

U.S. Department of Justice  
Office of the United States Trustee  
110 North College, Suite 300  
Tyler, TX 75702  
(903) 590-1450; fax (903) 590-1461

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

IN RE	§	
	§	
The Linderian Company, Ltd.	§	Case No. 16-60031
301 Hollybrook Dr.	§	
Longview, TX 75605	§	
Tax ID / EIN: 43-2038556	§	
dba Summer Meadows	§	
	§	
	§	Chapter 11
Debtor-in-possession	§	

---

**UNITED STATES TRUSTEE'S  
OBJECTION TO DEBTOR'S MOTION TO WAIVE  
APPOINTMENT OF PATIENT CARE OMBUDSMAN**

---

TO THE HONORABLE BILL PARKER,  
U.S. BANKRUPTCY JUDGE:

William T. Neary, the United States trustee for Region 6, files his Objection to the Debtor's Motion to Waive Appointment of Patient Care Ombudsman ("the Motion to Waive") (docket #38) and would respectfully show:

1. This case was commenced by the filing of a voluntary petition under Chapter 11 of Title 11 on January 19, 2016. The Debtor is managing its affairs as a debtor-in-possession pursuant to 11 U.S.C. §1107. The Debtor owns and operates a skilled nursing care facility in Longview, Texas known as Summer Meadows.

2. 11 U.S.C. §333(a) (1) provides:

If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an

ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

3. On February 17, 2016 the Debtor filed the Motion to Waive. The United States Trustee objects to the Motion to Waive for the following reasons:

- The Motion to Waive does not, standing alone, contain sufficient information for the court to determine that the appointment of a patient care ombudsman is not necessary under the specific facts of this case.
- Congress established a default remedy that a patient care ombudsman is to be appointed in every health care business case. Something more than assertions in a pleading should be required for the court to eschew the appointment of an ombudsman.
- The United States Trustee has reached out to the State of Texas, Department of Aging and Disability Services (DADS), and has been informed by that agency that the state's Long-Term Care ombudsman "...does support appointment of a patient care ombudsman to monitor resident care and services during the bankruptcy."
- DADS itself has not expressed a position to the United States Trustee on the appointment of a patient care ombudsman.
- The Motion to Waive asserts, and DADS has confirmed to the United States Trustee, that there was a post-petition inspection of the Summer Meadows facility, and no patient care issues were identified. In this regard it should be noted, however, that the duties of an appointed patient care ombudsman include

filing a periodic report on the quality of patient care not later than every 60 days after the initial patient care report. While there are indications that the current level of patient care at the Debtor's facility is satisfactory or better, things can change during the course of a Chapter 11 case. It is unclear how long this case will be pending before this court. The long term obligations of a patient care ombudsman to report on patient care conditions as the case progresses will insure that the court, United States Trustee and interested parties are kept informed as to conditions at the facility.

WHEREFORE, the United States trustee requests the court to deny the Debtor's Motion to Waive.

Dated: February 26, 2016

Respectfully submitted,

William T. Neary

United States Trustee  
By: Timothy W. O'Neal  
Assistant U.S. Trustee  
110 N. College, Suite 300  
Tyler, Texas 75702  
(903) 590-1450; fax (903) 590-1461

**Certificate of Service**

The undersigned hereby certifies that a copy of the foregoing document was served on the following listed persons through the court's electronic notification system as permitted by Appendix 5005 to the Local Rules of the U.S. Bankruptcy Court for the Eastern District of Texas, or by first class United States Mail, postage prepaid, no later than August February 29, 2016.

/s/Timothy W O'Neal

**Debtor:**

The Linderian Company, Ltd.  
301 Hollybrook Dr.  
Longview, TX 75605

**Debtor's Attorneys:**

Mark A. Castillo  
Bryan Assink  
Joshua Sherherd  
Curtis Castillo PC  
901 Main St. Suite 6515  
Dallas, TX 75202

**Notices of Appearance:**

Christopher V. Arisco  
Padfield & Stout, LLP  
421 W. Third Street, Suite 910  
Fort Worth, TX 76102

Laurie Spindler Huffman  
Linebarger, Goggan, Blair & Sampson  
2777 N. Stemmons Frwy Ste 1000  
Dallas, TX 75207

Scott Alan Ritcheson  
Ritcheson, Lauffer & Vincent, P.C  
821 ESE Loop 323, Suite 530  
Tyler, TX 75701

John Mark Stern  
Office of the Texas Attorney General  
Taxation Division  
P.O.Box 12548, Capitol Station  
Austin, TX 78711

Marianne Reat  
Managing Atty – Litigation Services  
Department of Aging and Disability Services  
701 W. 51st St.  
Austin, Texas 78751