

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

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| <p>In re:</p> <p>TEHUM CARE SERVICES, INC.¹</p> <p>Debtor.</p> | <p>Chapter 11</p> <p>Case No. 23-90086 (CML)</p> |
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PAUL AL-AMIN AND SERINA RIDES’ JOINDER IN THE OBJECTIONS OF THE UNITED STATES TRUSTEE AND ARIZONA DEPARTMENT OF CORRECTIONS TO THE DISCLOSURE STATEMENT REGARDING DEBTOR AND OFFICIAL COMMITTEE OF UNSECURED CREDITORS’ JOINT CHAPTER 11 PLAN

This Joinder is filed by Paul Al-Amin (“Al-Amin”), in his individual capacity and also on behalf of the statutory beneficiaries of Elijah Al-Amin (deceased), including Serina Rides, natural mother of Elijah Al-Amin (“Rides” and jointly with Al-Amin, the “Al-Amins”), to the *Joint Emergency Motion For Entry Of An Order (I) Conditionally Approving The Adequacy Of The Disclosure Statement, (II) Approving The Solicitation And Notice Procedures With Respect To Confirmation Of The Joint Chapter 11 Plan, (III) Approving The Forms Of Ballots And Notices In Connection Therewith, (IV) Scheduling Certain Dates With Respect Thereto, And (V) Granting Related Relief* (the “UST Objection”) [Dkt. No. 1022] filed by the Office of the United States Trustee (the “UST”) and the *Arizona Department Of Corrections, Rehabilitation, And Reentry’s Limited Objection To Debtor’s Disclosure Statement* (the “AZDOC Objection”) [Dkt. No. 1024], and in further opposition to the *Motion For Entry Of An Order (I) Conditionally Approving The Adequacy Of The Disclosure Statement, (II) Approving The*

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.



Solicitation And Notice Procedures With Respect To Confirmation Of The Joint Chapter 11 Plan, (III) Approving The Forms Of Ballots And Notices In Connection Therewith, (IV) Scheduling Certain Dates With Respect Thereto, And (V) Granting Related Relief (the “Emergency Motion”) [Dkt. No. 986] and the *Disclosure Statement Regarding Debtor And Official Committee Of Unsecured Creditors’ Joint Chapter 11 Plan* (the “Disclosure Statement”) [Docket No. 984] filed in the above-captioned Chapter 11 bankruptcy case (the “Bankruptcy Case”) of the Debtor Tehum Care Services, Inc. (the “Debtor” and “Tehum”).

The Al-Amins hereby join in the objections filed by the UST, AZDOC, and other objectors, to the Disclosure Statement and Emergency Motion on the grounds that, among other things, the Disclosure Statement lacks information in sufficient detail for creditors to make an informed decision regarding the Plan unless the Debtor and Committee provide the information requested and detailed in each of the Objections and detailed below in this Joinder, and also on the grounds that the Plan is patently unconfirmable.

The Al-Amins hold a more than \$8 million dollar personal injury wrongful death claim against the Debtor’s bankruptcy estate relating to the prepetition death of their son, Elijah. The Al-Amins have confirmed that two medical malpractice liability insurance policies cover their claim, the first is an Arizona Lone Star insurance policy in which the Debtor is an insured, and the second is an excess insurance policy from Coverys in which the Debtor is also an insured.

While the Debtor and Committee have previously provided the Al-Amins with general information regarding their claim as it relates to coverage under the Lone Star and Coverys insurance policies, the Al-Amins have repeatedly requested² and never

² The Al-Amins have requested information informally via email and calls with counsel for the Committee and the Debtor and also pursuant to the *Paul Al-Amin And Serina Rides’ Statement Of Position And Limited Objection Regarding Debtor’s Motion*

received the following additional information, which is necessary under the Disclosure Statement standard under 11 U.S.C. § 1125(a):

1. The identity of the various Arizona Lone Star and Coverys insurance policies by policy period and policy number, the face amount of the insurance policies by policy period, the remaining policy limits under each of the policies by policy period, the status of SIR under each of the insurance policies, the identity of claimants under each of the insurance policies by policy period, and the value and face amount of the claims alleged against each policy by policy period.
2. Whether under the proposed Trust Distribution Plan attached to the Personal Injury Trust Agreement, all mediation settlement amounts reached under the Arizona Lone Star and/or Coverys insurance policies will be pooled (regardless of applicable policy and policy period) into a single trust for *pro rata* distribution to *all* claimants holding claims covered under Arizona Lone Star and Coverys insurance policies or whether the settlement proceeds will be preserved for *pro rata* distribution only among those claimants holding allowed claims as to those particular policies and policy periods.
3. How excess insurance policy limits (for example, under the Coverys excess insurance policy) will be preserved for claimants in light of the proposed multi-step mediation process which may only involve certain and not all insurance carriers (like Coverys) who may be invited by the Personal Injury Trustee to participate at mediation (and may decline) and whether and how claimants may share in those excess policy proceeds covering their claim.
4. As to the Arizona Lone Star policies, the claims resolution procedures under the 9019(b) Motion and 9019(b) Order contemplate that any settlement amounts agreed to at mediation between Lone Star and a personal injury claimant will be paid by Lone Star directly to the personal injury claimant, and will not be pooled and deposited into a trust for *pro rata* distribution. The claims resolution procedure under the Plan and Personal Injury Trust, however, contradicts the Rule 9019(b) Motion and 9019(b) Order mediation procedure and instead state that any insurance proceeds reached at mediation must be deposited into an insurance subtrust for *pro rata* distribution among claimants. The Plan states that to the extent the Confirmation Order approving the 9019(b) Order contradict the

Pursuant To 11 U.S.C. §§ 105(A) & 502 And Bankruptcy Rules 3007 & 9019(b) For Entry Of An Order Establishing Procedures For Resolution Of A Certain Class Of Claims With Rights Under Certain Arizona Insurance Policies Issued By Lone Star Alliance [Dkt. No. 802] filed by the Al-Amins at Dkt. No. 916.

Personal Injury Trust Agreement [FN 6 of the Disclosure Statement], the Confirmation Order and 9019(b) Order shall take precedence. The Disclosure Statement, however, must address this discrepancy and conflict between the procedures as it will materially impact the rights of Personal Injury Claimants and the “pool” of available assets being used to pay Personal Injury Claimants.

5. Additionally, and even more importantly, the Disclosure Statement fails to explain the basis for the Debtor’s claimed right to pool mediation proceeds from the insurance carriers or to otherwise assert a direct claim and right to the proceeds of the insurance policies. The Trust Distribution Plan attached as Exhibit 2 to the Disclosure Statement provides that the Personal Injury Trust shall receive the following assets from the Debtor’s Estate...(C) All right, title and interest of the Debtor in and to all personal injury, medical malpractice or other related insurance policies.” See Trust Distribution Plan at § I. The Trust Distribution Plan goes on to mandate that the agreed amount of any proceeds reached between Lone Star and a Personal Injury Claimant must be deposited into subtrusts for pooling and *pro rata* distribution among Personal Injury Claimants. The Disclosure Statement, however, provides no information as to what legal basis the Debtor’s Estate is asserting any direct rights, title, or interests, in the proceeds of the Arizona Lone Star and/or Coverys insurance policies or the mediation settlement sums. While the insurance policies in which the Debtor is an insured may be property of the Debtor’s Estate, the *proceeds* of these policies are not. The Debtor has made no showing as to how these insurance policy proceeds are the property of its Estate.
6. Whether any administration fees or costs will be paid from any insurance policy settlement proceeds deposited in any of the subtrusts.

The foregoing information, as well as all of the information requested in the AZDOC and UST Objections, is necessary to make an informed decision regarding the Plan, and namely to understand what is in the “pool” of available assets being used to pay Personal Injury Claims, like the claim of the Al-Amins, under the Plan and from what source. For these reasons and all the reasons set forth in the AZDOC and UST Objections, the Al-Amins respectfully submit that the Disclosure Statement is inadequate and cannot be approved unless and until it is supplemented with these additional disclosures and the Debtor and Committee resolve the Plan’s confirmation defects.

RESERVATION OF RIGHTS

Please take further notice that neither this Joinder, any prior or subsequent appearance (by pleading or otherwise), nor any participation in or in connection with this case is intended to waive the Al-Amins' (i) right to have final orders in non-core matters entered only after *de novo* review by a District Court Judge, (ii) the right to trial by jury in any case, controversy, or proceeding, including without limitation its personal injury and wrongful death claims against the Debtor's estate, (iii) the right to have the reference withdrawn by the District Court in any matter subject to mandatory or discretionary withdrawal, and (iv) any other rights, claims, actions, defenses, setoffs or recoupments to which the Al-Amins are, or may be entitled, under agreements, in law or in equity, are expressly reserved.

The Al-Amins also hereby reserve all of their rights to object to confirmation of the Plan under the Bankruptcy Code and approval of the 9019(b) Motion.

RESPECTFULLY SUBMITTED this 16th day of October, 2023.

THE BURGESS LAW GROUP

By: /s/ Janel M. Glynn

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Counsel for Paul Al-Amin and Serina Rides

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 16th day of October, 2023, a true and correct copy of the above was served via the Court's ECF electronic system in compliance with the Texas Federal Rules of Bankruptcy Procedure on all parties listed to receive notice

/s/ Janel M. Glynn

Janel M. Glynn