NHI/FLA and NHI had common directors and officers; the same office location; and at all times material to this Amended Complaint, NHI exercised complete dominion and control over

[4] Attached as ***Exhibit D*** is a study conducted by the U.S. Department of Health and Human Services describing the market for liability insurance for nursing homes in Florida during the late 1990s and early 2000s

NHI/FLA, not only with respect to its finances, but also with respect to its policies and business practices.

27. As a result of the impending expiration of the insurance policies, on December 22, 1999, the York Trustee filed an emergency motion (the "Emergency Motion") for approval of the sale of the Nursing Centers to a designee of NHI and/or NHC, or alternatively, for abandonment of the Nursing Centers.[5] In his Emergency Motion, the York Trustee represented to the Bankruptcy Court that "based on a current appraisal, the value of the Nursing Centers is approximately $23,200,000."

D. NHI Caused Care Foundation to Approve The Purchase Of The Nursing Centers For $9.5 Million Dollars Higher Than Their Fair Market Value

28. On Christmas Eve 1999 (just two days after the York Trustee filed his Emergency Motion disclosing the fair market value of the Nursing Centers to be $23,200,000), NHI called Care Foundation's initial Board of Directors meeting.[6] NHI's director, Webb; NHI's Senior Vice-President, Secretary, and General Counsel, LaRoche; and NHI's Vice-President/Finance, Kenneth DenBesten ("DenBesten") attended and directed this meeting. Also in attendance were Care Foundation's Board members, Mazell Tambornini and John Morton.

29. The minutes of the 1999 Christmas Eve meeting of Care Foundation's Board of Directors were prepared by LaRoche. In the minutes, LaRoche reflects that he advised the Board that it had a "unique opportunity" to purchase the Nursing Centers from NHI for $32,267,000. LaRoche also reflects in the minutes that he informed Care Foundation's Board of Directors that NHI would finance 100% of the purchase price with a first mortgage note at 11.5% interest. LaRoche indicates that he told Care Foundation's Board of Directors that a benefit of this

[5] A true and exact copy of the Trustee's Emergency Motion is attached as ***Exhibit E***.
[6] A true and exact copy of the December 24, 1999 Care Foundation Board meeting minutes are attached as ***Exhibit F***.

transaction to Care Foundation should be its ability to later refinance the purchase at a significantly lower rate of interest ("single digit") and thus make money from the spread between payments it could receive from leasing the Nursing Centers to a third party and the mortgage payments.

30. Because NHI formed Care Foundation and knew that the Care Foundation Board reposed reasonable trust and confidence in NHI's integrity and fidelity, NHI had a fiduciary and confidential relationship with Care Foundation. NHI thus had an equitable and moral duty to make full and complete disclosure of all material facts to Care Foundation. NHI intentionally breached that duty by concealing and/or suppressing material facts with the intent to deceive Care Foundation. No independent director was aware of the facts concealed by NHI. An independent Board of Directors, exercising independent judgment, would have acted differently and would not have entered into the transactions outlined in this Amended Complaint if it had known the concealed and/or suppressed facts. As a result of NHI's concealment and/or suppression of facts, Care Foundation has sustained significant damage.

31. NHI's concealment and/or suppression of what should have been disclosed includes, but is not limited to, the following: the sale of the Nursing Centers to Care Foundation was occurring in the midst of a period of depressed values in the State of Florida's long term care industry, and, as a result, NHI knew it would have been appropriate to use lower-than-normal multiples of net operating income (NOI) to determine the fair values of the Nursing Centers; the Trustee's expert appraiser had opined that the fair market value of the Nursing Centers was only $23,200,000 (Mazell Tambornini has testified that she assumed the Nursing Homes had been appraised and that the price to Care Foundation was supported by an appraisal); NHI and NHC had obtained an appraisal stating the fair market value of the Nursing Centers was only

$25,900,000[7]; NHI already had an agreement with the York Trustee to sell the Nursing Centers to NHI/FLA for $23,000,000; the purchase price to Care Foundation represented the amount of debt owed by Stockbridge and/or York to NHI and NHC, not the market value of the Nursing Centers; NHC planned to exit the Florida market because of the existing political and economic environment and would not have wanted to operate the Nursing Centers; it was not economically feasible to obtain a reasonable amount of liability insurance coverage; NHI intended to strip all cash and accounts receivable from the Nursing Centers prior to transferring them to Care Foundation; the 11.5% interest rate proposed by NHI was an above-market rate; in addition to financing Care Foundation's acquisition at an above-market rate of interest, NHI also intended to cause Care Foundation to pay additional supplemental fees and guarantee fees, which would cause the effective interest rate to be higher than 11.5%; Care Foundation would have a full recourse promissory note, rather than a non-recourse note as approved by the Board; and NHI intended to continue to direct and manage Care Foundation for its own interest at Care Foundation's expense.

32. At this initial Christmas Eve Board meeting, without having any time, means, or opportunity to seek independent advice regarding the fairness of the proposed transaction to Care Foundation, Care Foundation's Board of Directors reasonably relied upon and accepted NHI's representations regarding the Nursing Centers and authorized NHI director and Care Foundation director, Webb, to purchase the Nursing Centers on behalf of Care Foundation for an amount not to exceed $32,300,000. Care Foundation's Board of Directors also approved at this first

[7] A true and exact copy of the appraisal obtained by NHI and NHC is attached as ***Exhibit G***. Attached as ***Exhibit H*** is an excerpt from The Senior Care Acquisition Report, Sixth Edition, 2001, which sets forth statistical indicators relating to the trends in capitalization rates and the average prices per bed for nursing facilities during the relevant time period.

meeting, without obtaining independent advice, the higher than fair market financing arrangements proposed by NHI.

E. After Care Foundation Approves the Purchase for $32,300,000, The Bankruptcy Court Conducts a Hearing on the York Trustee's Emergency Motion

33. On December 30, 1999, the Bankruptcy Court held a hearing on the York Trustee's Emergency Motion to sell or abandon the Nursing Centers. The Bankruptcy Court heard testimony regarding the proposed sale to NHI/FLA and the York Trustee's conclusion that a sale to NHI's designee was in the best interests of York's bankruptcy estate and its unsecured creditors. Critical to the relief requested by the Trustee was a determination of the fair market value of the Nursing Centers.[8] Both NHI and NHC attended and participated in the hearing through their legal counsel.

34. To establish the fair market value of the Nursing Centers, the Trustee engaged the services of an expert appraiser of nursing homes. The York Trustee's expert was a highly qualified independent commercial appraiser who specialized exclusively in the appraisal of healthcare and retirement facilities throughout the United States. The expert testified under oath to his value conclusions, and he specifically denied having been asked to give a value in the low range of accurate values. Under penalty of perjury, both the Trustee and his expert confirmed that, assuming for the sake of this hearing that the insurance costs would remain the same, the Nursing Centers had a going concern value of no more than $23,200,000.[9]

35. The appraisal performed by the York Trusee's expert utilized the 1999 liability insurance costs, not the costs that would be incurred to obtain liability insurance after the current policy lapsed on December 31, 1999. Evidence introduced at the hearing indicated that the

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[8] A true and exact copy of a letter from NHI's counsel in the York bankruptcy to the York Trustee's counsel describing the importance of ascertaining the fair market value of the Nursing Centers is attached as ***Exhibit I***.

[9] A true and exact copy of the York Trustee's testimony and the York Trustee's expert's testimony is attached as ***Exhibit J***.

facilities were initially valued at $16 million by the Trustee's financial advisor, and when fully appraised, the facilities were valued at $23 million. Significantly, all of these valuations were before consideration of the true cost for adequate liability insurance. Had the York Trustee's expert accounted for the increased costs to be incurred as of January 1, 2000 to obtain replacement liability insurance, the fair market value of the Nursing Centers would have been determined to be less than $23,200,000.

36. At no time during the December Bankruptcy Court hearing did NHI or NHC object to the expert's valuation or suggest that the real value of the Nursing Centers was higher. Based on all of the evidence presented at the hearing as to the fair market value of the Nursing Centers, the Bankruptcy Court granted the York Trustee's Emergency Motion to sell the Nursing Centers to NHI's designee. Care Foundation was not represented at the hearing, and NHI's plan to sell the Nursing Centers to Care Foundation the following day for $32,707,924 (the amount of the debt owed to NHI and NHC from the Stockbridge and York bankruptcy estates) was not disclosed to the Bankruptcy Court.

37. On December 30, 1999, the York Trustee sold the Nursing Centers to NHI/FLA, NHI's wholly-owned, dominated, and controlled subsidiary. According to the Asset Purchase Agreement among NHI/FLA, NHI, NHC, and the York Trustee, the purchase price paid by NHI/FLA for the Nursing Centers was $23,000,000.[10] W. Andrew Adams, the President and Chairman of NHI, signed the Asset Purchase Agreement on behalf of NHI, NHC, and NHI/FLA.

38. On December 31, 1999, notwithstanding the fact that the Trustee and his expert appraiser had testified the previous day that the fair market going concern value of the Nursing Centers was no more than $23,200,000 and the Bankruptcy Court had approved the sale of the

[10] A true and exact copy of the Asset Purchase Agreement between the York Trustee, NHI, NHC, and NHI/FLA is attached as ***Exhibit K***.

Nursing Centers to NHI/FLA for $23,000,000, NHI stripped the Nursing Centers of all available cash and accounts receivable and then caused NHI/FLA and Care Foundation to enter an Asset Purchase Agreement pursuant to which Care Foundation paid NHI/FLA $32,707,924 for land, buildings, and licenses associated with the Nursing Centers.[11] NHI also caused Care Foundation to enter into a lease agreement with AHC, whereby AHC was assigned the licenses to operate the Nursing Centers and would pay rent to Care Foundation equal to the amount Care Foundation had to pay on its mortgage to NHI.[12]

39. The purchase price charged by NHI to Care Foundation simply reflected the amount of Stockbridge and York's debt owed to NHI and NHC, and it bore absolutely no relation to the fair market going concern value of the Nursing Centers, much less to the fair market value of the assets Care Foundation received pursuant to the Asset Purchase Agreement it entered into with NHI/FLA. Simultaneous with the sale, NHI financed 100% of Care Foundation's inflated purchase price through a promissory note (the "Note") at an above-market interest rate of 11.5% per annum.[13]

40. NHI calculated the interest due under the Note on a 360 vs. 365 day year, resulting in an additional $50,000 dollar a year payment. In addition to this above market rate of interest, NHI charged Care Foundation certain "supplemental payments" and caused Care Foundation to pay annual $50,000 guarantee fees for NHC's agreement to guarantee a portion of Care Foundation's debt to NHI. These additional terms were never approved by the Care Foundation Board. The assets purchased by Care Foundation became subject to liens reflecting the entire existing first and second mortgage indebtedness owed by Stockbridge and York to NHI

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[11] A true and exact copy of the Asset Purchase Agreement between NHI/FLA and Care Foundation is attached as ***Exhibit L***.

[12] A true and exact copy of the Master Operating Lease between AHC and Care Foundation is attached as ***Exhibit M***.

[13] A true and exact copy of the Note is attached as ***Exhibit N***.

and NHC. Further, NHI made the Note a full recourse note, not a non-recourse note as was approved at the Christmas Eve 1999 meeting of Care Foundation's Board of Directors.

41. On December 31, 1999, and at all subsequent times relevant to NHI's financing of Care Foundation's purchase of the Nursing Centers, NHI knew, but did not disclose to John Morton, Mazell Tambornini, or the Attorney General, that the purchase price Care Foundation paid for the assets it received from NHI/FLA was significantly higher than the fair market value of such assets.

42. According to the minutes of the Christmas Eve Board meeting, one of the purported benefits of the transaction to Care Foundation was to be its ability to refinance NHI's Note at a single digit rate of interest. NHI's agents and authorized representatives were in charge of subsequent efforts to refinance Care Foundation's Note. In 2000, NHI arranged for and coordinated the preparation of Care Foundation's application for financing from the U.S. Department of Housing and Urban Development (HUD). HUD, however, rejected the Care Foundation application because, among other reasons, yet another appraisal obtained by NHI to support the purchase price Care Foundation paid for the Nursing Centers was determined by HUD to be overly speculative and to underestimate the costs of, and the importance of, adequate liability insurance.[14] NHI failed to obtain the single digit financing promised at the Christmas Eve Board meeting. As a result, all income earned from Care Foundation's ownership of the land and buildings continued to pass from NHI's chosen lessee through Care Foundation to NHI.

F. <u>NHI Causes Care Foundation To Repeatedly Extend The Note At Inflated Rates</u>

43. Instead of refinancing the Nursing Centers at a significantly lower ("single digit") market rate of interest, on July 1, 2001, NHI director and Care Foundation director, Webb, caused Care Foundation to enter into the First Amendment to the Note extending the Note's

[14] A true and exact copy of HUD's March 16, 2001 rejection letter is attached as ***Exhibit O***.

maturity date to December 31, 2003.[15] The Note was extended absent any independent opinion as to its fairness and upon the same unfair market terms and conditions as the original Note. NHI director Webb signed the First Amendment on behalf of Care Foundation, as its Chairman, and DenBesten, as Vice President/Finance for NHI, executed the First Amendment on behalf of NHI. This transaction, like the others before it, was financially unfair to Care Foundation.

44. On October 5, 2001 at a special meeting of the Care Foundation Board of Directors, Webb resigned from the Board because the State of Florida refused to give Care Foundation the benefit of certain Medicaid reimbursement payments as long as a continuity of interest remained between NHI and Care Foundation.[16] Allen Richardson was elected as Webb's replacement. John Morton, Mazell Tambornini, and Allen Richardson thereafter continued to serve as Care Foundation's Board of Directors under NHI's control and/or abusive influence at Care Foundation's expense.

45. On April 1, 2002, Care Foundation and NHI entered into the Second Amendment to the Note, to be retroactive to January 1, 2002.[17] In the Second Amendment to the Note, and only for the period of one year, the interest rate charged to Care Foundation was decreased to 10.25% and the supplemental monthly payment was decreased to zero. Upon information and belief, NHI unilaterally decreased the interest rate for just this one year because government reimbursement levels had decreased and the lessee of the Nursing Centers was unable to make the rent payments to Care Foundation so that Care Foundation could in turn make the higher interest payments to NHI. When reimbursement levels increased a year later, NHI unilaterally reinstated the 11.5% interest payments as well as the extraordinary supplemental payments. In

[15] A true and exact copy of the First Amendment to the Note is attached as ***Exhibit P***.
[16] A true and exact copy of the October 5, 2001 Care Foundation Board minutes are attached as ***Exhibit Q***.
[17] A true and exact copy of the Second Amendment to the Note is attached as ***Exhibit R***.

addition to above-market rates of interest, Care Foundation has paid to date approximately $2,309,000 in "supplemental payments" and guarantee fees.[18]

46. On December 31, 2003, NHI caused Care Foundation to enter into the Third Amendment to the Note to be effective as of January 1, 2004.[19] The maturity date of the Note was extended to December 31, 2004. This extension was at the same above market terms and conditions as the original Note.

47. On December 31, 2004, NHI caused Care Foundation to enter into the Fourth Amendment to the Note, to be effective as of January 1, 2005.[20] In the Fourth Amendment, the maturity date of the Note was extended to December 31, 2005. The extension was upon the same above market terms and conditions as the original Note.

48. On December 31, 2005, NHI caused Care Foundation to enter into the Fifth Amendment to the Note, to be effective as of January 1, 2006.[21] In the Fifth Amendment, the maturity date of the Note was extended to September 30, 2006. The extension was upon the same above market terms and conditions as the original Note.

49. In July 2006, Care Foundation's Board members John Morton, Mazell Tambornini, and Allen Richardson all resigned from Care Foundation's Board of Directors. Allen Richardson then joined John Morton and Mazell Tambornini on the board of directors of yet another NHI-controlled nonprofit corporation, which also owned nursing homes. In their place at Care Foundation, NHI installed just two new directors (in violation of T.C.A. §48-58-103(a)): W. Andrew Adams, Jr. ("Adams, Jr.") and Melissa Oden ("Oden"). Adams, Jr. is the son of NHI's President and Chairman. Oden was the Managing Partner of several healthcare

[18] A Summary of Debt Service showing the supplemental payments and guarantee fees paid by Care Foundation to date is attached as ***Exhibit S***

[19] A true and exact copy of the Third Amendment to the Note is attached as ***Exhibit T***.

[20] A true and exact copy of the Fourth Amendment to the Note is attached as ***Exhibit U***.

[21] A true and exact copy of the Fifth Amendment to the Note is attached as ***Exhibit V***.

companies that had borrowed in excess of $12,000,000 from NHI just prior to her appointment to the Care Foundation Board, and she would later become the guarantor of debt to NHI in the amount of $14,600,000 during her tenure on the Care Foundation Board.[22] According to the testimony of NHI's Vice-President/Finance, DenBesten, both Adams, Jr. and Oden were personally selected to serve on Care Foundation's Board by NHI's President and Chairman, W. Andrew Adams. This testimony is in direct contradiction to the documentation in the Care Foundation minutes of its July 21, 2006 meeting, which minutes were drafted by DenBesten the day before the meeting and sent to NHI's Chairman and President for his prior approval.[23] Through Adams, Jr. and Oden, NHI continued to serve as a *de facto* member of Care Foundation's Board of Directors and continued to exercise its control and abusive influence over Care Foundation.

50. On September 30, 2006, Care Foundation's Board member Adams, Jr. unilaterally entered into the Sixth Amendment to the Note on behalf of Care Foundation, extending the maturity date of the Note to March 31, 2007.[24] This action was subsequently ratified by Oden. This extension was upon the same above market terms and conditions as the original Note.

51. On February 13, 2007, Care Foundation's Board member Adams, Jr. unilaterally entered into the Seventh Amendment to the Note, extending the maturity date of the Note to September 30, 2007, upon the same above market terms and conditions as the original Note.[25]

52. Because of NHI's abusive influence, Care Foundation's Board of Directors never exercised their independent judgment as to the fairness of the transactions described above or

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[22] True and exact copies of the Amended and Restated Loan Agreement dated July 1, 2006 and the Second Amendment to Amended and Restated Loan Agreement dated March 1, 2007 between NHI and certain LLCs fo which Oden was the Managing Partner, and the Unconditional Limited Guaranty between Oden and NHI, pursuant to which Oden guarantees the loan, are attached as ***Exhibit W***.

[23] A true and exact copy of an email dated July 20, 2006 from DenBesten to W. Andrew Adams, to which a draft of the following day's meeting minutes are attached, is attached as ***Exhibit X***.

[24] A true and exact copy of the Sixth Amendment to the Note is attached as ***Exhibit Y***.

[25] A true and exact copy of the Seventh Amendment to the Note is attached as ***Exhibit Z***.

sought competitive bids for the lease arrangements, the Note, or its multiple extensions; nor did they engage independent professionals to advise the Board regarding the fairness of these transactions. Instead of selling the Nursing Centers to Care Foundation for their fair market value and/or financing the purchase at fair market rates, NHI breached its fiduciary duty to act in good faith, to engage in fair dealing, and to provide full, candid, and adequate disclosure. NHI did so entirely for its own benefit and/or the benefit of NHC and at the expense of the nonprofit Care Foundation.

53. NHI engaged in a continuing series of conflict of interest transactions in conscious, intentional, and voluntary disregard of the fiduciary duties of good faith, fair dealing, honesty, loyalty, and full, candid, and adequate disclosure that it owed to Care Foundation. At all times material to this Amended Complaint, NHI was a *de facto* member of Care Foundation's Board of Directors and remained silent and/or took affirmative steps to conceal the wrongful actions described above. Care Foundation did not discover the facts giving rise to Care Foundation's causes of action as alleged in this Amended Complaint because of NHI's fraudulent concealment, continuing silence in the face of a duty to disclose, and its continuing and ongoing adverse domination and control of, and/or abusive influence over, Care Foundation and its Board of Directors.

H. <u>NHI's Wrongdoing Is Discovered</u>

54. In late 2007, NHI decided, in its own self interest, that it was time to have its remaining debt paid in full and also to capture for its own interest any increase in the Nursing Centers' value. NHI actively initiated steps to purchase the Nursing Centers back from Care Foundation for a purchase price it knew was substantially less than their fair market value.

55. However, pursuant to T.C.A. § 48-62-102, Care Foundation was required to obtain the Attorney General's approval for a sale of all of its assets. In 2008, after notice of the proposed sale was given to the Attorney General, the Attorney General learned for the first time of the conflicts of interest on Care Foundation's Board of Directors. The Attorney General also discovered that NHI's proposed purchase price for the Nursing Centers was less than their fair market value. Although NHI then withdrew its plan to purchase the Nursing Centers at a below market price, the Attorney General proceeded to open his civil investigation of Care Foundation's operations going back to the date it was founded in 1999. The Attorney General's investigation is ongoing. But for the Attorney General's civil investigation, the wrongful actions and conflicts of interest described in this Amended Complaint might never have been discovered. In 2008, all of Care Foundation's conflicted Board members resigned.

56. To date, Care Foundation has paid a total of approximately $40,000,000 for the Nursing Centers valued at the time of purchase at $23,200,000. Care Foundation's remaining debt to NHI fully matured on December 31, 2008. The remaining amount due is approximately $23,200,000. If that amount is paid as demanded by NHI, Care Foundation will have paid a total of approximately $63,000,000 over eight years for Nursing Centers valued at the time of purchase at $23,200,000. Before paying any additional monies to NHI, Plaintiffs seek a declaration of what, if any, amount properly remains due to NHI. Plaintiffs also seek to recover as money damages or recoup or disgorge millions of dollars improperly received by NHI along with any other relief necessary to make Care Foundation whole.

V. CAUSES OF ACTION

Count I
(Declaratory Judgment)

57. Plaintiffs incorporate and restate by reference the averments contained in the foregoing paragraphs of this Amended Complaint as if fully set forth below.

58. Pursuant to 28 U.S.C. § 2201, a genuine dispute exists between the parties with respect to their legal rights and obligations.

59. NHI, as a *de facto* member of Care Foundation's Board of Directors and through its adverse domination and control of, and/or abusive influence over, Care Foundation and its Board of Directors, had a confidential relationship with and owed Care Foundation a fiduciary duty to conduct business with this charity and Tennessee public benefit non-for-profit corporation with the highest degree of loyalty, care, and good faith. NHI also owed Care Foundation fiduciary duties of fair dealing, honesty, and full, candid, and adequate disclosure.

60. In breach of those fiduciary duties, among other things, NHI sold the Nursing Centers to Care Foundation for a purchase price that was higher than their fair market value by approximately $9,500,000.

61. As of the date of the filing of this proceeding, the Note, as last extended, matured on December 31, 2008.[26] Given NHI's continuing wrongful conduct as alleged in this Amended Complaint, a genuine dispute exists between the parties with respect to the validity of NHI's claim and the validity of any liens on the Nursing Centers.

62. Plaintiffs are therefore entitled to a declaratory judgment as follows:

(A) That NHI was a *de facto* member of Care Foundation's Board of Directors and owed fiduciary duties to Care Foundation and its Board of Directors;

[26] A true and exact copy of the Second Amended and Restated Master Secured Promissory Note is attached as ***Exhibit AA***.

(B) That NHI sold the Nursing Centers to Care Foundation for a purchase price that was significantly higher than their true fair market value;

(B) That the Asset Purchase Agreement is the result of NHI's fraud and breach of fiduciary duty and should therefore be reformed to reflect an original purchase price of no more than $23,200,000;

(C) That the Note and the multiple extensions thereof were the result of NHI's breach of fiduciary duties and fraud;

(D) That the Note, which matured on December 31, 2008, should be reformed, reduced, and/or completely eliminated to reflect the reformed purchase price and other appropriate market terms and conditions due to NHI's fraud and breach of fiduciary duty;

(E) That NHI's claim in the bankruptcy proceedings shall be reduced and/or completely eliminated to reflect the reformed purchase price and other appropriate market terms and conditions of NHI's fraud and breach of fiduciary duty;

(F) That NHI's alleged liens on Plaintiffs' assets shall be reduced or disallowed and/or avoided in full to reflect the reformed purchase price and other appropriate market terms and conditions of NHI's fraud and breach of fiduciary duty; and

(G) That Care Foundation is entitled to compensatory and punitive damages and/or a recoupment, disgorgement, or setoff to recover monies paid to NHI in excess of their fair market value under the original Asset Purchase Agreement and the Note (as modified and/or extended), and a release of any of the liens remaining on the Nursing Centers.

Count II
(Breach of Fiduciary Duty)

63. Plaintiffs incorporate and restate by reference the averments contained in the foregoing paragraphs of this Amended Complaint as if fully set forth below.

64. NHI has violated its fiduciary duties of good faith, fair dealing, honesty, loyalty, and full, candid, and adequate disclosure that it owed to Care Foundation, and at all times material to this Amended Complaint has acted to put its interests ahead of the interests of Care Foundation.

65. NHI formed Care Foundation; installed one of its own directors on Care Foundation's Board; selected Care Foundation's entire Board of Directors; had its agents give legal and transactional advice to Care Foundation; failed to disclose the conflicts of interest inherent in these actions and other material facts to Care Foundation's Board; prepared legal documents on Care Foundation's behalf; and knew that Care Foundation was guided by and justifiably relied upon NHI's judgment and advice.

66. In particular, NHI had superior knowledge of material facts relating to the transactions approved at the Christmas Eve Board meeting in 1999, which it intentionally failed to disclose to Care Foundation's Board of Directors. Those materials facts, which NHI failed to disclose, included, without limitation, the fair market value of the Nursing Centers; the fact that NHI had obtained an independent fair market value appraisal of the Nursing Centers in November 1999, just one month prior to selling them to Care Foundation, which stated the value was no more than $25,900,000; the fact that the York Trustee had obtained a fair market value appraisal of the Nursing Centers in December 1999, which stated that the value was no more than $23,200,000; the market rates of interest when the Note was issued and each time it was later extended; the lack of appropriate insurance coverage; the recourse nature of the Note; the supplemental payments and guarantee fees charged in addition to the above-market rate of interest; the fact that much of the debt assumed by Care Foundation was unsecured; the fact that the assets transferred to Care Foundation from NHI/FLA were different from and materially less

than those transferred by the York Trustee to NHI/FLA; and the true and complete reasons why Care Foundation's HUD applications for refinancing of the Note were rejected.

67. The failure to disclose material facts, the concealment of those facts, and NHI's repeated failure to make complete, open, and honest disclosures was an intentional, wanton, and gross breach of NHI's fiduciary duties that it owed to Care Foundation. NHI has greatly benefited from the wrongful transactions alleged in this Amended Complaint at Care Foundation's expense.

68. NHI acted as a *de facto* member of the Board of Directors of Care Foundation, and it adversely dominated and controlled and abused the influence that it had over Care Foundation and its Board of Directors for its own benefit at Care Foundation's expense until the Attorney General opened his civil investigation in 2008.

69. Prior to that time, Care Foundation placed special confidence in NHI which bound NHI to act in good faith.

70. NHI had a fiduciary and/or confidential relationship with Care Foundation and thus owed the highest duty of loyalty and a duty of full disclosure of all matters affecting its interests. NHI further owed the fiduciary duties of fair dealing, honesty, and full, candid, and adequate disclosure in dealing with Care Foundation in all matters pertaining to the sale of the Nursing Centers to Care Foundation, the lease arrangements for the operation of the Nursing Centers, the terms and conditions of the Note as extended and modified from time to time, and the subsequent proposal to repurchase the Nursing Centers from Care Foundation.

71. The fiduciary duty between Care Foundation and NHI created a special bond requiring the parties to deal fairly and in good conscience with one another. As a fiduciary to

Care Foundation, NHI was expected to conduct its business with Care Foundation by a higher standard of equity than would be used in ordinary dealings.

72. A duty of good faith and fair dealing arose out of the special relationship between Care Foundation and NHI. Because of NHI's control over Care Foundation's Board of Directors, an imbalance of power existed between NHI and Care Foundation in favor of NHI. NHI continued to exploit this imbalance and its continuing concealment of its efforts in this regard constitute a violation of NHI's obligation to act in good faith and with fair dealing to Care Foundation.

73. As a result of NHI's intentional conduct, Care Foundation has sustained damages in an amount believed to be in excess of $25,000,000, plus interest.

74. Because NHI acted intentionally, fraudulently, and maliciously in disregard for the rights of Care Foundation and abused its fiduciary position for its own financial gain, Care Foundation is entitled to an award of punitive damages.

75. In the alternative, the wrongful conduct of NHI evidences a reckless disregard for the rights of Care Foundation and an intentional and willful course of action on the part of NHI to abuse its fiduciary position for its own financial gain, thereby justifying the award of an equitable remedy against NHI in order to recoup or disgorge from NHI any and all ill-gotten monies paid under the Asset Purchase Agreement, the Note and the extensions thereof, as well as any other ill-gotten monies obtained by NHI as a result of the its wrongful acts alleged in this Amended Complaint.

Count III
(Illegal Distributions)

76. Plaintiffs incorporate and restate by reference the averments contained in the foregoing paragraphs of this Amended Complaint as if fully set forth below.

77. NHI, as *de facto* director of Care Foundation, caused Care Foundation to transfer, directly or indirectly, its assets, income, and profit to NHI.

78. NHI, as *de facto* director of Care Foundation, is prohibited from causing Care Foundation to distribute any assets or any part of its income or profit to NHI, but did so.

79. NHI, as *de facto* director of Care Foundation, is prohibited from receiving any of Care Foundation's assets or any part of its income or profit for NHI's own private inurement, but did so.

80. Accordingly, NHI is liable to Care Foundation for the entire amount of assets, profits, or income it caused Care Foundation to illegally distribute, which is believed to be in excess of $25,000,000, plus interest.

Count IV
(<u>Conflict-of-Interest Transactions</u>)

81. Plaintiffs incorporate and restate by reference the averments contained in the foregoing paragraphs of this Amended Complaint as if fully set forth below.

82. NHI, as *de facto* director of Care Foundation, caused Care Foundation to enter into a conflict of interest transaction, whereby Care Foundation purchased from NHI's subsidiary, NHI/FLA, the Nursing Centers for a purchase price which was approximately $9,500,000 higher than fair market value, all for NHI's private benefit.

83. NHI, as *de facto* director of Care Foundation, deliberately withheld numerous material facts from other members of Care Foundation's Board of Directors, including, without limitation, the true fair market value of the Nursing Centers, causing Care Foundation to pay a purchase price in excess of the true fair market value for the Nursing Centers, all to NHI's private benefit.

84. NHI, as *de facto* director of Care Foundation, deliberately misled the other members of Care Foundation's Board of Directors as to the availability of other means of financing the purchase of the Nursing Centers, thereby causing Care Foundation to enter into the Note and its amendments at an above market rate of interest.

85. NHI, as *de facto* director of Care Foundation, never sought approval from the Attorney General or any court having equity jurisdiction for the conflict-of-interest transactions between NHI and its subsidiary, NHI/FLA, and Care Foundation.

86. Accordingly, NHI is liable to Care Foundation for the excess benefit it received from the conflict-of-interest transactions, which is believed to be in excess of $25,000,000, plus interest.

Count V
(Fraudulent Transfers)

87. Plaintiffs incorporate and restate by reference the averments contained in the foregoing paragraphs of this Amended Complaint as if fully set forth below.

88. NHI was a *de facto* member of Care Foundation's Board of Directors and, therefore, was an "insider" as that term is defined in 11 U.S.C. § 101(31).

89. NHI's liens against Plaintiffs' assets and amounts paid to NHI in excess of the fair market value of the Nursing Centers under the original Asset Purchase Agreement and the Note (as modified and/or extended) constituted a constructive fraudulent transfer(s), which is invalid and should be set aside / avoided, pursuant to T.C.A. § 66-3-305 and/or 11 U.S.C. § 548.

Count VI
(Conversion)

90. Plaintiffs incorporate and restate by reference the averments contained in the foregoing paragraphs of this Amended Complaint as if fully set forth below.

91. NHI did, in the years 1999 through 2008, unlawfully carry out wrongful acts to convey the Nursing Centers to Care Foundation for an amount significantly higher than their fair market value and to finance the purchase at significantly above-market rates of interest.

92. NHI, pursuant to its ongoing wrongful acts, misappropriated and converted to its own use monies that properly belonged to Care Foundation, a Tennessee not-for-profit public benefit corporation, without authority, express or implied, and without proper consent of Care Foundation or the Attorney General.

93. NHI has, since 1999, knowingly and illegally converted to its own use and benefit the excessive sales proceeds, interest payments, supplemental payments, and guarantee fees extracted from Care Foundation.

94. NHI knowingly took possession of Care Foundation's monies and fraudulently withheld and converted those monies and applied them to its own use and benefit. Because of NHI's adverse domination and control of, and/or abusive influence over, Care Foundation and its Board of Directors at all times material to this Amended Complaint, NHI converted Care Foundation's monies without its consent.

95. Care Foundation's charitable mission has been significantly harmed and injured as a result of NHI's conversion of its monies.

96. By reason of the foregoing, Care Foundation has sustained damages in an amount believed to be in excess of $25,000,000, plus interest.

Count VII
(Common Law Fraud)

97. Plaintiffs incorporate and restate by reference the averments contained in the foregoing paragraphs of this Amended Complaint as if fully set forth below.

98. The transfer of the Nursing Centers to Care Foundation by NHI/FLA was through NHI's ongoing wrongful acts to sell the Nursing Centers to Care Foundation for an amount significantly higher than their fair market value and to finance the purchase at significantly above-market rates of interest.

99. NHI devised this plan and was determined, through its adverse domination and control of, and/or abusive influence over, Care Foundation and its Board of Directors to keep these material facts concealed.

100. NHI had a fiduciary and confidential relationship with Care Foundation, and Care Foundation reposed a trust and confidence in NHI's integrity and fidelity. As such, NHI had a duty to disclose material facts to an independent Board of Directors of Care Foundation and/or to the Attorney General. Instead, NHI intentionally concealed and/or suppressed material facts with the intent to deceive Care Foundation, abused its relationship with Care Foundation, and used its influence to profit itself at Care Foundation's expense. Care Foundation was not aware of the facts concealed and/or suppressed by NHI and an independent board of directors would have acted differently and would not have entered into the transaction if it had known of the concealed and/or suppressed facts. NHI is therefore guilty of fraud and misrepresentation.

101. NHI's secrecy and concealment was intentionally hidden from Care Foundation and the Attorney General and was not reasonably discovered until Care Foundation had an independent Board free of NHI's control. This did not occur until the Attorney General opened his civil investigation in 2008.

102. As a result of NHI's fraud and its concealment and/or suppression of material facts, Care Foundation has sustained damages in an amount believed to be in excess of $25,000,000, plus interest.

Count VIII
(Unjust Enrichment)

103. Plaintiffs incorporate and restate by reference the averments contained in the foregoing paragraphs of this Amended Complaint as if fully set forth below.

104. By reason of the illegal acts alleged above, NHI has been unjustly enriched in an amount believed to be in excess of $25,000,000, plus interest and a constructive trust should be imposed upon its assets for that amount.

105. NHI should be required to disgorge and re-pay the benefits it unjustly received together with interest, costs and attorneys fees, as restitution or money damages.

Count IX
(Actual Damages, Exemplary Damages, Attorneys Fees And Costs)

106. Plaintiffs incorporate and restate by reference the averments contained in the foregoing paragraphs of this Amended Complaint as if fully set forth below.

107. As a direct and proximate result of NHI's conduct, Care Foundation has suffered actual harm to its business and operations and seeks all resulting actual damages. The total amount of Care Foundation's actual damages against NHI is believed to be in excess of $25,000,000, plus interest.

108. Care Foundation also seeks exemplary damages from NHI because of NHI's willful and malicious conduct.

109. Defendant's wrongful conduct compelled Care Foundation to retain the undersigned counsel. Care Foundation is entitled to recover from Defendant its reasonable attorneys fees and court costs incurred in this suit.

DEMAND FOR RELIEF

WHEREFORE, Plaintiffs petition this Court for the following relief:

A. As to Count I, that this Court award the declaratory relief requested;

B. That this Court reform the Note and award compensatory and punitive damages and/or equitable recoupment or disgorgement against NHI, in an amount to be determined at trial;

C. That the Court impose a constructive trust, in favor of Care Foundation, upon any benefits improperly received by NHI as a result of its wrongful conduct;

D. That this Court disallow NHI's claim in the bankruptcy proceedings in its entirety, or reduce NHI's claim in the bankruptcy proceedings in an amount to be determined at trial;

E. That this Court extinguish entirely or reduce the extent of the liens NHI can assert on Plaintiffs' assets to an amount to be determined at trial;

F. That this Court grant Plaintiffs pre-judgment interest at the maximum rate allowed under the Tennessee law;

G. That this Court award Plaintiffs all costs and reasonable accountant, attorney, and expert fees to the extent permissible under applicable law;

H. That all costs of this action be taxed against NHI;

I. That this Court grant Plaintiffs such other relief that it deems just and equitable; and

J. PLAINTIFFS DEMAND A JURY TRIAL ON ALL MATTERS SO TRIABLE.

Dated: May 15, 2009.

Respectfully submitted,

/s/ Paul S. Davidson

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Certificate of Service

I hereby certify that a true and exact copy of the foregoing was served upon the following counsel of record by operation of the electronic filing system of the United States Bankruptcy Court for the Middle District of Tennessee.

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