

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)

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In Re: Arthur Groom & Company, Inc.  
  
Debtor.

**FILED**  
JAMES J. WALDRON, CLERK  
  
FEB 05 2010  
U.S. BANKRUPTCY COURT  
NEWARK, N.J.  
BY *Kel. Heine* DEPUTY

Case No.: 10- *13221*  
  
Hon.

**INTERIM ORDER AUTHORIZING USE OF CASH COLLATERAL**

The relief set forth on the following pages, numbered two (2) through eight (8), is hereby ORDERED.

*2/5/10*  
*[Signature]*

*[Signature]*

Debtor: Arthur Groom & Company, Inc.  
Case No.: 10- 13221  
Caption of Order: Interim Order Authorizing Use of Cash Collateral

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This matter is before the Court on the motion of Arthur Groom & Company, Inc. (the "Debtor") for authority to use cash collateral on an interim basis pursuant to Bankruptcy Rule 4001(b) and 11 U.S.C. § 363(c)(2)(B) (the "Motion"). Notice of the Motion together with notice of the preliminary hearing thereon has been given and served by the Debtor upon the (1) the United States Trustee, (2) TD Bank, N.A., a secured creditor of Debtor, (3) alleged secured creditors Velocity Financial Group, Inc. ("Velocity"), Alliance Leasing, M&I Equipment Finance Company and Co-Activ Capital Partners, Inc. (collectively the "Leasing Company Creditors"); and (4) Debtor's 20 largest Rule 1007(d) unsecured creditors. The Court considered the Motion, and after due deliberation and good and sufficient cause appearing for the entry of the within order, it is hereby found:

A. Notice and Hearing. Notice of the Motion and order shortening time pursuant to D.N.J. LBR 9013-1(e) and Federal Rule of Bankruptcy Procedure 9006(c) for the preliminary hearing on the Debtor's use of cash collateral has been served in accordance with section 102(1) of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 4001(b) which notice is appropriate in the particular circumstances and is sufficient for all purposes under the Bankruptcy Code and the applicable Bankruptcy Rules in respect to the relief requested.

B. Chapter 11 Filed. Debtor filed its petition under chapter 11 of the Bankruptcy Code on February 3, 2010 (the "Petition Date") and is presently operating as a debtor-in-possession in accordance with sections 1107 and 1108 of the Bankruptcy Code.

C. Pre-Petition Debt. TD Bank, N.A. has asserted a secured claim against the Debtor in the approximate principal amount of \$2,236,662 (the "Pre-Petition Debt") as of the Petition

Debtor: Arthur Groom & Company, Inc.  
Case No.: 10-13221  
Caption of Order: Interim Order Authorizing Use of Cash Collateral

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Date. The Leasing Company Creditors may also assert a secured claim and an interest in Debtor's cash collateral.

TD Bank, N.A. ("TD") has, and the Debtor has acknowledged and agreed that TD has, as of the Petition Date, a valid and subsisting first lien and security interest in all of Debtor's assets (the "Collateral") securing the Debtor's indebtedness in the principal amount of approximately \$2,236,662 which indebtedness is not subject to defense, offset or counterclaim of any kind or nature. Said determination shall be binding upon Debtor, but any other party-in-interest shall have sixty (60) days after entry of this order to contest the validity, perfection and/or amount of TD's claim. The Leasing Company Creditors may assert that they have valid liens in the Collateral, subordinate to TD's first priority lien, in the amount due to them pursuant to judgments or agreements. Debtor and any other party-in-interest shall have the right to contest the validity, perfection, and/or amount of the secured claims of The Leasing Company

Creditors. *All parties claiming security or beneficial interests in equipment held by Debtor reserves their rights to claim priority &/or ownership interest in same.*

D. Pre-Petition Collateral. TD has a properly perfected lien on the Collateral (including proceeds) at the commencement of the case, including the Debtor's accounts, inventory and other collateral which is or may result in cash collateral.

E. Cash Collateral. "Cash Collateral" is defined by section 363(a) of the Bankruptcy Code to include post-petition proceeds, products, offspring, rents, or profits of property and the fees, charges, accounts or other payments for the use or occupancy of room and other public facilities in hotels, motels, or other lodging properties subject to a security interest as provided in Section 552(b) and as the term "proceeds" is defined in UCC Section 9-306.

F. Necessity and Best Interest. The Debtor does not have sufficient unencumbered cash or

Debtor: Arthur Groom & Company, Inc.  
Case No.: 10- 13221  
Caption of Order: Interim Order Authorizing Use of Cash Collateral

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other assets with which to continue to operate its business in chapter 11. The Debtor requires immediate authority to use cash collateral as defined herein in order to continue its business operations without interruption toward the objective of formulating an effective plan of reorganization. Debtor's use of cash collateral, to the extent and on the terms and conditions set forth herein, is necessary to avoid immediate and irreparable harm to the estate pending a final hearing. The amount of cash collateral authorized to be used pending a final hearing or entry of a final order is not to exceed the amounts reflected in the Debtor's budget, annexed hereto as Exhibit A, for the time period from February 3, 2010 (the "Petition Date") through <sup>March</sup> February 17, 2010 (the "Cash Collateral Budget").

G. Purposes. The Debtor is authorized to use cash collateral to meet the ordinary cash needs of the Debtor (and for such other purposes as may be approved in writing by TD) for the payment of actual expenses of the Debtor necessary to (a) maintain and preserve its assets, and (b) continue operation of its business, including payroll and payroll taxes, and insurance expenses as reflected in the cash collateral budget.

The Court having determined there is a reasonable likelihood that the Debtor will prevail upon the merits at the final hearing of the Motion as required by section 363(c)(3) of the Bankruptcy Code, and for good cause shown, it is

ORDERED as follows:

1. Use of Cash Collateral. The Debtor is authorized, for the period from the Petition Date through <sup>March</sup> February 17, 2010, and in accordance with the cash collateral budget attached hereto as Exhibit A, to use cash collateral up to the aggregate amount set forth in the budget for the following purposes:

Debtor: Arthur Groom & Company, Inc.  
Case No.: 10-13221  
Caption of Order: Interim Order Authorizing Use of Cash Collateral

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- a. maintenance and preservation of its assets;
- b. the continued operation of its business including, but not limited to payroll, payroll taxes, employee expenses, and insurance costs; and
- c. the purchase of replacement inventory.

2. Adequate Protection. As adequate protection for use of cash collateral,

TD and the Leasing Company Creditors are GRANTED their respective interests as they may appear in the Collateral:

a. Replacement Lien. A replacement perfected security interest under section 361(2) of the Bankruptcy Code to the extent cash collateral is used by Debtor, to the extent and with the same priority in the Debtor's post-petition collateral, and proceeds thereof, that TD and the Leasing Company Creditors held in the Debtor's pre-petition collateral.

b. Statutory Rights under Section 507(b). To the extent the adequate protection provided for hereby proves insufficient to protect TD and the Leasing Company Creditors' interest in and to the cash collateral, TD and the Leasing Company Creditors have a superpriority administrative expense claim, pursuant to section 507(b) of the Bankruptcy Code, senior to any and all claims against the Debtor under section 507(a) of the Bankruptcy Code, within this proceeding or in any superseding proceeding. Any superpriority administrative expense claim shall be in the same priority, and to the extent of such creditor's prior, perfected security interest. Nothing herein shall provide for the granting of any superpriority administrative expense claim superior to any other creditors' lien.

c. Deemed Perfected. The replacement lien and security interest granted herein is automatically deemed perfected upon entry of this Order without the necessity of TD, taking

Debtor: Arthur Groom & Company, Inc.  
Case No.: 10-13221  
Caption of Order: Interim Order Authorizing Use of Cash Collateral

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possession, filing financing statements, mortgages or other documents. Although not required, upon request by TD, Debtor shall execute and deliver to TD any and all UCC Financing Statements, UCC Continuation Statements, Certificates of Title or other instruments or documents considered by TD to be necessary in order to perfect the security interests and liens in the Debtor's post-petition collateral and proceeds granted by this Order, and TD is authorized to receive, file and record the foregoing at TD's own expense, which actions shall not be deemed a violation of the automatic stay.

d. Periodic Accountings. Within fifteen (15) days of the entry of this Order, the Debtor shall provide bi-weekly periodic accountings to TD setting forth the cash receipts and disbursements made by the Debtor under this Order. In addition, the Debtor shall provide TD all other reports required by the pre-petition loan documents and any other reports reasonably required by TD, as well as copies of the Debtor's monthly United States Trustee operating reports. Upon appointment of a Creditors' Committee, the Debtor shall submit a copy of the monthly U.S. Trustee operating reports to counsel to said Committee if counsel has been appointed, and until counsel is retained, to the Chairman of said Committee.

e. Default Hearing. In the event Debtor defaults or violates this Order, TD is entitled to request a hearing within ten (10) days (or if immediate and irreparable injury, loss or damage may occur, an emergency hearing within 48 hours).

3. Creditor's Rights of Inspection and Audit. Upon reasonable notice by TD, Debtor shall permit such creditor or any of its agents reasonable and free access to the Debtor's records and place of business during normal business hours to verify the existence, condition and location of collateral in which said creditor holds a security interest and to audit

Debtor: Arthur Groom & Company, Inc.  
Case No.: 10- 13221  
Caption of Order: Interim Order Authorizing Use of Cash Collateral

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Debtor's cash receipts and disbursements.

4. Interlocutory Order and No Modification of Creditor's Adequate Protection.

This is an interlocutory order. Nothing contained herein shall be deemed or construed to (a) limit TD to the relief granted herein; (b) bar TD from seeking other and further relief (including without limitation relief from the terms of this Order) for cause shown on appropriate notice to the Debtor and other parties-in-interest entitled to notice of same; or (c) require TD to make any further loans or advances to the Debtor. The Order may be modified for cause shown by the Debtor, TD or any other party-in-interest on due notice. No such modification, however, shall deprive TD of its interest in Debtor's property (pre-petition and post-petition).

FINAL HEARING ORDER

IT IS FURTHER ORDERED, AND NOTICE IS HEREBY GIVEN

That any creditor or other interested party having any objection to this Interim Order shall file with the Clerk of this Court and serve upon counsel for the Debtor on or before the 12 day of ~~February~~ <sup>March</sup>, 2010 at 5:00 p.m., a written objection and shall appear to advocate said objection at a Final Hearing to be held at 10:00 a.m. on the 17 day of ~~February~~ <sup>March</sup>, 2010 in the United States Bankruptcy Court, Newark, New Jersey. In the event no objections are filed or not advocated at such hearing, then this Order shall continue in full force and effect and shall be deemed a Final Order without further notice or hearing in accordance with Federal Rules of Bankruptcy Procedure 4001(d)(3).

NOTICE ORDER

IT IS FURTHER ORDERED that the Debtor serve a copy of this Order and Notice by first class mail within one (1) business day from the date hereof, on (1) the United States Trustee;

Debtor: Arthur Groom & Company, Inc.  
Case No.: 10-13221  
Caption of Order: Interim Order Authorizing Use of Cash Collateral

(2) the District Director of the Internal Revenue Service; (3) the New Jersey Division of Taxation; (4) all known secured creditors; and (5) counsel to any committee appointed under Section 1102 of the Bankruptcy Code, if one has been appointed and if not, to Debtor's twenty (20) largest Rule 1007(d) unsecured creditors. Debtor shall immediately file with the Clerk a Certificate of Service of said mailing.

*See Overriding Provision  
attached.  
mj*



**OVERRIDING PROVISION**

Notwithstanding anything to the contrary in this Order, or in any agreements or other documents filed in support of the issuance of this Order, no approval is given to any provision contained in this Order or supporting agreements or other documents which is an "Extraordinary Provision" (as that term is utilized in this Court's applicable Guidelines). Moreover, this is an Interim Order having only the limited binding effect anticipated in the ordinary course by the Guidelines. No substantial cause has been shown, nor compelling circumstances evidenced, nor reasonable notice given, to justify any Extraordinary Provisions or extended binding effect of or through this Interim Order.

A handwritten signature in black ink, consisting of a stylized, cursive 'J' or 'G' shape with a long vertical tail.

Exhibit A

	1 Week Ending 2/6/2010	2 Week Ending 2/13/2010	3 Week Ending 2/20/2010	4 Week Ending 2/27/2010	Total February 2010
BEGINNING CASH	66,005	14,883	34,871	31,640	66,005
SALES RECEIPTS	19,000	26,790	19,000	34,078	98,868
NEW PURCHASES (ASSUMES COD)	1,000	1,000	1,000	1,000	4,000
OPERATING EXPENSES					
Payroll & related costs	13,301	0	13,301	0	26,602
Rent	12,000	0	0	0	12,000
Utilities (4)	2,901	5,802	0	0	8,703
Insurance:					
Pension (Included in payroll)					
Health	3,750	0	0	0	3,750
Business	2,114	0	0	0	2,114
Life	7,303	0	0	0	7,303
Advertising and promotion	2,000	0	0	0	2,000
Sales Tax	0	0	6,430	0	6,430
Other operating expenses	3,568	0	1,500	0	5,068
Bank and credit card fees	2,395	0	0	0	2,395
Professional fees	0	0	0	650	650
TOTAL OPERATING EXPENSES	49,332	5,802	21,231	650	77,015
DEBT SERVICE					
TD Commercial Loan	12,039	0	0	0	12,039
TD Interest Payment	7,750	0	0	0	7,750
	0	0	0	0	0
TOTAL DEBT SERVICE	19,789	0	0	0	19,789
CASH FLOW	-51,122	19,988	-3,231	32,428	-1,937
ENDING CASH	14,883	34,871	31,640	64,068	64,068

	5 Week Ending 3/6/2010	6 Week Ending 3/13/2010	7 Week Ending 3/20/2010	8 Week Ending 3/27/2010	Total March 2010
BEGINNING CASH	64,068	105,788	128,452	121,159	64,068
SALES RECEIPTS	106,193	23,663	15,088	19,306	164,251
NEW PURCHASES (ASSUMES COD)	1,000	1,000	1,000	1,000	4,000
OPERATING EXPENSES					
Payroll & related costs	13,301	0	13,301	0	26,602
Rent	12,000	0	0	0	12,000
Utilities (4)	2,901	0	0	0	2,901
Insurance:					
Pension (Included in payroll)					
Health	3,750	0	0	0	3,750
Business	2,114	0	0	0	2,114
Life	3,062	0	0	0	3,062
Advertising and promotion	1,000	0	0	0	1,000
Sales Tax	0	0	6,580	0	6,580
Other operating expenses	3,568	0	1,500	0	5,068
Bank and credit card fees	1,987	0	0	0	1,987
Professional fees	0	0	0	650	650
TOTAL OPERATING EXPENSES	43,683	0	21,381	650	65,714
DEBT SERVICE					
TD Commercial Loan	12,039	0	0	0	12,039
TD Interest Payment	7,750	0	0	0	7,750
	0	0	0	0	0
TOTAL DEBT SERVICE	19,789	0	0	0	19,789
CASH FLOW	41,720	22,663	-7,293	17,656	74,747
ENDING CASH	105,788	128,452	121,159	138,815	138,815

	9 Week Ending 4/3/2010	10 Week Ending 4/10/2010	11 Week Ending 4/17/2010	12 Week Ending 4/24/2010	13 Week Ending 5/1/2010	Total April 2010
BEGINNING CASH	138,815	97,861	103,526	91,745	102,788	138,815
SALES RECEIPTS	40,000	6,665	8,520	12,694	18,092	85,970
NEW PURCHASES (ASSUMES COD)	1,000	1,000	1,000	1,000	1,000	5,000
OPERATING EXPENSES						
Payroll & related costs	13,301	0	13,301	0	13,301	26,602
Rent	12,000	0	0	0	0	12,000
Rent Other	11,223	0	0	0	0	11,223
Utilities (4)	2,901	0	0	0	0	2,901
Insurance:						
Pension (Included in payroll)						
Health	3,750	0	0	0	0	3,750
Business	2,114	0	0	0	0	2,114
Life	3,062	0	0	0	0	3,062
Advertising and promotion	1,000	0	0	0	0	1,000
Sales Tax	0	0	6,000	0	0	6,000
Other operating expenses	8,554	0	0	0	1,500	10,054
Bank and credit card fees	2,259	0	0	0	0	2,259
Professional fees	0	0	0	650	0	650
TOTAL OPERATING EXPENSES	60,165	0	19,301	650	14,801	94,917
DEBT SERVICE						
TD Commercial Loan	12,039	0	0	0	0	12,039
TD Interest Payment	7,750	0	0	0	0	7,750
	0	0	0	0	0	0
TOTAL DEBT SERVICE	19,789	0	0	0	0	19,789
CASH FLOW	-40,954	5,665	-11,781	11,044	2,291	-33,736
ENDING CASH	97,861	103,526	91,745	102,788	105,079	105,079