



J. Craig Whitley
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Charlotte Division**

In re:

Moe's Rx Clinic, Inc.,

Debtor.

Case Number: 17-31638

Chapter 7

ORDER GRANTING TRUSTEE'S EMERGENCY MOTION TO DISMISS

This matter came on for hearing on October 16, 2017 on the *Trustee's Emergency Motion to Dismiss* (the "Motion")(D.E. 7). Appearing at the hearing were A. Cotten Wright, the Trustee; James C. Hord, attorney for the debtor (the "Debtor"); and Mohsen Khordehforosh, principal of the Debtor; Clint Pinyan, attorney for the North Carolina Board of Pharmacy (the "Pharmacy Board"), appeared telephonically. The Court, having reviewed the Motion, considered the arguments of counsel, and heard the unsworn statements of Mr. Khordehforosh, has determined that the Motion should be allowed.

The Debtor's bankruptcy schedules indicate that the Debtor owns \$15,000.00 worth of drugs falling in Classes II – V (the "Drug Inventory") that, according to the papers, are being stored at a storage facility in Charlotte. The Motion expressed the Trustee's concern that she had been unable to locate the Drug Inventory and take control of it.

At the hearing, the Trustee announced that Mr. Khordehforosh had just turned over the key to the storage unit before the case was called.

Mr. Khordehforosh stated on the record that the Drug Inventory may be worth as much as \$40,000.00 to \$50,000.00. He also explained that the Federal Drug Administration has an interest in ensuring the proper handling and disposal of prescription drugs.

Counsel for the Pharmacy Board explained that certain procedures are required in liquidating and / or disposing of prescription drugs. Those procedures have not been followed in this case.

Given the restrictions relative to the appropriate handling and disposal of prescription drugs, it does not appear that the Debtor has assets that could be administered for the benefit of the Debtor's creditors.

Further, the Court finds that, during the pendency of this case, the Trustee has not had access to, exercised possession of, or had control over the Drug Inventory.

For these reasons, the Court has determined that this case should be dismissed so as to allow the Pharmacy Board to work with Mr. Khordehforosh in transferring the Drug Inventory to a reverse distributor or ensuring the appropriate disposal of the Drug Inventory.

IT IS, THEREFORE, ORDERED that the Debtor's case is DISMISSED and the Trustee is relieved of any responsibility whatsoever for the Drug Inventory prior to entry of this Order.

This Order has been signed electronically. The judge's signature and court's seal appear at the top of the Order.

United States Bankruptcy Court