

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION**

In RE:

**C. BEAN TRANSPORT, INC.,
Debtor.**

**Case No. 2:10-71360
(Chapter 11)**

**INTERIM AND FINAL ORDER ALLOWING DEBTOR TO USE
CASH COLLATERAL ON CONDITIONS
(271 Warehouse Properties)**

On this day came on to be heard the Motion to Use of Cash Collateral (the “Motion”) filed by the Debtor and the Court, having considered the Motion and the agreement of the parties, hereby finds and orders as follows:

1. The Debtor filed its Petition for Relief under Chapter 11 of Title 11, United States Code, on March 17, 2010. The Court has jurisdiction under 28 U.S.C. § 1334. This Motion involves procedures that are core matters within the meaning of 28 U.S.C. § 157. Venue is properly laid in this District.

2. The Motion and this Interim Order relate to certain Property of the Debtor known as the 271 Warehouse Property generally located at 7001 Highway 271 in Fort Smith, Arkansas, which consists of three warehouse facilities generally described as the Northern Building (54,026+ square feet), the Middle Building (30,397 square feet±), and the Southern Building (43,648 square feet±), and an undeveloped area of 5.37± acres of real estate. The property, described collectively as the 271 Warehouse, is an operating and income generating property and is hereinafter collectively referred to as the “271 Warehouse Property.”

3. The Motion to utilize cash collateral and this Interim Order relates only to the use of proceeds generated by the 271 Warehouse Property and used to operate the 271 Warehouse Property.

4. Bank Midwest, N. A. ("Bank Midwest") is a secured creditor of the Debtor. On August 31, 2006, Bank Midwest made a loan to Debtor in the original principal amount of \$2,040,800.00. The loan was evidenced by that Promissory Note dated August 31, 2006 in the original principal amount of \$2,040,800.00 (the "6974 Note"), a true and correct copy of which is attached to Bank Midwest's Proof of Claim filed in this matter and incorporated herein by reference.

5. To secure payment of the loan evidenced by the 6974 Note, the Debtor executed a Mortgage encumbering the 271 Warehouse Property which is more particularly described in the Mortgage. The Mortgage was recorded in the real estate records of Sebastian County, Arkansas, Fort Smith District on September 1, 2006 as Document No. 7197892 and is incorporated herein by reference.

6. Under the Mortgage, the Debtor granted to Bank Midwest a mortgage in, among other things, all of Grantor's right, title and interest in and to all present and future leases of the property covered by the Mortgage and all rents from said property. In addition, the Debtor executed and delivered to Bank Midwest that Assignment of Rents dated August 31, 2006 granting Bank Midwest a continuing security interest in and conveying all of Debtor's right, title and interest in and to the rents from the property covered by the Mortgage. The Assignment of Rents was recorded in the real estate records of Sebastian County, Arkansas, Fort Smith District on September 1, 2006 as Document No. 7197893 and is incorporated herein by reference.

7. The loan evidenced by the 6974 Note was renewed by that Promissory Note dated September 30, 2006 in the original principal amount of \$2,040,800.00 (the “6974 Renewal Note”). A true and correct copy of the 6974 Renewal Note is attached to Bank Midwest’s Proof of Claim filed in this matter and incorporated herein by reference.

8. The loan evidenced by the 6974 Renewal Note was modified pursuant to the provisions of that Change in Terms Agreement dated April 30, 2009, executed by the Debtor, a true and correct copy of which is attached to Bank Midwest’s Proof of Claim filed in this matter and incorporated herein by reference.

9. On June 22, 2009, Bank Midwest made an additional loan to the Debtor in the original principal amount of \$175,000.00 for the purpose of making repairs to the improvements constructed on the 271 Warehouse Property covered by the Mortgage. The foregoing loan is evidenced by that Promissory Note dated June 22, 2009, executed by the Debtor in the original principal amount of \$175,000.00 (the “0131 Note”). A true and correct copy of the 0131 Note is attached to Bank Midwest’s Proof of Claim filed in this matter and incorporated herein by reference. The loan evidenced by the 0131 Note is secured by the Mortgage and the Assignment of Rents described above.

10. The loan evidenced by the 0131 Note was modified pursuant to the provisions of that Change in Terms Agreement dated September 22, 2009, executed by the Debtor, a true and correct copy of which is attached to Bank Midwest’s Proof of Claim filed in this matter and incorporated herein by reference.

11. The loan evidenced by the 0131 Note was further modified pursuant to the provisions of that Change in Terms Agreement dated November 30, 2009, executed by the

Debtor, a true and correct copy of which is attached to Bank Midwest's Proof of Claim filed in this matter and incorporated herein by reference.

12. On the date of commencement of this Case, the principal amount outstanding on Note 6974 was \$1,649,172.28, with accrued unpaid interest on petition date of \$549.79. In addition, on commencement date, the principal amount due outstanding on Note No. 0131 was \$142,230.34, with accrued unpaid interest of \$1,753.58.

13. On February 2, 2009, Financial Federal Credit, Inc., a Texas corporation ("FFCI"), filed its Mortgage, recorded in the Books and Records of Sebastian County, Arkansas, as document number 7260667, whereby C. Bean Transport granted to FFCI a mortgage to secure repayment of certain obligations of C. Bean Transport and others to FFCI. The Mortgage includes within its terms an Assignment of Rents, Issues and Profits.

14. Based upon the foregoing, Bank Midwest holds a first lien on the 271 Warehouse Property as well as all rents from the leases entered into with respect to the property covered by the Mortgage. The foregoing collateral and proceeds thereof, including as well those proceeds that are traceable to the possession of others, constitute cash collateral within the meaning of 11 U.S.C. § 363(a) and 552(b). All the rents arising from the use of the property covered by the Mortgage together with all cash and cash equivalent proceeds of the liens and security interests securing the loans evidenced by the 6974 Renewal Note and 0131 Note are hereinafter referred to as "Cash Collateral."

15. Debtor may not use Cash Collateral for any purpose other than as provided in this Order without Bank Midwest's consent, the consent of FFCI, or upon order of the Court. The Debtor is authorized to use Cash Collateral solely for the purpose of funding the operation of the 271 Warehouse Property covered by the Mortgage and in accordance with the Budget attached

hereto as Exhibit "A" pursuant to and in accordance with the terms of this Order for April until November 15, 2010 or confirmation of the Debtor's Plan of Reorganization by a final, non-appealable order, whichever comes first, or such later date to which Bank Midwest and FFCI may stipulate in a written notice to the Debtor's counsel of record in this case without further notice to creditors or order of the Court.

16. Except to the extent inconsistent with the provisions of this Order, the Debtor shall comply with and perform all of its covenants and obligations set forth in the documents evidencing or securing the Loan.

17. The Debtor is required to do the following:

a. The Debtor shall make payments to Bank Midwest in the amount of \$8,500.00 per month beginning April 15, 2010 and continuing on the 15th day of each successive month, which sums shall be applied to the amounts due and owing under the 6974 Renewal Note and the 0131 Note.

b. The Debtor shall continue to maintain, insure, and otherwise preserve and protect all the collateral securing the loans evidenced by the 6974 Renewal Note and 0131 Note and shall comply with and enforce the leases relating to the property covered by the Mortgage in accordance with their terms.

c. The Debtor shall make available at any reasonable times, and subject to reasonable notice, all of its books, records, inventory, and premises with respect to the collateral securing the loans evidenced by the 6974 Renewal Note and 0131 Note for inspection by Bank Midwest and/or FFCI or their auditors, appraisers, business consultants and other agents, representatives or experts.

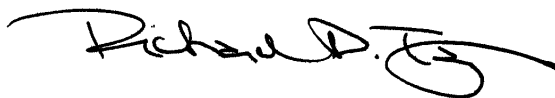
18. Any of the following shall constitute an Event of Default:

- a. The Debtor fails to comply with any of the provisions of this Order.
 - b. The Debtor transmits any materially false financial or other information to Bank Midwest or the Court.
 - c. The Debtor fails to adequately preserve, protect, enforce or insure the collateral securing the loans evidenced by the 6974 Renewal Note and 0131 Note, or the FFCI Mortgage.
 - d. The Debtor fails to timely file its monthly operating reports as required by the Bankruptcy Code.
 - e. The Debtor fails to comply with its monetary obligations hereunder or fails to cure any non-monetary default within 10 days after notice thereof (or if such default is of such a nature that it cannot be reasonably cured within 10 days, failure to commence to cure such default within 10 days and prosecute such cure to completion).
19. Upon the occurrence of an Event of Default, Bank Midwest may file with the Court an affidavit that an event of default has occurred and seek an order of the Court terminating the Debtor's right to use the Cash Collateral.
20. The automatic stay of 11 U.S.C. § 362 is hereby modified to permit Bank Midwest or FFCI to take the actions provided or contemplated by this Order.
21. This Order is without prejudice to the right of Bank Midwest, FFCI, or Debtor at any time to seek to terminate or further modify the automatic stay of 11 U.S.C. § 362, to seek additional protection of its interests, seek additional adequate protection of its collateral or to seek such other relief from the Court as Bank Midwest may deem appropriate or necessary.
22. Nothing in this Order shall limit Bank Midwest or FFCI's right to assert claims arising under 11 U.S.C. §§ 503 and 507.

23. The subject of this Order is a “core” proceeding within the meaning of 28 U.S.C. § 157. Any liens, priorities or rights created, granted or stipulated to by this Order shall apply to the Debtor and its successors and assigns, including, without limitation, any trustee appointed in this case or in any case to which this case may be converted.

24. The Debtor is authorized and directed to perform all acts, and execute and comply with the terms of such other documents, instruments and agreements which Bank Midwest and/or FFCI may reasonably require and/or which may otherwise be deemed necessary by Bank Midwest to effectuate the terms and conditions of this Order.

IT IS SO ORDERED.



U.S. BANKRUPTCY JUDGE

DATE: June 22, 2010

Agreed as to Form:

/s/ Chad J. Kutmas

Gary M. McDonald, OBA No. 5960*
Chad J. Kutmas, OBA No. 19505*
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EOD 6/22/2010
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-and-

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Counsel for C. Bean Transport, Inc.

EXHIBIT “A”

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	April 2010	May 2010	June 2010	July 2010	August 2010	September 2010	October 2010	November 2010	December 2010
Wages	\$ 1,400.00	\$ 1,400.00	\$ 1,400.00	\$ 1,400.00	\$ 1,400.00	\$ 1,400.00	\$ 1,400.00	\$ 1,400.00	\$ 1,400.00
Shuttle Expense	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00	\$ 600.00
Forklift Fuel	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00
Insurance	\$ 4,180.00	\$ 777.65	\$ 777.65	\$ 777.65	\$ 777.65	\$ 777.65	\$ 777.65	\$ 777.65	\$ 777.65
Electric	\$ 550.00	\$ 550.00	\$ 550.00	\$ 550.00	\$ 550.00	\$ 550.00	\$ 550.00	\$ 550.00	\$ 550.00
Water	\$ 260.00	\$ 260.00	\$ 260.00	\$ 260.00	\$ 260.00	\$ 260.00	\$ 260.00	\$ 260.00	\$ 260.00
Gas	\$ 300.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 700.00	\$ 700.00	\$ 700.00
Interest	\$ 8,500.00	\$ 8,500.00	\$ 8,500.00	\$ 8,500.00	\$ 8,500.00	\$ 8,500.00	\$ 8,500.00	\$ 8,500.00	\$ 8,500.00
Monthly Total	\$15,990.00	\$12,487.65	\$12,487.65	\$12,487.65	\$12,487.65	\$12,487.65	\$12,987.65	\$12,987.65	\$12,987.65
Budget Total	\$15,990.00	\$28,477.65	\$40,965.30	\$53,452.95	\$65,940.60	\$78,428.25	\$91,415.90	\$104,403.55	\$117,391.20