

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF OKLAHOMA

In re:

HOSPITAL FOR SPECIAL SURGERY, LLC,
Debtor.

Case No. 24-12862 JDL
Chapter 11

**LIMITED OBJECTION OF THE UNITED STATES TRUSTEE TO THE DEBTOR'S
EMERGENCY MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS,
PURSUANT TO 11 U.S.C. §§ 105, 345, 363, 364, AND 503, AUTHORIZING DEBTOR
TO CONTINUE (I) TO OPERATE ITS CASH MANAGEMENT SYSTEM, MAINTAIN
EXISTING BANK ACCOUNTS AND BUSINESS FORMS, AND (II) GRANTING
RELATED RELIEF WITH BRIEF IN SUPPORT, NOTICE OF OPPORTUNITY FOR
HEARING AND NOTICE OF HEARING**

United States Trustee, Ilene J. Lashinsky ("UST"), files this Limited Objection to the Debtor's motion seeking authority to continue its cash management system and business forms [Doc. 13] (the "**Motion**").

A. Facts.

1. Debtor filed its Chapter 11 case on October 7, 2024. (See, Doc. 1.)
2. Debtor estimates that its monthly cash receipt collections averaged approximately \$3,000,000 in the twelve (12) months prior to the Petition Date. (See, Motion, p. 6, ¶ 14.)
3. Thus, Debtor's accounts regularly hold funds in excess of FDIC insurance, which is \$250,000 per depositor, per FDIC-insured bank, per ownership category. www.fdic.gov.
4. Consequently, a certain level of estate funds will be always remained uninsured.
5. Compliance with 11 U.S.C. § 345 allows the UST to ensure (i) that all estate funds are safeguarded and collateralized, and (ii) transparency and full disclosure of Debtors' funds and financial transactions.
6. Here, Debtors seek Court permission to avoid the requirements of § 345.



Debtor's bank accounts held at BOFK, NA d/b/a Bank of Oklahoma ("BOKF") should be converted to Debtor in Possession Accounts:

7. Debtors maintains all its bank accounts at BOFK, NA d/b/a Bank of Oklahoma ("BOKF"). (See, Doc. 1, p. 11.)

8. The Motion conveys Debtor's concerns regarding avoiding the disruption of its k business operations and the potential cost of complying with § 345.

9. The UST is sympathetic of those issues, but Debtor does not articulate any relative hardship that is not shared by every other Chapter 11 Debtor regarding its statutory requirements under § 345.

10. Section 345 of the Code prohibits debtors in possession from depositing or investing bankruptcy estate funds in financial institutions that are not insured by the Federal Deposit Insurance Corporation ("FDIC") and that are not UST "approved depositories".

11. However, BOKF is already a United States Trustee Program authorized debtor in possession depository pursuant to the *Western District of Oklahoma Authorized Depository Listing, Updated April 1, 2015* (the "Depository Listing") created in furtherance of the *Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees* (the "U.S. Trustee Guidelines").

12. The UST does not oppose the Debtor simply re-classifying its BOKF bank accounts to Debtor in Possession ("DIP") accounts, and opening a new DIP Operating Account into which it can sweep funds from accounts held prepetition. The sweep should occur daily into a new DIP operating account.

13. This would not cause any disruption in service and should not be an undue burden on the Debtor.

14. This way, the UST can properly ensure that all funds are safeguarded and collateralized as required by the Bankruptcy Code.

15. The protections of estate funds contemplated by section 345 override the “inconvenience” factor to the Debtor, especially where estate funds will exceed FDIC insurance limits.

Other questionable provisions in the Motion.

16. Debtor states that it incurs \$19,000.00 per month in bank related fees. Debtor should be required to explain these charges and establish that the charges are reasonable and incurred at a competitive market rate.

17. Debtor reserves the right to open and close bank accounts at will in its unilateral discretion. However, such activity does not appear to be consistent with Debtor’s historic cash management system, which is what the Motion purports to seek to maintain. Debtor should fully disclose and keep the UST apprised of its intentions with regard to opening or closing any bank accounts so that complete banking transparency is provided to the UST and all creditors on an ongoing basis.

18. The Motion requests permission to pay pre-petition amounts owed on account of its cash management system. (Motion p. 13, ¶ 32.) However, Debtor does not give any information regarding why these pre-petition amounts should be paid. Without more information, such charges should not be paid.

The UST Reserves all arguments, whether posed herein or not, to the final relief requested in the Motion.

19. The UST reserves the right to assert any and all legal and factual arguments, whether or not raised herein, related to relief requested in the Motion.

B. Relief requested.

20. Considering the above, the UST requests that the Court deny the Motion until the above issues are adequately addressed.

Respectfully submitted,

ILENE J. LASHINSKY
UNITED STATES TRUSTEE

s/ Jeffrey E. Tate

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