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10 Debtors and Debtors in Possession

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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:) Main Case No. LA 07-12312-EC
PLEASANT CARE CORPORATION, a)
California corporation,)

Case No. LA 07-12322-EC
Case No. LA 07-12319-EC

In re:) Case No. LA 07-12326-EC
SNF PROPERTIES INCORPORATED,)
a California corporation,) Chapter 11

DEBTORS' EMERGENCY MOTION FOR
ORDER AUTHORIZING DEBTORS TO
INCUR POST-PETITION SECURED
INDEBTEDNESS AND GRANTING
SECURITY INTERESTS AND PRIORITY
AND PROVIDING ADEQUATE
PROTECTION ALL PURSUANT TO
SECTIONS 361, 362 AND 364 OF THE
BANKRUPTCY CODE; MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATION OF EMMANUEL I.
BERNABE IN SUPPORT THEREOF

In re:)
EMBER CARE CORPORATION, a)
California corporation,)
Date: [To be scheduled]
Time: [To be scheduled]
Place: Courtroom 1639
255 E. Temple St.
Los Angeles, CA

Debtors.

1 Summary

2 Pursuant to Local Bankruptcy Rule 9075-1, General Order 02-
3 02, 11 U.S.C §§ 105, 362, and 364, and Rule 4001 of the Federal
4 Rules of Bankruptcy Procedure, Pleasant Care Corporation, SNF
5 Properties Incorporated, PCC Health Services, Inc., Atlas Care
6 Enterprises, Inc., and Ember Care Corporation, California
7 corporations, Chapter 11 debtors and debtors in possession
8 herein (collectively, the "Debtors"), hereby move, on an
9 emergency basis, for entry of interim and final orders
10 authorizing the Debtors to obtain post-petition debtor-in-
11 possession loans (the "Loans") from Emmanuel I. Bernabe
12 ("Bernabe"), a shareholder and principal of all of the Debtors
13 for the principal sum of \$500,000, and Sol Majer ("Majer"), an
14 individual who is neither an insider or affiliate of any of the
15 Debtors, for the principal sum of \$500,000 (the "Motion"). Both
16 Loans will be made on a secured basis pursuant to Section 364(c)
17 of the Bankruptcy Code, subordinate to valid, perfected and non-
18 avoidable pre-existing liens of third parties, and the liens
19 granted to Majer will be senior in priority to the liens granted
20 to Bernabe. Additionally, the Debtors will grant to Bernabe and
21 Majer a superpriority administrative expense status for all
22 postpetition obligations. The specific terms and conditions
23 upon which the Loans will be made by Bernabe to the Debtors are
24 set forth in the "Loan and Security Agreement" (the "Loan
25 Agreement"), a copy of which is attached as Exhibit "A" to the
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1 Declaration of Emmanuel I. Bernabe (the "Bernabe Declaration")
2 annexed to the Motion. As reflected in the Declaration of Sol
3 Majer filed concurrently herewith, Majer has indicated that he
4 will provide the Loans to the Debtors on the same terms and
5 conditions as those set forth in the Loan Agreement, except that
6 the liens granted in favor of Majer will be subordinate to
7 valid, perfected and non-avoidable pre-existing liens of third
8 parties, but senior to the liens granted in favor of Bernabe.

9
10 On March 22, 2007 (the "Petition Date"), the Debtors filed
11 voluntary petitions under Chapter 11 of the Bankruptcy Code.
12 Since the commencement of these cases, the Debtors have been
13 operating their businesses as debtors in possession pursuant to
14 Sections 1107 and 1108 of the Bankruptcy Code.

15 The Debtors are principally engaged in the business of
16 owning and operating 30 skilled nursing facilities and
17 residential care facilities. While there are five separate
18 corporate Debtors, the Debtors essentially operate as one
19 consolidated business entity. There is one group of management
20 for all five Debtors; all of the Debtors' approximately 3,500
21 employees are paid by one Debtor; and all of the Debtors'
22 operating revenue is ultimately deposited into one general bank
23 account. The Debtors currently provide nursing care services to
24 over 3,000 residents.

25
26 There are two secured creditors who assert an interest in
27 the Debtors' cash. The Debtors' primary secured creditor is

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1 Bridge Healthcare Finance, LLC ("Bridge"). Bridge is currently
2 owed approximately \$9.7 million secured by a first priority lien
3 against substantially all of the Debtors' accounts receivable
4 and five of the Debtors' real property leases. The Bridge loan
5 was originated in 2004 in the original amount of approximately
6 \$27 million and has since been significantly reduced. The only
7 other creditor that the Debtors are aware of who may have a lien
8 against the Debtors' cash is OmniCare, which holds secured debt
9 of approximately \$3 million secured by a second priority lien
10 against the accounts receivable and much of the Debtors' other
11 assets, junior only to the lien in favor of Bridge.
12 Concurrently herewith, the Debtors have filed their emergency
13 motion for authority to use cash collateral during these cases.
14 As described therein, the Debtors believe that just their
15 accounts receivable and 23 profitable facilities have a fair
16 market value of approximately \$58 million. Indeed, just the
17 Debtors' accounts receivable have a current fair market value of
18 approximately \$23.5 million. Therefore, there cannot be any
19 question that both Bridge and Omni are adequately protected
20 notwithstanding the Debtors' use of cash collateral.
21

22 In addition to this Motion, and the emergency cash
23 collateral motion, the Debtors have also filed an emergency
24 motion for authority to pay pre-petition priority wages to its
25 employees, which are due on Monday, March 25, 2006 and April 10,
26 2007. The Debtors' payroll obligations that are due and payable
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1 on March 25 (which cover the period from March 1 to March 15),
 2 are approximately \$4.1 million. The Debtors' payroll
 3 obligations that are due and payable on April 10 (which cover
 4 the period from March 16 to March 31) are also approximately
 5 \$4.1 million.

6 As set forth in the emergency cash collateral motion and
 7 the budgets attached thereto, absent the Loans, the Debtors will
 8 not have sufficient operating funds to pay the wages and
 9 commissions owed to their employees on March 25 and pay other
 10 necessary expenses. Therefore, it is critical to the Debtors'
 11 survival that the Loans be immediately authorized and obtained.
 12 The terms and conditions of the Loans are extremely fair and
 13 reasonable under the circumstances. Bernabe and Majer have
 14 agreed to provide the Loans as accommodations to the Debtors in
 15 order that the Debtors can meet their payroll obligations on
 16 March 25, pay other business expenses, and successfully
 17 reorganize.

18
 19 Additional Information Required by General Order 02-02

20 Pursuant to General Order 02-02, the Debtors submit that
 21 the proposed order authorizing the Loans will or will not
 22 contain the following provisions:

Provision	Order
24 A provision that provides cross-collateralization 25 protection to any secured creditor (i.e., a clause 26 that would secure the creditor's pre-petition 27 claims by post-petition assets that the creditor does not otherwise have a security interest in by virtue of its pre-petition loan agreements or applicable law)	No

1	A provision or finding of fact that binds the	No
2	estate or parties in interest with respect to the	
3	validity, perfection or amount of a creditor's pre-	
	petition liens or claims or the waiver of claims	
	against the creditor	
4	A provision that waives the estate's rights under	No
	11 U.S.C. § 503	
5	A provision that grants to the creditor liens upon	No
6	the avoidance actions	
7	A provision that deems the creditor's pre-petition	No
	claims to be post-petition claims	
8	A provision regarding the extension of any post-	Yes
	petition loans or financial accommodations from the	
	creditor or any third party to the Debtor	
9	Any disparate treatment of the professionals	No
10	retained by a creditors' committee from that	
11	provided to the professionals retained by the	
	Debtor with respect to a professional fee carve	
	out.	

12
13 The relief sought in the Motion is based upon this Motion,
14 the Memorandum of Points and Authorities, the Declarations of
15 Emmanuel I. Bernabe and Sual Majer and all exhibits attached
16 thereto, the statements, arguments and representations of
17 counsel to be made at the hearing on the Motion, and any other
18 evidence properly presented to the Court at or prior to the
19 hearing on the Motion.

20 **WHEREFORE**, the Debtors respectfully request that the Court:
21 (a) authorize the Debtors to obtain the Loans on an interim
22 basis pending a final hearing upon the terms and conditions set
23 forth in the Loan Agreement; (b) set a final hearing to consider
24 the Motion; and (c) grant such other and further relief as the
25 Court

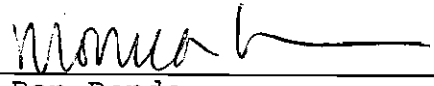
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1 deems just and proper.

2 Dated: March 23, 2007

PLEASANT CARE CORPORATION
SNF PROPERTIES INCORPORATED
PCC HEALTH SERVICES, INC.
ATLAS CARE ENTERPRISES, INC.
EMBER CARE CORPORATION

6 By:  _____

Ron Bender
Monica Y. Kim
Jacqueline L. Rodriguez
Levene, Neale, Bender,
Rankin & Brill L.L.P.
Proposed Attorneys for
Debtors and Debtors
in Possession

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. STATEMENT OF FACTS

3 A. Background.

4 On March 22, 2007 (the "Petition Date"), the Debtors filed
5 voluntary petitions under Chapter 11 of the Bankruptcy Code.
6 Since the commencement of these cases, the Debtors have been
7 operating their businesses as debtors in possession pursuant to
8 Sections 1107 and 1108 of the Bankruptcy Code.
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10 B. The Debtors' Business Structure and Background.

11 The Debtors are principally engaged in the business of
12 owning and operating 30 skilled nursing facilities and
13 residential care facilities. A skilled nursing facility cares
14 for patients who require a higher level of nursing care, most of
15 whom remain there permanently. A residential care facility
16 cares for patients who require a lesser level of care. Both
17 types of facilities generally involve patients who remain at the
18 facilities on a long term basis.

19 Pleasant Care Corporation ("PCC") owns and operates 14 such
20 facilities; SNF Properties, Inc. ("SNF") owns and operates 5
21 such facilities; PCC Health Services, Inc. ("PCCH") owns and
22 operates 5 such facilities; Ember Care Corporation ("ECC") owns
23 and operates 5 such facilities; Atlas Care Enterprises,
24 Incorporated ("Atlas") owns and operates one such facility. The
25 Debtors currently have approximately 3,000 residents at the
26 Debtors' various facilities.
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1 While there are five separate corporate Debtors, the
2 Debtors essentially operate as one consolidated business entity.
3 There is one group of management for all five Debtors; all of
4 the Debtors' approximately 3,500 employees are paid by one
5 Debtor; and all of the Debtors' operating revenue is ultimately
6 deposited into one general bank account.

7 PCC owns 100% of the stock of SNF, PCCH and Atlas and 94%
8 of ECC. Mr. Bernabe owns 100% of the stock of PCC.

9 Mr. Bernabe started the business in 1982 by acquiring one
10 facility. Over the next 25 years, Mr. Bernabe acquired and sold
11 approximately 50 facilities and built the Debtors' business to
12 its current state. The Debtors collectively generate annual
13 revenue of approximately \$200 million and employ approximately
14 3,500 people. The Debtors have and care for approximately 3,000
15 residents at their 30 care facilities.

16 In addition to the 30 care facilities, the Debtors have
17 three business offices. The primary business office is located
18 at 2258 Foothill Blvd., La Canada, California 91011. The other
19 two business offices are located in Pasadena and Stockton.

20 The Debtors' generally operated profitably until
21 approximately two years ago.

22 In mid-2005, the Debtors' facility located in San Joaquin,
23 California and the Debtors' facility located in Napa, California
24 were decertified by the Department of Health Services ("DHS"),
25 which contended that the two facilities did not meet the
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1 standards for participation under the Medical/Medicare programs,
2 which account for approximately 85% of the Debtors' revenue.

3 A temporary manager was assigned to the Napa facility by
4 DHS, with the consent of the Debtors, who had the responsibility
5 of restoring that facility into DHS compliance. The agreement
6 was that the Debtors would have no oversight of the temporary
7 manager, but assist and work with the temporary manager to
8 restore the facility into DHS compliance. DHS decided not to
9 recertify the facility even after the appointment of the
10 temporary manager, and the Debtors closed the Napa facility,
11 with the consent of DHS and in accordance with DHS regulations.
12

13 The Debtors had no realistic alternative facility to which
14 the Debtors could transfer the San Joaquin residents, leaving
15 the Debtors in a position of shutting down the San Joaquin
16 facility or continuing to incur the expenses associated with the
17 San Joaquin facility without receiving the corresponding revenue
18 from Medical/Medicare. At the urging of the San Joaquin
19 residents and their families, the Debtors have permitted the San
20 Joaquin location to remain open, which was costing the Debtors
21 approximately \$1 million per month in operating expenses at the
22 outset of the decertification. Those losses have reduced to a
23 current level of approximately \$475,000 per month, resulting
24 from normal resident attrition.
25

26 Thereafter, in September 2006, DHS proceeded to decertify
27 the Debtors' other two facilities under the same district,
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1 located in Novato, California and Ukiah, California. The result
2 of the decertifications was that Medical/Medicare ceased paying
3 for services provided by those two facilities, which resulted in
4 reducing the Debtors' monthly revenue by approximately \$775,000
5 million, broken down as \$570,000 for Novato and \$205,000 for
6 Ukiah.

7 While the Debtors could have discharged the patients at the
8 two decertified locations, at the urging of the residents and
9 their families, who did not want the residents to be relocated,
10 the Debtors have continued to this day to provide normal and
11 required services for those residents without receiving the
12 reimbursement in exchange. In Novato, there is no alternative
13 facility. The Debtors continued to provide services to the
14 residents with the expectation that DHS would revisit the
15 decertification issue and ultimately recertify the locations
16 because the Debtors had taken what the Debtors believed to be
17 the appropriate steps necessary to cause the locations to be
18 recertified. Unfortunately, DHS has not at this time elected to
19 recertify those locations.
20

21 The expenses associated with the decertified facilities
22 without the corresponding revenue from Medical/Medicare have
23 caused the Debtors to incur severe operating losses over the
24 past approximately two years. In fiscal year 2006, which
25 covered the period of July 1, 2005 through June 30, 2006, the
26 Debtors incurred operating losses of approximately \$7,500,000.
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1 During the first approximately six months of fiscal year 2007
2 (ending December 31, 2006), the Debtors incurred operating
3 losses of approximately \$7,300,000. In their current
4 configuration, the Debtors suffer operating losses of
5 approximately \$2 million per month.

6 C. The Debtors' Business Plan to Stop the Operating
7 Losses.

8 Given the Debtors' financial condition and need for
9 emergency Chapter 11 bankruptcy filings, the Debtors understand
10 and recognize that they cannot financially afford to wait and
11 hope to have the three currently decertified facilities
12 recertified. The Debtors must immediately sell, transfer or
13 close all three decertified facilities (San Joaquin, Novato and
14 Ukiah), which cost the Debtors approximately \$1,250,000 in
15 monthly operating expenses without corresponding revenue, along
16 with a number of additional facilities which lose money from
17 their business operations. The Debtors believe that the four
18 facilities located at Petaluma, Alameda, Yuba City and Santa
19 Cruz cause operating losses of approximately \$500,000 per month.
20 Selling or closing these seven facilities will cause the
21 Debtors' business operations to operate at essentially a break
22 even level.
23

24 The Debtors have engaged Citra Capital Management, LLC
25 ("Citra") as a financial advisor to assist the Debtors to
26 eliminate their operating losses, including closing and/or
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1 selling the facilities described above. Citra has extensive
2 experience in arranging financing for, and sales of, nursing
3 homes for nearly 20 years. Citra has two principals, Herb
4 Saltzman and Michael L. Janda, both of whom have extensive
5 experience in the health care industry.

6 The Debtors are confident that within a very short period
7 of time, the Debtors will be operating profitably and will
8 either be able to reorganize or be sold as a going concern for
9 maximum value.

10 D. The Debtors' Secured Debt.

11 The Debtors' primary secured creditor is Bridge Healthcare
12 Finance, LLC ("Bridge"). Bridge is currently owed approximately
13 \$9.7 million secured by a first priority lien against
14 substantially all of the Debtors' accounts receivable and five
15 of the Debtors' real property leases. One of those leases is
16 for the Debtors' location in San Diego which is likely the
17 Debtors' most valuable location, worth in the range of
18 approximately \$5-\$6 million. The Bridge loan was originated in
19 2004 in the original amount of approximately \$27 million.

20 Until March 21, 2007, the day before the date of the
21 Debtors' Chapter 11 filings, all of the Debtors' collections
22 were paid into a lock box controlled by Bridge and then swept by
23 Bridge on a daily basis, and then Bridge would make daily
24 advances to the Debtors. On March 21, 2007, Bridge advised the
25 Debtors that Bridge intended to continue to sweep the Debtors'
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1 lock box account, but that Bridge would no longer advance funds
2 to the Debtors. Bridge also advised the Debtors that Bridge
3 intended to seek a state court receiver at a hearing to be held
4 on March 22, 2007 on an ex parte basis. The Debtors also
5 learned that Bridge instructed the Debtors' pre-petition
6 financial bank (Wells Fargo) to remit to Bridge all proceeds
7 collected from private insurance providers and individuals.

8
9 The Debtors believe that Bridge's actions were completely
10 unnecessary and inappropriate given the parties long-standing
11 relationship and the fact that Bridge is under absolutely no
12 risk of not being repaid in full. As more discussed below, just
13 the accounts receivable which secure the Bridge loan are worth
14 approximately \$23.5 million, meaning that Bridge is secured by
15 an equity cushion of approximately 200% (ten times the
16 conservative legal standard of 20%) just by the Debtors'
17 accounts receivable alone before including any of Bridge's other
18 valuable collateral. Under any analysis, Bridge is clearly
19 adequately protected by an overwhelming equity cushion.

20 The only other creditor that the Debtors are aware of who
21 may have a lien against the Debtors' cash is OmniCare, which
22 holds secured debt of approximately \$3 million secured by a
23 second priority lien against the accounts receivable and much of
24 the Debtors' other assets, junior only to the lien in favor of
25 Bridge.

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27 E. The Debtors' Asset Base.

1 As of the Petition Date, the Debtors' primary two assets
2 consist of their accounts receivable and facilities. As of the
3 Petition Date, the Debtors had collectible accounts receivable
4 of approximately \$23.5 million. With respect to the Debtors'
5 facilities, the Debtors have approximately 4,100 beds.
6 Facilities such as the ones owned by the Debtors sell for a
7 range of \$8,000-\$27,000 per bed, with an expected average sale
8 price of more than \$10,000 per bed. This means that even after
9 closing or selling the seven locations described above, the
10 Debtors would be left with 23 remaining facilities which would
11 have a total of approximately 3,000 of beds. With an average
12 sale price of approximately \$10,000 per bed, that would equate
13 to a total value of approximately \$30 million.
14

15 Indeed, the Debtors have sold four of their facilities over
16 the past year. The Debtors sold one facility in June, 2006 for
17 \$27,000 per bed. The Debtors sold two facilities in January,
18 2007, one for approximately \$17,000 per bed.

19 Thus, the Debtors believe that their current accounts
20 receivable and 23 facilities remaining after closing or selling
21 the seven locations described above have a total value of
22 approximately \$58 million. In addition to the foregoing, the
23 Debtors have a deposit of approximately \$6.8 million with
24 American Insurance Guaranty for workers compensation claims,
25 when a total of only approximately \$1.8 million of such claims
26 have been asserted, and approximately \$1.5 million of lease
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1 deposits. The Debtors also own the real estate where their
2 corporate office is located, and believe that the real estate
3 has approximately \$1 million of equity.

4 F. The Debtors' Debt Structure.

5 In addition to the approximately \$9.7 million secured debt
6 owed to Bridge and the approximately \$3 million secured debt
7 owed to OmniCare, the Debtors owe approximately \$8.2 million to
8 the Internal Revenue Service; approximately \$6.7 million of
9 unsecured promissory notes; approximately \$2.2 million in
10 litigation settlements; and approximately \$26.4 million in
11 accounts payable.

12 G. The Debtors' Other Emergency Motions

13 Concurrently herewith, the Debtors have filed three other
14 emergency motions. First, the Debtors have filed an emergency
15 motion for authority to use cash collateral. Second, the
16 Debtors have filed an emergency motion for authority to pay the
17 pre-petition priority wages and commissions of its employees, in
18 accordance with the provisions of Section 507(a)(4) of the
19 Bankruptcy Code. Third, the Debtors have filed an emergency
20 motion for the joint administration of their cases.

21 As the emergency wage motion states, the Debtor will owe
22 wages and commissions to their over 3500 employees on Monday,
23 March 25, 2007 totaling approximately \$4.1 million. The wages
24 and commissions that must be paid on March 25 cover the pre-
25 petition period of March 1 to March 15. On April 10, 2007, the
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1 Debtors will owe wages and commissions to their employees for
2 the period from March 16 to March 31, approximately ½ of which
3 is for a pre-petition period. The total payroll obligations due
4 and payable on April 10, 2007 are also expected to be
5 approximately \$4.1 million.

6 As the emergency cash collateral and the budgets provided
7 in connection therewith show, the Debtors are not expected to
8 have sufficient cash on March 25 to fund its payroll and other
9 operating expenses absent infusion of new money. In order to
10 make up for this shortfall, Mr. Bernabe and Sol Majer ("Majer"),
11 an third party who is neither an insider or an affiliate of any
12 of the Debtors, have each agreed to lend to the Debtors the sum
13 of \$500,000, for a total of \$1 million, during the first week of
14 these cases. The terms and conditions of the Loans to be made
15 by Mr. Bernabe to the Debtors are set forth in the "Loan and
16 Security Agreement" (the "Loan Agreement"), a copy of which is
17 attached as Exhibit "A" to the Declaration of Emmanuel I.
18 Bernabe (the "Bernabe Declaration") annexed hereto. As
19 reflected in the Declaration of Sol Majer filed concurrently
20 herewith, Majer has indicated that he will provide the Loans to
21 the Debtors on the same terms and conditions as those set forth
22 in the Loan Agreement, except that the liens granted in favor of
23 Majer will be subordinate to valid, perfected and non-avoidable
24 pre-existing liens of third parties, but senior to the liens
25 granted in favor of Mr. Bernabe.
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1 H. Primary Terms of the Loan Agreement

2 The salient terms of the Loans, which are set forth in the
3 Loan Agreement, a copy of which is attached as Exhibit "A" to
4 the Bernabe Declaration, are as follows:

5 1. Loans. Mr. Bernabe will advance \$500,000 to the
6 Debtors by Monday, March 25. Mr. Majer will also advance
7 \$500,000 to the Debtors by Monday, March 25.

8 2. Term/Maturity. Unless there is a basis for early
9 termination, the Loans shall mature on the later of (i)
10 December 31, 2007; or (ii) the first business day after all
11 obligations of the Debtors owed to parties holding senior
12 obligations of the Debtors owed to parties holding senior
13 valid, perfected and non-avoidable liens are satisfied.

14 3. Interest. Rate of 10% calculated on the basis of
15 360-day year for the actual number of days elapsed.

16 4. Security and Superpriority Administrative Expense
17 Priority. As security for the repayment of the Loans, Mr.
18 Bernabe and Mr. Majer shall be granted a lien on all assets
19 of the Debtors, subordinate only to valid, perfected and
20 non-avoidable security interests and liens on the Debtors'
21 assets existing on the Petition Date, except that the liens
22 granted in favor of Mr. Majer will be subordinate to valid,
23 perfected and non-avoidable pre-existing liens of third
24 parties, but senior to the liens granted in favor of Mr.
25 Bernabe. The security shall not include avoidance actions
26 available under Sections 544, 545, 547, 548, 549, 550 or
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1 553 of the Bankruptcy Code. Additionally, the Debtors will
2 grant to Bernabe and Majer a superpriority administrative
3 expense status for all postpetition obligations.

4 5. Events of Default. Events of Default include
5 failure of Debtors to pay all payments due under the Loan
6 Agreement, conversion of the cases to Chapter 7,
7 appointment of Chapter 11 trustee, interim and final orders
8 not being timely obtained, entry of any order granting
9 relief from automatic stay or similar relief which are
10 detrimental to the rights of Mr. Bernabe and Mr. Majer, the
11 proposal or approval of a plan which are inconsistent with
12 the Loan Agreement, any proposal by any party of a plan
13 that does not provide for the payment in full of the
14 obligations owed to Mr. Bernabe and Mr. Majer on the
15 effective date of such plan, any Change of Control (as
16 defined in the Loan Agreement), and requests by the Debtors
17 to use cash collateral or obtain any further secured
18 financing.
19

20 6. Other terms. The Loan Agreement also contains
21 what the Debtors view as standard and typical loan
22 provisions, including, without limitation, a requirement
23 that Mr. Bernabe and Mr. Majer be deemed to be good faith
24 lenders pursuant to Section 364(e) of the Bankruptcy Code.
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1 The Debtors submit that the terms and conditions under
2 which the Loans will be made are fair and reasonable. Mr.
3 Bernabe and Mr. Majer are not traditional lenders. Rather, Mr.
4 Bernabe and Mr. Majers have agreed to provide the Loans as
5 accommodations to the Debtors in order that the Debtors can meet
6 their payroll obligations on Monday, March 25, pay other
7 operating expenses, and successfully reorganize. These lenders
8 are not charging any excessive or unreasonable fees for
9 providing the Loans, and the terms offered are, in the Debtors'
10 view, extremely favorable. Accordingly, the Debtors are
11 requesting that the Court approve the Loans. Additionally, the
12 Debtors believe that the proposed terms and conditions also
13 constitute standard and typical provisions that are commonly
14 seen and approved by courts in this District in the context of
15 debtor in possession financing.
16

17 I. The Debtors' Reorganization and/or Sales Goals.

18 The Debtors are highly confident of their ability to
19 successfully reorganize and/or sell some or all of their assets.
20 Working in close conjunction with the Creditors' Committee,
21 which the Debtors will seek to have formed on an expedited
22 basis, and with the two professionals of Citra (Mr. Janda and
23 Mr. Saltzman), the Debtors intend to formulate an expedited
24 reorganization and/or sale strategy. The Citra professionals
25 are currently engaged in sale discussions with a number of
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1 prospective buyers for a number of the Debtors' facilities,
2 including the seven Problem Facilities.

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4 **II. DISCUSSION**

4 **A. The Proposed Loans Should Be Approved Pursuant to Sections**
5 **364(c) and (d) of the Bankruptcy Code.**

6 If a debtor in possession cannot obtain post-petition
7 credit on an unsecured basis, the court may authorize the
8 obtaining of credit or the incurring of debt, repayment of which
9 is entitled to superpriority administrative status or is secured
10 by a lien on unencumbered property or a junior lien on
11 encumbered property, or a combination of the foregoing. See 11
12 U.S.C. Section 364(c)¹. The court may also authorize a debtor
13 to obtain post-petition secured credit secured by a senior or
14 equal lien on already encumbered property (i.e., a priming lien)
15 where a debtor is unable to obtain credit elsewhere and the
16 interest of the existing lienholder is adequately protected. 11
17 U.S.C. § 364(d)².

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21 ¹ Section 364(c) of the Bankruptcy Code provides:

22 (c) If the trustee is unable to obtain unsecured credit
23 allowable under section 503(b)(1) of this title as an
24 administrative expense, the court, after notice and a
25 hearing, may authorize the obtaining of credit or the
26 incurring of debt --

- 27 (1) with priority over any or all
28 administrative expenses of the kind specified
in section 503(b) or 507(b) of this title;
(2) secured by a lien on property of the estate
that is not otherwise subject to a lien; or
(3) secured by a junior lien on property of the
estate that is subject to a lien.

² Section 364(d) of the Bankruptcy Code provides:

1 Section 364 of the Bankruptcy Code is structured with an
2 escalating series of inducements which a debtor in possession
3 may offer to attract credit during the post-petition period. In
4 re Photo Promotion Associates, Inc., 87 B.R. 835, 839 (Bankr.
5 S.D.N.Y. 1988), *aff'd*, 881 F.2d 6 (2d. Cir. 1989). Therefore,
6 where a trustee or debtor in possession cannot otherwise obtain
7 unsecured post-petition credit, such credit may be obtained
8 under certain carefully proscribed conditions. In re T.M.
9 Sweeney & Sons LTL Services, Inc., 131 B.R. 984, 989 (Bankr.
10 N.D.Ill. 1991). For example, if creditors are unwilling to
11 extend unsecured credit to a debtor in possession, further
12 inducements are offered, with court approval after notice and a
13 hearing, including, without limitation, liens junior to existing
14 liens or equal to or senior to existing liens on encumbered
15 property in accordance with 11 U.S.C. § 364(c)(3). In re Photo
16 Promotion Associates, Inc., 87 B.R. at 839.

18 The statutory requirement for obtaining post-petition
19 credit under Section 364(c) is a finding, made after notice and
20 hearing, that the debtor in possession is "unable to obtain
21 unsecured credit allowable under Section 503(b)(1) as an
22 administrative expense." See In re Garland Corp., 6 B.R. 456,
23 461 (1st Cir. 1980) [secured credit under section 364(c)(2) is

25 (d) (1) The court, after notice and a hearing, may authorize the
26 obtaining of credit or in the incurring of debt secured by a senior or equal
27 lien on property of the estate that is subject to a lien only if-
28 (A) the trustee is unable to obtain such credit otherwise; and
(B) there is adequate protection of the interest of the holder
of the lien on the property of the estate on which such senior
or equal lien is proposed to be granted.

1 authorized, after notice and hearing, upon showing that
2 unsecured credit cannot be obtained]. Section 364(c) financing
3 is appropriate when the trustee or debtor in possession is
4 unable to obtain unsecured credit allowable as an ordinary
5 administrative claim. In re Crouse Group, Inc., 71 B.R. 544, 549
6 (Bankr. E.D. Pa. 1987), modified on other grounds, 75 B.R. 553
7 (Bankr. E.D. Pa. 1987).

8
9 Some courts have applied a three-part test in determining
10 whether to authorize post-petition financing under Section
11 364(c) of the Bankruptcy Code:

12 (1) the debtor is unable to obtain unsecured credit per 11
13 U.S.C. § 364(b), i.e., by allowing a lender only an
14 administrative claim per 11 U.S.C. § 364(b)(1)(A);

15 (2) the credit transaction is necessary to preserve the
16 assets of the estate; and

17 (3) the terms of the transaction are fair, reasonable and
18 adequate, given the circumstances of the debtor-borrower and the
19 proposed lender. In re Crouse Group, Inc., 71 B.R. 544, 549
20 (Bankr. E.D. Pa. 1987) ; see also In re Aqua Assoc., 123 B.R.
21 192, 195 (Bankr. E.D.Pa. 1991). One rationale for this test is
22 that obtaining credit should be permitted not only because it is
23 not available elsewhere, which could suggest the unsoundness of
24 the basis for use of the funds generated by credit, but also
25 because the credit acquired is of significant benefit to the
26

27
28 (2) In any hearing under this section, the trustee has the burden of
proof on the issue of adequate protection.

1 debtor's estate and that the terms of the proposed loan are
2 within the bounds of reason, irrespective of the inability of
3 the debtor to obtain comparable credit elsewhere. Aqua Assoc.,
4 123 B.R. at 196.

5 The Debtors submit that an evaluation of the foregoing
6 three-part test to the facts and circumstances of their cases
7 lead to the conclusion that obtaining the Loans from Mr. Bernabe
8 and Mr. Majer under the terms and conditions set forth in the
9 Loan Agreement are appropriate and justified.

10 ///

11 ///

12
13 1. The Debtors Were Unable to Obtain the Necessary Post-
14 Petition Financing on an Unsecured Basis.

15 The Debtor is unable to procure the required funds in the
16 form of unsecured credit with only an administrative priority by
17 Monday, March 25 because substantially all or all of the
18 Debtors' assets are already encumbered. Given its current debts
19 and the filing of Chapter 11, the Debtors are unaware of any
20 financial institution or other party that is or would be willing
21 to make a loan to the Debtors for up to \$1 million on an
22 unsecured or junior lien basis almost immediately by March 25.

23 To show that the credit required is not obtainable on an
24 unsecured basis, a debtor need only demonstrate "by a good faith
25 effort that credit was not available without" the protections of
26 section 364(c). Bray v. Shenandoah Federal Sav. and Loan Ass'n
27

1 (In re Snowshoe Co.), 789 F.2d 1085, 1088 (4th Cir. 1986).
2 Thus, "[t]he statute imposes no duty to seek credit from every
3 possible lender before concluding that such credit is
4 unavailable." Id. at 1088; see also In re Plabell Rubber
5 Prods., Inc., 137 B.R. 897, 900 (Bankr. N.D. Ohio 1992).
6 Moreover, where there are few lenders likely to be able and
7 willing to extend the necessary credit to the debtor, "it would
8 be unrealistic and unnecessary to require [the debtor] to
9 conduct an exhaustive search for financing." In re Sky Valley,
10 Inc., 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), aff'd sub nom.
11 Anchor Sav. Bank FSB v. Sky Valley, Inc., 99 B.R. 117, 120 n.4
12 (N.D. Ga. 1989).

14 Moreover, bankruptcy courts routinely defer to the debtor's
15 business judgment on most business decisions, including the
16 decision to borrow money, unless the decision is arbitrary and
17 capricious. See In re Trans World Airlines, Inc., 163 B.R. 964,
18 974 (Bankr. D. Del. 1994) (noting that the interim loan,
19 receivables facility and asset based facility were approved
20 because they "reflect[ed] sound and prudent business judgment on
21 the part of TWA, [were] reasonable under the circumstances and
22 in the best interest of TWA and its creditors"); Group of
23 Institutional Investors v. Chicago Mil St. P. & Pac. Ry., 318
24 U.S. 523, 550 (1943); In re Simasko Prod. Co., 47 B.R. 444, 449
25 (D. Colo. 1985) ("Business judgments should be left to the board
26 room and not to this Court."); In re Lifeguard Indus., Inc., 37
27

1 B.R. 3, 17 (Bankr. S.D. Ohio 1983) (same). "More exacting
2 scrutiny would slow the administration of the Debtor's estate
3 and increase its cost, interfere with the Bankruptcy Code's
4 provision for private control of administration of the estate,
5 and threaten the court's ability to control a case impartially."
6 Richmond Leasing Co. v. Capital Bank, N.A., 762 F.2d 1303, 1311
7 (5th Cir. 1985).

8
9 In general, a bankruptcy court should defer to a debtor in
10 possession's business judgment regarding the need for and the
11 proposed use of funds, unless such decision is arbitrary and
12 capricious. In re Curlew Valley Assocs., 14 B.R. 507, 511-13
13 (Bankr. D. Utah 1981). Courts generally will not second-guess a
14 debtor in possession's business decisions when those decisions
15 involve "a business judgment made in good faith, upon a
16 reasonable basis, and within the scope of his authority under
17 the Code." Curlew Valley, 14 B.R. at 513-14.

18 The Debtors have concluded that obtaining the Loans from
19 Mr. Bernabe and Mr. Majer which will enable the Debtors to pay
20 wages owed to their employees on Monday, March 25, and other
21 operating expenses, and, therefore, operate in the manner the
22 Debtors deem appropriate is a superior alternative to the delays
23 and risks associated with attempting to obtain loans from an
24 alternative lender. The Debtors need new money immediately by
25 March 25 to meet their enormous payroll and other operating
26 obligations, and, therefore, simply did not have time to engage
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1 in dialogue with numerous potential lenders to determine whether
2 any of these lenders might lend the Debtors money on more
3 favorable terms than Mr. Bernabe and Mr. Majer. Absent the
4 Loans, which Mr. Bernabe and Mr. Majer have committed to provide
5 the Debtors as an accommodation, the Debtors can survive and
6 attempt to achieve their reorganization goals.

7 2. The Loans Will Send a Positive Message and Signal to
8 the Marketplace that the Debtors' Businesses are Supported By
9 the Debtors' Shareholder and Principal.

10 As with all operating businesses, it is critically
11 important that the Debtors immediately obtain sufficient funds
12 to pay wages to its employees, and pay the other expenses set
13 forth in the Budget. It is even more critical in the Debtors'
14 case because unless the Debtors meet its expenses and stay in
15 business, thousands of nursing care facility residents will be
16 without proper care and medical supervision. The Debtors
17 believe that obtaining the Loans from Mr. Bernabe will send a
18 very positive message to the Debtors' suppliers and employees
19 that the Debtors' majority shareholder is supportive of the
20 Debtors' continuing business operations and is attempting to
21 take every step possible to preserve the businesses. The
22 Debtors believe that such a positive message will assist the
23 Debtors to obtain the necessary inventory or services from the
24 Debtors' suppliers, help maintain employee morale and ultimately
25 reorganize.
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deems just and proper.

Dated: March 23, 2007

PLEASANT CARE CORPORATION
SNF PROPERTIES INCORPORATED
PCC HEALTH SERVICES, INC.
ATLAS CARE ENTERPRISES, INC.
EMBER CARE CORPORATION

By: Monica Bender
Ron Bender
Monica Y. Kim
Jacqueline L. Rodriguez
Levene, Neale, Bender,
Rankin & Brill L.L.P.
Proposed Attorneys for
Debtors and Debtors
in Possession

1 pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

2 B. The Debtors' Business Structure and Background.

3 4. The Debtors are principally engaged in the business of
4 owning and operating 30 skilled nursing facilities and
5 residential care facilities. A skilled nursing facility cares
6 for patients who require a higher level of nursing care, most of
7 whom remain there permanently. A residential care facility
8 cares for patients who require a lesser level of care. Both
9 types of facilities generally involve patients who remain at the
10 facilities on a long term basis.

11 5. PCC owns and operates 14 such facilities; SNF owns and
12 operates 5 such facilities; PCCH owns and operates 5 such
13 facilities; Ember owns and operates 5 such facilities; Atlas
14 owns and operates one such facility. The Debtors currently have
15 approximately 3,000 residents at the Debtors' various
16 facilities.

17 6. While there are five separate corporate Debtors, the
18 Debtors essentially operate as one consolidated business entity.
19 There is one group of management for all five Debtors; all of
20 the Debtors' approximately 3,500 employees are paid by one
21 Debtor; and all of the Debtors' operating revenue is ultimately
22 deposited into one general bank account.

23 7. PCC owns 100% of the stock of SNF, PCCH and Atlas and
24 94% of ECC. I own 100% of the stock of PCC.
25
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1 . Mr. Bernabe started the business in 1982 by acquiring
2 one facility. Over the next 25 years, Mr. Bernabe acquired and
3 sold approximately 50 facilities and built the Debtors' business
4 to its current state. The Debtors collectively generate annual
5 revenue of approximately \$200 million and employ approximately
6 3,500 people. The Debtors have and care for approximately 3,000
7 residents at their 30 care facilities.

8 In addition to the 30 care facilities, the Debtors have
9 three business offices. The primary business office is located
10 at 2258 Foothill Blvd., La Canada, California 91011. The other
11 two business offices are located in Pasadena and Stockton.

12 The Debtors' generally operated profitably until
13 approximately two years ago.

14 In mid-2005, the Debtors' facility located in San Joaquin,
15 California and the Debtors' facility located in Napa, California
16 were decertified by the Department of Health Services ("DHS"),
17 which contended that the two facilities did not meet the
18 standards for participation under the Medical/Medicare programs,
19 which account for approximately 85% of the Debtors' revenue.

20 A temporary manager was assigned to the Napa facility by
21 DHS, with the consent of the Debtors, who had the responsibility
22 of restoring that facility into DHS compliance. The agreement
23 was that the Debtors would have no oversight of the temporary
24 manager, but assist and work with the temporary manager to
25 restore the facility into DHS compliance. DHS decided not to
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1 recertify the facility even after the appointment of the
2 temporary manager, and the Debtors closed the Napa facility,
3 with the consent of DHS and in accordance with DHS regulations.

4 The Debtors had no realistic alternative facility to which
5 the Debtors could transfer the San Joaquin residents, leaving
6 the Debtors in a position of shutting down the San Joaquin
7 facility or continuing to incur the expenses associated with the
8 San Joaquin facility without receiving the corresponding revenue
9 from Medical/Medicare. At the urging of the San Joaquin
10 residents and their families, the Debtors have permitted the San
11 Joaquin location to remain open, which was costing the Debtors
12 approximately \$1 million per month in operating expenses at the
13 outset of the decertification. Those losses have reduced to a
14 current level of approximately \$475,000 per month, resulting
15 from normal resident attrition.

17 Thereafter, in September 2006, DHS proceeded to decertify
18 the Debtors' other two facilities under the same district,
19 located in Novato, California and Ukiah, California. The result
20 of the decertifications was that Medical/Medicare ceased paying
21 for services provided by those two facilities, which resulted in
22 reducing the Debtors' monthly revenue by approximately \$775,000
23 million, broken down as \$570,000 for Novato and \$205,000 for
24 Ukiah.

25 While the Debtors could have discharged the patients at the
26 two decertified locations, at the urging of the residents and
27

1 their families, who did not want the residents to be relocated,
2 the Debtors have continued to this day to provide normal and
3 required services for those residents without receiving the
4 reimbursement in exchange. In Novato, there is no alternative
5 facility. The Debtors continued to provide services to the
6 residents with the expectation that DHS would revisit the
7 decertification issue and ultimately recertify the locations
8 because the Debtors had taken what the Debtors believed to be
9 the appropriate steps necessary to cause the locations to be
10 recertified. Unfortunately, DHS has not at this time elected to
11 recertify those locations.
12

13 The expenses associated with the decertified facilities
14 without the corresponding revenue from Medical/Medicare have
15 caused the Debtors to incur severe operating losses over the
16 past approximately two years. In fiscal year 2006, which
17 covered the period of July 1, 2005 through June 30, 2006, the
18 Debtors incurred operating losses of approximately \$7,500,000.
19 During the first approximately six months of fiscal year 2007
20 (ending December 31, 2006), the Debtors incurred operating
21 losses of approximately \$7,300,000. In their current
22 configuration, the Debtors suffer operating losses of
23 approximately \$2 million per month.
24

25 C. The Debtors' Business Plan to Stop the Operating
26 Losses.
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1 Given the Debtors' financial condition and need for
2 emergency Chapter 11 bankruptcy filings, the Debtors understand
3 and recognize that they cannot financially afford to wait and
4 hope to have the three currently decertified facilities
5 recertified. The Debtors must immediately sell, transfer or
6 close all three decertified facilities (San Joaquin, Novato and
7 Ukiah), which cost the Debtors approximately \$1,250,000 in
8 monthly operating expenses without corresponding revenue, along
9 with a number of additional facilities which lose money from
10 their business operations. The Debtors believe that the four
11 facilities located at Petaluma, Alameda, Yuba City and Santa
12 Cruz cause operating losses of approximately \$500,000 per month.
13 Selling or closing these seven facilities will cause the
14 Debtors' business operations to operate at essentially a break
15 even level.

17 The Debtors have engaged Citra Capital Management, LLC
18 ("Citra") as a financial advisor to assist the Debtors to
19 eliminate their operating losses, including closing and/or
20 selling the facilities described above. Citra has extensive
21 experience in arranging financing for, and sales of, nursing
22 homes for nearly 20 years. Citra has two principals, Herb
23 Saltzman and Michael L. Janda, both of whom have extensive
24 experience in the health care industry.

25 The Debtors are confident that within a very short period
26 of time, the Debtors will be operating profitably and will
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28

1 either be able to reorganize or be sold as a going concern for
2 maximum value.

3 D. The Debtors' Secured Debt.

4 The Debtors' primary secured creditor is Bridge Healthcare
5 Finance, LLC ("Bridge"). Bridge is currently owed approximately
6 \$9.7 million secured by a first priority lien against
7 substantially all of the Debtors' accounts receivable and five
8 of the Debtors' real property leases. One of those leases is
9 for the Debtors' location in San Diego which is likely the
10 Debtors' most valuable location, worth in the range of
11 approximately \$5-\$6 million. The Bridge loan was originated in
12 2004 in the original amount of approximately \$27 million.

13
14 Until March 21, 2007, the day before the date of the
15 Debtors' Chapter 11 filings, all of the Debtors' collections
16 were paid into a lock box controlled by Bridge and then swept by
17 Bridge on a daily basis, and then Bridge would make daily
18 advances to the Debtors. On March 21, 2007, Bridge advised the
19 Debtors that Bridge intended to continue to sweep the Debtors'
20 lock box account, but that Bridge would no longer advance funds
21 to the Debtors. Bridge also advised the Debtors that Bridge
22 intended to seek a state court receiver at a hearing to be held
23 on March 22, 2007 on an ex parte basis. The Debtors also
24 learned that Bridge instructed the Debtors' pre-petition
25 financial bank (Wells Fargo) to remit to Bridge all proceeds
26 collected from private insurance providers and individuals.
27
28

1 The Debtors believe that Bridge's actions were completely
2 unnecessary and inappropriate given the parties long-standing
3 relationship and the fact that Bridge is under absolutely no
4 risk of not being repaid in full. As more discussed below, just
5 the accounts receivable which secure the Bridge loan are worth
6 approximately \$23.5 million, meaning that Bridge is secured by
7 an equity cushion of approximately 200% (ten times the
8 conservative legal standard of 20%) just by the Debtors'
9 accounts receivable alone before including any of Bridge's other
10 valuable collateral. Under any analysis, Bridge is clearly
11 adequately protected by an overwhelming equity cushion.
12

13 The only other creditor that the Debtors are aware of who
14 may have a lien against the Debtors' cash is OmniCare, which
15 holds secured debt of approximately \$3 million secured by a
16 second priority lien against the accounts receivable and much of
17 the Debtors' other assets, junior only to the lien in favor of
18 Bridge.

19 E. The Debtors' Asset Base.

20 As of the Petition Date, the Debtors' primary two assets
21 consist of their accounts receivable and facilities. As of the
22 Petition Date, the Debtors had collectible accounts receivable
23 of approximately \$23.5 million. With respect to the Debtors'
24 facilities, the Debtors have approximately 4,100 beds.
25 Facilities such as the ones owned by the Debtors sell for a
26 range of \$8,000-\$27,000 per bed, with an expected average sale
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1 price of more than \$10,000 per bed. This means that even after
2 closing or selling the seven locations described above, the
3 Debtors would be left with 23 remaining facilities which would
4 have a total of approximately 3,000 of beds. With an average
5 sale price of approximately \$10,000 per bed, that would equate
6 to a total value of approximately \$30 million.

7
8 Indeed, the Debtors have sold four of their facilities over
9 the past year. The Debtors sold one facility in June, 2006 for
10 \$27,000 per bed. The Debtors sold two facilities in January,
11 2007, one for approximately \$17,000 per bed.

12 Thus, the Debtors believe that their current accounts
13 receivable and 23 facilities remaining after closing or selling
14 the seven locations described above have a total value of
15 approximately \$58 million. In addition to the foregoing, the
16 Debtors have a deposit of approximately \$6.8 million with
17 American Insurance Guaranty for workers compensation claims,
18 when a total of only approximately \$1.8 million of such claims
19 have been asserted, and approximately \$1.5 million of lease
20 deposits. The Debtors also own the real estate where their
21 corporate office is located, and believe that the real estate
22 has approximately \$1 million of equity.

23 F. The Debtors' Debt Structure.

24 In addition to the approximately \$9.7 million secured debt
25 owed to Bridge and the approximately \$3 million secured debt
26 owed to OmniCare, the Debtors owe approximately \$8.2 million to
27
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1 the Internal Revenue Service; approximately \$6.7 million of
2 unsecured promissory notes; approximately \$2.2 million in
3 litigation settlements; and approximately \$26.4 million in
4 accounts payable.

5 H. The Debtors' Other Emergency Motions

6 Concurrently herewith, the Debtors have filed three other
7 emergency motions. First, the Debtors have filed an emergency
8 motion for authority to use cash collateral. Second, the
9 Debtors have filed an emergency motion for authority to pay the
10 pre-petition priority wages and commissions of its employees, in
11 accordance with the provisions of Section 507(a)(4) of the
12 Bankruptcy Code. Third, the Debtors have filed an emergency
13 motion for the joint administration of their cases.
14

15 As the emergency wage motion states, the Debtor will owe
16 wages and commissions to their over 3500 employees on Monday,
17 March 25, 2007 totaling approximately \$4.1 million. The wages
18 and commissions that must be paid on March 25 cover the pre-
19 petition period of March 1 to March 15. On April 10, 2007, the
20 Debtors will owe wages and commissions to their employees for
21 the period from March 16 to March 31, approximately ½ of which
22 is for a pre-petition period. The total payroll obligations due
23 and payable on April 10, 2007 are also expected to be
24 approximately \$4.1 million.
25

26 As the emergency cash collateral and the budgets provided
27 in connection therewith show, the Debtors are not expected to
28

1 have sufficient cash on March 25 to fund its payroll and other
2 operating expenses absent infusion of new money. In order to
3 make up for this shortfall, Mr. Bernabe and Sol Majer ("Majer"),
4 an third party who is neither an insider or an affiliate of any
5 of the Debtors, have each agreed to lend to the Debtors the sum
6 of \$500,000, for a total of \$1 million, during the first week of
7 these cases. The terms and conditions of the Loans to be made
8 by Mr. Bernabe to the Debtors are set forth in the "Loan and
9 Security Agreement" (the "Loan Agreement"), a copy of which is
10 attached as Exhibit "A" to the Declaration of Emmanuel I.
11 Bernabe (the "Bernabe Declaration") annexed hereto. As
12 reflected in the Declaration of Sol Majer filed concurrently
13 herewith, Majer has indicated that he will provide the Loans to
14 the Debtors on the same terms and conditions as those set forth
15 in the Loan Agreement, except that the liens granted in favor of
16 Majer will be subordinate to valid, perfected and non-avoidable
17 pre-existing liens of third parties, but senior to the liens
18 granted in favor of Mr. Bernabe.

20 H. Primary Terms of the Loan Agreement

21 The salient terms of the Loans, which are set forth in the
22 Loan Agreement, a copy of which is attached as Exhibit "A" to
23 the Bernabe Declaration, are as follows:

- 24 1. Loans. Mr. Bernabe will advance \$500,000 to the
25 Debtors by Monday, March 25. Mr. Majer will also advance
26 \$500,000 to the Debtors by Monday, March 25.
27

1 2. Term/Maturity. Unless there is a basis for early
2 termination, the Loans shall mature on the later of (i)
3 December 31, 2007; or (ii) the first business day after all
4 obligations of the Debtors owed to parties holding senior
5 valid, perfected and non-avoidable liens are satisfied.

6 3. Interest. Rate of 10% calculated on the basis of
7 360-day year for the actual number of days elapsed.

8 4. Security and Superpriority Administrative Expense
9 Status. As security for the repayment of the Loans, Mr.
10 Bernabe and Mr. Majer shall be granted a lien on all assets
11 of the Debtors, subordinate only to valid, perfected and
12 non-avoidable security interests and liens on the Debtors'
13 assets existing on the Petition Date, except that the liens
14 granted in favor of Mr. Majer will be subordinate to valid,
15 perfected and non-avoidable pre-existing liens of third
16 parties, but senior to the liens granted in favor of Mr.
17 Bernabe. The security shall not include avoidance actions
18 available under Sections 544, 545, 547, 548, 549, 550 or
19 553 of the Bankruptcy Code. Additionally, the Debtors will
20 grant to Bernabe and Majer a superpriority administrative
21 expense status for all postpetition obligations.

22 5. Events of Default. Events of Default include
23 failure of Debtors to pay all payments due under the Loan
24 Agreement, conversion of the cases to Chapter 7,
25 appointment of Chapter 11 trustee, interim and final orders
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1 not being timely obtained, entry of any order granting
2 relief from automatic stay or similar relief which are
3 detrimental to the rights of Mr. Bernabe and Mr. Majer, the
4 proposal or approval of a plan which are inconsistent with
5 the Loan Agreement, any proposal by any party of a plan
6 that does not provide for the payment in full of the
7 obligations owed to Mr. Bernabe and Mr. Majer on the
8 effective date of such plan, any Change of Control (as
9 defined in the Loan Agreement), and requests by the Debtors
10 to use cash collateral or obtain further secured financing.

11 6. Other terms. The Loan Agreement also contains
12 what the Debtors view as standard and typical loan
13 provisions, including, without limitation, a requirement
14 that Mr. Bernabe and Mr. Majer be deemed to be good faith
15 lenders pursuant to Section 364(e) of the Bankruptcy Code.
16

17
18 The Debtors submit that the terms and conditions under
19 which the Loans will be made are fair and reasonable. Mr.
20 Bernabe and Mr. Majer are not traditional lenders. Rather, Mr.
21 Bernabe and Mr. Majers have agreed to provide the Loans as
22 accommodations to the Debtors in order that the Debtors can meet
23 their payroll obligations on Monday, March 25, pay other
24 operating expenses, and successfully reorganize. These lenders
25 are not charging any excessive or unreasonable fees for
26 providing the Loans, and the terms offered are, in the Debtors'
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1 view, extremely favorable. Accordingly, the Debtors are
2 requesting that the Court approve the Loans. Additionally, the
3 Debtors believe that the proposed terms and conditions also
4 constitute standard and typical provisions that are commonly
5 seen and approved by courts in this District in the context of
6 debtor in possession financing.

7 I. The Debtors' Reorganization and/or Sales Goals.

8 The Debtors are highly confident of their ability to
9 successfully reorganize and/or sell some or all of their assets.
10 Working in close conjunction with the Creditors' Committee,
11 which the Debtors will seek to have formed on an expedited
12 basis, and with the two professionals of Citra (Mr. Janda and
13 Mr. Saltzman), the Debtors intend to formulate an expedited
14 reorganization and/or sale strategy. The Citra professionals
15 are currently engaged in sale discussions with a number of
16 prospective buyers for a number of the Debtors' facilities,
17 including the seven Problem Facilities.

18 I declare under penalty of perjury that the foregoing is
19 true and correct.

20 Executed this 23rd day of March, 2007 at Los Angeles,
21 California.

22
23
24 *See attached*

25 _____
EMMANUEL I. BERNABE

1 view, extremely favorable. Accordingly, the Debtors are
2 requesting that the Court approve the Loans. Additionally, the
3 Debtors believe that the proposed terms and conditions also
4 constitute standard and typical provisions that are commonly
5 seen and approved by courts in this District in the context of
6 debtor in possession financing.

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13 Mr. Saltzman), the Debtors intend to formulate an expedited
14 reorganization and/or sale strategy. The Citra professionals
15 are currently engaged in sale discussions with a number of
16 prospective buyers for a number of the Debtors' facilities,
17 including the seven Problem Facilities.
18

19 I declare under penalty of perjury that the foregoing is
20 true and correct.

21 Executed this 23rd day of March, 2007 at Los Angeles,
22 California.

23
24
25 
26 EMMANUEL I. BERNABE
27
28