

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

In re:

AMSTERDAM HOUSE CONTINUING CARE
RETIREMENT COMMUNITY, INC.,¹

Debtor.

Chapter 11

Case No. 21-71095 (AST)

**ORDER AUTHORIZING DEBTOR TO
CONTINUE ESCROWING AND REFUNDING
RESIDENT ENTRANCE FEES IN THE ORDINARY COURSE OF BUSINESS**

Upon the emergency motion (the “Motion”)² of the debtor in the above-captioned chapter 11 case (the “Debtor”) for entry of an order (this “Order”), pursuant to sections 105(a), 363, 1107 and 1108 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, (i) authorizing the Debtor to (a) escrow entrance fees paid by residents who move into the Debtor’s facility after the Petition Date in the Debtor’s prepetition escrow account during the pendency of this chapter 11 case and (b) refund such entrance fees under certain circumstances during this chapter 11 case and (ii) granting related relief; and upon consideration of the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the standing order with respect to referral of bankruptcy cases from the United States District Court for the Eastern District of New York dated December 5, 2012; and this matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and this Court being able to issue a final order consistent with Article III of the United States Constitution; and venue of this proceeding and the Motion in this district being

¹ The last four digits of the Debtor’s federal tax identification number are 1764. The Debtor’s mailing address is 300 East Overlook, Port Washington, New York 11050.

² All capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.



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proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors, and other parties in interest; and this Court having found that the Debtor's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court; and all objections, if any, to the Motion having been withdrawn, resolved or overruled; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED**:

1. The relief requested in the Motion is GRANTED on the basis as set forth herein.
2. All payments made pursuant to this Order may be funded with Cash Collateral (as defined in the Cash Collateral Order) in which the 2014 Bond Trustee has an interest, and shall be subject to any interim or final order entered by the Court governing the Debtor's right to use the Trustee's cash collateral (as such order or orders may be amended, modified or supplemented, the "Cash Collateral Order").
3. The Debtor is authorized to escrow all New Entrance Fees in the New Escrow Account at Amalgamated Bank pursuant to the terms of the New Escrow Agreement, subject to the terms of the Cash Collateral Order.
4. Upon the occurrence of a New Entrance Fees Release Date, the Escrow Agent is authorized, without further order of this Court, to release the funds in the New Escrow Account in accordance with the terms of the New Escrow Agreement and New Residency Agreements without further order of this Court.

5. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed as (a) an admission as to the validity or priority of any claim or lien against the Debtor, (b) a waiver of the Debtor's right to subsequently dispute such claim or lien on any grounds, (c) a promise or requirement to pay any prepetition claim, (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or this Order, (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code, or (f) a waiver of the Debtor's or any other party in interest's rights under the Bankruptcy Code or any other applicable law.

6. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b) because the relief granted in this Order is necessary to avoid immediate and irreparable harm to the Debtor's estates.

7. Notice of the Motion shall be deemed good and sufficient notice of such Motion, and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice or waived.

8. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

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

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

Dated: June 17, 2021
Central Islip, New York





Alan S. Trust
Chief United States Bankruptcy Judge