

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

_____		X
In re	:	
	:	Chapter 11
HOSPITAL FOR SPECIAL SURGERY, LLC	:	
<i>Db</i> a ONECORE HEALTH,	:	Case No. 24-12862-JDL
	:	
Debtor.	:	
_____		X

DEBTOR’S REPLY TO LIMITED OBJECTION OF THE UNITED STATES TRUSTEE TO DEBTOR’S EMERGENCY MOTION FOR ENTRY OF FINAL ORDER, PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, AND 507, (I) AUTHORIZING DEBTOR TO OBTAIN SENIOR SECURED SUPERPRIORITY POSTPETITION FINANCING, (II) GRANTING LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, (III) AUTHORIZING THE USE OF CASH COLLATERAL, (IV) DETERMINING ADEQUATE PROTECTION NEED NOT BE PROVIDED, (V) MODIFYING THE AUTOMATIC STAY, AND (VI) GRANTING RELATED RELIEF

Hospital for Special Surgery, LLC *dba* OneCore Health (“OneCore” or the “Debtor”) hereby submits this reply (the “Reply”) to the *Limited Objection of the United States Trustee to Debtor’s Emergency Motion for Entry of Final Order, Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507, (I) Authorizing Debtor to Obtain Senior Secured Superpriority Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Authorizing the Use of Cash Collateral, (IV) Determining Adequate Protection Need Not Be Provided, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief* [Dkt. No. 189] (the “UST Limited Objection”). Debtor has resolved the objections raised by the United States Trustee (the “UST”) in sections (B)(3) – (B)(9) of the Limited Objection as set forth in Debtor’s separately filed *Notice of Revised Proposed Final Order Granting Debtor’s Emergency Motion for Entry of Final Order, Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507, (I) Authorizing Debtor to Obtain Senior Secured Superpriority Postpetition Financing, (II) Granting Liens and*



Superpriority Administrative Expense Claims, (III) Authorizing the Use of Cash Collateral, (IV) Determining Adequate Protection Need Not Be Provided, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief [Dkt. No. 193] (the “Notice of Revised Proposed DIP Order”). Accordingly, this Reply is limited to setting the record straight with respect to certain misconceptions alleged in sections (B)(1) and (B)(2) of the UST Limited Objection.

Section (B)(1) sets forth the UST’s premise that Debtor does not need postpetition financing, in part, because “Debtor is performing well from a financial perspective.” UST Limited Objection, at ¶¶ 28 – 30. Relatedly, section (B)(2) posits that Debtor will default under the requested \$2 million DIP Credit Facility¹ on the Effective Date of a confirmed chapter 11 plan of reorganization because Debtor will be unable to repay such loan. While Debtor’s financial performance during this Chapter 11 Case is admirable, Debtor nonetheless requires postpetition financing to maintain its operations and successfully propose a confirmable plan of reorganization. Debtor will enter into an exit financing credit facility on the Effective Date of a confirmed chapter 11 plan of reorganization which will enable Debtor to repay the DIP Loan on the Effective Date and cash-flow additional distributions to holders of allowed claims pursuant to such confirmed plan. As further clarification intended to ensure that creditors and parties-in-interest fully understand Debtor’s financial position and need for postpetition financing as set forth in the Motion and the Final Order.

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in *Debtor’s Emergency Motion for Entry of Final Order, Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507, (I) Authorizing Debtor to Obtain Senior Secured Superpriority Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Authorizing the Use of Cash Collateral, (IV) Determining Adequate Protection Need Not Be Provided, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief* [Dkt. No. 186] (the “Motion”).

1. UST alleges that, in the twenty (20) months preceding the Petition Date, Debtor paid BOKF approximately \$734,857.59 in partial satisfaction of a “commercial credit transaction with BOKF in the original principal amount of \$1,500,000.00.” UST Limited Objection, at ¶ 9; *see gen., id.* At ¶¶ 7-9. In truth, the BOKF credit facility constituted a line of credit in the maximum amount of \$1,500,000.00, against which Debtor did not fully draw. On the Petition Date, Debtor owed BOKF approximately \$764,000.00, as a consequence of prepetition draws against the BOKF credit facility.

2. UST suggests Debtor has never indicated that the Interim or Final Cash Collateral Order’s place “onerous restrictions on use of Cash Collateral.” UST Limited Objection, at ¶ 13. Debtor has frankly admitted in Court proceedings that the terms of such Orders are quite restrictive and that Debtor consented to such terms due to the exigencies of its circumstances. Debtor has further expressly reserved its rights to seek modification to such Orders or to, as it is doing through the Motion, seek postpetition financing as the circumstances of its business operations and this Chapter 11 Case dictate.

3. UST alleges that “Debtor appears to have performed satisfactorily under the Cash Collateral Budget and sought no modifications of its structure.” UST Limited Objection, at ¶ 14. While Debtor has performed according to its previous Initial Approved Budget – as is required by the Bankruptcy Court – the Initial Approved Budget terminated at year-end 2024. The Initial Approved Budget is not a proxy for Debtor’s expected cash activity during the first quarter of 2025. Expenses during the first quarter of 2025 dictate Debtor’s cash requirements. For example, Debtor is obligated to pay insurance premiums, which require a substantial cash outlay. Moreover, revenues for hospitals spike at year end since patients have already met their deductibles under

their health insurance policies. For the converse reason, revenues for hospitals typically decline in the first quarter of a year when compared to the last quarter.

4. UST alleges that Debtor's financial performance exceeds internal projections and, by way of example, Debtor had \$2,121,394.66 in its operating account on December 31, 2024. UST Limited Objection, at ¶¶ 16-17. While Debtor did have such amount in its account at year end, it no longer does *and* that account balance obviously did not account for pending debits in the form of outstanding checks. As Debtor's budgets have demonstrated, Debtor experiences a significant cash outflow during the last week of each month. Consistently, Debtor incurs significant expenses and a significant number of checks clear the DIP account during such periods. For example, as of last Friday, Debtor's cash balance was \$675,000.00. Debtor respectfully submits that it must maintain a cash balance sufficient to clear outstanding checks *and* cover payroll in the ordinary course of its business *at all times* postpetition.

5. UST suggests Debtor has excess cash and, therefore, does not require a DIP Loan as set forth in the Motion. *See* UST Limited Objection, at ¶ 18 ("Debtor's cash on hand at the end of December per MOR Item # 23 was \$1,444,937.18, while its projected cash balance for that time in the Cash Collateral Budget was only \$449,446.64."); *id.* at ¶ 19 ("Further, while Debtor's collections are approximately 15.68% below [Initial Approved Budget] projections, its overall expenses were approximately 25.20% less than anticipated."). The primary reasons that Debtor accrued excess cash during the Initial Approved Budget period are (i) Debtor exercised sound business judgment and the authorities provided to it through the Critical Vendor Orders when negotiating payments to Critical Vendors and (ii) timing issues with respect to completing certain Critical Vendor negotiations. Those negotiations have been completed and payments must be made during the period set forth in the DIP Budget. *See, e.g.*, \$200k+ to Glaukos. In other words,

differences between the Initial Approved Budget and the DIP Budget amount to timing issues and are fully accounted for in the DIP Budget.

6. The UST alleges that Debtor's DIP Budget projected collections are 52.4% lower than actual performance set forth in the MORs during this Chapter 11 Case and, further that projected expenses in the DIP Budget are 45.5% higher than actual expenses during this Chapter 11 Case, again as set forth in the MORs. *See* UST Limited Objection, at ¶¶ 25-26. These allegations are incorrect. From the Petition Date through last week, Debtor has averaged \$575,000.00 in weekly collections. The DIP Budget forecasts collections averaging \$536,000.00 per week, out of an abundance of caution. This conservative approach to revenue estimates is a sound exercise of Debtor's business judgment made in service of compliance with the DIP Budget. Likewise, Debtor projects higher expenses because of (i) substantial, scheduled payments to Critical Vendors pursuant to Vendor Trade Agreements authorized pursuant to the Critical Vendor Orders, (ii) higher annual insurance premiums, and (iii) the requirement that Debtor pay such insurance premiums in full rather than finance such premiums through monthly payments. In 2025, Debtor must pay insurance premiums in the approximate amount of \$600,000.00.

7. This enhanced insurance cost during the DIP Budget period is one of the primary reasons Debtor must obtain postpetition financing. Debtor cannot finance such premiums because a condition of financing is that Debtor grant superpriority liens in collateral in which BOKF presently holds superpriority liens. The Cash Collateral Orders prohibit Debtor from granting priming liens with respect to such collateral, so Debtor must obtain postpetition financing, satisfy the BOKF Prepetition Secured Claim, and grant liens equivalent to BOKF's liens to the DIP Lender in order to obtain the funds necessary to satisfy the insurance premiums. The alternative

is unacceptable as cancellation of Debtor's applicable insurance policies could constitute cause for dismissal of this Chapter 11 Case.

8. UST attached a chart comparing Debtor's actual performance to the DIP Budget as Exhibit 2 to the UST Limited Objection. The UST's chart assumes that Debtor's actual performance applies to the same time period as the DIP Budget, but plainly, that is incorrect. The actual performance is measured over the first 13 weeks following the Petition Date, whereas the DIP budget covers an ensuing 9-week period culminating, hopefully, in plan confirmation. Likely, this is a significant contributor to UST's mistaken conclusion that Debtor's projected collections set forth in the DIP budget lag actual collections by 52.4%. Second, the chart duplicates expenses. Total expenses in the DIP Budget are \$7 million, not \$13 million. Upon correcting for duplication, expenses, while higher on a weekly basis in the DIP Budget than in the Initial Approved Budget, are significantly closer than are represented in the UST Limited Objection. Moreover, these increased expenses amount to timing issues relating to Critical Vendor payments and payment of insurance premiums in full.

Conclusion

For the foregoing reasons and other good cause shown, Debtor respectfully requests that the Court enter the Proposed Final Order granting the Motion and grant such other and further relief as is necessary and in the interests of justice.

Verification of Carrie McEntire

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: February 15, 2025

MCENTIRE ADVISORY, PLLC

s/Carrie McEntire

Carrie McEntire

Managing Director

Dated: February 15, 2025

Respectfully submitted,

ONECORE

/s/Craig M. Regens

William H. Hoch, OBA #15788

Craig M. Regens, OBA #22894

Mark A. Craige, OBA #1992

Kaleigh Ewing, OBA #35598

-Of the Firm-

CROWE & DUNLEVY

A Professional Corporation

Braniff Building

324 N. Robinson Ave., Suite 100

Oklahoma City, OK 73102-8273

(405) 235-7700

will.hoch@crowedunlevy.com

craig.regens@crowedunlevy.com

mark.craige@crowedunlevy.com

kaleigh.ewing@crowedunlevy.com

Counsel to Debtor