




**Dated: November 10, 2016**  
**The following is SO ORDERED:**

  
**David S. Kennedy**  
**UNITED STATES CHIEF BANKRUPTCY JUDGE**

---

**UNITED STATES BANKRUPTCY COURT**  
**WESTERN DISTRICT OF TENNESSEE**  
**WESTERN DIVISION**

---

**IN RE: THE HIGHLANDS OF MEMPHIS,**  
**LLC,**

**Debtor.**

**CASE NO.: 16-30025-dsk**  
**CHAPTER 11**

---

**IN RE: THE HIGHLANDS OF DYERSBURG,**  
**LLC,**

**Debtor.**

**CASE NO.: 16-30096-dsk**  
**CHAPTER 11**

---

**IN RE: REGIONAL HEALTHCARE**  
**SERVICES, LLC**

**Debtor.**

**CASE NO.: 16-30027-dsk**  
**CHAPTER 11**

---

**INTERIM ORDER GRANTING IN PART DEBTORS' MOTION FOR EXPEDITED**  
**INTERIM AND FINAL ORDERS AUTHORIZING THE USE OF CASH COLLATERAL**  
**TO CONTINUE OPERATIONS OF SKILLED NURSING FACILITIES AND TO**  
**SCHEDULE A FINAL HEARING**

---

This matter is before the Court on the Motion for Expedited Interim and Final Orders Authorizing the Use of Cash Collateral To Continue Operations of Skilled Nursing Facilities (the “Motion”) filed by The Highlands of Memphis, LLC and The Highlands of Dyersburg, LLC (collectively, the “Debtors”) requesting Court approval and authorization for the immediate interim and final use of cash collateral pending a final hearing pursuant to 11 U.S.C. § 363 and Rules 4001(b) and 9014 of the Federal Rules of Bankruptcy Procedure. Based upon the Expedited Motion to Set Emergency Hearing on First Day Motions, the allegations in the Motion, the objections to same, the arguments of counsel and the entire record, the Court finds and orders as follows:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. All capitalized terms not otherwise defined herein are as defined in the Motion.
2. Notice. Pursuant to Bankruptcy Rule 4001(b)(1), facsimile, hand delivered, overnight delivered, or electronic notice of the Interim Hearing has been given to at least: (i) the office of the United States Trustee, (ii) the Debtor’s secured lender, Capital Finance, LLC, (“Capital Finance”) and its counsel, (iii) the Debtors’ landlord(s), FC Highlands, LLC, (“FC Highlands”) and (iv) the unsecured creditors listed on the Debtors’ list of the twenty largest unsecured creditors of the Debtors (collectively, the “Notice Parties”).
3. Jurisdiction. This Court has jurisdiction over the Debtors’ case and the parties and property affected hereby pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157, 11 U.S.C. § 363, and Federal Rule of Bankruptcy Procedure 4001. This Court has jurisdiction over the subject matter of this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this Court pursuant to 28 U.S.C. § 1408. The Court possesses the requisite

authority to grant the relief requested herein pursuant to 11 U.S.C. §§ 363, 105 and 1107 of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure.

4. Purpose and Necessity of Requested Relief. Good cause has been shown for entry of this Interim Order. The Debtors assert that they require immediate use of cash collateral to operate Debtors' on-going businesses and to fund interim critical cash requirements, including without limitation, to pay wages, maintenance expenses, utility expenses, rent and insurance premiums related to the facility, among other things until such time as a final hearing with respect to the Motion (the "Final Hearing") may be conducted.

5. Exigency. Because the Debtors must use cash collateral in order to pay for the daily operating expenses of the business, it is necessary and appropriate to consider this Motion on an emergency basis. Prior to a final hearing on the Motion, the Debtors must use cash collateral to meet critical cash requirements on an interim basis to continue the operation of the businesses in order to avoid immediate and irreparable harm to the Debtors. The Debtors' ability to use cash collateral as provided herein to operate is vital to the Debtors' estates and creditors thereof, so that the business need for the Debtors to continue to operate may be met. Absent entry of this Interim Order, the Debtors' estate will be immediately and irreparably harmed.

6. Relief Appropriate. The Court finds that the relief requested is appropriate under the circumstances and hereby enters the following Interim Order:

**IT IS HEREBY ORDERED, ADJUDGED, FOUND, AND DECREED** that:

- A. Motion Granted In Part. The Motion is hereby granted in part on an interim basis.
- B. Interim Use Authorization. Use of cash collateral is necessary to avoid immediate and irreparable harm to the Debtors' estates until November 22, 2016, or until a further interim order or a final order is entered in accordance with the terms and conditions set

forth below. The Debtors shall provide a list of payments drawn from the budgets attached hereto as Exhibit A which are necessary to be paid to critical vendors and employees for the continued operation of their facilities to counsel for Capital Finance and counsel for FC Highlands at least two (2) business days before such proposed payment. Absent timely objection, Debtors are authorized to use cash collateral to pay such expenses through and including November 22, 2016. In the event of an objection, Debtors may seek entry of an order from the Court on an emergency basis permitting such payment after notice to Capital Finance and FC Highlands.

C. Capital Finance--Granting of Replacement Lien. As and for adequate protection of the use of cash collateral (including but not limited to all collections on accounts receivable), Capital Finance is hereby granted pursuant to 11 U.S.C. §§ 361(2), 363(e) and 552, replacement, post-petition security interests in and liens upon all of the Debtors' assets of the same validity, extent, priority, and type in which Capital Finance holds prepetition liens or security interests, including without limitation cash collateral and accounts receivable, with such replacement liens having the same extent, validity, and priority as Capital Finance's liens and security interests in its prepetition collateral; provided, however, that the replacement liens shall not attach to causes of action brought pursuant to Chapter 5 of the Bankruptcy Code, including, but not limited to, Section 544, 547, 548, 549, 550, 551 and 553 and the recoveries from any such causes of action.

D. Segregation of Collateral. As additional adequate protection for the interests of the Capital Finance Debtors shall collect, segregate and retain all pre-petition cash collateral and post-petition accounts receivable collected from the operation of the business in one or more accounts. Debtors shall not use the funds in these accounts for any expense not authorized by the

Budget, absent further order of this Court. All pre-petition cash collateral and post-petition accounts receivable collected by the Debtors that are not needed to pay budgeted expenses shall be retained in the segregated accounts, except as otherwise expressly provided by this Order or subsequent Orders entered by the Court.

E. Reservation of Rights by Capital Finance and FC Highlands.

Nothing contained herein shall in any manner waive or prejudice any rights of Capital Finance or FC Highlands under the their loan documents, the Bankruptcy Code, or the pending objections to use of cash collateral, including but not limited the ability of Capital Finance or FC Highland to seek additional adequate protection, or a determination that either or both party is not adequately protected. Nor shall entry of this order be deemed a waiver of any rights of FC Highlands as landlord under the Master Lease and Security Agreement dated May 11, 2009 (the “Master Lease”) or its rights to object to the nonpayment of rent thereunder.

F. FC Highlands--Granting of Replacement Lien. As and for adequate protection of the use of cash collateral (including but not limited to all collections on accounts receivable), FC Highlands, and its assigns, including CLMG II SPE I, LLC, is hereby granted pursuant to 11 U.S.C. §§ 361(2), 363(e) and 552, replacement, post-petition security interests in and liens upon all of the Debtors’ assets of the same extent, validity, priority, and type in which that FC Highlands holds prepetition liens or security interests, including without limitation cash collateral and accounts receivable, with such replacement liens having the same extent, validity, and priority as FC Highlands’s liens and security interests in its prepetition collateral; provided, however, that the replacement liens shall not attach to causes of action brought pursuant to Chapter 5 of the Bankruptcy Code, including, but not limited to, Section 544, 547, 548, 549, 550, 551 and 553 and the recoveries from any such causes of action.

G. Reservation of Rights of the Debtors. Nothing contained herein shall in any manner waive or prejudice (i) the right of the Debtors to seek authority from the Court to expend cash collateral for items not included as critical items or (ii) any objection the Debtors may have to the validity of any of the liens and security interests asserted by any Capital Finance and/or FC Highlands.

H. Additional Reservation. Nothing in this Order shall be construed as an adjudication of the value of Capital Finance's or FC Highlands's pre-petition security or security interest as of the date of the filing of the petition. Nothing in this Order shall be deemed an adjudication of the extent, validity, and priority of the prepetition security interests of Capital Finance's or FC Highlands. All rights related thereto are reserved.

I. Binding on Successors. The provisions of this Interim Order shall be binding upon all parties in interest in this Chapter 11 case, including, without limitation, Capital Finance, FC Highlands, and Debtors and their respective successors and assigns (including any Chapter 11 trustee hereafter appointed or elected for the estate of Debtors or any Chapter 7 trustee appointed in a superseding Chapter 7 case), and shall inure to the benefit of Capital Finance, FC Highlands, Debtors and their respective successors and assigns, including as to FC Highlands, CLMG II SPE I, LLC. In no event shall any of Capital Finance or FC Highlands have any obligation to consent to the use of cash collateral by any Chapter 7 or Chapter 11 trustee appointed or elected for the estate of Debtors.

J. Final Hearing. The Final Hearing, which may be converted to an Interim Hearing, on (a) the Cash Collateral Motion and (b) a motion to be filed by Debtor seeking extension of the time for payment of rent under the Master Lease are scheduled for hearing November 22, 2016 at 10:00 a.m. before this Court.

K. Adequate Notice. The notice given by the Debtors of the Interim Hearing was given in accordance with Bankruptcy Rules 2002 and 4001(b)(2) and the local rules of this Court. Under the circumstances, no further notice of the request for the relief granted at the Interim Hearing was required. The Debtors shall, within two (2) business days of the entry of this Interim Order, mail copies of this Interim Order and notice of the Final Hearing to each creditor included on the Debtors' list of 20 largest unsecured creditors, Capital Finance, its counsel, FC Highlands, its counsel, and the Office of the United States Trustee.

Submitted for Entry:

/s/ M. Ruthie Hagan

M. Ruthie Hagan (TNB # 026839)  
Morgan Locke Houston (TNB # 33360)  
BAKER DONELSON BEARMAN  
CALDWELL & BERKOWITZ, PC  
165 Madison Avenue, Suite 2000  
Memphis, Tennessee 38103  
Telephone: (901) 577-8214  
Facsimile: (901) 577-0863  
Email: rhagan@bakerdonelson.com

and

Timothy M. Lupinacci (*pro hac vice pending*)  
BAKER DONELSON BEARMAN  
CALDWELL & BERKOWITZ, PC  
420 20th Street North  
Birmingham, Alabama 35203  
Telephone: (205) 244-3835  
Facsimile: (205) 488-3835

***Counsel for Debtors***

/s/ Carrie Ann Rohrscheib

Carrie Ann Rohrscheib  
Trial Attorney  
United States Dept. of Justice  
Office of the United States Trustee

200 Jefferson Avenue, Suite 400  
Memphis, Tennessee 38103  
Telephone: (901) 544-3251

/s/ James B. Sowka

James B. Sowka  
Seyfarth Shaw LLP  
131 S. Dearborn Street, Suite 2400  
Chicago, Illinois 60603-5577

***Counsel for Capital Finance, LLC***

/s/ Joseph R. Mayes

Joseph R. Mayes (pro hac vice pending)  
Williams Mullen  
222 Central Park Avenue  
Suite 1700  
Virginia Beach, VA 23457

***Counsel for FC Highlands, LLC***

/s/ Joel L. Perrell, Jr.

Joel L. Perrell, Jr.  
Miles & Stockbridge P.C.  
100 Light Street  
Baltimore, MD 21202

***Counsel for CLMG II SPE I, Inc.***

**PARTIES TO BE SERVED:**

Debtors  
Debtors' Counsel  
U.S. Trustee  
Debtors' 20 largest unsecured creditors  
Capital Finance, LLC  
FC Highlands, LLC  
CLMG II SPE I, LLC



Dyersburg

Revenue

46,187 Total PRIVATE PAY  
(3,150) Total MEDICAID SKILLED  
12,360 Total MEDICAID PENDING  
287,015 Total MEDICAID ICF  
194,479 Total MEDICARE PART A  
17,836 Total MEDICARE B  
15,110 Total HOSPICE  
13,406 Total INSURANCE

---

583,243 Total PATIENT REVENUE

14,000 4900-350-00 ACUITY INCOME  
3,000 4900-351-00 QUALITY INCOME

---

600,243 Total REVENUE

Operating Expenses

205,747 Total NURSING  
97,785 Total ANCILLARY EXPENSES  
49,300 Total DIETARY  
13,641 Total HOUSEKEEPING  
9,956 Total LAUNDRY  
23,392 Total PLANT  
6,555 Total ACTIVITIES  
3,540 Total SOCIAL SERVICES  
8,754 Total MARKETING SERVICES  
2,803 Total MEDICAL RECORDS  
4,000 6725-350-00 MEDICAL DIRECTOR  
148,123 Total ADMINISTRATION

---

573,597 Total OPERATING EXPENSES

Prop. & Fin. Exp

1,605 7000-310-00 PROPERTY INSURANCE  
681 7000-501-00 INTEREST EXP-FINANCE CHARC  
5,545 7000-503-00 INTEREST EXP-WORKING CAPI  
70,735 7000-620-00 BUILDING LEASE  
0 7000-621-00 BUILDING LEASE-PARTICIPATIN  
2,102 7000-625-00 EQUIPMENT LEASE  
3,770 7000-700-00 PROPERTY TAXES  
3,369 7000-705-00 FRANCHISE EXCISE TAX

---

87,807 Total PROPERTY & FINANCIAL

Chapter 11 Trustee Expense(s)

3250 UST FEES

---

664,653 Total EXPENSES

---

(64,411) Total NET INCOME

---

---