

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE:)	Chapter 11
)	
CAREMATRIX CORPORATION,)	Case Nos. 00-4159 through
<u>et al.</u> ,)	00-4168 and 01-1635
)	
Debtors.)	Jointly Administered
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)	
CAREMATRIX CORPORATION,)	
<u>et al.</u> ,)	
)	
Appellants,)	
)	
v.)	Civil Action No. 01-706-SLR
)	(Appeal No. 01-66)
SUN HEALTHCARE GROUP, INC.,)	
)	
Appellee.)	

MEMORANDUM ORDER

At Wilmington this 18th day of June, 2002;

IT IS ORDERED that the June 28, 2001 order of the United States Bankruptcy Court for the District of Delaware granting appellee's motion for allowance and payment of administrative expense claim is affirmed for the reasons that follow:

1. This court has jurisdiction to hear an appeal from the bankruptcy court pursuant to 28 U.S.C. § 158(a). In undertaking a review of the issues on appeal, the court applies a clearly erroneous standard to the bankruptcy court's findings of fact and a plenary standard to that court's legal conclusions. See Am. Flint Glass Workers Union v. Anchor Resolution Corp., 197 F.3d 76, 80 (3d Cir. 1999). With mixed questions of law and fact, the court must accept the bankruptcy court's "finding of historical

or narrative facts unless clearly erroneous, but exercise[s] 'plenary review of the [bankruptcy] court's choice and interpretation of legal precepts and its application of those precepts to the historical facts.'" Mellon Bank, N.A. v. Metro Communications, Inc., 945 F.2d 635, 642 (3d Cir. 1991) (citing Universal Minerals, Inc. v. C.A. Hughes & Co., 669 F.2d 98, 101-02 (3d Cir. 1981)).

2. Debtors in this action are CareMatrix Corporation, CareMatrix of Massachusetts, Inc., Lakes Region Villages, LLC, Dominion Village at Chesapeake LP, Dominion Village at Poquoson LP, Dominion Village at Williamsburg, LP, CMD Securities Corporation, CCC of Maryland, Inc., CareMatrix of Needham, Inc., CareMatrix of Dedham, Inc. and CareMatrix of Palm Beach Gardens (SNF), Inc.

3. Since November 9, 2000 (the "Petition Date"), appellee has rendered post-petition healthcare and related services at a facility leased by debtor CCC of Maryland, Inc., a wholly-owned subsidiary of debtor CareMatrix Corporation.¹ Appellee filed an administrative expense claim for services provided at the facility from the Petition Date through April 2001 in the amount of \$136,406.84. Because appellee supplied CCC of Maryland, Inc. with monthly invoices, the amount charged for November was pro-

¹Appellee also provides healthcare services to Massachusetts facilities operated by debtors CareMatrix of Needham, Inc. and CareMatrix of Dedham, Inc. (D.I. 7 at B-073)

rated evenly to include only services rendered post-petition, i.e., 21/30 of the total amount stated on the November invoice.

4. At the conclusion of a June 20, 2001 evidentiary hearing on appellee's claim, the bankruptcy court stated:

Gentlemen, these companies are all very much related, and there is no question in my mind but what with malice aforethought they accepted the services of . . . Sun Healthcare Group, and did not pay them. These companies are related.

I am going to order that the Sun Healthcare Group be paid 136,406.84 within ten days from today. Failing that, all of the CareMatrix cases will be converted to Chapter 7 because they have failed to operate under the Bankruptcy Code.

(D.I. 7 at B-076)

5. Consequently, the bankruptcy court ordered the following on June 28, 2001:

Sun Healthcare Group, Inc. is hereby allowed an administrative claim pursuant to 11 U.S.C. § 503(b) on account of services rendered at the Forest Glen facility, leased to CCC of Maryland, Inc., from the Petition Date through the month of April 2001, in the amount of \$136,406.84 (the "CCC Administrative Claim"). . . .

The Debtors are jointly and severally liable for the CCC Administrative Claim, and each of the Debtors are hereby authorized and directed to pay the CCC Administrative Claim on or before June 29, 2001. . . .

If one of the Debtors fails to pay the CCC Administrative Claim on or before June 29, 2001, then all of the Debtors' currently pending Chapter 11 bankruptcy cases, identified as Case Nos. 00-4159 through 00-4168 and 01-1635, which cases have been

procedurally consolidated and are being jointly administered, shall be converted to cases under Chapter 7 of the Bankruptcy Code without further notice or order of this Court.

(Id. at B126-27)

6. On June 29, 2001, pursuant to the order of the bankruptcy court, debtor CareMatrix of Massachusetts, Inc. satisfied appellee's claim because CCC of Maryland, Inc. was unable to produce the required funds. (D.I. 8 at 3)

7. In the case at bar, debtors argue that, by ordering that all of debtors' cases be converted to Chapter 7 cases if CCC of Maryland, Inc.'s claim was not paid, the bankruptcy court effected a de facto substantive consolidation with no basis in law or fact. Debtors further argue that the even pro-ration of appellee's November 2000 invoice was an inaccurate methodology for determining post-petition services, as the value of healthcare was not the same for each day of the month.

8. After having determined that the bankruptcy court's impressions of the factual record are reasonable and debtors are related entities, the court finds that the bankruptcy court did not effect a "de facto substantive consolidation" of debtors by exercising its equitable powers and requiring that the related debtors satisfy appellee's administrative expense claim. See 11 U.S.C. § 105. Because appellee's claim was satisfied, the court need not determine whether the bankruptcy court's order to

convert debtors' cases to Chapter 7 would have been effectuated and, if so, whether a "de facto substantive consolidation" would have been the result.

9. The calculation of post-petition healthcare services rendered by appellee based upon an even pro-ration of the total invoice amount for November 2000 was reasonable, particularly in the absence of evidence proffered by appellants supporting a more detailed accounting.

Sue L. Robinson
United States District Judge