



ORDERED in the Southern District of Florida on December 11, 2020.

Peter D. Russin

Peter D. Russin, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
www.flsb.uscourts.gov

In re:

TAMARAC 10200, LLC and
UNIPHARMA, LLC,

Case No. 20-bk-23346-PDR
Case No. 20-bk-23348-PDR

Debtors¹.

Chapter 11 Cases
(Jointly Administered)

INTERIM ORDER (A) AUTHORIZING THE DEBTORS (I) TO MAINTAIN BANK ACCOUNTS AND TO CONTINUE TO USE EXISTING BUSINESS FORMS AND CHECKS, (II) TO CONTINUE TO USE EXISTING CASH MANAGEMENT SYSTEM; AND (B) WAIVING CERTAIN INVESTMENT AND DEPOSIT GUIDELINES

THIS MATTER came before the Court for a hearing on December 9, 2020 at 1:30 p.m. in Fort Lauderdale, Florida, upon the motion [ECF No. 17] (the "Motion") filed by the above-captioned debtors-in-possession (the "Debtors") for authority to maintain their existing Bank

¹ The last four digits of each Debtor's federal tax identification number are Tamarac 10200, LLC (2050) and Unipharma, LLC (8962). The address of the Debtors is 10200 N.W. 67th Street, Tamarac, FL 33321.



Accounts² and to continue to use their existing Business Forms, checks and Cash Management System pursuant to sections 105(a), 363(c) and 345(b) of the Bankruptcy Code; and for a waiver of certain investment and deposit guidelines under section 345 of the Bankruptcy Code and the United States Trustee's Guidelines; the Court having reviewed the Motion and having heard the statements of counsel in support of the relief requested in the Motion at the hearing before the Court (the "Hearing"); the Court finding that: (i) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), and that this Court may enter a final order consistent with Article III of the Constitution; (iii) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; (iv) the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest; (v) notice of the Motion and the hearing were appropriate under the circumstances and no other notice need be provided; and (vi) upon review of the record before the Court, including the legal and factual bases set forth in the Motion and the First Day Declaration and the statements made by counsel at the hearing, good and sufficient cause exists to grant the relief requested. Accordingly, it is

ORDERED THAT:

1. The Motion is **GRANTED**, on an interim basis, effective as of the Petition Date.
2. The Debtors are authorized to maintain and use their existing Cash Management System, as more fully set forth in the Motion. In connection with the ongoing utilization of the Cash Management System, the Debtors shall continue to maintain strict records with respect to all transfers of cash so that all transactions (including intercompany transactions) may be readily

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

ascertained, traced, recorded properly and distinguished between pre-petition and post-petition transactions.

3. The Debtors are authorized to maintain and use their existing Bank Accounts which are identified on the schedule attached as Exhibit “A” to the Motion (the “Bank Accounts”) in the names and with the account numbers existing immediately prior to the Petition Date.

4. For purposes of this Interim Order, the requirements in the United States Trustee Guidelines (the “Guidelines”) that the Debtors (i) close all existing Bank Accounts and open new debtor in possession (“DIP”) bank accounts in certain financial institutions designated as authorized depositories by the U.S. Trustee, (ii) establish one DIP account for all estate monies required for the payment of taxes (including payroll taxes), (iii) maintain a separate DIP account for cash collateral, (iv) obtain checks for all DIP accounts that bear the designation, “debtor-in-possession,” the bankruptcy case number, and the type of account, and (v) close their books and records as of the Petition Date and to open new books and records, are all excused pending a final hearing. The Debtors shall continue, pending such final hearing, to work with the Office of the United States Trustee for the Southern District of Florida to address the issues set forth herein, and otherwise comply with the Guidelines.

5. The Debtors shall retain the authority to close certain of their Bank Accounts and open new debtor-in-possession accounts, or otherwise make changes to their Cash Management System as they deem necessary to facilitate their chapter 11 cases and operations, or as may be necessary to comply with the requirements of any debtor-in-possession financing facility or cash collateral usage approved by this Court. In the event that the Debtors open or close any additional bank accounts, such opening or closing shall be timely indicated on the Debtors’

monthly operating reports and/or notice of such opening or closing shall otherwise be timely provided to the Office of the United States Trustee for the Southern District of Florida and the DIP Lender, as defined in the DIP Financing Order (as defined below). Any new bank accounts opened by the Debtors shall comply with the U.S. Trustee Guidelines.

6. The Debtors are authorized to deposit funds in and withdraw funds from their Bank Accounts by all usual means including, but not limited to, checks, wire transfers, automated clearinghouse transfers, electronic funds transfers and other debits and to treat the Bank Accounts for all purposes as debtor-in-possession accounts. All such transactions shall be reported in the applicable Debtors' monthly operating reports filed with the Court.

7. The Debtors are authorized to continue to use their preprinted checks, correspondence and Business Forms, including, but not limited to, purchase orders, letterhead, envelopes, promotional materials and other business forms, substantially in the forms existing immediately prior to the Petition Date, without reference to the Debtors' debtor-in-possession status; provided that the Debtors will add the "Debtor-in-Possession" designation to any new checks that they obtain or create post-petition.

8. The bank listed on **Exhibits "A"** to the Motion, and any and all other financial institutions receiving or transferring funds from or to the Debtors, are authorized and directed to cooperate with respect to the Debtors' efforts to maintain and use their Cash Management System and accounts.

9. Those certain existing deposit agreements between the Debtors and their existing depository and disbursement banks (including any deposit account control agreements) shall continue to govern the postpetition cash management relationship between the Debtors and such banks, and all of the provisions of such agreements.

10. The Debtors may, without further order of this Court, implement changes to the cash management systems and procedures in the ordinary course of business pursuant to terms of those certain existing deposit agreements, including, without limitation, the opening and closing of bank accounts, subject to the notice provisions of paragraph 5 of this Order.

11. In the course of providing cash management services to the Debtors, each of the banks that maintain the Bank Accounts is authorized, without further order of this Court, to deduct the applicable fees and expenses consistent with the charges and practices that existed prepetition and associated with the nature of the deposit and cash management services rendered to the Debtors, whether arising prepetition or postpetition, from the appropriate accounts of the Debtors, and further, to charge-back to the appropriate accounts of the Debtors any amounts resulting from returned checks or other returned items, including returned items that result from wire transfers, ACH transactions, or other electronic transfers of any kind, regardless of whether such items were deposited or transferred prepetition or postpetition and regardless of whether the returned items relate to prepetition or post-petition items or transfers. Except as explicitly provided herein or in orders of the Court governing or authorizing the Debtors' use of the Senior Secured Lender's cash collateral, subject to Section 553 of the Bankruptcy Code, the bank that maintains the Bank Accounts, and any and all other financial institutions receiving or transferring funds from or to the Debtors, are prohibited from offsetting, affecting, freezing or otherwise impeding the Debtors' use of any funds in the Bank Accounts on account of, or by reason of, any claim (as defined in section 101(5) of the Bankruptcy Code) of any such bank against the Debtors that arose before the Petition Date.

12. Each of the banks that maintain the Bank Accounts are authorized to debit the Debtors' accounts in the ordinary course and consistent with prepetition practices, and without

further order of this Court on account of (i) all checks drawn on the Debtors' accounts which are cashed at such bank's counters or exchanged for cashier's checks by the payees thereof prior to the Petition Date; (ii) all checks or other items deposited in one of Debtors' accounts with such bank prior to the Petition Date which have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtors were responsible for such items prior to the Petition Date; (iii) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any such bank as service charges for the maintenance of the cash management system; and (iv) all reversals, returns, refunds, and chargebacks of checks, deposited items, and other debits credited to Debtors' accounts after the Petition Date, regardless of the reason such item is returned or reversed (including, without limitation, for insufficient funds or a consumer's statutory right to reverse a charge).

13. The Debtors may, and do, authorize each bank, in their respective capacities as cash management service providers, consistent with prepetition practices, without the need for further order of this Court, to hold or otherwise set aside an amount of funds reasonably necessary to cover outstanding items and potential reversals, returns, refunds, or chargebacks of checks, deposited items, and other debits credited to Debtors' accounts and any fees and costs in connection therewith, and such bank may debit or setoff against such funds for any outstanding cash management liabilities owing to it in accordance with the existing deposit agreements and other cash management agreements between any Debtor and such bank, as applicable. All payments to such bank are authorized pursuant to this Paragraph 13 and all bank fees shall be accorded administrative expense status pursuant to section 503(b) of the Bankruptcy Code.

14. Any bank may rely upon the representations of the Debtors with respect to whether any check, draft, wire, or other transfer drawn or issued by the Debtors prior to the

Petition Date should be honored pursuant to any order of this Court, and such bank shall not have any liability to any party for relying on such representations by the Debtors as provided for herein, and no bank that honors a prepetition check or other item drawn on any account that is the subject of this Order (a) at the direction of the Debtors, (b) in a good faith belief that this Court has authorized such prepetition check or item to be honored, or (c) as a result of an innocent mistake made despite implementation of customary item handling procedures, shall be deemed to be nor shall be liable to the Debtors, their estates, or any other party on account of such prepetition check or other item being honored postpetition, or otherwise deemed to be in violation of this Order.

15. For purposes of this Interim Order, the Debtors are authorized to deposit funds in accordance with their established deposit practices in effect as of the commencement of these chapter 11 cases and, to the extent that such deposit practices are not consistent with the requirements of section 345(b) of the Bankruptcy Code or the Guidelines for chapter 11 cases, such requirements are waived, on an interim basis, until the final hearing, without prejudice to the Debtors' right to seek a further waiver.

16. Notwithstanding the relief granted in this Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any interim or final order entered by the Court approving the Debtors' entry into any post-petition debtor in possession financing facility (the "DIP Financing Order"). To the extent that there is any inconsistency between the terms of this Order and the DIP Financing Order, the terms of the DIP Financing Order shall control.

17. The Court shall conduct a final hearing (the "Final Hearing") on the Application on **December 30, 2020 at 10:00 a.m. by VIDEO CONFERENCE.**

18. ****IMPORTANT**** The hearing scheduled by this Order will take place only by video conference. **DO NOT GO TO THE COURTHOUSE.** Attorneys must advise their clients not to appear at the courthouse. To participate in the hearing by video conference please refer to the instructions under the name of the presiding Judge on the Court's web site, www.flsb.uscourts.gov.

19. To register for the video conference, manually enter the following registration link in a browser:

<https://www.zoomgov.com/meeting/register/vJlIf-ipqT8vGjIMEYtsbL8NoEGB2qO0Mnk>

20. **PLEASE NOTE:** No person may record the proceedings from any location by any means. The audio recording maintained by the Court will be the sole basis for creation of a transcript that constitutes the official record of the hearing. Although conducted using video conferencing technology, the hearing is a court proceeding. The formalities of the courtroom must be observed. All participants must dress appropriately, exercise civility, and otherwise conduct themselves in a manner consistent with the dignity of the Court.

21. The Court retains jurisdiction to hear and determine all matters arising from or relating to the interpretation or implementation of this Order.

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Submitted by:

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(Christopher Andrew Jarvinen, Esq. is directed to serve a copy of this order on interested parties and file with the Court a certificate of service.)