



ORDERED in the Southern District of Florida on December 26, 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,

Debtors¹.

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

Chapter 11 Cases
(Joint Administration Pending)

INTERIM ORDER GRANTING DEBTORS' EXPEDITED MOTION FOR INTERIM AND FINAL ORDERS DETERMINING ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES AND SETTING FINAL HEARING

THIS MATTER having come before the Court for a hearing on December 21, 2020 at 1:30 p.m. in Fort Lauderdale, Florida upon the *Debtors' Expedited Motion for Interim and Final Orders Determining Adequate Assurance of Payment for Future Utility Services* [ECF No. 75] (the "Motion")² filed by the above-captioned debtors and debtors-in-possession (collectively, the "Debtors"). The Court, having considered the Motion, finding that: (a) the Court has jurisdiction

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.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.
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over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (b) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; (c) this matter is core pursuant to 28 U.S.C. § 157(b)(2), and that this Court may enter a final order consistent with Article III of the Constitution; (d) notice of the Motion and the hearing thereon was sufficient under the circumstances; and (e) the Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish just cause for the relief granted herein, it is

ORDERED that:

1. The Motion is **GRANTED**, on an interim basis.
2. The Debtors are hereby authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion, including setting up a segregated bank account at an approved depository and deposited the Proposed Adequate Assurance.
3. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry and the Debtors' offer of adequate assurance is deemed satisfactory for this Interim Order.
4. The Utility Providers are forbidden to discontinue, alter or refuse service on account of any unpaid prepetition charges, or require additional adequate assurance of payment other than the Proposed Adequate Assurance pending entry of the Final Order.
5. Any Utility Provider who accepts an Adequate Assurance Deposit shall be deemed to have stipulated that the Adequate Assurance Deposit constitutes adequate assurance of future payment to such Utility Provider, and such Utility Provider shall be deemed to have waived any right to seek additional adequate assurance during the course of these chapter 11 cases.

6. Any Utility Provider desiring a deposit in an amount greater than the Adequate Assurance Deposit must request such assurance pursuant to the following procedures (the “Adequate Assurance Procedures”):

- a. Absent compliance with the Adequate Assurance Procedures, the Utility Providers are forbidden to discontinue, alter or refuse service on account of any unpaid prepetition charges, or require additional adequate assurance of payment other than the Proposed Adequate Assurance pending entry of the Final Order.
- b. Any Utility Provider desiring an Adequate Assurance Deposit must serve a request (an “Adequate Assurance Request”) so that it is received by the Debtors and their bankruptcy counsel at the following addresses by January 5, 2021: (i) Debtors c/o Tamarac 10200, LLC and Unipharm, LLC, 10200 N.W. 67th Street, Tamarac, FL 33321 (Attn: Waite Popejoy, wpopejoy@soliccapi.com); (ii) Debtors’ Chief Restructuring Officer, Neil F. Luria of SOLIC Capital Advisors, LLC, 25 West New England Avenue, Ste. 300, Winter Park, FL 32789, nluria@soliccapi.com; (iii) attorneys for the Debtors, Berger Singerman LLP, 1450 Brickell Avenue, Suite 1900, Miami, Florida 33131 (Attn: Christopher Andrew Jarvinen, Esq., cjarvinen@bergersingerman.com, and Paul A. Avron, Esq., pavron@bergersingerman.com).
- c. Any Adequate Assurance Request must: (i) be made in writing; (ii) set forth the location for which utility services are provided; (iii) include a summary of the Debtors’ payment history relevant to the affected account(s), including any security deposit; and (iv) set forth why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment; and (v) include a proposal for what would constitute adequate assurance of future payment from the Debtors, along with an explanation of why such proposal is reasonable. Any Adequate Assurance Request that fails to meet these requirements shall be deemed an invalid request for adequate assurance.
- d. Upon the Debtors’ receipt of any Adequate Assurance Request at the addresses set forth above, the Debtors shall have until thirty (30) days from the receipt of such Adequate Assurance Request or such other date as the parties mutual agreement (the “Resolution Period”) to negotiate with such Utility Provider to resolve such Utility Provider’s request for additional assurance of payment and advise the Utility Provider that the Adequate Assurance Request is acceptable.
- e. If the Debtors determine, in their discretion, that an Adequate Assurance Request or any consensual agreement reached in connection therewith is reasonable, the Debtors, without further order of the Court and subject to reasonable notice to the DIP Lender, as defined in the DIP Financing

Order (as defined below), may enter into agreements granting additional adequate assurance to the Utility Provider serving such Adequate Assurance Request and, in connection with such agreements, provide the Utility Provider with additional adequate assurance of payment, including payments on prepetition amounts owing, cash deposits, prepayments, or other forms of security, and to the extent authorized pursuant to any orders authorizing postpetition financing and the use of cash collateral and the applicable budget thereunder.

- f. If the Debtors determine that the Adequate Assurance Request is not reasonable and is not able to reach an alternative resolution with the Utility Provider during the Resolution Period, the Debtors, during or immediately after the Resolution Period, will request a hearing before this Court to determine the adequacy of assurances of payment with respect to a particular Utility Provider (the “Determination Hearing”) pursuant to section 366(c)(3) of the Bankruptcy Code.

7. The Debtors are authorized to add or remove any Utility Provider from the Utility Service List. To the extent that the Debtors identify additional Utility Providers, the Debtors shall file amendments to the Utility Service List, and shall serve copies of this Interim Order, including the Adequate Assurance Procedures, and any final order (when and if entered) on such newly-identified Utility Providers. Any Utility Provider subsequently added to the Utility Service List shall be bound by this Interim Order and the Adequate Assurance Procedures.

8. In accordance with this Interim Order and any other Order of this Court, each of the financial institutions at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion is directed to receive, process, honor, and pay all such checks presented for payment of the obligations described in the Motion and fund all requests made by the Debtors related thereto to the extent that sufficient funds are on deposit in such amounts.

9. The Debtors’ service of the Motion and this Interim Order upon the Utility Services List shall not constitute an admission or concession that each such entity is a “utility” within the meaning of Bankruptcy Code section 366, and the Debtors reserve all rights and defenses with respect thereto.

10. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in the Motion or this Interim Order or any payment made pursuant to this Interim Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors' rights to subsequently dispute such claim or lien, or the assumption or adoption of any agreement, contract, or lease under Bankruptcy Code section 365.

11. 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.

12. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

13. Notice of the Motion satisfies the requirements of Bankruptcy Rule 6004(a).

14. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

15. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

16. 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.**

17. ****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.flsc.uscourts.gov.

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

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

19. **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.

20. 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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(Paul A. Avron, Esq. is directed to serve a copy of this order on interested parties and file with the Court a certificate of service.)