



Non-Profit Company

Transaction of the Year

Tuomey d/b/a Tuomey Healthcare System, a South Carolina nonprofit corporation

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Tuomey was founded in 1913 and is a "sole community provider" general acute care hospital; the closest hospitals providing comparable care are a one-hour drive from Tuomey's location in Sumter, South Carolina. Tuomey is the only source of care for the many indigent persons in Sumter, Lee, and Clarendon counties and is the primary source of hospital care for Shaw Air Force Base.

Tuomey's financial stability began to deteriorate in 2007, when the *qui tam* complaint in *United States ex rel. Drakeford v. Tuomey* ("Drakeford") was unsealed. The complaint, which was initially filed by a local physician before the United States Department of Justice ("DOJ") intervened, alleged that Tuomey's employment contracts with 19 local physicians violated the Stark Law and the False Claims Act. After eight years, two district court trials and two resulting appeals to the 4th U.S. Circuit Court of Appeals, a \$237 million judgment was affirmed against Tuomey in the Drakeford litigation. The Drakeford judgment, together with continuing cash operating losses from Tuomey's operations, left Tuomey insolvent. Further, Tuomey lost its long-standing senior officers and outside law firm due to DOJ demands during settlement negotiations. On top of causing insolvency and a leadership vacuum, the Drakeford judgment effectively gave the DOJ the ability to shut Tuomey down by excluding it from the Medicare program.

When the transaction team came to Tuomey beginning in late 2013, they quickly realized that an affiliation transaction was needed. They also realized that there could be no transaction if there was no resolution of the Drakeford litigation. Simultaneously with efforts to resolve Drakeford, Mr. Schwartz, Mr. Moran, and Mr. Robichaux began a discussion with the board about the need to pursue a transaction. With board approval, the transactional team pursued a multi-round M&A process as efforts to resolve Drakeford continued, with the board ultimately selecting Palmetto Health, a well-capitalized charitable health system, as Tuomey's future partner.

The transactional team then worked with the DOJ, Palmetto Health, and Tuomey's bond representatives to structure a transaction that resolved the Drakeford litigation, satisfied Tuomey's bond obligations and preserved Tuomey's ability to provide charitable healthcare. When the transaction closed on December 29, 2015, all of these objectives were met without Tuomey ever filing

bankruptcy. More specifically, Tuomey settled the Drakeford litigation with a total payment of \$72.4 million; its bonds were paid in full; no Tuomey employee lost his or her job; Palmetto Health committed to numerous long-term investments in Tuomey that preserved and vastly improved its ability to provide charitable healthcare to citizens of its service area; and the Sumter community's voice in Tuomey's future was preserved through three designated seats on the Palmetto Health Board.