

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

**FILED**

JUN 22 1998

IN RE:

QUALICARE, INC.,

Debtor.

)  
)  
) 97-16891 BH  
) Chapter 7

GRANT PRICE  
CLERK, U.S. BANKRUPTCY COURT  
WESTERN DISTRICT OF OKLAHOMA  
BY:                      DEPUTY

TRUSTEE APPLICATION/MOTION FOR ORDER TO  
ALLOW PAYMENT OF ONGOING RENT EXPENSE AND FOR  
REIMBURSEMENT OF JUNE 1998 RENT

COMES NOW, Lyle R. Nelson, duly appointed Trustee herein, and hereby requests that this Court issue its Order authorizing the Trustee to pay, as a month to month, ongoing expense, rent for the purposes of storing certain records of the Estate. In support of its request, the Trustee would state as follows:

1. The Debtor was primarily involved in the providing of home health care as authorized by Medicaid/Medicare regulations. The vast majority, though not all of the Debtors services were to be reimbursed by Medicaid/Medicare. The Debtor did perform some private insurance reimbursable services.

2. The Trustee has been inundated with investigatory subpoena's by the U.S. Attorney's office, the FBI, and requests have been orally made by the Department of Housing and Urban Development, the Oklahoma State Employment Commission, Palmetto Benefits Administrator, the Security and Exchange Commission, the U.S. Department of Labor and others to examine the records of this debtor. All of this was never anticipated by the Trustee when the case was filed.

3. To date, three (3) subpoena's have been served on the Trustee by the FBI. In complying with one subpoena to date, the Trustee has been required to incur, on behalf of the estate, additional costs not originally contemplated.

4. Specifically, the auditors for the estate HCBS, had, as part of the agreement negotiated by the Trustee, agreed to store the records, which are considerable.

80



5. After an FBI subpoena, and months of negotiation, including conversations with the Office of the United States Attorney and the Office of the United States Trustee, the records were moved to the Trustee's offices, with a corresponding increase in expense to the Estate in that the Estate has been required to lease space to store the hundreds of boxes of records, and for the FBI and others to review them. The original agreement with the FBI and Office of the U.S. Attorney was that the records could then be reviewed by the various agencies.

6. The Trustee has negotiated a month to month lease to store the records, terminable on 30 days notice. The records consist of approximately 374 boxes. The boxes are "bankers box" size, i.e., approximately 14 inches by 2 ½ feet.

7. The space had to be accessible where parties could open and review boxes. A min-storage type facility, not climate controlled would not suffice.

8. The monthly rent is \$183.38 per month, and the Trustee's counsel has already advanced this sum in order to comply with FBI demands. This Application also asks that the Estate be authorized to reimburse the Trustee's counsel the monthly rent advanced.

9. This Application seeks to allow the Estate to pay this monthly rent, effective June 1, 1998, and month to month thereafter, until the records are no longer needed.

10. In order to comply with the requests of the FBI, U.S. Attorney's office, Department of Housing and Urban Development, the Oklahoma Employment Security Commission, and U.S. Department of Labor, and others, the records need to be stored where all parties can review them.

11. Cost Applications for less than \$500.00 can be submitted to this Honorable Court upon Application. The monthly rent is less than that. The Trustee further asks that he be authorized to pay this sum, on an ongoing basis, without further order of the Court. The alternative requires that the Trustee file an application and order with the court, and serve that application and order, every month. The point is, the expenses of filing an Application and Order, and serving that Order on the creditors each month will cost 4 to 5 times what the monthly rent is. The cost to the estate is

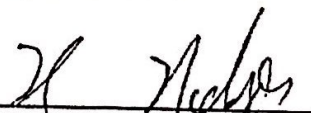


considerable, when this is a reasonable, ongoing monthly expense. It would be more cost effective for the estate, and hence would benefit the unsecured creditors, if the Trustee could simply pay this rent expense month by month.

12. In order to allow any parties in interest the opportunity to respond, the Trustee has requested, and included a provision in the proposed Order which allows any party in interest the opportunity to object to the payment of the rent, if such objection is filed within 10 days of the date the order is received. The Trustee believes that this adequately protects the interests of creditors in that again, the monthly amount is less than is required for a notice and hearing.

WHEREFORE, premises considered, the Trustee respectfully requests that this Court issue its Order allowing the Trustee to pay monthly rent in the sum of \$183.38 per month; to reimburse counsel for the Trustee for the June 1, 1998 rent in the sum of \$183.38 and to allow the Trustee to pay such sum, on a monthly basis as an ongoing expense of the estate, without further notice or order, and all subject to a ten day objection/response period on such order.

Respectfully submitted,

  
\_\_\_\_\_  
Lyle R. Nelson, OBA#10914  
Lyle R. Nelson, P.C.  
2100 City Place  
204 N. Robinson  
Oklahoma City, OK 73102  
(405) 232-4021

ATTORNEY FOR TRUSTEE

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this document was mailed to counsel for Debtor, the Debtor, and all parties who have entered an appearance herein as reflected on the attached matrix on June 23, 1998, by regular mail, postage prepaid.



JON W. LAASCH  
JACOBSON & LAASCH  
212 E. SECOND  
EDMOND, OK 73034

KEVIN BLANEY, ESQ.  
204 NORTH ROBINSON  
1200 CITY PLACE  
OKLAHOMA CITY, OK 73102

American Medical Disposal, Inc.  
DON J. TIMBERLAKE  
BAER & TIMBERLAKE, P.C.  
5901 N. WESTERN, SUITE 300  
OKLAHOMA CITY, OK 73118

OK BUSINESS INSURERS, L.L.C.  
ROBERT S. ABERNATHY  
3555 N.W. 58<sup>TH</sup> ST., SUITE 510  
OKLAHOMA CITY, OK 73112

NEC AMERICA, INC.  
MELVIN R. MCVAY, JR.  
12<sup>th</sup> floor, One Leadership Square  
211 NORTH ROBINSON  
OKLAHOMA CITY, OK 73102

STEVEN LEWIS, ESQ.  
SUITE 1500, 50 PENN PLACE  
OKLAHOMA CITY, OK 73118

ROBERT G. SHOEMAKER, ESQ.  
P.O. BOX 2013  
EDMOND, OK 73083-2013

V. BURNS HARGIS, ESQ.  
MCAFEE & TAFT  
10<sup>TH</sup> Floor, Two Leadership Square  
211 NORTH ROBINSON  
OKLA. CITY, OK 73102-7103

EDWARD GOLDMAN, ESQ.  
GOLDMAN & GOLDMAN  
416 N.W. 23<sup>RD</sup> ST.  
OKLAHOMA CITY, OK 73103

MR. HERBERT M. GRAVES  
U.S. TRUSTEE'S OFFICE  
4<sup>TH</sup> FLOOR  
215 DEAN A. MCGEE AVE.  
OKLAHOMA CITY, OK 73102

GRETCHEN CRAWFORD  
ASSISTANT D.A.  
320 ROBERT S. KERR, ROOM 307  
OKC, OK 73102

AMERICAN EXPRESS  
BECKET & LEE  
WENDELL LIVINGSTON  
P.O. BOX 3001 DEPT AC  
MALVERN, PA 19355-0701

INTERNAL REVENUE SERVICE  
PO BOX 149047  
AUSTIN, TX 78714

STATE OF OKLAHOMA  
OKLA EMPL SECURIT COMM  
WILL ROGERS MEMORIAL BLVD.  
OKLAHOMA CITY, OK 73152

\*\*\* Chris Kluding left off  
mailing matrix, despite  
NOA (Document 71)