IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
VYAIRE MEDICAL, INC., *et al.*,[1]	)	Case No. 24-11217 (BLS)
Debtors.	)	(Jointly Administered)

SUPPLEMENTAL DECLARATION OF SPENCER A. WINTERS IN SUPPORT OF THE APPLICATION OF DEBTORS FOR ENTRY OF AN ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT OF KIRKLAND & ELLIS LLP AND KIRKLAND & ELLIS INTERNATIONAL LLP AS ATTORNEYS FOR THE DEBTORS AND DEBTORS IN POSSESSION EFFECTIVE AS OF JUNE 9, 2024

I, Spencer A. Winters, being duly sworn, state the following under penalty of perjury:

1. I am the president of Spencer A. Winters, P.C., a partner of the law firm of Kirkland & Ellis LLP, located at 333 West Wolf Point Plaza, Chicago, Illinois 60654, and a partner of Kirkland & Ellis International, LLP (together with Kirkland & Ellis LLP, collectively, "Kirkland").[2] I am one of the lead attorneys from Kirkland working on the above-captioned chapter 11 cases. I am a member in good standing of the Bar of the State of Illinois, and I have been admitted to practice in the U.S. District Court for the Northern District of Illinois. There are no disciplinary proceedings pending against me.

2. On June 9, 2024, (the "Petition Date"), Vyaire Medical, Inc. and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). On July 9, 2024, the Debtors filed an

[1] The last four digits of Debtor Vyaire Medical, Inc.'s federal tax identification number are 6495. A complete list of each of the Debtors in these chapter 11 cases and each such Debtor's federal tax identification number may be obtained on the website of the Debtors' claims and noticing agent at https://omniagentsolutions.com/Vyaire. The location of Debtor Vyaire Medical, Inc.'s principal place of business and the Debtors' service address in these chapter 11 cases is 26125 North Riverwoods Boulevard, Mettawa, Illinois, USA 60045.

[2] Capitalized terms used but not otherwise defined herein shall have the meaning as set forth in the Application or Original Declaration (as defined herein), as applicable.

application to employ and retain Kirkland as counsel for the Debtors [Docket No. 236] (the "Application") pursuant to sections 327(a) and 330 of the Bankruptcy Code, rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and rules 2014-1 and 2016-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules").

3. My declaration in support of the Application (the "Original Declaration") was attached to the Application as Exhibit B.

4. In connection with the Application, I submit this first supplemental declaration (the "First Supplemental Declaration") to provide additional disclosures in response to requests made by the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee") and in accordance with rules 2014(a) and 2016(b) of the Bankruptcy Rules. Unless otherwise stated in this First Supplemental Declaration, I have personal knowledge of the facts set forth herein.

5. As I stated in the Original Declaration, Kirkland has searched its electronic database of representations for connections to parties in interest in these chapter 11 cases. Following discussions with the U.S. Trustee, the First Supplemental Declaration provides additional information related to the disclosures made in the Application and the Original Declaration.

6. For the avoidance of doubt, to the best of my knowledge, Kirkland has never represented Vyaire Intermediate HoldCo LP in any matters. Vyaire Intermediate HoldCo LP is a non-debtor affiliate of the Debtors.

7. As discussed in the Original Declaration, prior to the Petition Date, Kirkland represented Apax Partners, LLP and certain of its affiliated investment funds and portfolio companies ("Apax") in connection with a potential carve-out transaction (the "Potential Carve-Out Transaction") in which certain Apax funds considered purchasing Respiratory Diagnostics, one of the Debtors' business units and, in connection with that potential purchase, contributed $80 million to the Debtors. To the best of my knowledge, Simpson Thatcher & Bartlett LLP represented the Debtors in connection with the Potential Carve-Out Transaction. I do not believe that Kirkland's

current or prior representations of Apax preclude Kirkland from meeting the disinterestedness standard under the Bankruptcy Code.

8. As discussed in the *Declaration of John Bibb, Group Chief Executive Officer of Vyaire Medical, Inc., in Support of the Debtors' Chapter 11 Petitions and First Day Motions* [Docket No. 15], Apax acquired a 50.1% controlling interest in the Debtors and their non-debtor affiliates (collectively, the "Company") in October 2016 (the "First Apax Acquisition"). In 2018, Apax acquired Becton, Dickinson and Company's remaining ownership stake in the Debtors (the "Second Apax Acquisition," together with the First Apax Acquisition, the "Apax Acquisitions"). To the best of my knowledge, Kirkland did not advise Apax in the Apax Acquisitions. I do not believe that Kirkland's current or prior representations of Apax preclude Kirkland from meeting the disinterestedness standard under the Bankruptcy Code.

9. As discussed in the Original Declaration, Reginald Brown, a Kirkland partner, is also a member of the board of directors of Blackstone, Inc. ("Blackstone"). Blackstone previously held approximately 8% of the first-lien term loans and did not hold any of the second-lien term loans. My understanding is that Blackstone has sold its entire position to Oaktree such that, to the best of my knowledge, Blackstone is no longer a lender or creditor of the Debtors. For this reason, Oaktree, not Blackstone, is listed as a member of the First Lien Group in the *Verified Statement of the 1L Ad Hoc Group Pursuant to Bankruptcy Rule 2019* [Docket No. 79] (the "Rule 2019 Statement"). Kirkland's connections to Oaktree were disclosed as part of the Application and Original Declaration. I do not believe that this connection precludes Kirkland from meeting the disinterestedness standard under the Bankruptcy Code.

10. With respect to Kirkland's connection to Blackstone, Mr. Brown is formally screened from Kirkland's representation of the Debtors. In his capacity as a member of the board of Blackstone, Mr. Brown is not typically asked to make decisions with respect to individual loans in Blackstone's portfolio, which, to the best of my knowledge, exceeds $1 trillion in assets under management. In the unlikely event that the Blackstone board were asked to make a decision with respect to any claim or interest in the Debtors, Mr. Brown would recuse himself from that decision.

I do not believe that this connection precludes Kirkland from meeting the disinterestedness standard under the Bankruptcy Code.

11. [REDACTED].

12. BlackRock is a first-lien term loan lender, and their holdings are reflected in the Rule 2019 Statement. My understanding is that, prior to the Petition Date, the entire second-lien loan was also acquired by BlackRock. For the avoidance of doubt, there is no ad hoc group comprised of second-lien term lenders.

13. Kirkland will continue to review its files periodically during the pendency of these chapter 11 cases to ensure that no conflicts or other disqualifying circumstances exist or arise. If any new relevant facts or relationships are discovered or arise, Kirkland will use reasonable efforts to identify such further developments and will promptly file an additional supplemental declaration, as required by Bankruptcy Rule 2014(a).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: July 26, 2024

Respectfully submitted,

/s/ Spencer A. Winters
Spencer A. Winters
as President of Spencer A. Winters, P.C.,
as Partner of Kirkland & Ellis LLP and
as Partner of Kirkland & Ellis International LLP