



U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS


**ENTERED**

TAWANA C. MARSHALL, CLERK

THE DATE OF ENTRY IS  
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed September 4, 2015

  
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

IN RE:

AMERICAN LIBERTY OIL  
COMPANY, LP,

DEBTOR.

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CASE NO. 15-32019-SGJ-11  
(Chapter 11)

**FINAL ORDER ON DEBTOR'S MOTION FOR INTERIM AND FINAL ORDER  
AUTHORIZING (A) BORROWING SECURED BY JUNIOR LIENS ON PROPERTY  
OF THE ESTATE PURSUANT TO SECTION 364(c)(3) OF THE BANKRUPTCY CODE  
(B) MAKING OF DROP DOWN LOANS TO NON-DEBTOR SUBSIDIARY (C)  
ADDITIONAL LENDING PROCEDURES (D) MODIFICATION OF THE  
AUTOMATIC STAY AND (E) SETTING A FINAL HEARING**

On August 11, 2015 and September 1, 2015 the Court held interim ("Interim Hearing") and final hearing ("Final Hearing"), respectively on the Debtor's Motion for Interim and Final Order Authorizing (a) Borrowing Secured by Junior Liens on Property of the Estate Pursuant to Section 364(c)(3) of the Bankruptcy Code (b) Making of Drop Down Loans to Non-Debtor Subsidiary, (c) Additional Lending Procedures (d) Modification of the Automatic Stay and (e) Setting a Final Hearing filed by American Liberty Oil Company, LP (the "Debtor") in the above captioned case. Based upon consideration of the Motion, the representations and argument of

counsel for the parties appearing at the Interim Hearing and Final Hearing, and the testimony and other evidence adduced at the Interim Hearing and Final Hearing, the Court, on a final basis, finds an orders as follows:

**THE COURT HEREBY FINDS AS FOLLOWS:<sup>1</sup>**

A. This Court has jurisdiction over this proceeding and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

B. This case was commenced by the Debtor's filing of a voluntary petition under chapter 11 of the Bankruptcy Code (as hereinafter defined) on May 6, 2015 ("Petition Date") with this Court ("Bankruptcy Court"). The Debtor has continued in the management and possession of its business and properties pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

C. In the Motion, the Debtor requested entry of an interim order and final order (this "Final Order") pursuant to sections 105, 361, 363, and 364 of title 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code") and Rules 2002, 4001(c), and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") authorizing the Debtor to borrow on a secured basis from Climbing Tree Holdings LLC ("Lender").

D. Sufficient and adequate notice of the Motion and the emergency hearing with respect thereto has been given to prevent immediate and irreparable harm pursuant to Bankruptcy Rules 2002, 4001(c), and 9006, and as required by Bankruptcy Code §§ 102, 361, 362, 363, and 364.

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<sup>1</sup> Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact.

E. Good cause exists to grant the Motion on a final basis as provided herein. Among other things, entry of this Final Order will minimize disruption of the business and operations of the Debtor and permit the Debtor to pay operating expenses and maintain the going concern value of its business.

**ACCORDINGLY, THE COURT HEREBY ORDERS AS FOLLOWS:**

1. Motion Granted. The Debtor is authorized to borrow on a final basis and the Lender may, in its sole discretion, lend up to \$100,000, subject to increases as allowed below, to the Debtor and on the terms and conditions set forth below (the “DIP Loan”):

- a. Maturity: May 1, 2016, subject to extension via subsequent Court Order.
- b. Interest Rate: Eight percent (8%) per annum.
- 1) Priority: The Lender is granted a secured claim and lien against the Debtor’s real property, improvements, and proceeds therefrom as more specifically described in the Loan Documents for the total amount of all advancements in accordance with this Interim Order and the terms set forth herein subordinate to all liens existing as of the Petition Date to the extent that the same are valid, subsisting and affect the Property including (but not limited to) i) the prior, perfected and enforceable lien made the subject of that certain deed of trust dated October 22, 1991 from Debtor as grantor to Donald R. Rogge, Trustee for the benefit of the Farm Credit Bank of Texas and its assignee, Legacy Land Bank, FLCA, as beneficiary and recorded in Volume 1035, Page 284 of the Official Public Records of Kaufman County, Texas securing the payment of all obligations described in said deed of trust and in any of the subsequent modifications thereof including, but not limited to, the unpaid balance of that certain promissory note of even date therewith in in the original principal amount of \$3,462,300.00 executed by Debtor, Wreno Smith Wynne, Cheryl S. Wynne, James Y. Wynne, Dee Young Wynne, William B. Wynne and Laurie L. Wynne, and ii) the Second Lien Deed of Trust from American Liberty Oil Company, LP as grantor to beneficiaries Jerry Jane Morris Walling, paying agent for Michael Wynne Morris, Jerry Jane Morris Walling, and Melissa Morris Johnston, or such other person or entity as such three individuals, or the survivors among them, shall jointly designate in writing to grantor dated November 18, 1991 securing sums loan under a promissory notes dated November 18, 1991 in the original principal amounts of \$2,252,853.15 and \$75,000.00, respectively (the “Superior Liens”).
- c. Good Faith: the Lender is entitled to and is hereby granted the protections of good faith credit providers under Section 364 of the Bankruptcy Code.

2. The Lender may advance additional funds above the \$100,000 limited stated above in accordance with the following procedures:

- (i) Any additional lending to the Debtor must be on the same terms as set forth herein, and, the Debtor must file a notice with this Court of an agreement by the Lender to advance any funds in addition to the \$100,000 set forth herein (“Notice”).
- (ii) All parties shall have ten (10) days from the date of filing of the Notice to object to the additional lending to the Debtor. If no objections are filed within the ten (10) day period, then the additional lending to the Debtor shall be deemed approved and the Debtor may borrow such additional funds as disclosed on the same terms as found herein. If an objection to the Notice is timely filed and the objection cannot be consensually resolved between the Debtor and the objecting party, then the Debtor shall seek a hearing and obtain Court approval prior to taking any additional advances above the initial \$100,000 limit.
- (iii) All lending to the Debtor by the Lender authorized by this Order and under the additional lending procedures stated above shall be subject to the deed of trust executed by the Debtor in favor of the Lender and shall be junior and subordinate to the Superior Liens and to the payment of the debt secured by the Superior Liens.

3. The Drop Down Loans (as that term is defined in the Motion) are approved to be made by the Debtor, in the Debtor’s discretion in accordance with this Final Order, to Star Brand Cattle Company Ltd. d/b/a Star Brand Ranch Executive Retreat (“SBCC”) up to a maximum loan amount of \$50,000.00 from cash on hand of the Debtor or the proceeds of the DIP Loan approved herein to be used by SBCC for payroll, inventory, maintenance, and other ordinary course business expenses of SBCC.

4. The junior lien granted to the Lender by this Final Order shall be immediately and automatically effective, valid, and perfected as of the date of entry of this Final Order without the need for recording or filing.

5. The protections afforded to the Lender and the holders of the debt secured by the Superior Liens for any advances made under this Final Order shall survive and shall be binding on any chapter 11 or chapter trustee that may be appointed.

6. Subject to the provisions hereof, this Final Order shall be a valid, binding obligation on all parties-in-interest and fully effective immediately upon its entry.

7. The effective date of this Order is September 1, 2015 notwithstanding the possible application of Fed. R. Bankr. P. 6004(g), 7062, 9014, or otherwise, and the Clerk of the Court is hereby directed to enter this Final Order on the Court's docket in this chapter 11 case.

###END OF ORDER ###