

HONORABLE CHRISTOPHER M. ALSTON

HEARING DATE: WEDNESDAY, NOVEMBER 9, 2016
HEARING TIME: 9:30 A.M.
LOCATION: SEATTLE, COURTROOM 7206
RESPONSE DATE: AT TIME OF HEARING

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re

DOOR TO DOOR STORAGE, INC.
20425 72ND AVE. S.
KENT, WA 98032
Tax ID 91-1698980,

Debtor.

No. 16-15618

EMERGENCY MOTION FOR INTERIM
ORDER:

(1) AUTHORIZING USE OF CASH
COLLATERAL AND GRANTING
ADEQUATE PROTECTION,
(2) APPROVING POST-PETITION
LOAN FACILITY, AND
(3) SETTING A FINAL HEARING

Door to Door Storage, Inc., debtor-in-possession herein (“Debtor”), moves the Court pursuant to sections 105, 361, 362, 363 and 364 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 4001-3, and 9013-1(d)(2)(E) Local Rules of Bankruptcy Procedure for the Western District of Washington (the “Local Rules”), for the entry of an interim Order (1) authorizing the Debtor’s use of cash collateral in which certain parties assert a security interest; (2) authorizing the Debtor to grant adequate protection in favor of the Secured Parties

EMERGENCY MOTION FOR ORDER: (1) AUTHORIZING
USE OF CASH COLLATERAL, POST-PETITION LOAN
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1 (defined herein) on account of the Debtor’s use of cash collateral; and (3) approving a postpetition
2 loan facility; and (4) setting a final hearing. This motion is based upon the files and records herein
3 and upon the Declarations of Tracey F. Kelly in Support of First Day Motions (the “Kelly
4 Declaration”) and Eric D. Orse (the “Orse Declaration”).

5
6 **I. FACTUAL BACKGROUND**

7 **A. The Debtor’s Operations**

8 **1. The Debtor’s Business**

9 Headquartered in Kent, Washington, the Debtor is in the business of providing nationwide
10 portable, containerized storage services (often referred to as pods) in approximately 50 locations
11 across the United States to approximately 8,200 customers and has 56 employees. Kelly Decl. at ¶ 3.
12 While the Debtor has historically provided moving services, as well, it recently took steps to
13 discontinue its moving services due to uncontrollable tariff increases that rendered that segment of its
14 business no longer viable. Id. at ¶ 4. The Debtor has filed this case in order to complete an
15 operational restructure around its core locations followed by an anticipated proposed Plan of
16 Reorganization.

17 With respect to its storage operations, the Debtor provides customer storage through three
18 different segments which are described in detail below: 1) storage in leased facilities, 2) storage at co-
19 locations, and 3) storage through relationships with branch affiliates. Kelly Decl. at ¶ 5. In each case,
20 the Debtor receives payment directly from the customer on a monthly basis, almost exclusively
21 through credit card payments, and typically has a written contract with customers. Depending on
22 when the customer first began doing business with the Debtor, the form of contract can vary a bit. Id.
23 at ¶ 6. Customers, on average, maintain storage with the Debtor for approximately one year. Both the

1 Debtor and the customer generally have a right to terminate the storage agreement on 30 days notice.
2 Id. The Debtor regularly adds customers, which has continued at a normalized, if not above average,
3 rate over the last months. Id. Following is a summary of each of the three segments of the Debtor’s
4 storage business.

5 With respect to the leased storage facilities, the Debtor leases over 400,000 square feet of
6 space across its 9 leased facilities and stores customers’ containers in those leased facilities (“Leased
7 Facility Storage”). Kelly Decl. at ¶ 7. The vast majority (more than 6,600) of the Debtor’s
8 customers’ storage is placed in the Leased Facility Storage. These leased facilities are located in
9 Seattle, Austin, Boston, Chicago, Los Angeles North, Los Angeles Metro, San Diego, San Francisco,
10 and Washington D.C. Id. at ¶ 8.

11 In addition, the Debtor operates out of 10 co-locations under a Master Services Agreement
12 with Graebel Companies, Inc. (“Graebel”), paying Graebel for storage space on a per square foot basis
13 with additional “per touch” service fees (“Co-Location Storage”). The Co-Location Storage houses
14 the containers of approximately 1,400 of the Debtor’s customers. Kelly Decl. at ¶ 9.

15 Finally, the Debtor maintains storage capability through relationships with approximately 30
16 active affiliate-operated locations nationwide (“Branch Affiliate Storage”). In these locations, a third-
17 party affiliate owns and maintains space in which the Debtor contracts to store customer containers
18 and some of its empty containers. At this time, the Debtor stores the goods of approximately 150
19 customers in the Branch Affiliate Storage locations. Kelly Decl. at ¶ 10.

20 Approximately 27 of the Debtor’s 56 employees are located in its Kent headquarters and call
21 center, with the balance of employees at the Debtor’s locations across the United States. Id. at ¶ 11.

22 Annual gross revenues for the last three years were \$22.6 million in 2014, \$23.6 million in
23 2015 and \$16.6 million in 2016 year to date. Orse Decl. at ¶ 6.

1 **2. Events Leading Up to Bankruptcy Filing**

2 Over the last two years, the Debtor encountered two issues which negatively affected its
3 financial performance. Kelly Decl. at ¶ 12. During 2015, it encountered a shortage of available
4 containers necessary to meet demand, which depressed its revenues without the ability to
5 commensurately reduce expenses. Id. Then, in early 2016, the pricing for moving containers
6 containing household goods increased dramatically. Historically, the Debtor’s moving costs were
7 governed by Tariff 100 pricing. However, during 2016, pricing increased by 50% to Tariff 150,
8 which applied solely to the moving of containers storing household goods. Id. Ultimately, these two
9 factors have created financial stress on the company, necessitating this filing. Id.

10 Prior to filing this case, the Debtor engaged the investment banking firm of Raymond James
11 Financial, Inc. to market the company for sale to determine if there might be productive solutions
12 through that path. Kelly Decl. at ¶ 13. Through that process, seven interested parties, including direct
13 competitors, executed Nondisclosure Agreements and received significant confidential information
14 from the Debtor about its business. Id. Ultimately, no parties were interested in pursuing an
15 acquisition. As a result, the Debtor determined that the restructure efforts described above offer the
16 best path to maximize value. Id.

17 **a. Recent Downsizing**

18 In the weeks leading up to the Petition Date, beginning on October 7, 2016, the Debtor began
19 cost cutting measures, including the layoff of 34 of its 90 employees, leaving 56 employees in place as
20 of the Petition date. Kelly Decl. at ¶ 14. For the most part, these efforts revolved around the winding
21 down of the Debtor’s moving business, as well as an effort to reduce expenses where possible. Id.

1 **b. Restructure Around Core Locations**

2 The Debtor filed this case in order to avail itself to the stability and breathing room in a
3 Chapter 11 to perform a measured analysis of the viability and profitability of each Leased Facility
4 Storage location and each Co-Location Storage location. Kelly Decl. at ¶ 15. The Debtor has
5 approximately 12,000 storage containers rented by approximately 6,674 customers at its Leased
6 Facility Storage locations; and approximately 2,577 storage containers rented by approximately 1,436
7 customers at its Co-Location Storage location. Id. Upon determination that any Leased Facility
8 Storage location or Co-Location Storage location is not a sustainable component of the Debtor’s
9 operations, the Debtor will work to find a buyer of such location and its assets. As to its Branch
10 Affiliate Storage arrangements, because the affiliate customers are relatively few in number
11 (approximately 150 of the over 8,000 customers), the Debtor will work to quickly arrange assignment
12 of such contracts and related customers. Id.

13 Ultimately, the Debtor plans to immediately begin its operational restructuring efforts, and
14 expects those efforts to take the first few months of the case. Kelly Decl. at ¶ 16. As those
15 operational restructuring efforts are closer to completion, the Debtor anticipates proposing a Plan of
16 Reorganization constructed around its core business. Id. Many of the components of a Plan will
17 depend on some of the results of the first phase of restructuring, though the Debtor’s goal is to
18 ultimately exit this Chapter 11 with its business intact, albeit resized. Id.

19
20 **B. Secured Debt**

21 **1. JP Morgan Chase**

22 As of the November 7, 2016 petition date (“Petition Date”), the Debtor owes JP Morgan
23 Chase (“Chase”) approximately \$4 million secured by a first position security interest in the Debtor’s

1 virtually all of the Debtor's assets, including accounts, equipment, inventory and general intangibles
2 ("Prepetition Collateral"), pursuant to a January 7, 2014 Credit Agreement, as amended, a January 7,
3 2014 Line of Credit Note, as amended, and a January 7, 2014 Continuing Security Agreement and
4 March 14, 2014 UCC1 filed with the Washington State Department of Licensing, No. 2014-073-9866-
5 4. Kelly Decl., at ¶ 17, Ex. A; Orse Decl. at ¶ 7. The loan has not matured and is not in default. All
6 scheduled payments have been made when due. Kelly Decl., at ¶ 17; Orse Decl. at ¶ 7. Unlike most
7 commercial loans of this type, the Chase loan is not based on any borrowing base formula or
8 requirement. Orse Decl. at ¶ 7.

9 **2. Additional UCC1 Filings.**

10 Additional UCC1's on file relate to equipment and one real property lease which lease was
11 terminated as of October 31, 2016:

Party	Filing No.	Subject of Filing
Pacific Office Automation	201300488424	Equipment and software
	201600682768	Equipment
CB Luna Industrial No. 4, Ltd.	201618729943	Real property lease (terminated as of 10/31/2016)

15 **C. Use of Cash Collateral and Adequate Protection**

16 The Debtor requires the immediate use of the Cash Collateral to continue uninterrupted
17 operations for the benefit of its creditors and its estate, thereby avoiding immediate and irreparable
18 harm to its business pending a final hearing pursuant to Bankruptcy Rules 4001(b)(2). Orse Decl. at
19 ¶ 8. The Debtor is unable to obtain unsecured credit to fund its continued operations. Id. The Debtor
20 seeks to use Cash Collateral in accordance with the Budget attached as Exhibit A to the Orse
21 Declaration. Without use of Cash Collateral, the Debtor will be unable to pay its ongoing operating
22 expenses, including payroll, and will thus be unable to continue ongoing business operations. Id.
23

1 **1. Replacement Liens**

2 Pursuant to § § 361 and 363 of the Bankruptcy Code, the Debtor proposes to provide adequate
3 protection of the interests of the parties asserting interests in its Cash Collateral, specifically Chase
4 (the “Secured Parties”), by granting the Secured Parties liens in assets of the same kind, type, and
5 nature as the Prepetition Collateral in which such Secured Party held a lien that is acquired after the
6 Petition Date (the “Postpetition Collateral”) and all proceeds of the Postpetition Collateral
7 (“Postpetition Lien”), to the extent of any diminution in the Secured Parties’ interests in Prepetition
8 Collateral as a result of the Debtor use of Cash Collateral.

9 **2. Super-Priority Administrative Expense**

10 Under § 507(b) of the Bankruptcy Code, all obligations subject to the Postpetition Liens have
11 priority in payment over all other administrative expenses of the estate other than the Professional
12 Fund (as defined herein), to the extent that the Postpetition Liens are insufficient to compensate the
13 Secured Creditors for any diminution in the value of their interests as a result of the Debtor’s use of
14 Cash Collateral.

15 **D. Proposed Post Petition Financing.**

16 In addition to the use of Cash Collateral, it is necessary that the Debtor borrow funds on a
17 postpetition basis in order to meet the projected expenditures as set forth in the Budget. Orse Decl. at
18 ¶ 11. The Debtor has successfully negotiated postpetition financing (the “DIP Loan”) upon the terms
19 and conditions set forth in the Credit Agreement attached as Exhibit B to the Orse Declaration (“DIP
20 Agreement”). The Bennett Dorrance Trust Dated April 21, 1989, as Amended (“DIP Lender”) has
21 agreed to make and provide the DIP Loan upon the terms and conditions set forth in the DIP
22 Agreement. Following is a summary of the material terms:

- i. **Loan Amount:** \$1,000,000, of which \$150,000 is earmarked for retention payments to the Debtor's employees, to the extent approved by the Court
- ii. **Maturity Date:** Earlier of: a) December 31, 2017; b) confirmation of Debtor's Chapter 11 Plan; c) sale of all or substantially all of the Borrower's assets; d) appointment of a Trustee in this Case; or e) conversion of this case to a case under Chapter 7
- iii. **Interest Rate:** 5% per annum, paid monthly in arrears
- iv. **Fees:** None
- v. **Collateral:** Security interest in the Debtor's assets junior to the security interest of Chase, including any Adequate Protection Liens granted Chase in connection with propose use of Cash Collateral
- vi. **Advances:** Multiple Advances (non-revolving)
- vii. **Priority:** Claim under § 507(b) of the Bankruptcy Code
- viii. **Prepayment:** No penalty

Orse Decl., Ex. B.

Once the Debtor determined that postpetition financing would be necessary in this case, it began discussions with both Chase, as its existing secured lender, and with advisors to Bennett Dorrance. Orse Decl. at ¶ 13. Mr. Dorrance, through an entity called DTDMore Ventures, LLC, owns the existing Series AA Preferred stock, as well as a majority of the common stock, in the Debtor. In addition, Mr. Dorrance and the Bennett Dorrance Trust dated April 21, 1989, as Amended, executed guarantees in favor of Chase with respect to the Debtor's loans with Chase. Neither Mr. Dorrance nor any of his entities is a prepetition creditor of the Debtor. Id.

1 Due to the nature of the Debtor’s business, which does not involve significant tangible
2 assets/collateral, Chase and the DIP Lender were the only likely parties to provide postpetition
3 financing. Orse Decl. at ¶ 14. During these negotiations with both Chase and the ultimate DIP
4 Lender, Bush Kornfeld represented the Debtor. *Id.* at ¶ 15. The law firm of Davis Wright Tremaine
5 represented Chase, and the law firm of Ballard Spahr LLP represented the ultimate DIP Lender. *Id.*
6 The negotiations involved specific terms on which each party would be willing to provide postpetition
7 financing, and spanned the better part of two weeks. *Id.*

8 Ultimately, the Debtor determined that the terms proposed by the DIP Lender offered more
9 benefit to the Debtor, its estate and creditors. This decision turned on a lower pricing/interest rate and
10 a comparatively longer term/maturity date. Orse Decl. at ¶ 16.

11 **E. Professional Fund**

12 The Budget provides for a fund (“Professional Fund”) to pay the post-petition, allowed
13 fees/costs of **all** professionals retained in this Chapter 11 case, whether by the Debtor or an unsecured
14 creditors committee (“Committee”), assuming that one will be formed. The purpose of the
15 Professional Fund is to assure that all estate professionals are treated identically. All amounts
16 provided for in the Budget for the Professional Fund shall be in addition to any prepetition retainers
17 paid by the Debtor to its professionals, and shall be deposited into an interest bearing trust account
18 maintained by Bush Kornfeld, LLP, the Debtor’s general bankruptcy counsel, for *pro rata* payment of
19 allowed fees and costs to the Debtor’s and the Committee’s professionals, including any amounts
20 payable pursuant to any other order entered by this Court authorizing interim periodic payment of
21 professional fees, subject to final allowance of such fees and costs. To the extent the Professional
22 Fund ultimately exceeds all allowed professional fees and costs of the estate, the remaining balance
23

1 shall remain subject first to the security interests of the Secured Parties and returned to the Debtor for
2 their benefit. Orse Decl. at ¶ 18.

3 **III. LEGAL DISCUSSION**

4 **A. Use of Cash Collateral**

5 Section 363(c) of the Bankruptcy Code provides that:

- 6 (2) The Trustee may not use, sell or lease cash collateral under paragraph (1) of this
7 subsection unless,
8 (A) each entity that has an interest in such cash collateral consents; or
9 (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance
10 with the provisions of this section.

11 The Debtor represents that it is without sufficient funds to operate unless it uses Cash
12 Collateral, as it holds no unencumbered funds nor sources of unencumbered funds, and that the
13 present circumstances require the Debtor to make use of Cash Collateral in order to maintain its
14 ongoing business for the benefit of its estate and creditors. *Id.* The Debtor has an immediate need to
15 use Cash Collateral to maintain, preserve and protect its assets and has provided for adequate
16 protection of the Secured Parties' interests in the Cash Collateral, as described above.

17 For these reasons, the Debtor respectfully requests the Court authorize the use of Cash
18 Collateral pursuant to the terms of the proposed Interim Order filed herewith.

19 **B. Adequate Protection**

20 As discussed above herein, in order to adequately protect the interests of the Secured Parties,
21 each Secured Party shall be granted a Replacement Lien in post-petition assets of the same type in
22 which their prepetition lien attached, in the same priority and validity as their prepetition lien, as
23 necessary to secure the diminution in the Secured Party's interest, if any, as a result of the Debtor's
use of Cash Collateral. To the extent of any diminution in value ultimately due to Cash Collateral use

1 not otherwise protected by the replacement lien granted herein, Secured Parties shall retain their rights
2 under section 507(b) of the Bankruptcy Code. Importantly, the Budget projects no deterioration in
3 the working capital collateral held by the Secured Parties between the Petition Date and the end of the
4 proposed Budget. Orse Decl. at ¶ 10. The Budget projects continued, normalized customer levels and
5 payments. Id. Thus, the Replacement Liens provide adequate protection of the Secured Parties'
6 interests in the Prepetition Collateral.

7 As further adequate protection, the Debtor shall maintain insurance on its assets as the same
8 existed as of the Petition Date and will provide meaningful reporting to the Secured Parties and the
9 Committee during the case. Orse Decl. at ¶ 10.

10 **C. Postpetition Financing**

11 Section 364(c) of the Bankruptcy Code provides that:

12 (c) If the trustee is unable to obtain unsecured credit allowable under
13 section 503 (b) (1) of this title as an administrative expense, the court, after
14 notice and a hearing, may authorize the obtaining of credit or the incurring of
15 debt –

- 16 (1) with priority over any or all administrative expenses of the kind
17 specified in section 503(b) or, 507 (b) of this title;
- 18 (2) secured by a lien on property of the estate that is not otherwise
19 subject to a lien; or
- 20 (3) secured by a junior lien on property of the estate that is subject
21 to a lien.

22 Section 364(d)(1) of the Bankruptcy Code provides that:

23 The court, after notice and a hearing, may authorize the obtaining of credit or
the incurring of debt secured by a senior or equal lien on property of the estate
that is subject to a lien only if—

- (A) the trustee is unable to obtain such credit otherwise and;

1 (B) there is adequate protection of the interest of the holder of the
2 lien on the property of the estate on which such senior or equal
lien is proposed to be granted.

3 The Debtor has been unable to procure the required funds in the form of unsecured credit or
4 unsecured debt with an administrative priority. The circumstances of this case thus require the Debtor
5 to obtain financing under § 364(c) and (d). The DIP Loan is in the best interest of the Debtor's estate
6 and creditors because it is the only means at this critical juncture of continuing operations during the
7 Debtor's efforts to restructure its business to maximize value for the estate.

8 The terms of the DIP Loan reflect good faith, arm's-length negotiations and the Debtor's
9 exercise of sound business judgment. Accordingly, the Debtor respectfully requests that the Court
10 authorize the Debtor to obtain postpetition financing pursuant to § 364 (c) and (d) of the Bankruptcy
11 Code.

12 **D. Good Faith**

13 The proposed terms and conditions of the DIP Loan are fair and reasonable and were
14 negotiated by the parties in good faith and at arm's length. Accordingly, the DIP Lender should be
15 accorded the benefits of § 364(e) of the Bankruptcy Code with respect to the DIP Loan.

16 **CONCLUSION**

17 WHEREFORE, the Debtor respectfully requests entry of an order in the form of the proposed
18 Interim Order submitted herewith, authorizing the Debtor's use of Cash Collateral as set forth herein,
19 approving the DIP Loan, and setting a final hearing at such time as the Court may direct.

20 DATED this 7th day of November, 2016.

21 BUSH KORNFELD LLP

22 By /s Armand J. Kornfeld
23 Armand J. Kornfeld, WSBA #17214
Attorneys for Debtor-in-Possession

