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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
COLD SPRING ACQUISITION, LLC., d/b/a COLD SPRING HILLS CENTER FOR NURSING & REHABILITATION,	Case No.: 25-22002 (SHL)
Debtor.	

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS' REPLY TO THE DEBTOR'S OBJECTION TO APPLICATION FOR ORDER CONVERTING CHAPTER 11 CASE TO A CASE UNDER CHAPTER 7 OF THE BANKRUPTCY CODE AND GRANTING RELATED RELIEF

The Official Committee of Unsecured Creditors (the "Committee") of Cold Spring Acquisition, LLC d/b/a Cold Spring Hills Center for Nursing and Rehabilitation (the "Debtor"), by its counsel, Rimon P.C., respectfully submits this reply (the "Reply") to the Debtor's *Objection to Application for Order Converting Chapter 11 Case to a Case Under Chapter 7 of the Bankruptcy Code and Granting Related Relief* (ECF Doc. No. 679) (the "Debtor's Objection") and the accompanying *Declaration of Martin Cauz* (the "Cauz Declaration"), and alleges as follows:

THE DEBTOR'S OBJECTION SHOULD BE OVERRULED

I. Preliminary Statement

1. The Debtor's Objection does not dispute the fundamental financial reality confronting this estate. Instead, the Debtor asks this Court to deny conversion based on a collection of speculative, unsubstantiated, and contingent potential funding sources—none of which the

Debtor has demonstrated will actually produce funds sufficient to pay administrative expenses on the effective date of any plan. The Debtor's opposition amounts to a request that this Court, and the estate's creditors, simply trust that money will materialize "in the near future." That is not a basis to continue the costly administration of this chapter 11 case.

2. The Debtor concedes that it is a non-operating entity with no revenue-generating operations, no payroll obligations, and no ongoing business. Its sole remaining function is to administer the liquidation of the Debtor's assets. Yet even in this diminished posture, the Debtor has not demonstrated that it possesses or will possess the resources necessary to satisfy the administrative expenses that must be paid as a condition of plan confirmation under section 1129(a)(9) of title 11, United States Code (the "Bankruptcy Code"). The Debtor's response to this shortfall is to point to a series of hoped-for recoveries and unnamed "third-party funding arrangements" that are, by the Debtor's own admission, confidential, incomplete, and contingent. This is the very definition of speculative.

II. Argument

A. The Debtor Has Not Demonstrated an Ability to Pay Administrative Expenses on the Effective Date

3. This Court has held that a debtor's administrative insolvency constitutes cause to convert a chapter 11 case to a case under chapter 7 of the Bankruptcy Code. *In re BH S & B Holdings, LLC*, 439 B.R. 342, 350 (Bankr. S.D.N.Y. 2010) ("Although section 1112(b)(4) does not list administrative insolvency as cause to convert or dismiss a chapter 11 case, a court may still consider this factor."); *see also In re AdBrite Corp.*, 290 B.R. 209, 217 (Bankr. S.D.N.Y. 2003) (*citing C-TC 9th Ave. P'ship v. Norton Co. (In re C-TC 9th Ave. P'ship)*, 113 F.3d 1304, 1311 (2d Cir. 1997) ("Because the list of grounds for converting or dismissing a Chapter 11 Case under § 1112(b) is illustrative, not exhaustive, the court may consider other grounds and use its equitable

powers to reach an appropriate result."). Other bankruptcy courts "have also converted cases, in part, on the basis of administrative insolvency." *In re BH S & B Holdings, LLC*, 439 B.R. at 349; *citing In re Bartmann*, 310 B.R. 663 (B.A.P. 10th Cir. 2004); *In re Desmond*, 331 B.R. 42, 44 (Bankr.D.N.H.2005).

4. The Debtor itself reports that, as of February 28, 2026, it held $2,566,960 in cash on hand, of which only $2,016,505 was unrestricted. *See* Debtor's Objection, ¶ 16; ECF Doc. No. 676. Yet the Committee has been informed that, after giving credit for the M&T Bank settlement and other necessary adjustments, the net cash available for the estate was approximately $1,400,000.[1] Against that figure, the estimated professional fees for all Chapter 11 professionals, including the Examiner, through March 31, 2026 are approximately $2.3 million—a sum that alone far exceeds the net cash available. Even under the Committee's conservative estimate, the shortfall to address professional fee claims alone is approximately $650,000. And this figure does not account for additional nonprofessional administrative claims, including those asserted by the 1199SEIU Benefit and Pension Funds (the "Funds"), which have not been factored into any reserve in any substantial manner.

5. The Debtor attempts to minimize this shortfall by asserting that no administrative expenses are "presently due" because no professional fee applications have been filed; however, the Examiner has filed her fee application on behalf of herself and her counsel at ECF Doc. No. 685. The question is not whether fees are currently due and payable, but whether the Debtor can demonstrate a reasonable ability to pay them on the effective date of a plan—a prerequisite to confirmation under Bankruptcy Code § 1129(a)(9). The Debtor cannot simply defer by pointing to the fact that professionals have not yet filed their fee applications. Those fees have been

[1] The Committee's counsel was further advised by the Debtor and its professionals that the adjusted cash on hand as of April 16, 2026, was $1.2 million.

incurred, continue to accrue, and must ultimately be paid. The Debtor has offered no credible evidence that it will have the funds to do so.

6. The Debtor similarly contends that the Funds' claims are "disputed" and should be "expunged." Whether or not the Funds' claims are ultimately allowed, the Debtor's strategy of simply disputing those administrative claims does not eliminate the underlying financial shortfall. *See In re BH S & B Holdings, LLC*, 439 B.R. at 349 ("[C]ase law is clear that the mere hope of prevailing on potential litigation claims is not a sufficient basis to defeat a showing of cause to convert."); *In re FGR Managing Member LLC*, 419 B.R. 576, 583 (Bankr. S.D.N.Y. 2009) ("[M]ost cases reject the need to evaluate the merits of a debtors litigation claims in deciding whether to dismiss or convert a chapter 11 case.") Notwithstanding, even if the Funds' claims were entirely disallowed, the professional fee obligations alone exceed the estate's available cash.

B. The Debtor's Purported Funding Sources are Speculative and Unsubstantiated

7. Unable to demonstrate present solvency, the Debtor instead asks this Court to rely on a series of potential future recoveries. Each of these is speculative, contingent, and unsupported by evidence that funds will actually be collected in time—or at all.

Accounts Receivable

8. While the Debtor claims it has "more than $2.1 million in outstanding accounts receivable," the Debtor offers no evidence regarding the collectability of these receivables, their aging, or the likelihood that they will be converted to cash in any particular timeframe. *See* ECF 679-1, Cauz Declaration, ⁋ 20. Merely identifying a receivable on the books is not proof that it will be collected. Moreover, these receivables are subject to a twenty-two (22%) percent commission to the Debtor's retained collection agency, plus an additional 6.8% bed tax on the gross amount, further reducing any potential recovery by nearly 30%.

The Department of Health Claims

9. The Debtor also asserts it has "valid claims against the DOH in excess of $1.2 million." *See* ECF Doc. No. 679-1, Cauz Declaration, ¶ 20. However, these claims remain entirely unresolved. The Debtor has been corresponding with the DOH since Spring 2025—nearly a year—and no recovery has been obtained. The Debtor states that "yesterday, the parties engaged in substantive discussions" and that the DOH would provide a "settlement offer," but no settlement has been reached, no amount has been agreed upon, and no funds have been received. *Id*. The Debtor's reference to a prior DOH refund of $352,692.60 in the winter of 2025 only underscores that any recovery, if it occurs at all, may be a fraction of what the Debtor claims. The Debtor's assertion that it will file a complaint if the dispute is not resolved is an acknowledgment that this recovery is far from certain. Moreover, to the extent that such a claim is viable, it can be prosecuted by a chapter 7 trustee for the benefit of the estate.

Avoidance Actions

10. The Debtor points to "more than $2 million" in non-insider avoidance actions. *See* ECF Doc. No. 679-1, Cauz Declaration, ¶ 23. While the Debtor "expects Porzio to begin collecting soon," that is not enough to warrant a substantial defense to conversion. Avoidance actions are inherently uncertain, subject to defenses, and often take months or years to produce recoveries, if any. The suggestion that these actions will generate funds sufficient to cover the estate's administrative shortfall in the near term is wholly unsupported.

Third-Party and Insider Funding

11. Perhaps most troublingly, the Debtor vaguely references "potential funding arrangements with certain third parties and insiders that would provide additional liquidity." ECF Doc. No. 679, Debtor's Objection, ¶ 22. The Debtor has yet to identify these parties, disclose the

terms of any proposed arrangement, or provide any basis for the Court and the Committee to evaluate the likelihood that such funding will materialize. The Debtor's only explanation for this lack of transparency is that "[t]hese discussions are confidential."[2] ECF Doc. No. 679, Debtor's Objection, ¶ 22, FN 2. A debtor facing administrative insolvency cannot shield its purported path to solvency behind a veil of confidentiality while simultaneously asking the Court to deny conversion on the theory that funds are forthcoming. This Court and the estate's creditors are entitled to more than bare assertions.

III. Conclusion

12. The totality of the circumstances in this case supports conversion. The Debtor has filed three iterations of a plan and disclosure statement and has been unable to obtain the Committee's support or confirm a plan. All professionals involved in this case continue to accrue fees that the estate cannot pay. And the Debtor's response to its financial shortfall is to point to a collection of speculative recoveries that may or may not materialize at some indefinite future date.

13. The Debtor relies heavily on the argument that conversion would jeopardize the pending sale to the Receiver, but the sale is expected to remain unclosed for at least six to eight weeks regardless. During that period, the estate continues to rack up administrative costs with no confirmed plan and no demonstrated ability to pay those costs. The Debtor also warns that Greystone would assert its claims exceeding $79 million if the sale fails to close. But this risk exists whether the case is in chapter 11 or chapter 7—Greystone's waiver is conditioned on closing, not on the chapter under which the case proceeds. A chapter 7 trustee is equally capable of completing a sale that has already received DOH approval.

[2] The Committee also notes that the Court, the Committee and all other interested parties will need to be on notice of the terms of any potential funding provided by third parties and/or insiders to protect any potential claims the Committee or any successor to the Debtor may seek to bring against certain parties on behalf of the Debtor.

WHEREFORE, for the reasons set forth in the Committee's application and in this reply, the Committee respectfully requests an order denying the Debtor's Objection and granting the Committee's motion to convert this case from chapter 11 to chapter 7 of the Bankruptcy Code, and granting such other, further and different relief as is just and proper in this matter.

Dated: Jericho, New York
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