



A handwritten signature in blue ink, reading "David L. Bissett", is written over a horizontal line.

David L. Bissett
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

IN RE:

DAVIS KITCHEN & TILE, LLC,

Case No. 1:26-bk-00343

Debtor.

Chapter 11

**FINAL ORDER (I) AUTHORIZING DEBTOR-IN-POSSESSION'S USE OF
CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION TO
SECURED CREDITORS, AND (III) GRANTING RELATED RELIEF**

This matter came before the Court for a final hearing on June 24, 2026 (the "Final Hearing"), upon the Debtor-in-Possession's Emergency Motion for Authority to Use Cash Collateral, for Adequate Protection, and for Related Relief (Doc. No. 23) (the "Cash Collateral Motion") filed by Davis Kitchen & Tile, LLC, d/b/a DKT Retail, (the "Debtor"). The Court previously entered its Interim Order (I) Authorizing Debtor-in-Possession's Use of Cash Collateral, (II) Granting Adequate Protection to Secured Creditors, (III) Scheduling Final Hearing, and (IV) Granting Related Relief (Doc. No. 34) (the "Interim Order"). The Court, having considered the Cash Collateral Motion, the Declaration of Christopher Collins in support thereof, the Joint Stipulation and Agreed Order Modifying Treatment of First United Bank & Trust's Claims in Debtor's Chapter 11 Plan and Modifying Interim Cash Collateral Order (Doc. No. 69) (the "First United Stipulation"), the Debtor-in-Possession's Response in Opposition to the United States Trustee's Objection (Doc. No. 76), the record of this case, and the arguments of counsel; and the Court having found that the Debtor has an ongoing and critical need to use cash collateral to pay the ordinary and necessary expenses of operating its business, that the secured creditors are adequately protected as set forth herein, and that good and sufficient cause exists to grant the relief requested; it is hereby

ORDERED AS FOLLOWS:

1. **Objection Overruled.** The United States Trustee's Objection to Entry of a Final Order Authorizing Use of Cash Collateral (Doc. No. 75) is **OVERRULED** for the reasons stated on the record and in the Debtor's Response (Doc. No. 76). The matters raised therein concern the asserted equity-level interest of Davis Edward Davis and potential amendments to the Debtor's

Schedules and Plan, none of which constitutes an interest in the Debtor's cash collateral or impairs the adequate protection afforded to the cash collateral creditors. No holder of a lien on the Debtor's cash collateral has objected to entry of this Final Order.

2. **Authorization to Use Cash Collateral.** Subject to the terms, conditions, and limitations of this Final Order and the Budget, the Debtor is authorized to use Cash Collateral to pay the ordinary and necessary operating expenses of the Debtor's business as set forth in the Budget, *nunc pro tunc* to the Petition Date and continuing through confirmation of the Debtor's Chapter 11 plan, the conversion or dismissal of this case, or further order of this Court.

3. **Replacement Liens — First United.** As adequate protection for any diminution in the value of First United Bank & Trust's ("First United") interest in the Cash Collateral resulting from the Debtor's use thereof, and pursuant to 11 U.S.C. §§ 361 and 363(e), First United is granted, effective as of the Petition Date and without the necessity of execution, filing, or recordation of any instrument, valid, binding, enforceable, and automatically perfected replacement and additional security interests and liens (the "First United Replacement Liens") in and upon all of the Debtor's post-petition assets and property of every kind and nature, whether now existing or hereafter acquired, that are of the same type and category as the collateral described in the 2022 FUBT Filing (UCC-1 No. 2022E050900022) and the 2023 FUBT Filing (UCC-1 No. 2023E041800048), including, without limitation, all post-petition accounts receivable, contract receivables, service receivables, inventory, deposit accounts, equipment, and general intangibles, and all proceeds thereof.

4. **Priority of First United Replacement Liens.** The First United Replacement Liens shall be: (a) in addition to, and not in substitution for, First United's prepetition security interests; (b) senior to all other security interests, liens, and claims against the Debtor's post-petition assets, subject only to the Carve-Out set forth herein and to any valid, senior, non-avoidable prepetition liens; and (c) junior to any liens on specific assets to which purchase money security interests or other senior prepetition liens validly attach and which are senior to First United's prepetition liens as a matter of applicable law.

5. **Adequate Protection Payments — First United.** In addition to the First United Replacement Liens, and as modified by the First United Stipulation (Doc. No. 69), the Debtor is authorized and directed to pay First United monthly adequate protection payments as follows, commencing on the first day of the calendar month following entry of the First United Stipulation and continuing monthly on the same day through confirmation of the Plan:

- (a) Loan 9001 adequate protection payment: \$1,691.46 per month;
- (b) Loan 9002 adequate protection payment: \$1,913.79 per month; and
- (c) Total First United monthly adequate protection payment: \$3,605.25 per month.

(d) All payments made pursuant to this Paragraph 5 shall be credited against the amounts due under the Plan treatment of First United's Claims, consistent with Part 4 of the Plan

(“Length of Plan in Months . . . begins on the Effective Date with a credit for preconfirmation adequate protection payments”).

(e) The monthly adequate protection payment set forth in this Paragraph 5 supersedes and replaces the First United AP Payment of \$2,002.61 previously provided in Paragraph 3 of the Interim Order.

6. **Replacement Liens — On Deck.** As adequate protection for any diminution in the value of On Deck’s interest in the Cash Collateral, and pursuant to 11 U.S.C. §§ 361 and 363(e), On Deck is granted, effective as of the Petition Date, valid, binding, enforceable, and automatically perfected replacement and additional security interests and liens (the “On Deck Replacement Liens”) in and upon all of the Debtor’s post-petition assets of the same type and category as the collateral described in the FAS Filing (UCC-1 No. 2023E122900008), including, without limitation, all post-petition accounts receivable, inventory, and general intangibles. The On Deck Replacement Liens shall be junior and subordinate in all respects to the First United Replacement Liens and the Carve-Out.

7. **Adequate Protection Payments — On Deck.** The Debtor is authorized and directed to pay On Deck monthly adequate protection payments in the amount of Four Hundred Forty-Seven Dollars (\$447.00), continuing on the first business day of each calendar month.

8. **Carve-Out.** Notwithstanding any provision of this Final Order, the First United Replacement Liens, the On Deck Replacement Liens, and the adequate protection payments provided herein shall all be subject and subordinate to the payment of the following administrative expenses (the “Carve-Out”):

(a) All fees required to be paid to the Clerk of the United States Bankruptcy Court for the Northern District of West Virginia;

(b) All fees and expenses required to be paid to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6);

(c) All fees and expenses of the Subchapter V Trustee appointed in this case pursuant to 11 U.S.C. § 1183; and

(d) Allowed professional fees and expenses of Debtor’s counsel (Johnson Legal Services, PLLC) incurred post-petition and approved by this Court, not to exceed \$10,000.00 per month, or the amount set forth in the Budget for post-petition fees.

9. The Carve-Out shall not be construed to limit or impair the right of any party to object to the allowance of any fees or expenses described above. The Carve-Out shall not attach to the proceeds of any avoidance action or other estate cause of action under Chapter 5 of the Bankruptcy Code.

10. **Automatic Perfection.** The First United Replacement Liens and the On Deck Replacement Liens granted pursuant to this Final Order are and shall be deemed automatically

perfected without the necessity of filing any financing statements, mortgages, deeds of trust, or other instruments with any state or federal authority. Should First United or On Deck elect to file any such documents to evidence or further perfect the replacement liens granted herein, the Debtor is directed to cooperate with such filing.

11. **Insurance.** The Debtor shall maintain all insurance required by the applicable loan documents on the secured creditors' collateral and shall provide proof of insurance upon request.

12. **Reservation of Rights.** Nothing in this Final Order shall constitute: (a) a finding as to the validity, enforceability, priority, or perfection of any lien or security interest asserted by any party; (b) a waiver of any party's right to contest the validity, enforceability, priority, or perfection of any lien or security interest; (c) a finding that any transaction between the Debtor and any creditor constitutes a true sale of receivables rather than a secured financing; (d) a waiver of any avoidance action, claim objection, or other estate cause of action under Chapter 5 of the Bankruptcy Code or otherwise; (e) an admission as to the amount, allowability, or priority of any proof of claim; or (f) a determination of any issue with respect to the scope of 11 U.S.C. § 552(b)(1). All rights of all parties with respect to these matters, including the Debtor's right to challenge the validity, extent, priority, and perfection of all asserted security interests and to commence an adversary proceeding with respect thereto, are expressly preserved.

13. **Incorporation of First United Stipulation.** The First United Stipulation (Doc. No. 69) is incorporated herein by reference. To the extent any term of this Final Order conflicts with the First United Stipulation as to the treatment of First United's adequate protection, the First United Stipulation controls. All replacement liens, rights-preservation provisions, and other terms of the Interim Order not inconsistent with this Final Order or the First United Stipulation remain in full force and effect.

14. **Modification.** This Final Order may be modified only by further order of this Court or by written agreement signed by the Debtor and the affected secured creditor(s), subject to approval by this Court.

15. **Effectiveness.** This Final Order shall be effective immediately upon entry. Any stay of the effectiveness of this Final Order, including pursuant to Federal Rules of Bankruptcy Procedure 4001(a)(3) or 6004(h), is hereby waived for good cause shown.

SO ORDERED.

Order prepared by:

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