

EXHIBIT 5

COVENANT NOT TO SUE

This Covenant Not to Sue is entered into this 3 day of Nov, 2010 by and among the Greater Stockton Chamber of Commerce, J. Clark Kelso, in his capacity as Receiver, the California Prison Healthcare Receivership Corporation, and the California Department of Corrections and Rehabilitation who agree as follows:

RECITALS

A. WHEREAS, the Greater Stockton Chamber of Commerce ("Chamber"), the City of Stockton and the County of San Joaquin (collectively "Petitioners") filed a petition for writ of mandate against J. Clark Kelso, in his capacity as Receiver ("Receiver"), the California Prison Healthcare Receivership Corporation ("CPR"), and the California Department of Corrections and Rehabilitation ("CDCR") (referred to collectively as Respondents) in the Superior Court of San Joaquin County (*Greater Stockton Chamber of Commerce, et al. v. J. Clark Kelso, et al.*, Case No. 39-2009-230310-CU-WM-STK), alleging that Respondents' certification of the Final EIR and approval of the CHCF Project violated CEQA and Respondents thereafter removed the case to the United States District Court, Eastern District of California and the case is now before Judge Lawrence K. Karlton for all further proceedings (Case No. 2:09-cv-03308-LKK-JFM) (the "Litigation"); and

B. WHEREAS, the Parties (the Petitioners and the Respondents, collectively) have agreed to settle the Litigation and the Parties have entered into a Settlement Agreement; and

C. WHEREAS, the Settlement Agreement provides that the Chamber will provide a covenant not to sue, as set forth herein; and

D. WHEREAS, the Settlement Agreement provides that CDCR and/or the Receiver, upon receipt of an executed Covenant Not to Sue from the Chamber, shall proceed to pay to the

Chamber, the Chamber's portion of Petitioners' reasonable attorney's fees, not to exceed seventy thousand dollars (\$70,000.00).

Now, therefore, the Chamber ("Covenantor"), CDCR, CPR and the Receiver (collectively "Covenantees") hereby covenant as follows:

SECTION ONE

COVENANT NOT TO SUE

Covenantor will not institute, prosecute, or pursue or threaten to institute, prosecute or pursue any action, suit or other proceeding, whether judicial or administrative, at law or in equity, against any, or all, of the Covenantees, jointly or severally, nor institute, prosecute or pursue or in any way aid in the institution, prosecution or pursuit of any claim, demand, action, or cause of action for injunctive or declaratory relief, damages, costs, loss of services, expenses, or compensation for or on account of any damage, loss or injury either to person or property, or both, whether developed or undeveloped, resulting or to result, known or unknown, past, present or future, which is based upon, arises out of, or is in any way related to the Environmental Impact Report (EIR) for, and/or the approval of, either, or both, of the two new and/or re-purposed facilities: 1) the re-purposed De Witt Nelson facility and 2) the re-purposed Northern California Women's Facility (NCWF) facility, also know as the new Re-Entry facility or the Northern California Re-Entry Facility (NCRF).

SECTION TWO

PAYMENT NOT AN ADMISSION

It is understood by Covenantor that the payment made hereunder is in compromise of the Litigation, described above, and in consideration of the covenant not to sue contained herein, and is not to be construed as an admission of liability on the part of Covenantees, or any of them, which liability has been expressly denied.

SECTION THREE

RESERVATION OF RIGHTS

Except as provided in the Settlement Agreement, Covenantor expressly reserves all rights of action, claims and demands against any and all persons other than Covenantees. This instrument is a covenant not to sue, and not a release.

SECTION FOUR

BINDING EFFECT OF COVENANT

This covenant shall inure to the benefit of Covenantees, jointly and severally, and their legal representatives, agents, assignees and successors, including, but not limited to, any future receiver, director, secretary, or other person appointed to oversee the operations of CDCR or to oversee medical services provided to inmates under the jurisdiction of CDCR. This covenant shall bind Covenantor, and its legal representatives, agents, assignees, and successors.

SECTION FIVE

ENTIRETY CLAUSE

This instrument reflects the entire covenant between Covenantor and Covenantees, and no statements, promises or inducements made by Covenantor or any agent of any Covenantee which are not contained in this covenant not to sue shall be valid or binding. This covenant supplements but does not replace the Settlement Agreement, which shall remain in full force and binding against and among the parties to the Settlement Agreement.

SECTION SIX

COVENANT UNDERSTOOD BY COVENANTOR

Covenantor has carefully read the foregoing covenant not to sue and knows and understands the content thereof.

SECTION SEVEN

AUTHORITY TO EXECUTE

Covenantor warrants that the person or persons signing below have the full and complete authority to bind the Covenantor to this Covenant.

SECTION EIGHT

COMMENTS ON THE EIR AND PROJECT APPROVAL FOR DE WITT NELSON AND NCRF

Except as provided in this Covenant, this Covenant shall not prevent, limit or restrict the right of the Covenantor from participating in the administrative process regarding review of the EIR by providing oral or written comments on the EIR and/or on the approval of the re-purposed De Witt Nelson facility and/or the re-purposed Northern California Women's Facility (NCWF) facility, also know as the new Re-Entry facility or the Northern California Re-Entry Facility (NCRF), either individually or collectively.

SECTION NINE

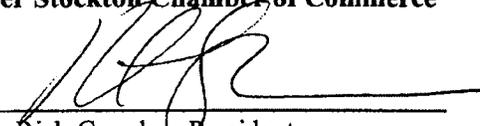
PAYMENT

In consideration of this Covenant, Covenantees shall pay to the Covenantor the sum of seventy thousand dollars (\$70,000) within 15 days of receipt by Covenantee of execution of this Covenant by Covenantor, execution of the Settlement Agreement by all the Parties to the Litigation and receipt by the Covenantees of a request for dismissal of the Litigation with prejudice executed by the Parties, whichever occurs last.

In witness whereof, Covenantor has executed this Agreement and Covenant at Stockton, California (designate place of execution) and CDCR, CPR and the Receiver have executed this Agreement and Covenant at Sacramento, California, as of the day and year stated below.

Dated: 8/3, 2010

Greater Stockton Chamber of Commerce

By: 
Rick Goucher, President

Dated: _____, 2010

Receiver

By: _____
J. Clark Kelso, Receiver

Dated: _____, 2010

**California Prison Healthcare
Receivership Corp.**

By: _____
J. Clark Kelso, President

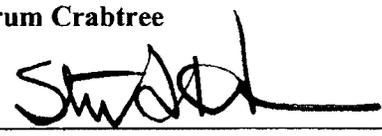
Dated: _____, 2010

**State of California Department of
Corrections and Rehabilitation**

By: _____
Matthew L. Cate, Secretary

Approved as to Form:

Herum Crabtree

By: 
Steven A. Herum

Attorney for Petitioner Greater Stockton Chamber of Commerce,

In witness whereof, Covenantor has executed this Agreement and Covenant at _____ (designate place of execution) and CDCR, CPR and the Receiver have executed this Agreement and Covenant at Sacramento, California, as of the day and year stated below.

Dated: _____, 2010

Greater Stockton Chamber of Commerce

By: _____
Rick Goucher, President

Dated: 8/4, 2010

Receiver

By: [Signature]
J. Clark Kelso, Receiver

Dated: 8/4, 2010

**California Prison Healthcare
Receivership Corp.**

By: [Signature]
J. Clark Kelso, President

Dated: 8/5, 2010

**State of California Department of
Corrections and Rehabilitation**

By: [Signature]
Matthew L. Cate, Secretary

Approved as to Form:

Herum Crabtree

By: _____
Steven A. Herum

Attorney for Petitioner Greater Stockton Chamber of Commerce,

McDonough, Holland & Allen, PC

By: Harriet Steiner
Harriet A Steiner

Attorney for Respondents J. Clark Kelso, Receiver,
and California Prison Healthcare Receivership, Corp.

Receiver's Office of Legal Affairs

By: _____
Evelyn M. Matteucci

Chief Counsel, Construction
Office of the Receiver

Miller Starr Regalia

By: _____
Arthur F. Coon

Attorney for Respondent State of California Department
of Corrections and Rehabilitation

McDonough, Holland & Allen, PC

By: _____
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Attorney for Respondents J. Clark Kelso, Receiver,
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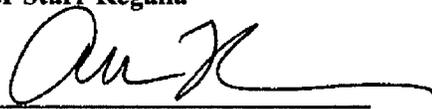
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