

United States Department of Justice
Office of the United States Trustee
1100 Commerce Street, Room 976
Dallas, TX 75242 (214) 767-8967
Mary Frances Durham, for the United States Trustee

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE: §
§
Network Cancer Care, L.P. § **CASE NO: 02-39409-BJH-11**
§
Debtor § **Chapter 11**

Hearing: to be announced

**Motion to Disgorge Fees and Disqualify Lloyd Ward from
Representing the Debtor and Reorganized Debtor**

Comes now the United States Trustee and files this his Motion to Disgorge Fees and Disqualify Lloyd Ward from Representing the Debtor and Reorganized Debtor in the above-referenced chapter 11 case. In support of his Motion, the United States Trustee respectfully represents as follows:

Jurisdiction

The bankruptcy court has jurisdiction to determine this matter under 28 U.S.C. § § 1334 and 157 and Plan Paragraph 8.1. This is a core proceeding under 28 U.S.C. § 157(b).

Facts

1. Network Cancer Care, L.P. (hereinafter, “debtor”) filed its voluntary chapter 11 petition on October 26, 2002. The debtor is an entity controlled and managed by Dr. Odette Campbell, M.D., and its business is to administer cancer treatment. There was no creditors’ committee in the case.
2. About one year after the debtor filed its bankruptcy case, the Court confirmed the debtor’s

Modified Second Amended Chapter 11 Plan (hereinafter, "Plan") on September 26, 2003.

The Plan created "Reorganized Network" (hereinafter, "RN") and transferred all assets and liabilities to RN^{1/2}.

3. About a month after the Court confirmed the debtor's Plan, RN moved to replace its counsel with new counsel, Lloyd Ward. The Court granted the request on November 13, 2003. Prior to filing his motion to substitute as counsel, Mr. Ward had filed an adversary proceeding and other pleadings on behalf of the debtor and RN.
4. On November 20, 2003, pursuant to the terms of the confirmed Plan, the Court issued its order selecting the new Reorganized Network, Chief Executive Officer, or "RNCEO." However, the selected individual contacted the Court subsequent to his "appointment" and informed the Court that he knew not about the particular assignment. Mr. Ward informed the Court that individual subsequently met with Dr. Campbell and made a final determination that he could not provide services as required.
5. At the Court's Show Cause hearing, Mr. Ward revealed the following:
 - a. The debtor did not have an RNCEO operating the debtor as required by the Plan;
 - b. The RN transferred its only real property asset, valued at about \$2.5 million, to an entity owned and/or controlled by Dr. Odette Campbell, and did not comply with the terms of the Plan before the transfer. The debtors' Schedules averred that this property had equity of about \$600,000, yet no money was paid to RN for the property.
6. Subsequent to the Show Cause hearing, the United States Trustee became informed and believes, from reviewing property records, that the debtor, with the legal assistance of

^{1/2}Plan Paragraph 5.3 states that all of the debtor's assets were transferred to RN.

Lloyd Ward, transferred all of its real property to “Plano Cancer Network, L.P.” (hereinafter, “Plano Network”) on November 24, 2003.

7. State of Texas documents filed November 12, 2003, show Lloyd Ward as the initial registered agent for Plano Network. The State of Texas documents reflect that Odette Campbell and Roger Good are Plano Network’s only general partners.
8. State of Texas documents show that, at about the same time Lloyd Ward formed Plano Network, he incorporated “Plano Cancer Care Management L.L.C” for Odette Campbell.

Argument

9. Debtor’s new counsel, Lloyd Ward formed a corporation and a limited partnership for Dr. Campbell and caused the transfer of valuable property out of creditors’ reach. Those new entities now own and control RN’s most valuable asset, its real estate, and may be consuming its current receivables as well. The United States Trustee submits that Mr. Ward does not have the best interest of the debtor or reorganized debtor foremost in his acts.
10. Dr. Campbell knew that RN did not have the requisite RNCEO operating the company and setting her salary, yet she continued to deceive creditors and the Court by ignoring the operating provisions of the Plan. She failed to appear at a Show Cause hearing about the Plan after the Court ordered her to appear personally. Mr. Ward’s actions and inactions aided Dr. Campbell’s misdeeds.
11. State of Texas Bar Rule 1.06 states that a lawyer shall not represent a legal entity if the representation involves a substantially related matter in which that entity’s interests are materially and directly adverse to the interest of another client of the lawyer. Rule 1.06 further states that, the lawyer shall not represent a legal entity if the representation

appears to be or become adversely limited by the lawyer's responsibilities to another client. The State Bar Rule requires the lawyer to withdraw if such conflicts exist^{2/}.

The United States Trustee submits that Mr. Ward has an irreparable conflict and cannot represent the debtor or reorganized debtor. He has prepared organizational papers for what appears to be a competing business and caused the transfer of the debtor's valuable asset out of the debtor's ownership. Clearly, the debtor/RN has adverse interests to that of Dr. Campbell and her new entities.

At the very least, Mr. Ward should have disclosed his representation of Dr. Campbell and the forthcoming entities when he filed his motion to substitute as counsel in this bankruptcy case.

12. The United States Trustee is not aware of Mr. Ward's terms of employment, fee payments or source of fee payments. The United States Trustee submits that it would be appropriate to disgorge fees that did not benefit the debtor.

Relief Requested

13. Premises considered, the United States Trustee asks the Court to disqualify Lloyd Ward from representing the debtor and/RN in this case and order the review of any and all fees paid to Mr. Ward. The United States Trustee asks for any further relief to which he may be justly entitled.

January 15, 2004

William T. Neary
United States Trustee
/s/ Mary Frances Durham
Mary Frances Durham, TXB #00790144
United States Department of Justice
Office of the United States Trustee
1100 Commerce Street, Room 976

^{2/}Texas Disciplinary Rules of Professional Conduct Rule 1.06 paraphrased.

