

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO**

In Re:	)	
	)	<b>JUDGE RICHARD L. SPEER</b>
Medcorp, Inc., <i>et al.</i>	)	
	)	Case No. 11-33239
Debtor(s)	)	
	)	(Jointly Administered)

**ORDER APPOINTING JOHN GRAHAM AS CHAPTER 11 TRUSTEE**

On June 10, 2011, three entities filed a petition in this Court for relief under Chapter 11 of the United States Bankruptcy Code: (1) the Debtor, Medcorp, Inc.; (2) Stickney Avenue Investment Properties, LLC, Case No. 11-33243; and (3) Medcorp E.M.S. South, LLC, Case No. 11-33256. On the same day, the Debtor filed a Motion for the Joint Administration of these three bankruptcy cases. (Doc. No. 12). An order was thereafter entered, granting the Debtor’s Motion, providing that, for administrative purposes only, the three bankruptcy cases would be jointly administered. (Doc. No. 55).

After the commencement of the Debtor’s bankruptcy case, the United States Trustee filed a Motion seeking an Order Directing the Appointment of a Chapter 11 Trustee. (Doc. No. 41). On June 16, 2011, expedited hearings were held on numerous matters brought before the Court, including the Trustee’s Motion for the Appointment of a Trustee. After hearing the matters brought before it, the Court orally granted the Motion of the United States Trustee for the Appointment of a Chapter 11 Trustee. (Doc. No. 51).

On June 17, 2011, an order was entered by the Court providing that the “United States Trustee is hereby directed to appoint a chapter 11 trustee.” (Doc. No. 58). Pursuant to this Order, the United States Trustee filed a “Report of Selection for Appointment of Trustee.” (Doc. No. 69). In this Report, which was filed with the Court on June 20, 2011, it was set forth that “John N. Graham of Toledo, Ohio has been selected for recommended appointment as the Chapter 11 Trustee

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. . . .” *Id.* The Report further provided that “Mr. Graham will be filing an Affidavit and Verified Statement Pursuant to Bankruptcy Rule 2007.1 and Notice of Acceptance within seven days of the filing of this report.” *Id.* On June 22, 2011, Mr. Graham filed said Affidavit and Verified Statement. (Doc Nos. 70-72).

The Bankruptcy Code requires that court approval be obtained for the appointment of any trustee in a Chapter 11 case. Section 1104(d) of the Bankruptcy Code provides that “[i]f the court orders the appointment of a trustee or examiner . . . then the United States trustee, after consultation with the parties in interest, shall appoint, subject to the court’s approval, one disinterested person other than the United States trustee to serve . . . in the case.” For this purpose, a disinterested person is defined in § 101(14) of the Bankruptcy Code as a person that:

(A) is not a creditor, an equity security holder, or an insider;

(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason.

The procedures regarding a court’s approval of the appointment of a Chapter 11 trustee are set forth in Bankruptcy Rule 2007.1(c) which provides:

An order approving the appointment of a trustee or an examiner under § 1104(d) of the Code shall be made on application of the United States trustee. The application shall state the name of the person appointed and, to the best of the applicant’s knowledge, all the person’s connections with the debtor, creditors, any other parties in interest, their respective attorneys and accountants, the United States trustee, or persons employed in the office of the United States trustee. The application shall state the names of the parties

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in interest with whom the United States trustee consulted regarding the appointment. The application shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

In this matter, the Report (application) submitted by the United States Trustee, seeking the appointment of John Graham as Chapter 11 Trustee, stated as follows:

To the best of his knowledge, the United States Trustee is informed that Mr. Graham has no connections with the debtor, creditors, any other parties in interest, their respective attorneys and accountants, the United States Trustee, or any persons employed in the Office of the United States Trustee, except that he is a member of the chapter 7 panel of trustees. Further, Mr. Graham is not a relative of the bankruptcy judge approving his appointment.

In selecting Mr. Graham, the United States Trustee has consulted with parties in interest. After consideration, the United States Trustee has decided that Mr. Graham is the best candidate for Chapter 11 Trustee in this particular matter.

Specifically, the United States Trustee consulted with Steven L. Diller, counsel for the Debtors; David D. Black and Daniel C. Wolters, counsel for Huntington National Bank; Patricia B. Fugée, counsel for Mark S. Ulrich, Receiver for MedCorp, Inc.; and John J. McHugh III, counsel for Richard J. Bage.

It is the finding of this Court that these representations satisfy the procedural requirements of Bankruptcy Rule 2007.1(c).

In addition, as required by Bankruptcy Rule 2007.1(c), Mr. Graham, as the person seeking appointment as a Chapter 11 Trustee, filed a Verified Statement, acknowledging the above representations made by the United States Trustee. (Doc. No. 72). Mr. Graham also set forth in his Verified Statement "that to the best of his knowledge he knows of no matters that might be considered by any party to create any issue or claim of conflict or lack of being a disinterested party

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as [it] relates to him acting as Chapter 11 Trustee in this case, and that he has no connections with the debtor, creditors or any party in interest, their respective attorneys or accountants, except that he is a Chapter 7 Panel Trustee for the North District of Ohio at Toledo.” *Id.*

Based upon these statements, it is the finding of this Court that Mr. Graham has satisfied both the substantive requirements of 11 U.S.C. § 1104(d), as well the procedural requirements of Bankruptcy Rule 2007.1(c), so as to qualify him as a Chapter 11 Trustee in this consolidated case.

Accordingly, it is

**ORDERED** that the appointment of John N. Graham to serve as trustee in the above-entitled case be, and is hereby, Approved.

Dated: June 23, 2011

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Richard L. Speer  
United States  
Bankruptcy Judge