

CSD 1008 [08/21/00]
Name, Address, Telephone No. & I.D. No.
DENTONS US LLP
SAMUEL R. MAIZEL (Bar No. 189301)
TANIA M. MOYRON (Bar No. 235736)
601 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5704
Tel: (213) 623-9300 | Fax: (213) 623-9924

Proposed Attorneys for the Chapter 11 Debtor and Debtor in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West F Street, San Diego, California 92101-6991

In Re
BORREGO COMMUNITY HEALTH FOUNDATION

Debtor.

BANKRUPTCY NO. 22-02384
Date of Hearing: September 13, 2022
Time of Hearing: 3:00 p.m.
Name of Judge: Honorable Laura S. Taylor

ORDER ON

**EMERGENCY FIRST DAY MOTION OF DEBTOR FOR AUTHORITY TO:
(I) CONTINUE USING EXISTING CASH MANAGEMENT SYSTEM, BANK ACCOUNTS AND
BUSINESS FORMS; (II) IMPLEMENT CHANGES TO THE CASH MANAGEMENT SYSTEM IN
THE ORDINARY COURSE OF BUSINESS; (III) REMIT CAPITATION PAYMENTS TO OR AS
DIRECTED BY THE PURCHASER OF THE RIVERSIDE CLINICS; AND (IV) OBTAIN RELATED
RELIEF**

The court orders as set forth on the continuation pages attached and numbered 2 through 4 with exhibits, if any, for a total of pages 7. Motion/Application Docket Entry No. 4.

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September 16, 2022

Judge, United States Bankruptcy Court

DATED:

Judge, United States Bankruptcy Court

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ORDER ON EMERGENCY FIRST DAY MOTION OF DEBTOR FOR AUTHORITY TO: (I) CONTINUE USING EXISTING CASH MANAGEMENT SYSTEM, BANK ACCOUNTS AND BUSINESS FORMS; (II) IMPLEMENT CHANGES TO THE CASH MANAGEMENT SYSTEM IN THE ORDINARY COURSE OF BUSINESS; (III) REMIT CAPITATION PAYMENTS TO OR AS DIRECTED BY THE PURCHASER OF THE RIVERSIDE CLINICS; AND (IV) OBTAIN RELATED RELIEF

DEBTOR: BORREGO COMMUNITY HEALTH FOUNDATION **CASE NO:** 22-02384

Having considered the Emergency Motion,¹ the accompanying Memorandum of Points and Authorities in support of the Emergency Motion, and the Declaration of Isaac Lee in support of the Emergency Motion, the arguments of counsel at the hearing, and good cause appearing therefore,

IT IS FURTHER ORDERED that:

1. The Emergency Motion is granted on an interim basis.
2. The Debtor is authorized and empowered pursuant to sections 105(a), 363, 364, 503 and 507 of the Bankruptcy Code to continue using its Cash Management System and to collect, concentrate, and disburse cash in accordance with the Cash Management System;
3. The Debtor is authorized to implement changes to its Cash Management System in the ordinary course of business, including closing any existing bank accounts or opening any new bank accounts (collectively, the “Accounts”) as the Debtor may deem necessary and appropriate in its sole discretion; provided that any such new account is (i) with a bank that is (A) insured with the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation and (B) designated as an authorized depository pursuant to the UST Guidelines, and (ii) the Debtor provides notice to the U.S. Trustee of the opening of such account. The Debtor may keep the two accounts at Community Valley Bank where deposits are received open for purposes of continuing to collect those receipts from payors provided it shall forward excess funds to the City National Bank disbursement account to the extent any funds on deposit at an account at Community Valley Bank exceeds \$10,000 at any time;
4. The Debtor is authorized to (i) continue to use, with the same account numbers, all of the Accounts in existence as of the Petition Date, including those Accounts identified on **Exhibit “B”** to the Emergency Motion; and (ii) treat the Accounts for all purposes as accounts of the Debtor as debtor in possession;

¹ Defined terms in this Order shall have the same meaning as in the Emergency Motion unless otherwise defined herein.

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5. The Debtor is authorized to continue to use, in their present form, all correspondence and business forms, as well as checks and all other documents related to the Accounts (collectively, the "Business Forms") existing immediately before the Petition Date, without reference to the Debtor's status as debtor in possession, until existing stock is exhausted; provided that in the event the Debtor generate new Business Forms during the pendency of this chapter 11 Case, such Business Forms shall include a legend referring to the Debtor as "Debtor in Possession," and, to the extent practicable, the Debtor shall print such legend on any Business Forms electronically generated during this case;

6. Except as otherwise provided in this Order, all banks at which the Accounts are maintained (collectively, the "Banks") are authorized and directed to continue to maintain, service and administer the Accounts as accounts of the Debtor as debtor in possession, without interruption and in the ordinary course of business, and to receive, process, honor and pay any and all checks, drafts, wires, and ACH payments issued by the Debtor and drawn on the Accounts after the Petition Date to the extent the Debtor has sufficient funds standing to its credit with such Bank; provided that any payments drawn, issued or made prior to the Petition Date shall not be honored absent direction of the Debtor and a separate order of the Court authorizing such prepetition payment;

7. In the event the Banks refuse to honor a check drawn or a transfer made on an Account maintained by it (provided there are sufficient good funds in the account to complete the transfer), the Banks are authorized and directed to immediately turn over the deposits held in the applicable Account upon the Debtor's request;

8. The Banks are authorized to charge and the Debtor is authorized to pay and honor, both prepetition and postpetition service and other fees, costs, charges, and expenses to which the Banks may be entitled under the terms of and in accordance with the Banks' contractual arrangements with Debtor (collectively, the "Service Charges");

9. The Banks are authorized to debit the Debtor's accounts in the ordinary course of business without need for further order of this Court for: (i) all checks, items, and other payment orders drawn on the Debtor's accounts that are cashed at such Bank's counters or exchanged for cashier's checks by the payees thereof prior to the Bank's receipt of notice of filing of the Petition; (ii) all checks, automated clearing house entries, and other items deposited or credited to one of the Debtor's accounts with such Bank prior to the Petition Date that have been dishonored, reversed, or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtor was responsible for such costs and fees prior to the Petition Date; and (iii) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Bank as Service Charges for the maintenance of the Cash Management System;

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10. As of the Petition Date, the Banks may rely on the representations of the Debtor with respect to whether any check, item, or other payment order drawn or issued by the Debtor prior to filing of the Petition should be honored pursuant to this or any other order of this Court, and such Bank shall not have any liability to any party for relying on such representations by the Debtor as provided for herein, and shall not be liable to any party on account of (i) following the Debtor's representations, instructions, directions, or presentations as to any order of the Court (without any duty of further inquiry), (ii) honoring of any prepetition checks, drafts, wires or ACH payments in a good faith belief or upon a representation by the Debtor that the Court has authorized such prepetition check, draft, wire or ACH payments or (iii) an innocent mistake made despite implementation of reasonable handling procedures;

11. Those certain existing deposit agreements between the Debtor and the Banks shall continue to govern the postpetition cash management relationship between the Debtor and the Banks, and all of the provisions of such agreements, including, without limitation, the termination and fee provisions, shall remain in full force and effect; either the Debtor or the Banks may, without further order of this Court, implement changes to the Debtor's Cash Management System in the ordinary course of business pursuant to the terms of those certain existing deposit agreements, including the opening and closing of bank accounts;

12. The relief, rights, and responsibilities provided for in this Order shall be deemed to apply to any and all Accounts maintained in the Debtor's name, including any new bank accounts, whether or not such Accounts are identified on **Exhibit "B"** to the Motion, and any Banks at which new accounts are opened shall be subject to the rights and obligations of this Order;

13. The Debtor is authorized to remit capitation revenue received with respect to the Riverside Clinics to or as directed by Neighborhood Healthcare;

14. Nothing contained in this Order, nor any payment made pursuant to the authority granted by this Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtor, (ii) a waiver of the Debtor's or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtor, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtor and any third party under section 365 of the Bankruptcy Code;

15. Nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party;

16. The Court shall hold a continued hearing on the Motion on October 20, 2022, at 3:00 p.m., which the Debtors shall provide notice thereof.

17. This Order is entered without prejudice to the United States Trustee to raise any issue with the Court regarding matters arising from or related to this Order, including any issue related to the Accounts.

18. The Debtor is authorized to take all action necessary to effectuate the relief granted in this Order; and

19. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

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EXHIBIT B

Description of Bank Accounts and Flow of Funds Schematic Chart

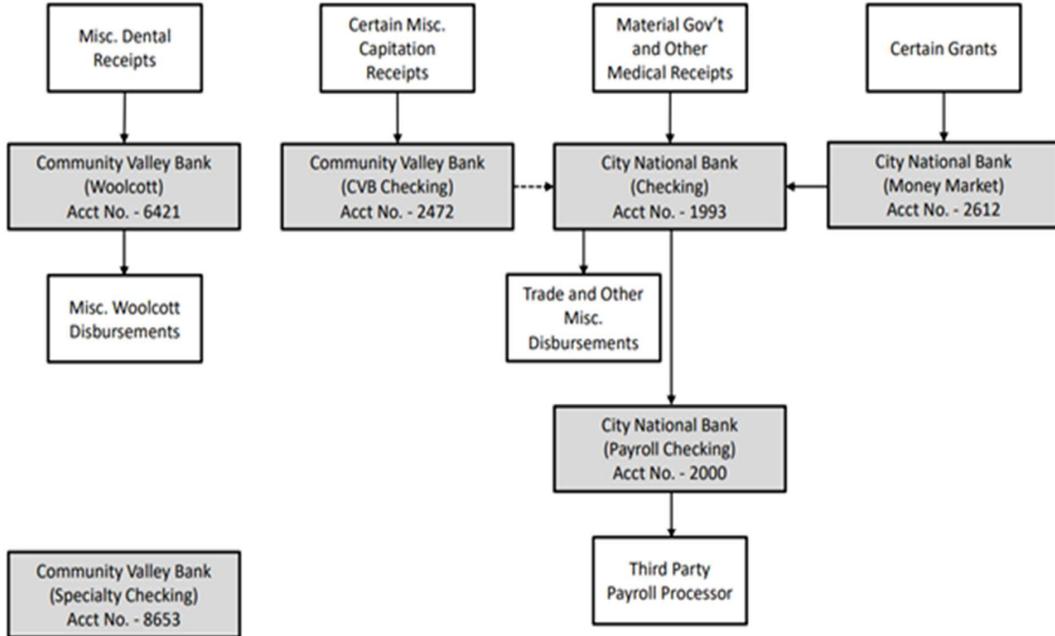
| | Bank | Type | Description | Account No. |
|---|-----------------------|------------------------|--|--------------------|
| 1 | City National Bank | Checking | Account Payable and Depository from Larger Payors | xxxx1993 |
| 2 | City National Bank | Payroll Checking | Payroll | xxxx2000 |
| 3 | City National Bank | Money Market | Deposits from Grants | xxxx2612 |
| 4 | Community Valley Bank | Checking | Smaller Deposits | xxx2472 |
| 5 | Community Valley Bank | Specialty Checking | Not Active in CY 2022 – balance around \$3,000 | xxxxxxx8653 |
| 6 | Community Valley Bank | Woolcott Dental Clinic | No material activity in CY 2022 (approximately \$70/Month of debits) | xxx6421 |
| 7 | Internal Petty Cash | Petty Cash | No material activity in CY 2022 (around \$300 of deposits and around \$1,800 of withdrawal). The total amount of all petty cash at all facilities is under \$15,000. | N/A |

DENTONS US LLP
 601 SOUTH FIGUEROA STREET, SUITE 2500
 LOS ANGELES, CALIFORNIA 90017-5704
 (213) 623-9300

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EXHIBIT B
Cash Flow Chart



Note: Account 2472 at Community Valley Bank rarely makes disbursements. In the event cash is required from this account, it could be transferred to City National Bank, account 1993.

Bank, account 1993.

DENTONS US LLP
601 SOUTH FIGUEROA STREET - SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

United States Bankruptcy Court
Southern District of California

In re:
BORREGO COMMUNITY HEALTH FOUNDATION,
Debtor

Case No. 22-02384-LT
Chapter 11

CERTIFICATE OF NOTICE

District/off: 0974-3
Date Rcvd: Sep 16, 2022

User: Admin.
Form ID: pdfO1

Page 1 of 1
Total Noticed: 1

The following symbols are used throughout this certificate:

| Symbol | Definition |
|--------|--|
| + | Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP. |

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Sep 18, 2022:

| Recip ID | Recipient Name and Address |
|----------|--|
| db | + BORREGO COMMUNITY HEALTH FOUNDATION,, 587 Palm Canyon Dr., Suite 208, Borrego Springs, CA 92004-4000 |

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Sep 18, 2022

Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on September 16, 2022 at the address(es) listed below:

| Name | Email Address |
|-----------------------|--|
| Bernard M. Hansen | on behalf of Creditor Premier Healthcare Management Inc. bernardmhansen@sbcglobal.net |
| David Ortiz | on behalf of United States Trustee United States Trustee david.a.ortiz@usdoj.gov USTP.REGION15@USDOJ.GOV;tiffany.l.carroll@usdoj.gov;abram.s.feuerstein@usdoj.gov |
| Tania M. Moyron | on behalf of Debtor BORREGO COMMUNITY HEALTH FOUNDATION tania.moyron@dentons.com, chris.omeara@dentons.com |
| United States Trustee | ustp.region15@usdoj.gov |

TOTAL: 4