

**IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF ARKANSAS  
LITTLE ROCK DIVISION**

**IN RE: LIVING HOPE SOUTHEAST, LLC,  
Debtor-in-possession**

**CASE NO: 4:12-bk-11082 E  
CHAPTER 11**

**ORDER GRANTING MOTIONS TO APPOINT TRUSTEE**

Now before the Court are two motions to appoint a Chapter 11 Trustee, one filed by Renee Williams, the Chapter 7 Trustee for Living Hope Southwest Medical Svcs, LLC (“**Southwest**” or “**Living Hope Southwest**”) (4:06-bk-71484), (docket #140), and one filed by the United States Trustee (docket #162) (the “**Motions to Appoint Trustee**”). The Motions to Appoint Trustee were heard on February 14, 2013, February 18, 2013, March 8, 2013, and March 11, 2013.<sup>1</sup> Thomas Streetman and Robert Gibson appeared on behalf of Renee Williams (the “**Southwest Trustee**”), and Patti J. Stanley appeared on behalf of the U.S. Trustee. James E. Smith was in attendance as counsel-of-record for the Debtor. Appearing in opposition to the Motions to Appoint Trustee were: the Debtor who was

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<sup>1</sup> Other matters set for hearing on these dates included: *Motion for Relief from Stay* filed by Pinewood (docket #106); *Motion for Entry of an Order Establishing a Bar Date to File Proof of Claim* filed by Smith on behalf of LHSE (docket #138); *Motion Requesting Substitution of Attorney* filed by Jeannette A. Robertson on behalf of LHSE (docket #145); *Application to Employ Attorney* filed by Robertson on behalf of LHSE (docket #148); *Objection to Debtor’s Application to Employ Attorney* filed by U.S. Trustee (docket #153); *Amended Application to Employ Attorney* filed by Robertson on behalf of LHSE (docket #157); and *Motion to Withdraw as Counsel for Debtor* filed by Smith on behalf of LHSE (docket #158). These motions are continued to be set for hearing once a trustee is appointed.

represented by Jeannette Robertson;<sup>2</sup> creditor Pinewood/Dr. James Naples<sup>3</sup> represented by Judy Henry, Kim Tucker and Charles Coleman; creditor Estate of Wanda Stephens, represented by Dr. Greg Stephens, executor, *pro se*; creditors Living Hope Institute, Inc. (“**LHI**”) and Ameriwest Health Services, Inc. represented by Steve Gershner;<sup>4</sup> and the AK Tennessee Irrevocable Trust (the “**AK Trust**”) represented by Kimbro Stephens.<sup>5</sup> (Because many family members named Stephens are involved in this case, Greg and Kimbro will be referred to by their first names throughout this Order). The Court allowed only two parties in opposition to the Motions to Appoint Trustee to make opening statements and conduct cross-examination in the interest of time and order; the parties were allowed to choose

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<sup>2</sup> Ms. Robertson was given qualified permission to represent the Debtor during the Motions to Appoint Trustee with her acknowledgment that she may not ultimately be approved to represent the Debtor.

<sup>3</sup> On the fourth day of trial, Dr. Naples announced that he had sold the stock of Pinewood but reserved any causes of action it held for himself personally, and that he was now appearing in the case on his own behalf. Pending motions related to the substitution of Dr. Naples for Pinewood and the testimony given by Dr. Naples at trial will be dealt with by separate order at a later date.

<sup>4</sup> LHI, Ameriwest Health Services, Inc., and the Estate of Wanda Stephens are cross-claimants in a related lawsuit against Debtor pending in Miller County, Arkansas. Greg is president of Ameriwest Health Services which is owned by the Kenneth Stephens Insurance Trust (“**KSIT**”). Ken Stephens is the trustee of the KSIT. Ameriwest is the successor-in-interest to LHI which is now defunct, having ceased operations in 2007 after losing a major contract with St. Vincent’s in Little Rock. According to an affidavit filed by Greg in Miller County on April 21, 2010 (Trustee’s Exhibit 15), he had at some point served as an officer of LHI.

<sup>5</sup> Kimbro served as counsel for the AK Trust and is also a beneficiary of the AK Trust. During the last day of hearing in this matter, it was brought to everyone’s attention that Kimbro’s license to practice law was suspended on November 17, 2012, for failure to complete continuing legal education requirements.

between themselves who would present openings and conduct cross-examination as to each witness.

Having completed a review of the testimony and evidence produced during the four days of trial on this matter, the Court concludes that cause exists to appoint a Chapter 11 trustee in this case, and therefore, the appointment of a trustee is mandatory pursuant to 11 U.S.C. § 1104(a)(1). Further, the Court also finds that the appointment of a trustee is appropriate because it is in the best interests of the creditors and the estate. The facts presented at the trial on the Motions to Appoint Trustee show that cause exists to appoint a trustee immediately. To expedite this appointment and protect the Debtor, the Court will describe the most egregious activity undertaken by Kimbro, the Debtor's primary stakeholder, in this Order, and will enter its longer more detailed opinion as soon as possible.

In this Order, the Court finds that Mike Grundy manages the Debtor's profitable business of delivering outpatient services to psychiatric patients. Kimbro controls the Debtor's legal and financial decisions. Grundy does not rely on Kimbro to manage the Debtor, and the Debtor's business has the potential to be even more profitable without the interference caused by Kimbro's decisions. In concert with other family members, Kimbro has evaded the responsibilities required of and limitations placed upon a Chapter 11 Debtor, while creating a constant stream of legalistic maneuvers to insure that he and his family's self-interest motivate all decisions.

## LEGAL STANDARD

Section 1104(a) provides:

At any time after the commencement of the case but before confirmation of a plan, on request of a party in interest or the United States trustee, and after notice and a hearing, the court shall order the appointment of a trustee--

(1) for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor by current management, either before or after the commencement of the case, or similar cause, but not including the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor; or

(2) if such appointment is in the interests of creditors, any equity security holders, and other interests of the estate, without regard to the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor.

11 U.S.C.A. § 1104 (West).

Although bankruptcy courts have discretion in finding whether cause exists for the appointment of a trustee under § 1104(a)(1), “[t]he appointment of a trustee in a Chapter 11 case is an extraordinary remedy,” and “there is a strong presumption in favor of allowing a chapter 11 debtor-in-possession to remain in possession.” *In re Keeley & Grabanski Land P’ship*, 455 B.R. 153, 162 (B.A.P. 8th Cir. 2011) (quoting *In re Veblen West Dairy LLP*, 434 B.R. 550, 553 (Bankr. D.S.D. 2010)). The party moving for appointment of a trustee bears the burden of proof, and the appropriate standard of proof is a preponderance of the evidence. *Id.* at 162-163 (“... If a preponderance of the evidence standard is a sufficient standard for the denial of discharge based on a debtor’s fraud, it should likewise be sufficient for the appointment of a trustee based on allegations of the debtor’s fraud or misconduct.

Consequently, we conclude that the proper standard for a party seeking the appointment of a Chapter 11 trustee is preponderance of the evidence.”).

In determining whether cause exists for the appointment of a trustee, courts consider:

the materiality of any misconduct, the debtor-in-possession’s evenhandedness or lack thereof in dealings with insiders and affiliated entities in relation to other creditors, the existence of pre-petition voidable preferences or fraudulent conveyances, whether any conflicts of interest on the part of the debtor-in-possession are interfering with its ability to fulfill its fiduciary duties, and whether there has been self-dealing or squandering of estate assets. If cause is found, the appointment of a trustee is mandatory.

*Id.* at 163. Further, the existence of acrimony between a debtor and its creditors may, based on the particular facts and circumstances, rise to the level of “cause” requiring the appointment of a trustee under § 1104(a)(1). *In re Marvel Entm't Group, Inc.*, 140 F.3d 463, 474 (3d Cir. 1998) (citing *In re Cajun Elec. Power Coop., Inc.*, 74 F.3d 599, 600 (5th Cir. 1996); *Petit v. New England Mortg. Services Inc.*, 182 B.R. 64, 70 (D. Me. 1995); *In re Bellevue Place Assocs.*, 171 B.R. 615, 623 (Bankr. N.D. Ill. 1994); *In re Colorado-Ute Elec. Assoc., Inc.*, 120 B.R. 164, 176 (Bankr. D. Colo. 1990); *In re The Bible Speaks*, 74 B.R. 511, 512 (Bankr. D. Mass. 1987).

A trustee may also be appointed for cause where the debtor-in-possession has failed to assume its fiduciary duties with respect to all creditors. *Marvel*, 140 F.3d at 474. “These obligations include ‘[o]pen, honest and straightforward disclosure to the Court and creditors.’ . . . Also among the fiduciary obligations of a debtor-in-possession is the ‘duty to protect and conserve property in its possession for the benefit of creditors.’” *Id.* (quoting *In re V. Savino Oil & Heating Co.*, 99 B.R. 518, 526 (Bankr. E.D.N.Y. 1989); *In re Ionosphere*

*Clubs, Inc.*, 113 B.R. 164, 169 (Bankr. S.D.N.Y. 1990)).

In addition to appointing a Chapter 11 trustee for cause, the Bankruptcy Court may also appoint a trustee if the appointment “is in the interests of creditors, and equity security holders, and other interests of the estate.” 11 U.S.C. § 1104(a)(2). “A Bankruptcy Court has particularly wide discretion to appoint a trustee under the flexible standard of § 1104(a)(2) of the Bankruptcy Code, even when no cause exists under § 1104(a)(1).” *In re Keeley & Grabanski* at 165 (citing *In re Bellevue Place Assocs.*, 171 B.R. 615, 623 (Bankr. N.D. Ill. 1994)).

Among the factors courts consider in determining whether to appoint a chapter 11 trustee under § 1104(a)(2) are: (1) the trustworthiness of the debtor; (2) the debtor’s past and present performance and prospects for the debtor’s reorganization; (3) confidence, or lack thereof, of the business community and creditors in present management; and (4) the benefits derived by appointment of a trustee, balanced against the costs of appointment.

*In re Keeley & Grabanski* at 164-165 (citing *In re Ionosphere Clubs, Inc.*, 113 B.R. 164, 168 (Bankr. S.D.N.Y. 1990); *In re Colorado-Ute Elec. Ass’n, Inc.*, 120 B.R. 164, 176 (Bankr. D. Colo. 1990)).

### **CAUSE EXISTS TO APPOINT A TRUSTEE**

For the reasons explained herein and in a Memorandum Opinion to be entered at a subsequent date, the Court finds that cause exists to appoint a Chapter 11 trustee in this case, and therefore, the appointment of a trustee is mandatory pursuant to 11 U.S.C. § 1104(a)(1). Further, the Court also finds that the appointment of a trustee is appropriate under 11 U.S.C. § 1104(a)(2) because it is in the best interests of the creditors and the estate.

This Chapter 11 case has been pending just over one year. The Court has held at least seven hearings in this case, five of which were lengthy, the most recent taking four full days. From the case's inception, according to multiple statements made before this Court, the purpose of this Debtor's Chapter 11 filing has been to allow it to operate while defending litigation in several courts, and to bring that litigation to a close and liquidate claims against it so that it could determine whether it could propose a feasible Chapter 11 plan.

The Debtor is an Arkansas Limited Liability Company that provides outpatient psychiatric services. It was established in 2006. The AK Trust owns a 99% membership interest and Kimbro owns a 1% membership interest in the Debtor. Kimbro and his former wife, Alice, are beneficiaries of the AK Trust. Robert Williams, Alice's father, is the Trustee of the A.K. Trust, and holds voting control of 99% of the Debtor.<sup>6</sup> Mike Grundy is the Debtor's CEO supervising its 95 employees at multiple clinics and managing its daily operations. The Debtor's operating report for the month ending December 31, 2012, shows that the Debtor has been profitable most months since its Chapter 11 filing with positive net income for all months except two. The members' equity has steadily increased from \$880,242 to \$1,086,725. Southwest Trustee Exhibit 1. The Debtor disbursed profits to the

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<sup>6</sup> As noted in the Court's *Order Approving Application to Employ Attorney* entered October 4, 2012, another trust, the A.K. Tennessee Irrevocable Residuary Trust, may own some membership interest, but both trusts will collectively be referred to as the "**A.K. Trust**" since it is not clear what the exact ownership interests are and the trustee and the beneficiaries are the same (it is the Court's understanding there is either one trust benefitting both Alice and Kimbro or two trusts owning equal amounts of LHSE with each trust benefitting either Alice or Kimbro). In any case, Robert Williams is the Trustee of both the A.K. Trusts, and therefore holds voting control of 99% of the Debtor.

AK Trust, of which Alice and Kimbro are beneficiaries, until it filed bankruptcy just over a year ago, as reported in the Debtor's Statement of Financial Affairs.

The Court does not base its finding of cause on any mismanagement of the Debtor's business by Grundy or other employees of the Debtor.<sup>7</sup> The Court bases its finding of cause on the actions of Kimbro. Despite being an educated professional and well-acquainted with bankruptcy (having been involved in multiple bankruptcy proceedings including his own), Kimbro has shown no respect for the bankruptcy process. He has been dishonest about who controls the Debtor when in fact he controls the Debtor. Kimbro's actions prove that he is not motivated by what is best for the Debtor and its creditors, but that he is motivated by self-interest, which includes protecting himself from further liability and preserving his income stream from the Debtor. Kimbro has taken actions on behalf of this Debtor that have frustrated the Debtor's efforts to reorganize and violated the Debtor's fiduciary duties. Those actions, as described in more detail below, include: firing the Debtor's counsel after opening statements in a trial against the Debtor, attempting to manipulate the Debtor to allow him to intervene in the Southwest AP, filing multiple pleadings on behalf of the Debtor without court approval, and of utmost importance, agreeing to a consent judgment against Debtor that awarded Ameriwest and the Estate of Wanda Stephens a constructive trust on all of the

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<sup>7</sup> Although the Debtor threatens to fold if a Trustee is appointed, there is no reason this should happen. A trustee may continue to operate the business with Grundy in place as CEO. Grundy acknowledged he operated the business separate from the legal decisions made by Williams (or rather, Kimbro). Grundy testified that if a trustee were appointed, the employees would all resign and seek new jobs – however, no explanation was given as to why this should happen upon the appointment of a trustee when the Debtor has been in bankruptcy for over a year.

Debtor's assets.

### **Kimbro Controls the Debtor**

Kimbro's actions prior to, and the evidence produced at, trial show that Kimbro controls this Debtor. Grundy consistently testified that he answered to Robert Williams, Alice's father and the Trustee of the AK Trust, the 99% owner of the Debtor. However, documents introduced at the hearing on this matter indicate that an independent board of trustees was created in August 2012 to make management decisions on behalf of the Debtor, and this alleged board has in fact made decisions on behalf of the Debtor. See Southwest Trustee Exhibits 8, 8A, 13; U.S. Trustee Exhibit 1. That board originally consisted of Kimbro's father, uncle, and brother Greg. Greg testified he resigned from the board two days after it was created. Kimbro is the board's secretary. Although testimony revealed that Steve Ward, the chairman of the alleged board and Kimbro's uncle, was present at least one day of the trial on the Motions to Appoint, no board member was called to give sworn testimony corroborating the formation, timing, or circumstances of this board.<sup>8</sup> Further, despite multiple hearings in this Court concerning the Debtor since it was allegedly created, this alleged Board was never revealed. After the creation of the alleged board, Kimbro appeared before the Court stating that he was present as counsel for the AK Trust. He never informed the Court that a board had been created to make decisions on behalf of the Debtor, and no

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<sup>8</sup> The board was not created to replace Williams as trustee of the AK Trust, but was created to control and manage the Debtor. Southwest Trustee Exhibit 13. Even if the board was created as alleged by Kimbro and Greg and the documents they created (and even if such a board could legally be created to control an LLC), the Court finds the board was created to provide a "cover" for Kimbro to continue controlling the Debtor despite advice from the Debtor's counsel.

documents were introduced signed by Williams relinquishing control of the Debtor. The evidence makes clear that neither Williams nor the alleged board controls the Debtor, but rather, Kimbro directs the Debtor for his own personal benefit (he is at least a 50% beneficiary of the AK Trust and a 1% owner of the Debtor).

### **Kimbro Makes Decisions Based on Self-Interest**

Specifically, when the Debtor's counsel refused to take actions solely for the benefit of Kimbro, the alleged board terminated him during a trial before Judge Mixon. Pinewood Exhibit 11. The Debtor – through Kimbro and the counsel he seeks to hire (to be paid for by his father, Ken Stephens)<sup>9</sup> – argues that Smith was determined to convert the case to Chapter 7 and cause it to liquidate, that Smith was determined to “roll over” and lose the Southwest AP, and that Smith violated his duty to the Debtor by not consenting to Kimbro's motion to intervene in the Southwest AP. As will be described and corroborated in more detail in the Memorandum Opinion to follow, Smith's testimony shows that Smith's actions were taken to assist the Debtor in reaching a point where it might propose a feasible plan - to do so, the Debtor needed to liquidate its claims, including the claim of the Southwest Trustee. The evidence produced at trial included portions of the Southwest AP trial which show that Smith and his firm did not “roll over” but moved to dismiss the case during trial after the Trustee

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<sup>9</sup> Jeannette Robertson is known to be an attorney of impeccable integrity. The Court does not impute Kimbro's actions to proposed counsel nor assume that his actions were sanctioned or condoned by her. According to those opposing the appointment of a trustee, the Debtor had an urgent need for counsel. Given that urgency, Ms. Robertson had neither the time to investigate the validity of this view nor the benefit of hearing the sworn testimony previously presented to this Court.

rested; further, Smith and his law firm successfully defeated the Southwest Trustee's efforts to impose a constructive trust on the Debtor's assets. Moreover, the trial transcript (as well as statements previously made by Kimbro in this Court) show that Kimbro sought to intervene in the Southwest AP for his own personal benefit, not for the benefit of the Debtor. Smith continuously recognized that the Debtor owed a fiduciary duty to its creditors – when that fiduciary duty to creditors began to interfere with Kimbro's personal interests, Kimbro – through an alleged board of trustees – fired Smith and took other actions on behalf of the Debtor completely inconsistent with its status as a debtor in bankruptcy or any efforts to reorganize.

The Court finds Smith's testimony credible. Like the Court, Smith has the benefit of evidence from many other hearings, and of course, years of institutional knowledge of this case.<sup>10</sup> Those opposing the appointment of a trustee would have the Court forget everything that occurred prior to the Motions to Appoint, such as the lengthy hearing on Smith's motion to be hired as counsel. Evidence presented then indicated it would cost too much to hire and educate an attorney other than Smith concerning the complexities of the case. However, when Smith would not follow Kimbro's instructions because such instructions would violate the Debtor's fiduciary duties, Smith was fired and maligned. The history of this Debtor has involved intense conflict with Pinewood/Dr. Naples for at least seven years. (See December

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<sup>10</sup> As this Court noted in a prior order, the dispute between Pinewood and the various entities owned by the Stephenses have come before three bankruptcy judges, at least one state court judge, and at least three district court judges over the course of at least six years now.

3, 2012 complaint filed by Kimbro on the Debtor's behalf introduced as LHSE Exhibit 6.) Despite several years of at least some cooperation with the Southwest Trustee, the Debtor is suddenly engaged in intense conflict with the Southwest Trustee and cooperating with Pinewood/Dr. Naples. The Court concludes that Kimbro sides with those entities or persons who will preserve his interests, despite the validity of claims asserted.

**Kimbro Breached Fiduciary Duty to Protect and Preserve the Debtor**

One day after the Southwest AP was tried and Judge Mixon announced in court that he was awarding the Southwest Trustee a \$1.19 million judgment and took under advisement the issue whether the trustee might be entitled to a constructive trust on the Debtor's assets, Greg mailed a consent judgment (signed by Greg and Kimbro) to the Miller County Circuit Court Clerk that resolved a cross-claim in the pending Miller County lawsuit originally filed by Pinewood. That consent judgment awarded Ameriwest and the Estate of Wanda Stephens \$1.2 million, awarded attorneys fees for LHI's representation, and imposed a constructive trust on all assets of the Debtor to secure such judgment. Southwest Trustee Exhibit 13; UST Exhibit 1. Judge Mixon's written judgment awarding the Southwest Trustee a \$1.19 million judgment had not even been entered when Kimbro signed this consent judgment and Greg mailed it to the Miller County Circuit Court Clerk for filing. No relief from stay had been granted by this Court for any party to proceed in Miller County; only Pinewood sought relief from the stay to proceed there. (The Southwest Trustee is not a party to the Miller County case.) The consent judgment was allegedly the execution of a previous settlement agreement entered into on August 15, 2012, between Ameriwest, the Debtor, all cross-claimants in the

Miller County Case (*i.e.*, LHI, Ameriwest, and the Estate of Wanda Stephens), and all cross-defendants in the Miller County Case (*i.e.*, Kimbro, Alice, the AK Trust, Mike Grundy, and various related entities of the Stephenses). That agreement was documented as an Agreement/Memorandum of Understanding” (the “**Memorandum**”) and introduced as Southwest Trustee Exhibit 13. The Memorandum created the board of trustees or “voting trust” to control the Debtor and provided for the eventual transfer of all equity in the Debtor to Ameriwest. The details of this Memorandum will be discussed further in the Memorandum Opinion to follow. Agreeing to settle the cross-claims in Miller County and carrying out that agreement by attempting to file a consent judgment the day after Judge Mixon’s ruling is irrefutable evidence that Kimbro is controlling the Debtor for his own benefit.

Kimbro and Greg now ask the Court to excuse their behavior as mistakes based on panic and ignorance of bankruptcy law,<sup>11</sup> and insist that they are now diligently working with new counsel to create a workable plan to reorganize. The Court rejects their arguments – their efforts to reach a settlement and plan, at best, amount to favoring some creditors over others, specifically the entities represented by Greg and Pinewood/Dr. Naples are treated much more favorably than the Southwest Trustee even though the Trustee is the only person

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<sup>11</sup> Kimbro and Greg are not unsophisticated. Kimbro received his undergraduate degree from Harvard University and his law degree from the University of Arkansas School of Law. Greg is a lawyer and a doctor. They maintain their agreement was premised on later bankruptcy court approval, yet they never sought bankruptcy court approval of their agreement or relief from the automatic stay, and proceeded to carry out their agreement and mailed the consent judgment to the Miller County Circuit Clerk for filing.

with a liquidated claim. Furthermore, the Court has serious reservations about the validity of any claim by LHI, Ameriwest or the Estate of Wanda Stephens – the entities on whose behalf Greg appears. Claims were only just filed on behalf of those entities after two days of hearing on the Motions to Appoint Trustee.<sup>12</sup> Although the proposed consent judgment Greg caused to be filed in Miller County was almost immediately withdrawn once bankruptcy attorneys warned him of bankruptcy code violations, the scheme to include Greg as a creditor of the Debtor continues in the form of settlement proposals in which Pinewood and Greg would be paid the bulk of their claims while the Southwest Trustee – who now has a liquidated claim of \$1,190,000 – would receive no more than \$750,000, if that.

### CONCLUSION

In conclusion, the Court finds that a trustee must be appointed in this case to serve as a neutral fiduciary and the estate's sole representative due to the distrust created by the various actions of Kimbro and Greg, their disrespect for the Debtor's fiduciary duties to all its creditors, the acrimony that exists between the Debtor and its creditors, particularly the Southwest Trustee,<sup>13</sup> and the dishonesty and lack of transparency as to who controls this

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<sup>12</sup> The documentation to support LHI's claim consists of this sentence: "LHSE acting through Kimbro Stephens and Alice Stephens, converted the business operating of LHI to that of LHSE." The claim filed on behalf of the Estate of Wanda Stephens is based on alleged tortious interference by LHSE with an employment contract between LHI and Wanda Stephens; the employment contract is attached to the claim as supporting documentation.

<sup>13</sup> The Court notes that this case has always been acrimonious. For many years, the Debtor and Southwest Trustee worked to preserve a settlement benefitting the Southwest estate while Pinewood fought that settlement. Until the recent actions by Greg and Kimbro, virtually hijacking this Debtor, there was some hope that the Debtor could liquidate the claims by the trustee and by Pinewood and proceed to propose a workable plan.

Debtor. The only hope of this Debtor to continue operations and confirm a feasible plan of reorganization is for there to be a responsible third party in control of the Debtor who will serve the best interests of the estate and *all* its creditors. A trustee may independently analyze the validity of the claims of LHI and the Estate of Wanda Stephens, how to most efficiently liquidate and/or dispute Pinewood/Dr. Naples's claim, and determine whether it is possible for this Debtor to propose a feasible plan. Because the Debtor is a profitable business with a capable manager, this Debtor should be able to succeed under the guidance of a neutral, responsible trustee. The Court appoints a trustee, knowing that an appointed trustee will respect the Bankruptcy Code, engage in fair and transparent claim litigation, and if possible, propose a plan that distributes the cash flow of this Debtor to legitimate creditors as provided under the Bankruptcy Code and preserves equity for the owners *after* the plan is complete.

For these reasons and for the reasons to be described in more detail in a Memorandum Opinion to follow, the Court hereby **GRANTS** the Motions to Appoint Trustee.

**IT IS SO ORDERED.**

  
Audrey R. Evans  
United States Bankruptcy Judge  
Dated: 04/19/2013

cc: Mr. Jim Smith, attorney of record for the Debtor  
Ms. Jeanette Robertson, proposed attorney for the Debtor  
Mr. Kimbro Stephens, *pro se* and as attorney for AK Tennessee Irrevocable Trust

Ms. Renee Williams, Trustee of Living Hope Southwest Medical Svcs  
Mr. Tom Streetman and Mr. Robert Gibson, attorneys for Renee Williams as Trustee  
Mr. Steve Gershner, attorney for Living Hope Institute, Inc. and Ameriwest Health  
Services, Inc.  
Dr. Greg Stephens, *pro se* as executor of the Estate of Wanda Stephens  
Ms. Judy Henry and Ms. Kim Tucker, attorneys for Pinewood  
Ms. Patti Stanley, attorney for the U.S. Trustee