

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

**IN RE:** § **Chapter 11**  
§  
**TEHUM CARE SERVICES, INC.,<sup>1</sup>** § **Case No. 23-90086 (CML)**  
§  
**DEBTOR** §

**RESPONSE OF THE UNITED STATES TRUSTEE TO THE MOTION  
OF THE OFFICIAL COMMITTEE OF TORT CLAIMANTS FOR STRUCTURED  
DISMISSAL OF CHAPTER 11 CASE**

TO THE HONORABLE CHRISTOPHER M. LOPEZ  
UNITED STATES BANKRUPTCY JUDGE:

Kevin M. Epstein, the United States Trustee for the Southern District of Texas (the “U.S. Trustee”) responds to the motion for structured dismissal of this chapter 11 case (the “Motion”) (Docket No. 1260) filed by the Official Committee of Tort Claimants (the “TCC”), and represents as follows:

1. More than one year after filing its chapter 11 bankruptcy case, the Debtor has been unable to propose a confirmable plan. On September 29, 2023, the Debtor and the Official Committee of Unsecured Creditors (the “UCC”) filed a Disclosure Statement (Docket No. 984) and a Joint Chapter 11 Plan (Docket No. 985) and requested the Court conditionally approve the Disclosure Statement on an emergency basis. (*See* Docket No. 986). The U.S. Trustee filed an objection to the Disclosure Statement on various grounds, including that the plan described in the Disclosure Statement was patently unconfirmable due to gatekeeper and injunction provisions, the

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<sup>1</sup> 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.

coercive opt out for the third-party releases, and disparate treatment of similarly situated creditors. (See Docket No. 1022). On October 17, 2023, the Debtor and the UCC filed a First Amended Disclosure Statement and First Amended Plan. (See Dockets No. 1042 and 1043).

2. After failing to obtain conditional approval of the Disclosure Statement, the Debtor and the UCC pivoted to a second mediation with various parties to reach a global settlement of estate causes of actions. (See Docket No. 1151). The Debtor and UCC reached a settlement (the “Settlement Agreement”), which they characterized as a “global” settlement notwithstanding the opposition by the TCC, and on January 16, 2024, filed a joint motion for entry of an Order authorizing and approving the Settlement. (See Docket No. 1259).

3. The U.S. Trustee has objected to the Settlement Agreement (See Docket No. 1380). The Settlement Agreement is an impermissible *sub rosa* plan that contains provisions that render any proposed chapter 11 plan patently unconfirmable. Considering that after a year of spending considerable resources in this chapter 11 case, the Debtor is still unable to propose a confirmable plan, the U.S. Trustee supports dismissal of the case for cause under 11 U.S.C. § 1112(b).

4. For the reasons discussed in this Response, the Objection, and the Motion, the Court should dismiss this case and grant such other and further relief as it may deem just and proper.

Dated: February 23, 2024,

KEVIN M. EPSTEIN  
UNITED STATES TRUSTEE

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served by electronic means via ECF transmission to all Pacer System participants in this bankruptcy case on February 23, 2024.

/s/ HA M NGUYEN

Ha M. Nguyen