

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO

IN RE: )  
 ) Case No. 19-11650-MER  
SKIN, P.C. dba IDEAL DERMATOLOGY )  
EIN: 46-5652384 ) Chapter 11  
 )  
Debtor. )

**MOTION FOR AUTHORITY TO USE CASH COLLATERAL**

The Debtor and Debtor in Possession, Skin, P.C. dba Ideal Dermatology (“Debtor”), by and through its attorneys, Kutner Brinen, P.C., moves the Court pursuant to 11 U.S.C. § 363(c)(2) and Bankruptcy Rules 4001(b) and 9014 for entry of an order authorizing the Debtor’s use of cash collateral, setting a final hearing on the use of cash collateral, and providing adequate protection to properly perfected secured creditors, and as grounds therefor states as follows:

**Background**

1. The Debtor filed for relief under Chapter 11 of the Bankruptcy Code on March 8, 2019. The Debtor remains a Debtor-in-Possession.
2. The Debtor is a Colorado professional corporation engaged in business providing medical dermatology services through licensed doctors at its facility in Boulder, Colorado. The Debtor was formed in 2014 and is wholly owned and operated by Dr. Kevin Mott. Dr. Mott is a licensed physician in the State of Colorado, and board certified in dermatology.
3. The Debtor generates income through the provision of medical services to patients. The Debtor currently operates out of its clinic located in Boulder, Colorado.
4. A review of the Debtor’s business, generation of income, and its secured debt structure is set forth in the Declaration of Dr. Kevin Mott which is attached hereto as Exhibit A and incorporated herein.
5. The Debtor has only one secured creditor with an interest in cash collateral which is Wells Fargo Bank, N.A. (“Wells Fargo”). The Wells Fargo claim is approximately \$1,620,000 and is secured by a lien encumbering the Debtor’s real property located at 905 Alpine, Boulder, Colorado which has a value of approximately \$2,200,000 and the Debtor’s accounts receivable and personal property. The Wells Fargo loan is paid current and the Debtor proposes to maintain ongoing payments in order to save the cost and expense of default interest, penalties, and legal fees.

6. The Debtor's cash collateral is derived from the income generated through the provision of medical services with a specialization in dermatology. Income is generally derived from credit card payments, insurance company payments, and the provision of payments from Medicare and Medicaid.

7. The Debtor is replacing its accounts and cash in the ordinary course of its business operations on a daily basis.

### **Relief Requested**

8. The Debtor plans to continue operation of its business throughout the Chapter 11 case and propose a Plan of Reorganization which provides for the continuation of the Debtor's business. It is only through a Plan that unsecured creditors will see a recovery on account of their claims.

9. In order to pay necessary operating expenses, the Debtor must immediately use cash collateral in which Wells Fargo has an interest. The Debtor proposes to use cash collateral on an interim basis until such time as the Court schedules a final hearing on the use of cash collateral. At the final hearing, the Debtor will seek relief to use cash collateral during the term of this Chapter 11 proceeding.

10. Without the use of cash collateral, the Debtor will have insufficient funding for business operations. Therefore, the Debtor's use of cash collateral during the interim period is necessary to avoid immediate and irreparable harm to the estate. Without the use of cash collateral, the Debtor will not be able to pay employees, operating expenses, utilities, materials and other costs associated with the provision of medical services.

11. The Debtor will be replacing its accounts, cash, and cash equivalents in the course of its daily operations and therefore the collateral base will remain stable and will improve over time. The Debtor's cash position is projected to be positive after meeting operating expenses during the term of the Chapter 11 case.

12. In order to provide adequate protection for the Debtor's use of cash collateral to secured creditors, the Debtor has proposed adequate protection for the secured creditor as set forth below. The proposal provides the following treatment on account of cash collateral:

- a. The Debtor will provide Wells Fargo with a post-petition lien on all post-petition accounts, operating assets, and income derived from the operation of the business and assets, to the extent that the use of the cash results in a decrease in the value of Wells Fargo's interest in the collateral pursuant to 11 U.S.C. § 361(2). All

replacement liens will hold the same relative priority to assets as did the pre-petition liens;

b. The Debtor will use cash collateral to pay all post- petition expenses that the Debtor is allowed or required to pay during the course of this case which are generally outlined in the Budget attached to this Motion as Exhibit B. While the Budget shows a loss per month it is only on account of the interest expense line item which is large due to the interest due on account of the Note payable to Patrick Lillis. The Lillis claim is disputed and unsecured and will not be paid during the case;

c. The Debtor will make all loan payments due to Wells Fargo on time during the course of the chapter 11 case;

d. The Debtor will keep all of Wells Fargo's collateral fully insured;

e. The Debtor will provide Wells Fargo with a complete accounting, on a monthly basis, of all revenue, expenditures, and collections through the filing of the Debtor's Monthly Operating Reports; and

f. The Debtor will maintain in good repair all of Wells Fargo's collateral.

13. Should the Debtor default in the provision of adequate protection, the Debtor's approved use of cash collateral will cease and the secured creditors will have the opportunity to obtain further relief from this Court.

14. The Debtor's request to use cash collateral is made with a complete reservation of rights of secured creditors to their various claims and lien positions in and to the Debtor's assets.

15. Approval of the Debtor's use of cash collateral in accordance with this Motion is, on an interim basis and a final basis, in the best interest of the Debtor, its creditors and the estate as it will allow the Debtor to maintain its ongoing business operations, allow the Debtor to generate revenue, and provide the Debtor with an opportunity to propose a meaningful Plan.

#### **Relief Requested on an Interim Emergency Basis**

16. Without the immediate use of cash collateral, the Debtor will not be able to fund ongoing business operations. The Debtor is filing a separate motion requesting an expedited entry of an order approving the interim use of Cash Collateral pursuant to this Motion.

WHEREFORE, the Debtor respectfully requests that the Court enter an Order, authorizing the Debtor's use of cash collateral in accordance with this Motion, authorize the Debtor to provide

adequate protection to the secured creditors with an interest in cash collateral in the form of that set forth herein, and for such further and additional relief as to the Court may appear proper.

DATED: March 8, 2019

Respectfully submitted,

By: /s/ Lee M. Kutner\_\_\_\_\_

Lee M. Kutner

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