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8
9 **UNITED STATES BANKRUPTCY COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **SANTA ANA DIVISION**

12 In re
13 HOAG URGENT CARE-TUSTIN, INC., et al.,
14 Debtors and Debtors in
15 Possession.

Lead Case No. 8:17-bk-13077-TA

Chapter 11

(Jointly Administered with Case Nos. 8:17-bk-13078-TA, 8:17-bk-13079-TA, 8:17-bk-13080-TA, 8:17-bk-13089-TA, 8:17-bk-13090-TA)

16 Affects:

- 17 All Debtors
- 18 Cypress Urgent Care, Inc., a California corporation, ONLY
- 19 Hoag Urgent Care- Anaheim Hills, Inc., a California corporation, ONLY
- 20 Hoag Urgent Care- Huntington Harbour, Inc., a California corporation, ONLY
- 21 Hoag Urgent Care- Orange, Inc., a California corporation, ONLY
- 22 Hoag Urgent Care- Tustin, Inc., a California corporation, ONLY
- 23 Laguna-Dana Urgent Care, Inc., a California corporation, ONLY

ORDER GRANTING CONTINUED USE OF CASH COLLATERAL AND DIRECTING THE DEBTORS TO TENDER ADEQUATE PROTECTION PAYMENTS

Hearing:

Date: October 12, 2017
Time: 2:00 p.m.
Place: United States Bankruptcy Court
Courtroom 5B
411 West Fourth Street
Santa Ana, California 92701

Hearing on Cash Collateral Motion is continued to: December 13, 2017
Time: 11:00 a.m.
Courtroom: 5B

ORDER GRANTING CONTINUED USE OF CASH COLLATERAL AND DIRECTING THE DEBTORS TO TENDER ADEQUATE PROTECTION PAYMENTS

1 On October 12, 2017 at 2:00 p.m. in the above-captioned court located at Courtroom 5B,
2 United States Bankruptcy Court, 411 West Fourth Street, Santa Ana, California, the continued
3 hearing on the *Emergency Motion for Order (1) Authorizing the Interim Use of Cash Collateral*
4 *Pursuant to 11 U.S.C. § 363, (2) Finding Prepetition Secured Creditors Adequately Protected*
5 *Pursuant to 11 U.S.C. §§ 361 and 363, and (3) Granting Related Relief* [Docket No. 12]¹ (the
6 “Cash Collateral Motion”) of Hoag Urgent Care – Tustin, Inc., and its affiliated debtors in the
7 above-captioned, jointly administered, chapter 11 bankruptcy cases (collectively, the “Debtors”)²
8 and the hearing on the *Motion to Dismiss the Debtors’ Bankruptcy Cases Under 11 U.S.C. §§ 305*
9 *and 1112, or in the Alternative, Grant Adequate Protection Under 11 U.S.C. § 363* [Docket No.
10 177] (the “Dismissal Motion”) filed by Opus Bank came on for hearing.

11 Ashley M. McDow of Baker Hostetler LLP appeared on behalf of the Debtors. Steven M.
12 Spector and Anthony J. Napolitano of Buchalter, a Professional Corporation appeared on behalf
13 of Opus Bank. Randy B. Soref of Polsinelli LLP appeared on behalf of interested parties, Hoag
14 Memorial Hospital Presbyterian (“Hoag Memorial”) and Newport Healthcare, LLC (“Newport”).
15 Jeffrey M. Reisner of Irell & Manella, LLP, appeared on behalf of interested party, Marque
16 Medical, Inc. David Stapleton, the state court appointed receiver (the “Receiver”), appeared in
17 person.

18 Having reviewed the Cash Collateral Motion and Dismissal Motion and all briefs,
19 supporting declarations and other supplemental papers filed in connection therewith, and having
20 heard and considered the arguments of counsel made at the hearing, having found that notice of
21 the Cash Collateral Motion and the Dismissal Motion were adequate and appropriate under the
22 circumstances and that no further notice need be given, and finding good cause appearing
23 therefor,
24

25 ¹ All docket references are to the docket for the lead bankruptcy case of Hoag Urgent Care – Tustin, Inc. (Case No.
8:17-bk-13077-TA) unless otherwise noted.

26 ² The Debtors include Hoag Urgent Care – Tustin, Inc. (Case No. 8:17-bk-13077-TA), Hoag Urgent Care –
27 Huntington Harbour, Inc. (Case No. 8:17-bk-13078-TA); Hoag Urgent Care – Orange, Inc. (Case No. 8:17-bk-
13079-TA); Hoag Urgent Care – Anaheim Hills, Inc. (Case No. 8:17-bk-13079-TA); Cypress Urgent Care, Inc. (Case
28 No. 8:17-bk-13089-TA); and Laguna Dana Urgent Care, Inc. (Case No. 8:17-bk-13090-TA).

1 **IT IS HEREBY ORDERED:**

2 1. The Cash Collateral Motion is granted subject to the terms of this order;

3 2. The Debtors are authorized, directly or through Radiant Physician Group (“RPG”),
4 to use and expend on behalf of the Debtors and their estates the “cash collateral,” as that term is
5 defined in section 363(a) of the Bankruptcy Code (the “Cash Collateral”)³, pursuant to the Budget
6 (as defined in the Cash Collateral Motion and as further supplemented by the Budget attached as
7 Exhibit A to the *Debtors’ Response to Opus Bank’s Motion to Dismiss the Debtors’ Bankruptcy*
8 *Cases Under 11 U.S.C. §§ 305 and 1112, or, in the Alternative, Grant Adequate Protection*
9 *Under 11 U.S.C. § 363* [Docket No. 203] (collectively, the “Operative Budget”), solely and with
10 respect to the period through and including December 13, 2017 (the “Interim Period”);

11 3. During the Interim Period, the Debtors are authorized, directly or through RPG, to
12 make monthly expenditures in an amount not to exceed 115% of the actual and necessary
13 expenditures set forth in the Operative Budget without the consent or approval of Opus or further
14 Court order;

15 4. During the Interim Period, the Debtors are authorized, directly or through RPG, to
16 make monthly expenditures in an amount in excess of 115% of the actual and necessary
17 expenditures set forth in the Operative Budget with the prior written approval of Opus, which
18 approval shall not be unreasonably withheld, or Court order;

19 5. During the Interim Period, any and all financial institutions holding funds of the
20 bankruptcy estates are hereby instructed to allow the Debtors to utilize such funds;

21 6. Without adjudging or otherwise determining the validity, extent, or enforceability
22 thereof, and notwithstanding the authorization hereby granted with respect to the same, as
23 adequate protection of the Debtors’ use of the Cash Collateral of Opus Bank and to the extent that
24 Opus Bank’s Cash Collateral is actually used, Opus Bank is hereby granted, pursuant to Sections
25 361 and 363(e) of the Bankruptcy Code, a replacement lien (a “Replacement Lien”) in the Hoag

26 _____
27 ³ Nothing stated herein is intended to or shall waive any legal or equitable rights, remedies, privileges, and/or
28 objections available, including but not limited to nature, extent, validity, and/or enforceability of any and all parties
who assert an interest in the Cash Collateral, all of which are expressly reserved.

1 Collateral (as defined in Opus Bank's *Notice of Non-Consent to Use of Cash Collateral by the*
2 *Debtor and Preliminary Opposition to Debtor's Forthcoming Motion for Use of Cash Collateral*
3 [Docket No.16] (the "Cash Collateral Opposition")) and the Cypress-Laguna Collateral (as
4 defined in the Cash Collateral Opposition) (collectively, the "Collateral") and all prepetition and
5 postpetition assets, including the Debtors' accounts, inventory and equipment, in which and to the
6 extent the Debtors hold an interest, whether tangible or intangible, whether by contract or
7 operation of law, excluding avoidance causes of action, and including all rents, issues, profits and
8 proceed thereof of the Collateral, with such Replacement Lien having the same extent and priority
9 as any duly perfected and unavoidable liens in Cash Collateral held by Opus Bank as of Petition
10 Date. The Replacement Lien shall continue from the Petition Date through the duration of the
11 Interim Period;

12 7. The hearing on the Cash Collateral Motion is continued to December 13, 2017, at
13 11:00 a.m., in Courtroom 5B of the above-captioned Court;

14 8. As partial adequate protection of Opus Bank's interest in the Collateral and in the
15 Cash Collateral, the Debtors shall tender to Opus Bank a monthly adequate protection payment in
16 the amount of \$18,500.00 payable to Opus Bank no later than one (1) business day following the
17 entry of this order, with subsequent payment(s) to be made every 30 days thereafter unless
18 otherwise modified by the Court order.

19 9. Each \$18,500 payment to Opus Bank shall be tendered by either wire transfer or
20 certified cashier's check as follows: \$9,250 to be paid by Hoag Urgent Care-Tustin, Inc., Hoag
21 Urgent Care-Huntington Harbour, Inc., and/or Hoag Urgent Care, Anaheim Hills, Inc.; and
22 \$9,250 to be paid by either Laguna-Dana Urgent Care, Inc. and/or Cypress Urgent Care, Inc.

23 10. Opus Bank shall apply any amounts received to reduce the indebtedness secured
24 by the Collateral as permitted under the applicable loan documents. All parties reserve all rights
25 respecting the application and allocation of the adequate protection payments made pursuant to
26 this order.

1 11. As partial adequate protection of Newport's interests in the Debtors, the Debtors
2 shall tender Newport a monthly adequate protection payment in the amount of \$3,500.00 payable
3 to Newport by either wire transfer or certified cashier's check no later than one (1) business day
4 following the entry of this order, with subsequent payment(s) to be made every 30 days thereafter
5 unless otherwise modified by the Court order.

6 12. The Debtors are hereby required to provided periodic reporting in the format
7 consistent with the prior cash collateral reports provided by the Debtors (the "Cash Collateral
8 Reports"), examples of which are attached as Exhibit 1 to the *Declaration of Anthony J.*
9 *Napolitano in support of Supplemental (I) Opposition to Debtors' Continued Use of Cash*
10 *Collateral; and (II) Statement in Support of its Motion to Dismiss Debtors' Bankruptcy Cases*
11 *[Docket No. 207]*, and Exhibits 1 and 2 to the *Declaration of Jake DiIorio Regarding Opus*
12 *Bank's Supplemental (I) Opposition to Debtors' Continued Use of Cash Collateral; and*
13 *(II) Statement in Support of its Motion to Dismiss Debtors' Bankruptcy Cases [Docket No. 210]*.

14 13. The Debtors shall provide Opus Bank, the Receiver and Newport with copies of
15 Cash Collateral Reports for the period commencing with the 1st of the month through and
16 including the 15th of the month by no later than the 22nd of that month. The Debtors shall
17 provide Opus Bank, the Receiver and Newport with copies of Cash Collateral Reports for the
18 period commencing with the 1st of the month through and including the last day of the month by
19 no later than the 7th day of the following month. All Cash Collateral Reports shall illustrate
20 operating results on a consolidated basis as well as a "per center" basis, and all Cash Collateral
21 Reports shall include the operating results for that period and on a cumulative basis since the
22 Petition Date.

23 14. The Debtors' obligations to prepare Monthly Operating Reports shall remain
24 consistent with their obligations under the Bankruptcy Code, the Bankruptcy Rules and the U.S.
25 Trustee's Guidelines.

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1 15. To the extent applicable, the fourteen-day stay period under Bankruptcy Rule
2 6004(h) is hereby waived.

3
4 **APPROVED AS TO FORM:**

5 BAKER HOSTETLER, LLP

BUCHALTER, a Professional Corporation

6 By: 

By:

/s/ Steven M. Spector

8 ASHLEY McDOW
9 MICHAEL T. DELANEY
10 FAHIM FARIVAR

STEVEN M. SPECTOR
ANTHONY J. NAPOLITANO

Counsel for Opus Bank

[Proposed] counsel for the Debtors

11
12 POLSINELLI LLP

13 By: 

15 RANDYE B. SOREF
16 Counsel for Newport Healthcare, LLC and
17 Hoag Memorial Hospital Presbyterian

18 ###

23 Date: October 23, 2017



Theodor C. Albert
United States Bankruptcy Judge