

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	
	:	Case No. 18-56883-bem
MEEKER NORTH DAWSON	:	
NURSING, LLC	:	
	:	Chapter 11
Debtor.	:	
	:	Judge Ellis-Monro
	:	

MOTION FOR AUTHORITY TO USE CASH COLLATERAL AND TO PROVIDE ADEQUATE PROTECTION THEREFORE AND REQUEST FOR EMERGENCY PRELIMINARY HEARING

COME NOW COMES NOW Meeker North Dawson Nursing, LLC (“Meeker” or Debtor”), debtor and debtor-in-possession in the above-captioned bankruptcy case, and pursuant to 11 U.S.C. §363(c)(2) and Federal Rule of Bankruptcy Procedure 4001(b), moves this Court for entry of an Order authorizing Debtor’s use of cash collateral and providing adequate protection therefore. (the “Cash Motion”) In support of the Cash Motion, Debtor respectfully shows this Court as follows:

1.

Debtor filed its voluntary petition for relief under Chapter 11 of Title 11 of the United States Code on April 24, 2018 (the “Petition Date”). Debtor continues to manage its assets and operate its business as debtor-in-possession, no trustee having been appointed. No Official Creditors’ Committee has yet been appointed in this case.

2.

The Debtor operates a seventy (70) bed nursing home facility currently housing 45 residents known as Meeker Nursing Center located at 500 North Dawson Street, Meeker, Oklahoma. (the “Facility”)

3.

The Debtor leases the Facility from Meeker Property Holdings, LLC pursuant to a lease dated July 26, 2013 which lease term expires July 31, 2023. The lease payment amount is \$22,333.66 per month. The Debtor owns tangible assets valued at approximately \$111,000.00 consisting of primarily equipment and computers. The Debtor has approximately \$729,727.65 of unsecured claims.

4.

The Debtor's sole principal is Christopher F. Brogdon. Mr. Brogdon has over 30 years of experience owning and operating nursing homes and assisted care living facilities. Mr. Brogdon owns 100% of the Debtor and is the managing member of the Debtor.

5.

In total, the Debtor has 50 employees who provide services at the Facility. Payroll is approximately \$42,000 to \$45,000.00 paid bi-monthly.

6.

All the assets of the Debtor are pledged to First Commercial Bank ("Lender") to secure a promissory note in the original principal amount of \$1,806,246.81.¹ The principal and interest owed to Lender as of the Petition Date total approximately \$1,785,749.60. The Debtor believes that Lender's security interests are cross-collateralized among various entities related to the Debtor, to wit, Marsh Pointe Management LLC, Ban NH LLC, Living Center, LLC, Senior NH LLC, Oak Lake LLC, Kenmetal LLC, Harrah Whites Meadows Nursing LLC, and MCL Nursing LLC (the "Affiliated Borrowers"). (hereinafter the "Lender Debt").

¹ The Private Bank & Trust Company has a UCC-1 of record filed against the Debtor for Debtor's account. Debtor has no obligation to The Private Bank & Trust Company.

7.

Lender asserts liens upon and security interests (hereinafter the “Lender Lien”) against all assets of the Debtor, including accounts receivable owned by the Debtor, and the proceeds thereof, and against Debtor’s inventory, equipment and fixtures (hereinafter the “Collateral”).

8.

The accounts receivable, cash and proceeds thereof portion of the Collateral may constitute “cash collateral” as that term is defined in 11 U.S.C. §363(a).

9.

In the course of operating its business, Debtor incurs certain operating expenses which are necessary for the continued operation of such business. Debtor also generates accounts receivable and proceeds, which may constitute cash collateral in which Lender may assert an interest. Annexed hereto as Exhibit “A” is a projected weekly budget of Debtor’s operations for 14 weeks.

10.

Unless authorized to use the Cash Collateral in the ordinary course of business, Debtor’s operations will be impaired and Debtor’s ability to reorganize will be jeopardized.

11.

As adequate protection for any interest Lender may have in cash collateral, Debtor proposes:

A. That Lender be granted a security interest in and lien upon Debtor’s post-petition accounts receivable and proceeds to the same extent and priority as its pre-petition lien and interest in its pre-petition collateral;

- B. Continuation of the lien and security interest held by Lender in its pre-petition Collateral; and
- C. Provision of Debtor's monthly operating reports as required by the United States Trustee and filed with this Court.

12.

An Order Authorizing Use of Cash Collateral and Providing Adequate Protection, along with the Budget, which as of the filing of this Motion has not been fully reviewed by Lender, will be discussed with Lender and Debtor anticipates an order will be presented at or prior to the hearing on this Cash Motion.

WHEREFORE, Debtor moves this Court for the entry of an Order authorizing Debtor's use of Cash Collateral, and for such other and further relief as may be equitable, proper and just.

REQUEST FOR EMERGENCY PRELIMINARY RELIEF

13.

Debtor has an immediate need for the use of cash collateral for critical operating expenses prior to the scheduling of a final hearing on the Cash Motion.

14.

Unless authorized to use cash collateral during the mandatory fifteen (15) day period prior to a final hearing on this Cash Motion, Debtor's operations will be immediately harmed and Debtor's ability to reorganize significantly impaired.

15.

Conduct of an emergency preliminary hearing on this Cash Motion and interim authorization of Debtor's use of cash collateral, in accordance with Exhibit "A" attached hereto, are imperative to Debtor's reorganization efforts and continuity of Debtor's business operations.

16.

Debtor will provide notice of this motion to: (a) the United States Trustee; (b) each of the Debtor's twenty (20) largest unsecured creditors; (c) Lender; (d) any party having filed a request for notices pursuant to Federal Rule of Bankruptcy Procedure 2002(i); and (e) any party who has a UCC-1 filed of record against the Debtor in Oklahoma and Georgia.

WHEREFORE, Debtor requests that this Court schedule an emergency preliminary hearing on the Cash Motion and authorize Debtor's use of cash collateral on an interim basis, pending the final hearing on this Motion.

Respectfully submitted this 3rd day of May 2018.

THEODORE N. STAPLETON, PC
/s/ Theodore N. Stapleton
Theodore N. Stapleton
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EXHIBIT "A"

Meeker North Dawson Nursing, LLC
Weekly Budgets

	Week Starting Monday														
	Actual 04.25.18- 04.27.18	04.30.18 1	05.07.18 2	05.14.18 3	05.21.18 4	05.28.18 5	06.04.18 6	06.11.18 7	06.18.18 8	06.25.18 9	07.02.18 10	07.09.18 11	07.16.18 12	07.23.18 13	07.30.18 14
Cash Beginning Balance	\$ (1,269)	\$ 2,786	\$ 68,032	\$ 26,970	\$ 15,685	\$ 9,685	\$ 25,235	\$ 50,894	\$ 28,594	\$ 34,844	\$ 13,544	\$ 48,203	\$ 45,453	\$ 28,153	\$ 28,153
Medicaid	\$ 27,844	\$ 44,372	\$ 31,029	\$ 11,000	\$ 28,000	\$ 28,000	\$ 32,000	\$ 39,000	\$ 12,000	\$ 28,000	\$ 32,000	\$ 39,000	\$ 12,000	\$ 28,000	\$ 32,000
Medicare	-	-	-	-	30,000	-	-	-	-	30,000	-	-	-	35,000	-
Private and Insurance	753	30,000	30,000	-	-	5,000	25,000	30,000	-	-	30,000	30,000	-	-	-
Receipt from Affiliate	23,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Receipts	51,597	74,372	61,029	11,000	58,000	33,000	57,000	69,000	12,000	58,000	62,000	69,000	12,000	63,000	32,000
Payroll	40,701	3,781	45,000	-	45,000	-	-	45,000	-	45,000	-	45,000	-	45,000	-
Payroll Taxes	-	-	13,000	-	13,000	-	-	13,000	-	13,000	-	13,000	-	13,000	-
Employee Benefits	-	-	4,000	-	-	-	4,000	-	-	-	-	4,000	-	-	-
Accounting Fee	-	-	-	-	-	900	-	-	-	3,500	-	-	-	-	3,500
Bank Service Charges	68	54	-	-	-	300	-	-	-	300	-	-	-	-	300
Provider Fees - Ok	-	-	-	17,285	-	-	-	17,300	-	-	-	-	17,300	-	-
Computer IT	1,310	-	750	-	-	750	-	-	750	-	-	750	-	-	750
Food	1,265	2,791	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500
Insurance	-	-	7,000	-	2,000	-	-	7,000	-	2,000	-	-	7,000	-	2,000
Rent	-	-	23,341	-	-	-	23,341	-	-	-	23,341	-	-	-	-
Real Estate Taxes	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other Operating Costs	4,198	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
Pharmacy	-	-	-	-	-	1,000	-	-	-	1,000	-	-	-	-	-
Rehabilitation Services	-	-	-	-	-	3,000	-	-	-	3,000	-	-	-	-	-
Physical Services	-	-	-	-	-	1,000	-	-	-	1,000	-	-	-	1,000	-
Supplies	-	500	500	500	500	500	500	500	500	500	500	500	500	500	500
Utilities	-	-	5,000	1,000	-	-	-	5,000	1,000	-	-	5,000	1,000	-	-
Professional Fees (Bankruptcy)	-	-	-	-	-	6,500	-	-	-	6,500	-	-	-	-	6,500
Expenses	47,542	9,126	102,091	22,285	64,000	17,450	31,341	91,300	5,750	79,300	27,341	71,750	29,300	63,000	17,050
Change	4,055	65,246	(41,062)	(11,285)	(6,000)	15,550	25,659	(22,300)	6,250	(21,300)	34,659	(2,750)	(17,300)	-	14,950
Ending Cash Balance	\$ 2,786	\$ 68,032	\$ 26,970	\$ 15,685	\$ 9,685	\$ 25,235	\$ 50,894	\$ 28,594	\$ 34,844	\$ 13,544	\$ 48,203	\$ 45,453	\$ 28,153	\$ 28,153	\$ 43,103

CERTIFICATE OF SERVICE

This is to certify that I have this day served a true and correct copy of the foregoing document upon all those parties listed below by electronic mail or facsimile as follows:

<p>3MC Consulting, LLC 501 Walnut Street. Suite 200 Macon, Ga 31201 Email: into@3mccconsulting.com</p>	<p>Novaerus Dept CH 19983 Palatine, IL 60055-9983 Email: info@novaerus.com</p>
<p>AdCare Health Systems 1145 Hembree Road Roswell, GA 30076 Email: info@regionalhealthproperties.com</p>	<p>Oklahoma Tax Commission Account Maintenance Division PO Box 26930 Oklahoma City, OK 73126-0930 Email: otcmaster@tax.ok.gov</p>
<p>AEGIS PO Box 8103 Fort Smith, AR 72902 Email: customerservice@aegistherapies.com</p>	<p>Omnicare Dept. 781668 PO Box 78000 Detroit, MI 48278-1668 Email: results@omnicare.com</p>
<p>Blue Cross Blue Shield Healthcare Services Corp. PO Box 731428 Dallas, TX 75373-1428 Email: Roni_rierson@hcsc.net Wendy_Binkley@hcsc.net</p>	<p>Omnicare Dept. 781668 PO Box 78000 Detroit, MI 48278-1668 Email: results@omnicare.com</p>
<p>Healthcare Services Group 111 N. Sixth Street Reading, PA 19601 Email: garnishments@hscgcorp.com</p>	<p>Performance Food Service Group PO Box 209043 Dallas, TX 75320-9043 Email: bob.garett@pfgc.com</p>
<p>Internal Revenue Service PO Box 80110 Cincinnati, OH 45280-0110 Email: irs.gov.website.helpdesk@speedymail.com</p>	<p>Reliant 11616 Southfork Ave. Suite 101 Baton Rouge, LA 70816 Email: hrteam@reliant-rehab.com</p>
<p>Joerns 1920 Stanley Gault Parkway Suite 100 Louisville, KY 40228 Email: legalinquiry@joerns.com</p>	<p>Respiratory Solutions of Western Oklahoma PO Box 721672 Oklahoma City, OK 73172 Email: jferris@rswhealthcare.com</p>
<p>Kathy Sherman Lincoln County Treasurer 811 Manvel Ave. Suite 6 Chandler, OK 74834-3872 Email: lincotreas@cotc.net</p>	<p>Stein Ancillary Services 8520South 36th Terrace Fort Smith, AR 72908 Email: info@steinancillaryservices.com</p>

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Private Bank & Trust Company 120 South La Salle Street Chicago, IL 60603 Fax: 708-448-2927	IRS Bankruptcy Section c/o Ms. Dee Stewart 401 West Peachtree Street, NW Stop 334-D Atlanta, GA 30308 Fax: 1-855-299-3603

This 3rd day of May 2018.

Theodore N. Stapleton

/s/ Theodore N. Stapleton