



SO ORDERED,

A handwritten signature in blue ink that reads "Katharine M. Samson".

**Judge Katharine M. Samson
United States Bankruptcy Judge
Date Signed: September 24, 2018**

The Order of the Court is set forth below. The docket reflects the date entered.

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE:

**MAGEE BENEVOLENT ASSOCIATION D/B/A MGH
Debtor**

**CHAPTER 11
CASE NO. 18-03283-KMS**

**AGREED ORDER AUTHORIZING USE OF CASH COLLATERAL OF
PRE-PETITION SECURED PARTY, TRUSTMARK NATIONAL BANK, GRANTING
ADEQUATE PROTECTION AND OTHER RELIEF (DKT. #3)**

THIS CAUSE is before the Court on the final hearing on the Debtor's Emergency Motion for Authority to Use Cash Collateral and for Other Relief (Dkt. #3) and the Response (Dkt. #20) thereto of Trustmark National Bank ("Trustmark"), and the Supplemental Response (Dkt. #45) and the Court having considered the motion and responses and the testimony at the hearing on the emergency motion, Orders as follows:

1. Notice and a hearing were adequate and appropriate under the circumstances.
2. On August 24, 2018 (the "Petition Date"), the Movant filed with this Court its Voluntary Petition (the "Petition") for relief under Chapter 11 of Title 11, United States Code (the "Bankruptcy Code"). The Movant is the Debtor and Debtor-in-Possession in this Chapter 11 case, and it remains in possession of his assets and properties as debtor-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

3. This Court has jurisdiction of the subject matter herein and the parties hereto pursuant to 28 U.S.C. §§ 157 and 1334; 11 U.S.C. §§ 105, 363, 541, 1107, related statutes, related rules and various orders of reference. This is a core proceeding.

4. Trustmark is a secured creditor and party-in-interest in this proceeding by virtue of the following:

- a. On or about May 9, 2007, the City of Magee, Mississippi issued a \$5,500,000 City of Magee Hospital Revenue Bond, Series 2007A (Magee General Hospital Project) (“A Bond”) and a \$2,000,000 City of Magee, Mississippi Hospital Revenue Bond, Series 2007B (Magee General Hospital Project) (“B Bond”) (together the “Series 2007 Bonds”) the proceeds of which were loaned by the City to the Debtor which owns a hospital facility known as Magee General Hospital (the “Hospital”) and located in Magee.
- b. The Bonds were purchased by Trustmark pursuant to that certain Loan and Bond Purchase Agreement dated as of April 1, 2007, and executed by the City, the Borrower and the Lender (the “Loan Agreement”). Under the Loan Agreement, the Borrower granted a security interest to the Bondholder in, to and under, *inter alia*, the Net Revenues as defined in the Loan Agreement. The Bonds are public finance bonds under Mississippi law. The Bond Purchaser’s security under the Loan and Bond Purchase Agreement is perfected by that certain UCC-1 Public Finance Financing Statement #20070153188G filed on July 15, 2007 with the Mississippi Secretary of State, which under Mississippi law is effective for a period of 30 years from the date of filing.

- c. The Bonds were further secured by a Deed of Trust, Security Agreement and Financing Statement executed by the Debtor on May 8, 2007 in favor of Trustmark pursuant to which the Debtor granted Trustmark a first lien security interest in the hospital property and all improvements and fixtures which deed of trust was filed of record in the office of the Chancery Clerk of Simpson County, Mississippi on May 17, 2007 in Book 2156 at Page 56.
- d. The Bonds were further secured by a Security Agreement dated May 8, 2007, pursuant to which the Debtor granted Trustmark a security interest in the following:

All Net Revenues of Debtor, as defined in that certain Loan and Bond Purchase Agreement dated as of April 1, 2007, by and among City of Magee, Mississippi, Magee Benevolent Association d/b/a Magee General Hospital and Trustmark National Bank; all of Debtor's accounts receivable, contract rights, general intangibles, inventory, furniture, fixtures and equipment, including, but not limited to, the capital equipment listed therein and all other goods of the same class whether now owned or hereafter acquired by Debtor, and the proceeds thereof, in connection with the operation, use and occupancy of the hospital.

- e. Trustmark perfected its security interest in the assets described in the Security Agreement by filing a UCC-1 Financing Statement #20070098239A on May 10, 2007, which statement has been continued by virtue of a

continuation statement filed with the Secretary of State on March 30, 2012 #20120666050B and on April 6, 2017 #20172247694B.

5. As of the petition date, the Debtor owed Trustmark \$3,927,598.12 on the A Bond with interest accruing at the per diem rate of \$493.109 and \$178,561.63 on the B Bond with interest accruing at the per diem rate of \$22.2307. These amounts are not subject to any dispute and Trustmark's perfected security interest is not subject to any dispute. Trustmark has filed a proof of claim, Claim No. 4. Trustmark has a properly perfected first lien security interest in the hospital property, all improvements, equipment, fixtures and accounts.

6. Trustmark does not make cash advances to the Debtor and, accordingly, the Debtor has "operated" from accounts receivable collections for a significant period of time.

7. Debtor is in urgent need of the use of cash collateral to pay its operating expenses, and to provide patient care. By order dated August 29, 2018 (Dkt. #28), the Court authorized the Debtor to use cash collateral on an interim basis for the fifteen (15) days set forth in the budget attached as Exhibit A to the Emergency Motion.

8. Attached to this Order as Exhibit A is the Debtor's thirteen (13) week budget. The items set forth in the thirteen (13) week budget are essential to provide patient care. The Debtor requires use of the cash collateral under the terms of this Order in order to provide such care.

9. Solely on the terms and conditions set forth in this Order, Trustmark consents to the Debtor's continued use of cash collateral provided the Court (i) authorizes, pursuant to §§361 and 363 of the Bankruptcy Code, adequate protection and grants to Trustmark a replacement security interest in and lien mortgage upon the pre-petition collateral in favor of Trustmark with the same validity, extent and priority and grants a security interest in and lien and mortgage upon all assets of the Debtor including cash collateral and other proceeds of the pre-petition collateral

generated or acquired after the commencement date, excluding causes of action under Chapter 5 of the Bankruptcy Code, with the same validity, extent and priority as the pre-petition lien “replacement lien”; (ii) grants Trustmark a super priority administrative expense claim under and to the extent set forth in §507(b) of the Bankruptcy Code “adequate protection priority claims” and (iii) requiring the Debtor to allow Trustmark and its professionals, including any accountants, access at the Debtor’s offices access to all books, records, including any Quick Books, on a bi-weekly basis, requiring the Debtor to provide bi-weekly reconciliation of disbursements, expenses and costs projected in the budget compared to the actual disbursements made; and collections made on revenue generated in the budget to the actual revenue certified by an officer of the Debtor, requiring production of any documents required to be produced under Trustmark’s loan documents. requiring the Debtor to provide Trustmark as soon as available but in no event later than 15 days after the end of each month, a detailed listing and aging of Debtor's Accounts Receivable (other than patient, donor, and personnel records), as of the month then ended, which Accounts Receivable shall be aged by invoice date, requiring the Debtor to provide Trustmark as soon as available but in no event later than 15 days after the end of each month, a detailed listing and aging of Debtor's Accounts Payable, as of the month then ended which Accounts Payable shall be aged by invoice date, and be in such detail as reasonably required by Trustmark. The replacement lien and adequate protection priority claims shall secure or provide a claim for, as applicable the repayment of Trustmark in an amount equal to the diminution in the value of Trustmark’s interest in its pre-petition collateral resulting from the use by the Debtor of Trustmark’s collateral and the cash constituting the proceeds of such collateral and the imposition of the automatic stay pursuant to 11 U.S.C. §362(a).

10. Subject to and in accordance with the terms of this Order, up and through the expiration date of this Order, the Debtor may use cash collateral solely for the purposes and up to the amounts set forth in the budget attached hereto as Exhibit A, except as to any additional adequate protection payments as may otherwise be ordered by the Court.

11. Except as expressly set forth herein the liens granted pursuant to this Order shall not be subject to any lien that is aborted and preserved for the benefit of the Debtor's estate under §551 of the Bankruptcy Code or subordinated to or made *pari passu* with any other liens under §§363 and 364 of the Bankruptcy Code. The replacement lien shall not be subject to challenge and shall attach and become valid, perfected and enforceable and effective by operation of law as of the commencement date of this case without any further action by the Debtor or Trustmark without the necessity of execution by the Debtor or the recording of any financing statements, security agreement, or any other documents.

12. Except as otherwise provided in this Order, or to the extent Trustmark may otherwise agree with the Debtor in writing, any violation by the Debtor of the terms of this Order or the failure to comply with the budget shall constitute an event of default under this Order.

END OF ORDER

AGREED:

/s/ Jim F. Spencer, Jr.
Jim F. Spencer, Jr., Attorney for
Trustmark National Bank

/s/ Craig M. Geno
Craig M. Geno, Attorney for Debtor

Magee General Hospital
Cash Projections
As of August 24, 2018

	30	31	30	91
<u>Subsequent 91 day period</u>	\$ 1,125,000	\$ 1,125,000	\$ 1,125,000	\$ 3,375,000
Expenses				
<u>Salaries, Wages, and Benefits</u>				
Payroll	320,000	320,000	320,000	960,000
Less changes				
Implement auto lunch deduct	(16,667)	(16,667)	(16,667)	(50,000)
Giftshop to volunteer staff	(2,083)	(2,083)	(2,083)	(6,250)
Eliminate part time dietary position	(1,333)	(1,333)	(1,333)	(4,000)
Eliminate LPN position	(2,500)	(2,500)	(2,500)	(7,500)
Eliminate Admit/Registration position	(1,667)	(1,667)	(1,667)	(5,000)
Eliminate part time case manager	0	0	0	0
Restructure HR Department	(3,333)	(3,333)	(3,333)	(10,000)
Payroll Taxes	115,000	115,000	115,000	345,000
Savings from staff eliminations	(1,800)	(1,800)	(1,800)	(5,400)
Retirement	14,000	14,000	14,000	42,000
Sun Life	14,000	14,000	14,000	42,000
Aflac	8,000	8,000	8,000	24,000
Unemployment	3,000	3,000	3,000	9,000
EE Insurance	44,000	44,000	44,000	132,000
	<u>488,617</u>	<u>488,617</u>	<u>488,617</u>	<u>1,465,850</u>
<u>Supplies</u>				
McKesson	30,000	30,000	30,000	90,000
US Foods	5,000	5,000	5,000	15,000
Blood Services	10,000	10,000	10,000	30,000
Cardinal	16,000	16,000	16,000	48,000
Misc Supplies	20,000	20,000	20,000	60,000
	<u>81,000</u>	<u>81,000</u>	<u>81,000</u>	<u>243,000</u>
<u>Drugs</u>				
Morris Dickson	25,000	25,000	25,000	75,000
<u>Fees and Purchased Services</u>				
CPSI	17,000	17,000	17,000	51,000
Baxter IV	5,000	5,000	5,000	15,000
Stericycle	1,000	1,000	1,000	3,000
AT&T	500	500	500	1,500
Baptist Lab	10,000	10,000	10,000	30,000
Hub Care Path	2,000	2,000	2,000	6,000
Bailey Cable	500	500	500	1,500
Broadway Linen	6,000	6,000	6,000	18,000
Republic	4,000	4,000	4,000	12,000
Heartsounds	3,500	3,500	3,500	10,500
Sleepworks	11,000	11,000	11,000	33,000
Rad Group	1,600	1,600	1,600	4,800
UMC Telehealth	5,000	5,000	5,000	15,000

**EXHIBIT
A**

ERx	60,000	60,000	60,000	180,000
Hospitalist Coverage	10,000	10,000	10,000	30,000
CMGeno, PLLC	20,000	15,000	15,000	50,000
Trilogy Healthcare Solutions (CRO)	45,000	45,000	45,000	135,000
Trilogy Revenue Cycle Solutions	32,000	32,000	32,000	96,000
Dietary Manager	427	427	427	1,281
Mid-South Rehab	50,000	50,000	50,000	150,000
Mid-South Medical Imaging	2,500	2,500	2,500	7,500
Autonomy Rehab	450	450	450	1,350
Southern Anesthesia	6,000	6,000	6,000	18,000
Wade	875	875	875	2,625
	<u>294,352</u>	<u>289,352</u>	<u>289,352</u>	<u>873,056</u>
<u>Admin</u>				
Entergy	20,000	20,000	20,000	60,000
Worker's Comp	8,000	8,000	8,000	24,000
Pitney Bowes Postage	1,000	1,000	1,000	3,000
3M	2,900	2,900	2,900	8,700
Medicaid Assessment	60,000	60,000	60,000	180,000
DeFatta	1,500	1,500	1,500	4,500
Insurance	24,000	24,000	24,000	72,000
Bank Fees	1,000	1,000	1,000	3,000
Merchant Fees	2,500	2,500	2,500	7,500
HCAHPS - J L Morgan	3,000	3,000	3,000	9,000
Sales Tax	700	700	700	2,100
Courier Fuel	200	200	200	600
Charity Fees	3,000	3,000	3,000	9,000
Carbon6	3,500	3,500	3,500	10,500
Wound Care	11,000	11,000	11,000	33,000
Internet Adverstising	300	300	300	900
	<u>142,600</u>	<u>142,600</u>	<u>142,600</u>	<u>427,800</u>
<u>Rent</u>				
MOB and PLLC and Leased equipment	50,664	50,664	50,664	151,992
<u>Repairs and Maintenance</u>				
Lawn Maintenance	1,060	1,060	1,060	3,180
Republic Services	6,000	6,000	6,000	18,000
Dietary	1,000	1,000	1,000	3,000
EVS	1,000	1,000	1,000	3,000
Lab	6,000	6,000	6,000	18,000
Nursing	6,000	6,000	6,000	18,000
Pharmacy	2,000	2,000	2,000	6,000
Surgery	6,000	6,000	6,000	18,000
Technology/CPSI	20,000	20,000	20,000	60,000
Vehicle Repair and Fuel	500	500	500	1,500
	<u>49,560</u>	<u>49,560</u>	<u>49,560</u>	<u>148,680</u>
Total cash disbursements	\$ 1,131,793	\$ 1,126,793	\$ 1,126,793	\$ 3,385,378
Monthly cash flow	\$ (6,793)	\$ (1,793)	\$ (1,793)	\$ (10,378)
Beginning cash balance	156,290	149,497	147,705	156,290
Ending cash balance	<u>\$ 149,497</u>	<u>\$ 147,705</u>	<u>\$ 145,912</u>	<u>\$ 145,912</u>

Cash Flow Including Debt Service Payments			
Beginning cash on hand	\$ 156,290	\$ 92,244	\$ 12,199
Monthly change in cash	(6,793)	(1,793)	(1,793)
Debt service payments	(57,253)	(78,253)	(57,253)
Ending cash balance with debt srv pmts	\$ 92,244	\$ 12,199	\$ (46,847)

Debt

Bond A	31,851	due 1st
Bond B	20,081	due 1st
MOB Note	5,321	5th
	<u>57,253</u>	
Bulger quarterly payment	21,000	due jan, apr, jul, oct
	<u>78,253</u>	
<u>Equipment Leases</u>		
GE Nuclear Camera	2,816	
Creekridge Capital	431	
Diagnostic Stago	930	
	<u>4,177</u>	