

ENTERED
August 05, 2024
Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

TEHUM CARE SERVICES, INC.,¹

Debtor.

Chapter 11

Case No. 23-90086 (CML)

Re Dkt. Nos. 357, 1493 & 1498

**AMENDED AGREED ORDER ESTABLISHING PROCEDURES FOR INTERIM
COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR PROFESSIONALS**

Upon the motion of the Debtor [Docket No. 1493] (the “Debtor Motion”) and the cross motion of the Official Committee of Tort Claimants [Docket No. 1498] (the “TCC Motion” and, together with the Debtor Motion, the “Motions”)² in the above-captioned case for entry of an order (this “Order”) (a) amending the Court’s previously entered *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* [Docket No. 357], and (b) granting related relief, all as more fully set forth in the Motions; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motions in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motions is in the best interests of the Debtor’s estate, its creditors, and other parties in interest; and this Court having found that the notice of the Motions and opportunity for a hearing on the Motions were appropriate and no other notice need be provided; and this Court having determined that the legal and factual

¹ The last four digits of the Debtor’s federal tax identification number is 8853. The Debtor’s service address is: 205 Powell Place, Suite 104, Brentwood, Tennessee 37027.

² Capitalized terms used but not defined herein have the meanings ascribed to them in the Motions.



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bases set forth in the Motions establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motions are hereby GRANTED as set forth herein based on the agreement of the Debtor, the TCC, and the UCC. Any objections to the Motions are resolved by the agreement of the parties and the entry of this Order.

2. Any legal and other professional advisor retained by the Debtor, the UCC, or the TCC pursuant to section 327 of the Bankruptcy Code in this chapter 11 case (each a “Professional” or collectively, the “Professionals”) are hereby subject to the following procedures regarding interim compensation.

3. All such Professionals in this case may seek compensation in accordance with the following procedures (collectively, the “Compensation Procedures”):

- (a) On or after the 21st day of each month following the month for which compensation is sought or as soon as is reasonably practicable thereafter, each Professional seeking compensation may send a monthly statement (each, a “Monthly Fee Statement”) requesting interim allowance of compensation for services rendered and reimbursement of expenses incurred during the preceding month by email to the following parties (each, an “Application Recipient,” and collectively, the “Application Recipients”):
 - i. Tehum Care Services, Inc., Attn: Russell Perry (russell.perry@ankura.com);
 - ii. Counsel to the Debtor, Gray Reed (tehumbk@grayreed.com), Attn.: Jason S. Brookner, Aaron M. Kaufman, Lydia R. Webb; and Amber M. Carson;
 - iii. the Office of the United States Trustee for the Southern District of Texas, Attn.: Ha Nguyen (Ha.Nguyen@usdoj.gov) and Andrew Jimenez (Andrew.Jimenez@usdoj.gov);
 - iv. Counsel to M2 LoanCo, LLC, Norton Rose Fulbright, Attn: Kristian W. Gluck (kristian.gluck@nortonrosefulbright.com);

- v. Counsel to the UCC, Stinson LLP, Attn: Nicholas Zluticky (nicholas.zluticky@stinson.com), and Zachary Hemenway (zachary.hemenway@stinson.com); and
 - vi. counsel to the TCC, Brown Rudnick LLP (BRTehumTeam@brownrudnick.com), Attn: Eric R. Goodman, D. Cameron Moxley, Gerard T. Cicero; and Berry Riddell, LLC, Attn: Michael W. Zimmerman (mz@berryriddell.com).
- (b) Any Professional that fails to file a Monthly Fee Statement for a particular month or months may subsequently submit a Monthly Fee Statement that includes a request for compensation earned or expenses incurred during the previous months.
- (c) Each Application Recipient will have until 4:00 p.m. (prevailing Central Time) 14 days after service of a Monthly Fee Statement to object to the requested fees and expenses in accordance with paragraph (d), below. Upon the expiration of such 14-day period, the Debtor is authorized and directed to pay the Professional an amount (the “Actual Monthly Payment”) equal to 80% of the fees and 100% of the expenses requested in the applicable Monthly Fee Statement (the “Maximum Monthly Payment”) that are not subject to an objection pursuant to subparagraph (d), below.
- (d) If any Application Recipient objects to a Professional’s Monthly Fee Statement, the objecting party shall, within 14 days of service of the Monthly Fee Statement, serve via email a written notice (the “Notice of Objection to Monthly Fee Statement”) upon the respective Professional and each of the Application Recipients setting forth the precise nature of the objection and the amount at issue. Thereafter, the objecting party and the Professional shall attempt to resolve the objection on a consensual basis. If the parties reach an agreement, the Debtor shall promptly pay 80% of the agreed-upon fees and 100% of the agreed-upon expenses. If, however, the parties are unable to reach a resolution of the objection within 14 days (or such longer period as mutually agreed to by the Professional and the objecting party) after service of the objection, the objecting party shall file its objection (the “Objection”) with the Court within three (3) business days and serve such Objection on the respective Professional and each of the Application Recipients. Thereafter, such Professional may either (i) file with the Court a response to the Objection, together with a request for payment of the difference, if any, between the Maximum Monthly Payment and the Actual Monthly Payment made to the affected Professional (the “Incremental Amount”), or (ii) forego payment of the Incremental Amount until the next hearing on an Interim Fee Application or Final Fee Application, at which time the parties may request that the Court consider the Objection.

- (e) Beginning with the period ending on May 31, 2023, and at three-month intervals thereafter (each, an “Interim Fee Period”), each of the Professionals may file with the Court and serve on the Application Recipients an Interim Fee Application for compensation and reimbursement of expenses sought in the Monthly Fee Statements served during such period. Each Interim Fee Application must include (i) a narrative discussion, (ii) a summary of the Monthly Fee Statements that are the subject of such application request, (iii) the amount of fees and expenses paid of date or subject to objection, and (iv) the deadline for parties other than the Application Recipients to file objections. Each Professional shall serve its Interim Fee Application (which identifies the Professional seeking compensation, discloses the period for which the payment of compensation and reimbursement of expenses is being sought, and describes the amount of compensation and expenses sought) on the Application Recipients. The Application Recipients and other parties will have 21 days after service of an Interim Fee Application to object thereto.
- (f) The Debtor will request that the Court set a hearing on Interim Fee Applications at least once every three (3) months or at such other intervals as the Court deems appropriate. The Court, in its discretion, may approve an uncontested Interim Fee Application without the need for a hearing if no Objections are timely filed thereto. Upon allowance by the Court of a Professional’s Interim Fee Application, the Debtor shall be authorized to promptly pay such Professional all requested fees (including the 20% holdback) and expenses not previously paid.
- (g) The pendency of an Objection to payment of compensation or reimbursement of expenses will not disqualify a Professional from the future payment of compensation or reimbursement of expenses under the Compensation Procedures.

4. All Monthly Fee Statements (past, current, and future) shall be publicly filed on the Court’s docket in the Debtor’s chapter 11 case. Within 7 days after the entry of this Order, the Debtor’s Professionals and the UCC’s Professionals shall each publicly file all Monthly Fee Statements sent by them to an Application Recipient prior to the date of this Order. The TCC’s Professionals are and have always been since their retention in this chapter 11 case “Professionals” included within the definition of “Professionals” under the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* [Docket No. 357] and need not re-file their Monthly Fee Statements with the Court.

5. Neither (a) the payment of or the failure to pay, in whole or in part, monthly interim compensation and reimbursement of expenses under the Compensation Procedures nor (b) the filing of or failure to file an Objection with the Court will bind any party in interest or the Court with respect to the final allowance of applications for compensation and reimbursement of expenses of Professionals. All fees and expenses paid to Professionals under the Compensation Procedures are subject to challenge and disgorgement until final allowance by the Court.

6. In each Interim Fee Application and Final Fee Application, all Professionals shall apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with the Debtor's chapter 11 case in compliance with sections 330 and 331 of the Bankruptcy Code; applicable provisions of the Bankruptcy Rules, Bankruptcy Local Rules; and any other applicable procedures and orders of the Court. Such Professionals shall also make a reasonable effort to comply with the U.S. Trustee's requests for information and additional disclosures as set forth in the Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases, effective as of November 1, 2013, both in connection with any Interim Fee Application and Final Fee Application to be filed by the Professionals in this chapter 11 case.

7. The Professionals shall serve (a) Monthly Fee Statements, Interim Fee Applications, and Final Fee Applications on the Application Recipients and publicly file such statements and applications in the Debtor's chapter 11 case, and (b) Hearing Notices on the Application Recipients and all other parties that have filed a notice of appearance in this chapter 11 case as may be required.

8. A Professional shall not seek payment in a Final Fee Application for any amounts that such Professional previously sought in a Monthly Fee Statement or Interim Fee Application

and which (i) such Professional voluntarily waived or reduced to resolve formal or informal objections or (ii) were disallowed by order of the Court.

9. All payments made pursuant to the authority granted herein shall be subject to and in compliance with any applicable order of the Court approving DIP financing and authorizing the use of cash collateral (collectively, the “DIP Orders”) and the Approved Budget (as defined therein), including, without limitation, compliance with all notice procedures set forth in the DIP Orders.

10. All notices given in accordance with the Compensation Procedures shall be deemed sufficient and adequate notice and in full compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules.

11. Notice of the Motion as provided therein shall be deemed good and sufficient-notice of such Motion and the requirements of the Bankruptcy Local Rules are satisfied by such-notice.

12. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon entry.

13. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

14. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

15. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: August 05, 2024



Christopher Lopez
United States Bankruptcy Judge