

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW HAMPSHIRE**

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In re:

CHAPTER 11

**A & A WHEELER MFG., INC.**

Case No. 15-11799-BAH

Debtor

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**DEBTOR'S NINTH MOTION FOR ORDER AUTHORIZING CONTINUED USE OF  
CASH COLLATERAL AND PROVISION OF ADEQUATE PROTECTION**

The debtor in possession, **A & A Wheeler Mfg., Inc.** (the "Debtor"), respectfully moves this Court as follows:

1. Pursuant to Code Sections 105,363 and 361 and Bankruptcy Rules 4001(b) and 2002, the Debtor requests this Court to enter an order which allows Debtor to use and expend the proceeds of its Cash Collateral to pay the costs and expenses to be incurred by the Debtor as provided for in the Budget attached as Exhibit A (the "Budget") in the ordinary course of business for the period beginning on **February 1, 2017** and ending **March 31, 2017**.

2. Attached as Exhibit B is Angela J. Wheeler's Affidavit In Support of Debtor's Motion For Order Authorizing Continued Use of Cash Collateral and Provision of Adequate Protection.

3. The following Exhibits attached to the Debtor's Emergency Motion for Order Authorizing Use of Cash Collateral and Provision of Adequate Protection [Doc. 6] are incorporated herein by reference (the "Incorporated Exhibits"): (a) Angela Wheeler's Affidavit [Ex. C], (b) New Hampshire Secretary of State UCC Search [Ex. D], and (c) Limited Title

Certificate for Debtor's Lee Road Real Estate [Ex. E]. The Incorporated Exhibits will be referred to as "Incorp. Ex."

4. Accompanying this Motion is a proposed Order granting the Debtor the relief requested (the "Order"). If entered by this Court, the proposed Order will:

a. Limit the amount of Cash Collateral which Debtor may spend during the Use Period to the "Total Disbursements" shown in the Budget (the "Maximum Use").

b. Grant each Record Cash Collateral Lienholder a replacement lien on the Debtor's post-petition Cash Collateral to the extent such Lienholder held valid pre-petition liens thereon as security for the payment of any loss or diminution in the value thereof resulting from Debtor's post-petition operations.

c. Reserves to Debtor the right to contest the validity, perfection, enforceability or value of any lien held or claimed by a Record Lienholder for any reason.

d. None of the provisions that must be highlighted and justified pursuant to Local Bankruptcy Rule 400 1-2( c) are included in the proposed Order.

#### **INCORPORATION OF PREVIOUS CASH COLLATERAL MOTIONS**

5. The Debtor incorporates the allegations made in its previous motions for order authorizing use of cash collateral and provision of adequate protection. No creditor or any other party in interest challenged, disputed or otherwise contested the truth of those allegations. Nothing has changed or occurred that makes those allegations inaccurate on the date of this Motion.

#### **BASIS FOR REQUESTED RELIEF**

6. "Cash Collateral" means and includes for the purposes of this Motion "cash,

deposit accounts and other cash equivalents ... in which the estate and any entity other than the estate have an interest, and includes the proceeds ... of property" of the estate, including inventory.

7. Under Code Section 363(c)(2), a debtor may not use Cash Collateral without the consent of each "entity that has an interest in such Cash Collateral" unless this "court ... authorizes such use."

8. The Budget for the operation of the Business during the Use Period was prepared by Angela Wheeler, the Debtor's Vice President and Chief Financial Officer.

9. The Budget projects the amount of projected receipts and disbursements as required by LBR 4001-2(d). The Budget includes only costs and expenses incurred or which will be incurred in the ordinary course of the Debtor's on-going Business. It shows that the Debtor will continue to make money during the Use Period.

#### **CONCURRENCE CERTIFICATE**

10. No Committee has been appointed in this Case.

11. Counsel for the Debtor has discussed this Motion and the nature and extent of the use of cash collateral with Attorney David Azarian, counsel for Federal Savings Bank, who has indicated that Federal Savings Bank has no objection to the Motion.

12. The Debtor has caused to be served a copy of this Motion as required by F.R.B.P. 4001, F.R.B.P. 2002 and LBR 4001-2, as shown by the Service List attached hereto.

13. Like all operating businesses, the Debtor must pay its employees and vendors as payroll and invoices become due.

14. Without the use of Cash Collateral the reorganization of the Debtor will be impossible.

15. The use of Cash Collateral is essential to an effective reorganization of the Debtor.

16. The Debtor expects to be able to reorganize its business and to propose a confirmable plan.

**WHEREFORE**, the Debtor respectfully requests this Court to grant the Debtor the relief requested herein by entering the proposed Order and grant the Debtor such further relief as may prove to be fair and equitable or lawful.

DATED: January 4, 2017

Respectfully submitted,

*/s/ Franklin C. Jones*

Franklin C. Jones, Esquire (BNH 01275)

Attorney for:

**A & A WHEELER MFG., INC.**

WENSLEY & JONES, P.L.L.C.

40 Wakefield Street

Rochester, NH 03867

Tel: (603) 332-1234

Projection Budget 2/1/17 - 2/28/17	
Income	\$90,000.00
<b>Total Income</b>	<b>\$90,000.00</b>
<b>Expenses</b>	
Payroll	\$11,700.00
Taxes	\$5,616.00
Property Ins	\$1,810.00
Wormans Comp	\$666.90
Job Materials	\$54,000.00
Fuel/Vehicle Exp	\$3,000.00
Utilities	\$2,000.00
Office Supplies	\$500.00
Operation Supplies	\$500.00
Waste Disposal	\$1,000.00
Mortgage Federal Savings Bank	\$3,466.00
<b>Total Expenses</b>	<b>\$84,258.90</b>
<b>Net Operational Revenue</b>	<b>\$5,741.10</b>

Projection Budget 3/1/17 - 3/31/17	
Income	\$ 130,000.00
<b>Total Income</b>	<b>\$130,000.00</b>
<b>Expenses</b>	
Payroll	\$16,900.00
Taxes	\$8,112.00
Property Ins	\$1,810.00
Wormans Comp	\$963.30
Job Materials	\$78,000.00
Fuel/Vehicle Exp	\$4,000.00
Utilities	\$3,500.00
Office Supplies	\$500.00
Operation Supplies	\$500.00
Waste Disposal	\$1,000.00
Mortgage Federal Savings Bank	\$3,466.00
<b>Total Expenses</b>	<b>\$118,751.30</b>
<b>Net Operational Revenue</b>	<b>\$11,248.70</b>

**EXHIBIT B**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW HAMPSHIRE**

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In re:

CHAPTER 11

**A & A WHEELER MFG., INC.**

Case No. 15-11799

Debtor

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**ANGELA J. WHEELER'S AFFIDAVIT IN SUPPORT OF  
DEBTOR'S MOTION FOR ORDER AUTHORIZING CONTINUED  
USE OF CASH COLLATERAL AND PROVISION OF ADEQUATE PROTECTION**

Pursuant to 28 U.S.C. § 1746, I, Angela J Wheeler, do hereby declare and state, under penalties of perjury that:

1. I am a Vice President and the Chief Financial Officer of A & A Wheeler Mfg., Inc.
2. I have personal knowledge of the matters set forth in this Affidavit based on the work done with the Debtor, except in those instances in which the matter set forth herein is asserted upon information and belief. In each such instance, the matter so asserted is based upon information, which I believe to be true.
3. I have signed this Affidavit with the understanding that it will be submitted to the United States Bankruptcy Court for the District of New Hampshire in support of the Debtor's Motion For Order Authorizing Continuing Use Of Cash Collateral and Provision of Adequate Protection prepared by Wensley & Jones, P.L.L.C., the Debtor's proposed General Bankruptcy Counsel with information provided by and the active participation and assistance of employees

of the Debtor, each of whom appeared to be knowledgeable and competent with respect to the subject matter of our discussions (the "Motion").

4. I have read the Motion and the Exhibits attached to the Motion. To the best of my knowledge and belief, all of the statements made in the Motion are accurate and complete in all material respects.

5. The Office of the United States Trustee has not yet appointed an Official Committee of Unsecured Creditors.

6. I have reviewed carefully the Motion and the Exhibits attached to, accompanying or filed in support of the Motion.

7. This Declaration is based on, and incorporates the Motion, the exhibits thereto, and my own reasonable inquiries and investigations. Except as otherwise defined herein, all words, terms and phrases defined in the motion shall be given the same meaning when used herein.

8. I am generally familiar with the Debtor's business operations as shown on its business and financial records, including revenue and cost and expense.

9. With information provided by the Debtor and in the assistant of Debtor's employees, I prepared the Budget attached to the Motion, which shows the receipts and disbursements to be paid during the Use Periods.

10. Based on my experience, general knowledge of the business operations of the Debtor, circumstances, conditions and facts, I believe that (1) the Budget is fair, reasonable and includes no more money than reasonably necessary to continue operations over the Use Period,

and (2) absent material variances, the Debtor will be able to meet and satisfy the Debtor's adequate protection obligations under the order approving the Motion.

11. To the best of my knowledge and belief, the statements made by me herein are complete and true in all material respects.

Respectfully submitted,

Dated: January 4, 2017

/s/ Angela J. Wheeler  
Angela J. Wheeler  
Vice President and CFO  
A & A Wheeler Mfg., Inc.