

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In the Matter of:

DE-TECH COLLISION, INC.,

Debtor.

Case No. 16-55398-tjt

Chapter 11

Judge Thomas J. Tucker

**STIPULATED INTERIM ORDER (A) AUTHORIZING DEBTOR'S
USE OF CASH COLLATERAL, (B) GRANTING REPLACEMENT LIENS, AND
(C) AUTHORIZING ADEQUATE PROTECTION PAYMENTS**

This case came before the Court for a hearing on November 17, 2016, on the Debtor's First Day Motion for Use of Cash Collateral (Docket # 5). The Court has reviewed the Motion and the Order, the Stipulation of the Debtor and secured creditor Lakeland West Capital XXVIII, LLC ("Lakeland") and has heard the statements of counsel in support of the relief requested and any evidence offered, and now enters this interim cash collateral order.

THE COURT FINDS:

A. On November 14, 2016 (the "Petition Date"), the Debtor filed its voluntary petition for relief under Chapter 11 of Title 11 of the United States Code.

B. Without limitation, the Debtor is indebted to Lakeland (the "Indebtedness") pursuant to an Amended and Restated Loan Agreement dated as of April 4, 2015 (the "Loan Agreement"), which Loan Agreement amended and restated a Business Loan Agreement, dated July 16, 2004, entered into between the Debtor and Lakeland's predecessor, Bank of America ("BOA"). The Indebtedness is currently evidenced by a Promissory Note, dated April 17, 2008, in the original principal amount of One Hundred

Ninety-Two Thousand Seventy-Seven and 73/100 (\$192,077.73) Dollars (the “Amended Note”). The Indebtedness is guaranteed by Hassan Chaaban (the “Guarantor”), the Debtor’s sole shareholder and president. (the “Obligation”).

C. Repayment of the Indebtedness is secured by all assets of Debtor pursuant to a Commercial Security Agreement, dated July 16, 2004, executed and delivered by the Borrower (the “Security Agreement”), granting Lakeland a first security interest on all of Borrower’s personal property, which security interest is perfected by a UCC – 1 Financing Statement filed with the Michigan Secretary of State, File No. 2004182514-8, and continued by Continuation Statements filed with the Michigan Secretary of State File Nos. 2009092533-9 and 2014055192-1 (collectively the “Financing Statements”), including without limitation: (a) existing and future accounts, chattel paper, contract rights, deposit accounts, general intangibles, instruments, documents, software, rights to payment evidenced by chattel paper, documents or instruments, commercial tort claims, letters of credit, letter of credit rights, supporting obligations and rights to payment for money or funds advanced or sold; (b) presently owned and hereafter acquired inventory; (c) presently owned and hereafter acquired investment property; (d) presently owned and hereafter acquired property in possession or control of Lakeland; (e) presently owned and hereafter acquired machinery, equipment, furniture, fixtures, tools, parts and accessories, and all proceeds and products of and accessions to all of the foregoing (collectively, “Prepetition Collateral”), all as more particularly described in the Security Agreement.

D. All of the documents evidencing, securing or executed in conjunction with the Indebtedness (collectively, the “Loan Documents”) were assigned by Bank of

America to Lakeland as evidenced by an Assignment of Debt and Lien, dated May 23, 2016, recorded at Liber 53045, Page 824, Wayne County Records. The Lender is now the holder in due course of the Loan Documents, and entitled to all the benefits thereof.

E. Lakeland's security interest in the Debtor's Prepetition Collateral is valid, perfected, first in priority and unavoidable, the value of the Debtor's Prepetition Collateral if operated as a going concern appears to exceed the amount of the Indebtedness under § 506 of the Code, the Indebtedness is a valid, binding and unavoidable obligation of Debtor and Guarantor and there are no setoffs, counterclaims or defenses to the Indebtedness. Notwithstanding the above, if Debtor's interest in any of the Prepetition Collateral as of the Petition Date was encumbered by a valid, binding and unavoidable lien senior to the prepetition lien held by Lakeland, the lien on that property granted to Lakeland this Order will be junior to such existing senior lien only.

F. When collected, liquidated or otherwise reduced to cash, the proceeds of the Prepetition Collateral will constitute cash collateral, pursuant to the terms of the Security Agreement and related Loan Documents.

G. In order for Debtor to continue to operate its businesses, and preserve goodwill and going concern value, it is necessary for Debtor to use cash collateral to pay normal operating expenses (including, without limitation, wages, salaries, insurance premiums, utilities, rent and taxes) and to purchase inventory and supplies.

H. Debtor has not been, and will continue to be unable, in the ordinary course of business or otherwise, to obtain unsecured credit under § 503(b)(1) of the Code and

needs use of cash collateral in order to continue operations. Debtor and Lakeland are willing to resolve the Motion and agree to the use of cash collateral by Debtor under § 363 of the Code, subject to the terms of this Order

Upon consideration of the above findings, which are incorporated into this Order,
IT IS ORDERED:

1. The Debtor is authorized to use cash collateral in the amount of up to \$77,482.00 until December 14, 2016 to operate the Debtor's business in accordance with the Budget (the "Budget") attached to the Motion, unless the Court orders otherwise. The Court finds that the foregoing authorization is necessary to avoid immediate irreparable harm. Debtor may not use cash collateral except as provided in this Order. The Debtor must supply Lakeland and the U.S. Trustee and any committee appointed in the cases with an updated Budget, and a reconciliation of postpetition performance to the Budget, not less often than monthly by the 20th day of the month following the reporting period. If this Order becomes a Final Order and if approved by Lakeland in writing, the updated Budget will become the "Budget" under this Order.

2. In exchange for the authority to use cash collateral, as part of the adequate protection, the Debtor must remit monthly payments of \$1,400.00 to Lakeland. The Debtor reserves the right to propose a plan that provides that all adequate protection payments will be credited to the prepetition indebtedness. The first such monthly adequate protection payment will be due on December 1, 2016 and, thereafter, due the first business day of every month until further order of this Court.

3. The Debtor may use cash collateral for necessary operating expenses and in an amount that is necessary to operate Debtor's business in accordance with the Budget.

4. As further adequate protection under § 363 of the Code for Debtor's use of cash collateral and any diminution in value in other collateral, Lakeland is granted a continuing and replacement security interest and lien in all of the property of Debtor (collectively, the "Postpetition Collateral" and identified together with the Prepetition Collateral as the "Collateral"), including without limitation: (a) all of the following, whether now owned or existing or hereafter created or acquired, wherever located, together with all additions and accessions and all proceeds and products thereof: all accounts, accounts receivable, instruments, documents, drafts, notes, acceptances, chattel paper, general intangibles (including, without limitation, all goodwill, copyrights, patents, trademarks, trade names and franchises), software, contract rights, rights to payment evidenced by chattel paper, documents or instruments, deposit accounts, rights to payment for money or funds advanced or sold, causes of action, choses in action, commercial tort claims, letters of credit, letter of credit rights, supporting obligations, investment property or other property in possession or control of Lakeland, all personal property received as returns and repossessions, all other forms of receivables, tax refunds of any form, all inventory, including all goods held for sale and documents evidencing inventory, all equipment (together with spare and repair parts, special tools and equipment and replacements), the proceeds of credit and other forms of insurance coverage of any of the foregoing and all books and records pertaining to all of the foregoing; and (b) all interests in real property and fixtures; provided, however,

that if Debtor's interest in any of the foregoing property as of the Petition Date was encumbered by a valid, binding and unavoidable lien senior to the prepetition lien held by Lakeland, the lien on that property granted to Lakeland under this Order will be junior to such existing senior lien only. No lien of any kind is being granted in Bankruptcy Code Chapter 5 claims of the Debtor or their proceeds. The security interest and liens granted to Lakeland will be subordinate to any quarterly fees and costs owed to the United States Trustee.

5. In the event that the adequate protection provided to Lakeland is insufficient to protect Lakeland for Debtor's use of cash collateral or for a diminution in value of Lakeland's other collateral, then to that extent, Lakeland's claim will have priority under § 507(b) of the Code over all administrative expenses incurred in this Chapter 11 proceeding of the kind specified in § 503(b) of the Code, except for any quarterly fees and costs owed to the United States Trustee. Unless Lakeland consents, no costs or expenses of administration which have been or may be incurred in these proceedings (including any conversion of these proceedings under § 1112 of the Code, or any other related proceedings), and no priority claims are, or will be, prior to or on a parity with the claim of Lakeland against Debtor, or with the security interest of Lakeland in the Collateral except as provided herein, and no such cost or expenses of administration will be imposed against Lakeland, its claims or its Collateral under § 506(c) or § 552 of the Code or otherwise. The foregoing provision will not restrict Debtor's payment of administrative expenses, including professional fees, provided, that such expenses are in the Budget and Debtor is not then, and will not as a result of such payment be, in default under this Order.

6. The security interest and lien granted to Lakeland under this Order will be evidenced by the entry of this Order, and except as otherwise provided herein, will be deemed to be first, valid and perfected as against all third parties upon entry of this Order, without regard to applicable federal, state or local filing and recording statutes, as of the Petition Date, provided, however, that Lakeland may take such steps as it deems appropriate to comply with such recording statutes and Debtor will execute and deliver such additional documents and will take any and all additional action to comply with such recording statutes as Lakeland may reasonably request. The Debtor is authorized to execute those additional documents. At Lakeland's discretion, it may attach this Order to financing statements bearing Debtor name as the debtor and file them with any state or local office to further evidence the liens granted hereby without the signature of Debtor.

7. Debtor's ability to use cash collateral under this Order will terminate on the earlier of January 7, 2017 or upon a default under this Order by Debtor ("Termination Date"), unless the Termination Date is extended by written stipulation of Lakeland and Debtor.

8. Debtor must supply financial information and information relating to the Collateral as required by the Prepetition Loan Documents and at the reasonable request of Lakeland.

9. Guarantor ratifies and affirms his Guaranty of all indebtedness of Debtor to Lakeland.

10. The terms of this Order constitute a "finding of fact" as to the "adequate protection necessary" for Debtor's use of both cash and non-cash Prepetition Collateral

of Lakeland under § 363 of the Code. This Order is in lieu of all further hearings on the issue of adequate protection with respect to Lakeland. The Court also finds that Lakeland is acting in good faith.

11. Debtor and Guarantor admit that they have no defenses, offsets or counterclaims with respect to the payment of any sum owing to Lakeland, with respect to the validity or enforceability of the Loan Documents, or with respect to the Indebtedness. In addition, Debtor and Guarantors irrevocably waive any right, without the prior written consent of Lakeland, (a) to grant or impose, under § 364 of the Code or otherwise, liens or security interests in any Collateral, whether senior, equal or subordinate to Lakeland's liens and security interests; or (b) to modify or affect any of the rights of Lakeland under this Order by any plan of reorganization confirmed in these cases or subsequent Order entered in these cases.

12. Defaults have occurred under the Loan Documents. Debtor and Guarantors, to the fullest extent allowed under applicable law, waive all notices that Lakeland might be required to give but for this waiver, including any notices otherwise required under Section 6 of Article 9 of the Uniform Commercial Code as enacted in the State of Michigan or other relevant state (the "UCC") concerning the Collateral. Furthermore, Debtor and Guarantors waive (a) the right to notification of disposition of the Collateral under § 9-611 of the UCC, (b) the right to require disposition of the Collateral under § 9-620(e) of the UCC and (c) all rights to redeem any of the Collateral under § 9-623 of the UCC.

13. Debtor must keep the Collateral maintained by sufficient insurance coverage acceptable to Lakeland consistent with the Prepetition Loan Documents,

including having Lakeland named as the mortgagee, loss payee and/or additional insured on all such policies.

14. The covenants and other terms of this Order are for the sole benefit of Lakeland and any assigns; Lakeland, in its sole discretion, may in writing waive any covenant or term.

15. In the event that Debtor defaults in performance of any obligations under this Order or under the Loan Documents as modified by this Order (excluding existing defaults under the Loan Documents), or upon the entry of an order dismissing this case, appointing a trustee in this case, converting this case to a case under Chapter 7 of the Code, or transferring the venue of this case to another district, subject to the provisions set forth in paragraph 8 above, Debtor's right to use cash collateral under this Order and the Loan Documents will terminate, Debtor must segregate and account for all cash collateral then in its possession or control, and Lakeland will have the right to apply for relief from the stay under § 362 of the Code. In the event that Debtor defaults on the terms of this order, Lakeland will give notice of default to Debtor by delivering written notice to the Debtor's bankruptcy counsel, Kimberly Ross Clayson at counsel's address of record in the bankruptcy case or to the Debtor's counsel of record at the time that Lakeland gives notice of default. Debtor will have 7 days to cure any default calculated from the date the notice is transmitted. If Debtor does not agree that Debtor is in default, Debtor may file a motion with the Court for a determination that it is not in default. Any motions by Debtor or Lakeland under this paragraph may be scheduled for an expedited hearing on two business days' notice without objection by any of the parties who stipulated to entry of this Order regarding the hearing being held on an expedited basis

(or as soon thereafter as practicable, depending on the Court's schedule and availability).

16. The provisions of this Order, which will be immediately effective upon entry, and any actions taken under this Order, will survive entry of, and will govern with respect to, any conflict with any order which may be entered subsequently, and the terms and provisions of this Order, as well as the liens and security interests under the Loan Documents, this Order, and all rights of Lakeland and obligations of Debtor created or arising under this Order, will continue in these proceedings or any superseding proceedings under the Code, and such liens and security interests will maintain their priority as provided by this Order until satisfied and discharged. If any or all of the provisions of this Order are hereafter modified, vacated or stayed by subsequent order of this or any other court, such stay, modification or vacation will not affect: (a) the validity of any adequate protection granted to Lakeland under this Order; (b) the validity and enforceability of any lien or priority authorized for the benefit of Lakeland; or (c) the conduct of Lakeland with respect to the rights granted to Lakeland in this Order prior to the effective date of such stay, modification or vacation, and notwithstanding such stay, modification or vacation, such adequate protection, liens and rights will be governed in all respects by the original provisions of this Order and Lakeland will be entitled to all those rights, privileges and benefits.

17. In consideration for the agreement of Lakeland to entry of this Order, Debtor and Guarantors (each, a "Releasing Party") fully and forever remise, release and discharge Lakeland, and each and all of its parent, subsidiary and affiliated corporations, companies and divisions, together with its or their predecessors,

successors and assigns, and each and all of its or their directors, officers, employees, attorneys, accountants, consultants and other agents (collectively, "Releasees"), of and from any and all claims, demands, agreements, contracts, covenants, actions, suits, causes of action, obligations, controversies, costs, expenses, accounts, damages, judgments, losses, liabilities and defenses, of whatsoever kind or nature, in law, equity or otherwise, whether known or unknown, whether concealed or hidden, which any Releasing Party has had, may have had or now has, or which any of its predecessors, successors or assigns hereafter can, will or may have, for or by reason of any matter, cause or thing whatsoever, whenever arising, to and including the date this Order is entered, including without limitation, (a) claims arising from or in any way related to this Order, the Indebtedness, the Loan Documents or the business relationship among Debtor, Guarantor and Lakeland, and (b) claims under the avoidance provisions of §§ 544, 547, 548, 549 and 550 of the Code.

18. The automatic stay as it pertains to the Debtor will also apply to Guarantor and will remain in effect against the Guarantor for the first 120 days from the Petition Date and will remain in effect if the Debtor obtains a confirmed Chapter 11 Plan within the first 120 days from the Petition Date.

19. The Debtor must within twenty-four (24) hours of the entry of this Order serve a copy of the Motion with all attachments and a copy of this Interim Order, by regular mail, overnight mail, facsimile or e-mail upon (i) the United States Trustee; (ii) appropriate state and federal taxing authorities; (iii) those parties holding or asserting secured claims against the Debtor's estate and (iv) the Top 20 General Unsecured Creditors.

20. The deadline to file an objection to this Order is 14 days after the entry of this Order, except that an official committee may file objections within 14 days after it is served with the entered order. If an objection is timely filed, the final hearing will be held on **December 14, 2016 at 11:00 a.m.** at 211 West Fort Street, Courtroom 1925, Detroit, MI 48226. If no objection is timely filed, the interim Order will become a Final Order.

Signed on November 18, 2016

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge