

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:)
)
Wellness Home Care Inc.,) Case No. 17-
) Chapter 11
) Judge A. Benjamin Goldgar
Debtor/Debtor-in-Possession.)

NOTICE OF EMERGENCY MOTION

TO: See Attached Service List

PLEASE TAKE NOTICE that on the 14th day of June, 2017, at the hour of 10:30 a.m., or as soon thereafter as counsel can be heard, I shall appear before the Honorable A. Benjamin Goldgar, Bankruptcy Judge, in room 642 of the United States Bankruptcy Court in the Everett McKinley Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois, or before any other Judge who may be sitting in his place and stead and shall present the **Emergency Motion for Authority to Use Cash Collateral**, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith.

AT WHICH TIME and place you may appear if you so see fit.

/s/John H. Redfield
Crane, Heyman, Simon, Welch & Clar
135 S. LaSalle St., Suite 3705
Chicago, Illinois 60603
(312) 641-6777

CERTIFICATE OF SERVICE

The undersigned, being first duly sworn on oath deposes and states that a copy of the foregoing Notice and attached Motion was caused to be served via email (where indicated) facsimile (where indicated) and First Class Mail properly addressed and postage prepaid to all parties on the attached service list, on the 12th day of June, 2017 before the hour of 5:00 p.m.

/s/John H. Redfield

SERVICE LIST

Patrick S. Layng
United States Trustee
219 S. Dearborn St.
8th Floor
Chicago, IL 60604
Via ECF
USTPRegion11.ES.ECF@usdoj.gov

ACE Funding
5094 Mesa Terrace
La Mesa, CA 91941
Fax No. 718-518-6480
HG@AceFundingLLC.com

Evolution Capital Group
4000 North Federal Hwy., Ste. 202
Boca Raton, FL 33431
email: Funding@evocapitalgroup.com

Global Merchant Cash, c/o
The Rubin Law Firm, Attn: Anna Rubin
11 Broadway, Ste. 814
New York, NY 10004
Fax No. 212-804-7013
email: anna@rubinlaw.legal

High Speed Capital
30 Broad St., 14th Fl.
Suite 14108
New York, NY 10004
Fax No. 718-943-0683
email: Eklein@yellowstonecapllc.com

Knight Capital
9 East Lockerman St.
Ste. 3A-543
Dover, DE 19901
Fax No. 866-293-8143
email: collections@knightcapitalfunding.com

On Deck Capital
1400 Broadway
New York, NY 10018
Fax No. 866-679-6607
email: support@ondeckpaymentssupport.com
customerservice@ondeck.com

Renata Bukhman, MCA Recovery LLC
Attorney for Yellowstone Capital
17 State St., Ste. 4000
New York, NY 10004
Fax No. 978-313-6609
email: rb@mcarecovery.com

GE Capital Information Technology
Solutions, LLC
PO Box 70239
Philadelphia PA 19176
Fax No. 319-811-6324

Global Merchant Cash, Inc.
64 Beaver St.
New York, NY 10004
Fax No. 212-981-9195

Yellowstone Capital
30 Broad St., 14th Fl.
Ste. 14108
New York, NY 10004
Fax No. 718-943-0683
email: jweinstein@yellowstonecapllc.com

JPMorgan Chase Bank, N.A.
Brian Gwizdz
235 Sheldon Road
Plymouth MI 48170
email: brian.d.gwizdz@chase.com

Associate Area Counsel, SB/SE
Internal Revenue Service
200 W. Adams, Ste. 2300
Chicago, IL 60606-5208
Fax No. 312-368-8710

Via First Class U.S. Mail

Illinois Department of Revenue
100 W Randolph St.
Legal Services M/C 7-900
Chicago, IL 60601

CHTD Company
PO Box 2576
Springfield, IL 62708

D. Patrick Mullarkey
Tax Division (DOJ)
PO Box 55
Ben Franklin Station
Washington, D.C.

Internal Revenue Service
Cincinnati, OH 45999-0025

Internal Revenue Service
Mail Stop 5050 CHI
230 S. Dearborn St.
Chicago, IL 60604

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:)
)
Wellness Home Care Inc.,) Case No. 17-
) Chapter 11
)
Debtor/Debtor-in-Possession.)

**EMERGENCY MOTION FOR
AUTHORITY TO USE CASH COLLATERAL**

Now comes the Debtor/Debtor-in-Possession, Wellness Home Care Inc. (“Debtor”), by its attorneys, John H. Redfield and the firm of Crane, Heyman, Simon, Welch & Clar, and in support of its Emergency Motion for Authority to Use Cash Collateral, states as follows:

1. On June 12, 2017, this Court entered an Order for Relief in the above-captioned matter, pursuant to a Voluntary Petition under Chapter 11 of the United States Bankruptcy Code.

2. The Debtor is an Illinois corporation with principal offices located at 5718 W. 95th Street, Oak Lawn, Illinois 60453, and is a Medicare-Certified provider of home care services to over 300 seniors annually. The Debtor currently employs approximately thirteen (13) persons.

3. The Debtor had annual revenues in 2015 and 2016 in the amounts of approximately \$607,000 and \$1,276,000. During the first five (5) months of 2017, revenues have averaged \$130,000 per month.

4. The Debtor is operating its business and managing its financial affairs as Debtor-in-Possession. No trustee or examiner has been appointed to serve in this reorganization case.

5. The Debtor currently has cash totaling approximately \$92,000.00, and accounts receivable valued at approximately \$212,479.78. The cash has been frozen in the Debtor’s account at JPMorgan Chase Bank, N.A. (“Bank”) pursuant to a post-judgment attachment purportedly served upon the Bank by Yellowstone Capital LLC (“YSC”) pursuant to a purported confession of judgment entered in favor of YSC against the Debtor on May 12, 2017 in the amount of \$141,449.58. The Debtor asserts that such attachment is voidable pursuant to Section 547 of the Bankruptcy Code.

Nevertheless, the Debtor is prepared to offer adequate protection to YSC and such other creditors (collectively, "Secured Parties") who may be asserting an interest in the Debtor's cash collateral including said bank account.

6. In order for the Debtor to continue to operate its business, and effectuate an effective reorganization, it is essential that the Debtor be authorized to use cash collateral for, among other things, the following purposes:

- A. Payroll;
- B. Insurance;
- C. Utilities;
- D. Postage;
- E. Rent;
- F. Purchases of Supplies and Materials; and
- G. Other miscellaneous items needed in the ordinary course of business.

7. The Debtor proposes, subject to the approval of this Court, to use cash collateral in which the Secured Parties assert interests. The Debtor's proposal will permit the Debtor to sustain its business operations and rehabilitate its financial affairs through the implementation of a successful plan of reorganization. Furthermore, the Debtor's proposal will adequately protect the purported secured interests of the Secured Parties.

8. Unless the Debtor is authorized to use cash collateral in which the Secured Parties assert interests, the Debtor will be unable to continue to operate, thereby eliminating any reasonable prospect for a successful reorganization. The cessation of normal business operations by the Debtor will cause irreparable harm to the Debtor, its patients, its creditors and this estate.

9. The Debtor proposes to use cash collateral and provide adequate protection upon the following terms and conditions:

- A. The Debtor will permit the Secured Parties to inspect, upon reasonable notice, within reasonable hours, the Debtor's books and records;
- B. The Debtor shall maintain and pay premiums for insurance to cover all of its assets from fire, theft and water damage;
- C. The Debtor shall, upon reasonable request, make available to the Secured Parties evidence of that which purportedly constitute their collateral or proceeds;

- D. The Secured Parties shall be granted valid, perfected, enforceable, security interests in and to Debtor's post-petition assets which are now or hereafter become property of this estate, to the extent of their alleged pre-petition liens, if valid; and
- E. The Debtor shall execute any documents that may be reasonably required by the Secured Parties to evidence the post-petition liens granted in lettered Paragraph (D), above.

10. The Bank shall immediately release the funds currently on hold in the Debtor's bank account and YSC shall cooperate fully in said immediate release of funds.

11. Attached hereto as Exhibit "A" and incorporated by reference herein is a proposed budget relating to the Debtor's use of cash collateral through September 2, 2017. Further budgets, if necessary, will be submitted to the Court pursuant to this Motion. On a preliminary basis, the Debtor will be limited to making the expenditures stated on said budget plus no more than ten percent (10%) of the total proposed expense payments, unless otherwise agreed by the Secured Parties.

12. The Debtor requests, pursuant to Rule 4001(b)(2) of the Bankruptcy Rules, that this Court conduct a preliminary hearing to authorize the use of cash collateral pending a final hearing on this Motion.

WHEREFORE, for the foregoing reasons, the Debtor/Debtor-in-Possession, Wellness Home Care Inc., by its attorneys, John H. Redfield and the firm of Crane, Heyman, Simon, Welch & Clar prays for the entry of an Order:

- A. Authorizing the Debtor to use cash collateral in which the Secured Parties assert liens, upon the terms and conditions set forth in this Motion until further Order of this Court;
- B. Preliminarily authorizing the Debtor to use cash collateral through and including September 2, 2017;
- C. Directing the Bank to immediately release the funds in the account described above and directing YSC to cooperate in such immediate release of funds; and

D. Granting such other relief as this Court deems appropriate.

Wellness Home Care Inc., Debtor/Debtor-in-Possession

By: /s/ John H. Redfield
One of its attorneys

John H. Redfield (Atty. No. 2298090)
Crane, Heyman, Simon, Welch & Clar
Attorneys for Debtor/Debtor-in-Possession
135 South LaSalle St., Suite 3750
Chicago, Illinois 60603
312/641-6777
W:\JHR\Wellness Home Care\Cash Coll.MOT.wpd