

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

<b>In re</b>	)	
	)	
<b>LORETTA’S HOME HEALTH CARE, INC.</b>	)	<b>CASE NO. 17-10940 JDL</b>
	)	<b>CHAPTER 11</b>
<b>Debtors</b>	)	

**MOTION TO USE CASH COLLATERAL, BRIEF IN SUPPORT,  
AND NOTICE AND OPPORTUNITY FOR HEARING**

COMES NOW Debtor and respectfully requests that the Court allow it to use cash collateral, and in support states as follows:

**FACTS**

1. The instant case was filed March 21, 2017, by Debtor Loretta’s Home Health Care. The case was filed in order to stop an Internal Revenue Service levy against Debtor’s income for past-due withholding taxes. Debtor intends to repay its taxes from income from operation of its business.
2. Debtor is a health care business as defined by 11 U.S.C. 101(27A)(B). Debtor provides home health care to Medicare recipients. Debtor is also a small business as defined by the Code.
3. Debtor was involved in a prior Chapter 11 case in this District of the same name, No. 0915819. The case was filed October 15, 2009, and the plan was confirmed January, 2011. The case was dismissed for failure to make payments on November 24, 2014.
4. The Internal Revenue Service has filed a claim in this case asserting a secured claim in the amount of 105,900.00. The Service also filed a priority claim in the amount of \$161,798.95 and a general unsecured claim in the amount of \$135,785.20. Debtor does not anticipate disputing the claim.

## ARGUMENT AND AUTHORITIES

Eleven U.S.C. §363(c)(2)(B) allows the Trustee in Chapter 11 to use cash collateral after notice and an opportunity for hearing and if the use is consistent with the provisions of that section. Section (e) requires that a creditor secured by cash collateral must be adequately protection in order for Debtor to be permitted to use such collateral. In the present case, the Internal Revenue service will be adequately protection by monthly cash payments based on its claim filed in this case.

Debtor proposes to use its income (cash collateral) to continue to operate its business so that it is able to repay its liability to the Internal Revenue Service. If Debtor is unable to continue its business operations, there is little chance the debt will be repaid by Debtor's owner, Loretta Thomas, who has no source of income other than the instant business.

Debtor will file herewith an Offer for Adequate Protection.

## CONCLUSION

Based on 11 U.S.C. §363(c)(2), Debtor requests that it be permitted to use cash collateral in this case, specifically income subject to a line in favor of the Internal Revenue Service, in order to continue to operate its business. The Internal Revenue Service will be adequately protected by period cash payments. Debtor further requests any other relief to which it may be entitled at equity or law.

Respectfully submitted:

S/ MIKE ROSE  
Mike Rose, OBA No. 15523  
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ATTORNEY FOR DEBTOR(S)

### **NOTICE OF OPPORTUNITY FOR HEARING**

Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document.

If you do not want to the Court to grant the relief requested, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Ave., Oklahoma City, OK 73102, no later than 14 days from the date of filing of this request for relief. You should also serve a file-stamped copy of your response or objection to the undersigned movant/movant's attorney [and others who are required to be served] and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice.

The 14 day period includes the three (3) days allowed for mailing provided for in Bankruptcy Rule 9006(f).

### **CERTIFICATE OF SERVICE**

Undersigned certifies that on 5-15-17, the foregoing document was served, via United States Mail, 1<sup>st</sup> class postage pre-paid, and properly addressed to the following:

All parties on the attached mailing matrix

s/ MIKE ROSE  
Mike Rose

Label Matrix for local noticing  
1087-5  
Case 17-10940  
Western District of Oklahoma  
Oklahoma City  
Sun May 14 22:57:08 CDT 2017

Loretta's Home Health Care, Inc.  
10400 Vineyard Blvd  
Suite G101  
Oklahoma City, OK 73120-3829

USBC Western District of Oklahoma  
215 Dean A. McGee  
Oklahoma City, OK 73102-3426

AT&T  
SOUTHWEST CREDIT  
5190 W PLANO PARKWAY  
STE 100  
PLANO TX 75093

Internal Revenue Service  
55 N Robinson St Stop 5024  
Oklahoma City, OK 73102-9229

Internal Revenue Service  
PO Box 7346  
Philadelphia, PA 19101-7346

(p)INTERNAL REVENUE SERVICE  
CENTRALIZED INSOLVENCY OPERATIONS  
PO BOX 7346  
PHILADELPHIA PA 19101-7346

LORETTA THOMAS  
OKLAHOMA EMPLOYMENT SECURITY COMMISSION  
BPC/ INVESTIGATION DEPT (COLLECTIONS)  
PO BOX 52925  
OKLAHOMA CITY OK 73152-2007

OKLAHOMA TAX COMMISSION  
ATTN MEGAN A WINTER  
ASSISTANT GENERAL COUNSEL  
120 N ROBINSON STE 2000 W  
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Oklahoma Employment Security Commission  
PO Box 53039  
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Oklahoma Tax Commission  
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120 N Robinson Ste 2000  
Oklahoma City OK 73102-7471

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Oklahoma City, OK 73102-3479

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Oklahoma City, OK 73112-2309

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Internal Revenue Service  
PO Box 745  
District Director  
Chicago IL 60690

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)DAVID AUSTIN

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