

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
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In re:

Chapter 11

COMPREHENSIVE PHYSICIANS
SERVICES, INC.,

Case No. 8:16-bk-9905-CPM

Debtor.

**DEBTOR'S EMERGENCY MOTION FOR
AUTHORITY TO USE CASH COLLATERAL**

STATEMENT OF RELIEF REQUESTED

The Debtor seeks authorization to use cash collateral to fund operating expenses and costs of administration in this Chapter 11 case. The Debtor believes that C1 Bank, Can Capital, and National Finance (collectively, the “**Creditors**”) may assert security interests in the Debtor’s accounts receivable and other proceeds from the business. As adequate protection for the use of cash collateral, the Debtor proposes to provide the Creditors that have a lien on accounts receivable with a replacement lien on assets acquired after the Petition Date to the same extent, validity, and priority as existed on the Petition Date.

COMPREHENSIVE PHYSICIANS SERVICES, INC. (“**Comprehensive**” or the “**Debtor**”), respectfully requests the entry of an order granting the Emergency Motion for Authority to Use Cash Collateral (the “**Motion**”) and approving the proposed form of order which is attached hereto as **Exhibit B**. In support of its Motion, the Debtor respectfully represents as follows:

Jurisdiction

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. The subject matter of this Motion is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in this district pursuant to 28 U.S.C. § 1408.

2. The statutory predicates for the relief sought herein are §§ 105, 363, and

541 of the Bankruptcy Code and Rule 4001 of the Federal Rules of Bankruptcy Procedure.

Background

2. On November 18, 2016 (the “**Petition Date**”), the Debtor filed its Voluntary Petition for Relief under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”).

3. The Debtor is operating its business and managing its property as a debtor in possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

4. The Debtor operates a chiropractic clinic.

5. Prior to the Petition Date, the Debtor borrowed money from C1 Bank, which contends that it has a lien on accounts receivable.

6. The Debtor believes that C1 Bank will assert that, as of the Petition Date, it was owed approximately \$300,000.

7. The Debtor also entered into agreements Can Capital and National Finance, who contend that their obligations are secured by liens on accounts receivable, although the liens, if any, are junior to the liens of C1 Bank.

8. Accordingly, the Debtor believes that C1 Bank, Can Capital, and National Finance (collectively, the “**Creditors**”) will assert (a) that they have perfected liens on the Debtor’s accounts receivable and other assets (the “**Collateral**”), and (b) that they perfected liens against the Collateral, other than taxes.

Relief Requested and Grounds for Relief

9. As of the Petition Date, the Debtor is owed money from patients,

insurance companies, and third party payees. The Debtor anticipates that it will generate additional accounts receivable and collect funds on account of such receivables after the Petition Date in the ordinary course of its business. The collection of such receivables may constitute cash collateral (the “**Cash Collateral**”) of the Creditors.

10. By this Motion, the Debtor seeks the entry of an order authorizing the use of Cash Collateral, in accordance with a budget attached hereto as **Exhibit A** for purposes which include without limitation the following:

- a. Care, maintenance and preservation of the Debtor’s assets;
- b. Payment of necessary business expenses; and
- c. Continued business operations.

11. Except as specifically authorized by law or court order, the Debtor will not use Cash Collateral to pay pre-petition obligations.

12. The Debtor requests authorization to use Cash Collateral immediately to fund operating expenses necessary to continue the operation of its business, to maintain the estate, to maximize the return on its assets, and to otherwise avoid irreparable harm and injury to its business and the estate.

13. There is insufficient time for a full hearing pursuant to Rule 4001(b)(2) of the Federal Rules of Bankruptcy Procedure to be held before the Debtor must use Cash Collateral. If this Motion is not considered on an expedited basis and if the Debtor is denied the ability to immediately use Cash Collateral, there will be a direct and immediate material and adverse impact on the continuing operations of the Debtor’s business and on the value of its assets. In order to continue its business activities in an

effort to achieve a successful reorganization, the Debtor must use Cash Collateral in the ordinary course of business. The inability of the Debtor to meet its ordinary business expenses will require the Debtor to discontinue normal operations, which will result in irreparable injury to the Debtor and its chances for reorganization. Any such discontinuation would also materially and adversely impact the value of the Collateral. Indeed, it is in the best interest of the Creditors that the Debtor use Cash Collateral, if such usage will preserve the value of the Collateral.

14. The Debtor proposes to grant to the Creditors a replacement lien on assets acquired after the Petition Date to the same extent, validity, and priority as existed on the Petition Date. In other words, the Debtor proposes that the Creditors' "floating" liens on such assets continue to "float" to the same extent, validity, and priority as existed on the Petition Date, notwithstanding Section 552 of the Bankruptcy Code.

15. The Debtor asserts that the interests of the Creditors will be adequately protected. Consequently, no further provision for adequate protection is required.

16. The Debtor believes that it can operate its business during the Chapter 11 case and successfully reorganize its business if it is allowed to use Cash Collateral.

WHEREFORE, the Debtor respectfully requests that this Court enter an order, the proposed form of which is attached hereto as **Exhibit B**: (a) granting the Motion; (b) authorizing the Debtor to use Cash Collateral on an interim basis pending a final hearing in accordance with the budget to be submitted at or prior to the hearing on this Motion;

(c) authorizing the Debtor to use Cash Collateral following a final hearing; and (d) providing such other and further relief as the Court may deem appropriate.

/s/ Scott A. Stichter

Scott A. Stichter (FBN 710679)
Florida Bar No. 0634506
Stichter, Riedel, Blain & Postler, P.A.
110 E. Madison Street, Suite 200
Tampa, Florida 33602
Telephone: (813) 229-0144
Facsimile: (813) 229-1811
Email: sstichter@srbp.com
Attorneys for Debtor

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Debtor's Emergency Motion for Authority to Use Cash Collateral has been furnished on this 21st day of November, 2016, by either the Court's CM/ECF system or by U.S. Mail to:

Office of the U.S. Trustee

Local 1007-2 Parties in Interest Matrix

C1 Bank

ATTN: Ryan L. Snyder, Esquire, Registered Agent
2025 Lakewood Ranch Boulevard, Suite 102
Bradenton, Florida 34211

Can Capital

c/o C T Corporation System, Registered Agent
1200 South Pine Island Road
Plantation, Florida 33324

National Finance

c/o C T Corporation System, Registered Agent
1200 South Pine Island Road
Plantation, Florida 33324

/s/ Scott A. Stichter

Scott A. Stichter

EXHIBIT A
Budget

COMPREHENSIVE PHYSICIANS SERVICES, INC.
ESTIMATED BUDGET

Payroll	\$14,900.00	Gross Taxes \$3,600.00
Rent	3,046.51	
IRS	4,000.00	Delinquent Tax Payment
Humana	2,650.00	Company Health Plan
Colonial	215.00	Traumatic Medical Insurance
Verizon	631.00	Phone System
Life Bank	490.00	Orthotics
Professional Inj.	630.00	X-Ray Analysis Digital
Bright House	217.00	Bright House Computer
Neopost	500.00	Postage for Payment of Claims
Misc.	<u>500.00</u>	
Total:	<u>\$37,779.51</u>	

EXHIBIT B
Form of Proposed Order

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
www.flmb.uscourts.gov

In re:	Chapter 11
COMPREHENSIVE PHYSICIANS SERVICES, INC.,	Case No. 8:16-bk-9905-CPM
PAUL KEVIN CHRISTIAN,	Case No. 8:16-bk-9907-CPM
Debtors.	<i>Jointly Administered under</i> <i>Case No. 8:16-bk-9905-CPM</i>
_____ /	

**INTERIM ORDER ON DEBTOR'S EMERGENCY
MOTION FOR AUTHORITY TO USE CASH COLLATERAL**

THIS CASE came before the Court for hearing on _____ 2016, at _____.m.
for consideration of the *Debtor's Emergency Motion for Authority to Use Cash* (Doc. No. ____)
(the "**Motion**"). The Motion seeks the entry of interim and final orders authorizing the Debtors to
use "Cash Collateral" as defined in Section 363(a) of the Bankruptcy Code.

The Court finds that due and sufficient notice of the Motion and the Hearing was provided
to: (i) the Office of the United States Trustee for the Middle District of Florida, (ii) C1 Bank (the
"**Lender**"), (iii) all other known secured creditors of the Debtors, and (iv) the twenty (20) largest
unsecured creditors of each of the Debtors and that no other or further notice is necessary. The

Court considered the Motion, together with the record and the arguments of counsel at the Hearing, and it appearing that the use of Cash Collateral to the extent provided herein is necessary on an interim basis in order to avoid irreparable harm to the Debtor, and for the reasons announced on the record at the Hearing which shall constitute the decision of the Court, it is

ORDERED that:

1. Notice of the Motion and the Hearing on the Motion was adequate and appropriate in the current circumstances of these jointly administered Chapter 11 cases as contemplated by 11 U.S.C. §102(a) and Fed. R. Bankr. P. 4001(b)(2).

2. The Motion is granted on an interim basis pending a further hearing to be conducted by the Court on _____, 2016, at ____:00 _m.

3. All persons and entities owing monies to the Debtor are authorized and directed to pay the monies to the Debtor, without setoff, which sums shall upon collection by the Debtor constitute Cash Collateral (as that term is defined in Section 363(a) of the Bankruptcy Code).

4. The Debtor is authorized to use Cash Collateral including, without limitation, cash, deposit accounts, and accounts receivable, in accordance with the budget (the “**Budget**”), a copy of which is attached hereto as **Exhibit A**, so long as the aggregate of all expenses for each week do not exceed the amount in the Budget by more than ten percent (10%) for any such week on a cumulative basis (the “**Variance**”). Notwithstanding the foregoing, subject to the provisions of paragraph ten of this Order, expenditures in excess of the Variance or not on the Budget will not be deemed to be unauthorized use of Cash Collateral, unless the recipient cannot establish that the expense would be entitled to administrative expense priority if the recipient had extended credit for the expenditure.

5. The Debtor is authorized to provide adequate protection, pursuant to sections 363(c)(2)(A) and 363(e) of the Bankruptcy Code, to the Lender pursuant to the terms and conditions of this Interim Order. As adequate protection with respect to the Lender's interests in the Cash Collateral, the Lender is granted replacement liens (the "**Replacement Liens**") in and upon all of the categories and types of collateral in which they held a security interest and lien as of the Petition Date to the same extent, validity and priority that the Lender held as of the Petition Date.

6. The Debtors shall maintain insurance coverage for the Collateral in accordance with the obligations under the loan and security documents.

7. This Order is not and shall not be construed as determinative as to whether or not any creditor has a valid lien on any property of the Debtor or its estate. This Order is not and shall not be construed as determinative as to the extent or amount of any secured claim associated with any such lien.

8. This Order is without prejudice to the Debtor's right to challenge the extent, validity, or priority of any lien or claim of any creditor, and is likewise without prejudice to the right of any creditor to seek additional relief concerning Cash Collateral by subsequent motion and nothing contained in this Order shall be deemed to constitute a waiver of any party's rights.

9. This Order is without prejudice to the Debtor's right to seek authority by separate motion to pay monies in excess of the amounts set forth in the Budget.

10. It shall be an event of default if the Debtor exceeds the Variance without the prior written consent of the Lender, which consent shall not be unreasonably withheld; provided, however, in the event of a default, the Debtor's authority to use Cash Collateral shall continue until

the Lender obtains an order by appropriate motion after notice and hearing requiring the Debtor to cease using Cash Collateral.

11. In accordance with Rule 4001 of the Bankruptcy Rules, the Court finds the Debtor's authorization to use Cash Collateral pursuant to this Order is necessary to avoid immediate and irreparable harm to the Debtor's estate.

12. The provisions of this Order shall remain in full force and effect unless modified or vacated by subsequent order of this Court.

Attorney Scott A. Stichter is directed to serve a copy of this order on interested parties who are non-ECF users and file a proof of service within 3 days of entry of the order.

Label Matrix for local noticing
113A-8
Case 8:16-bk-09905-CPM
Middle District of Florida
Tampa
Mon Nov 21 14:28:23 EST 2016

Ally Financial
P.O. Box 380902
Minneapolis, MN 55438-0902

American Express Centurion Bank
4315 S. 2700 West
Salt Lake City, UT 84184-0001

American Express Platinum
1801 NW 66th Ave., #103A
Fort Lauderdale, FL 33313-4571

(p)BANK OF AMERICA
PO BOX 982238
EL PASO TX 79998-2238

Barclay Bank MasterCard
P.O. Box 8801
Wilmington, DE 19899-8801

C1 Bank
2302 S. MacDill Ave.
Tampa, FL 33629-5919

Dr. Kwitko
311 S. MacDill Ave.
Tampa, FL 33609-3141

EGSE Investments, Inc.
550 N. Reo St., #202
Tampa, FL 33609-1062

Florida Department of Revenue
5050 W. Tennessee St.
Tallahassee, FL 32399-0100

Hernandez Investment
2309 W. MLK Blvd., #1
Tampa, FL 33607-6496

Nationwide Insurance Co of America
One Nationwide Plaza
Columbus, OH 43215-2239

Small Business Administration
c/o US Dept of Treasury - FS
Debt Management Services
P.O. Box 979101
Saint Louis, MO 63197-9000

State Farm Mutual Automobile Insurance
State Farm Fire & Casualty Company
c/o Daniel Shapiro, Esq.
4301 W. Boy Scout Blvd., #400
Tampa, FL 33607-5712

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Bank of America MasterCard
PO Box 982234
El Paso, TX 79998-2234

End of Label Matrix
Mailable recipients 13
Bypassed recipients 0
Total 13