UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
West Palm Beach Division
www.flsb.uscourts.gov

In Re:

Case No. 19-22870-EPK

EUROPEAN FOREIGN DOMESTIC
AUTO REPAIR CENTRE, INC. BOCA EAST

Debtor.
_______________________________________/

DEBTOR'S EMERGENCY MOTION TO USE CASH COLLATERAL OF PARADISE BANK/ U.S. SMALL BUSINESS ADMINISTRATION

EMERGENCY HEARING REQUESTED

Reason for Exigency

The Debtor requires the use of cash collateral of lender Paradise Bank/U.S. Small Business Administration to continue its business operations. Therefore, the Debtor moves the Court on an emergency basis for interim authority to use cash collateral. The Debtor respectfully requests a hearing on October 3, 2019, or the next available date which this Court deems appropriate.

Pursuant to Section 363 of Title 11 of the United States Code (the "Bankruptcy Code"), and Rule 4001 of the Federal Rules of Bankruptcy Procedure, (the "Bankruptcy Rules"), EUROPEAN FOREIGN DOMESTIC AUTO REPAIR CENTRE, INC. BOCA EAST, the Debtor and Debtor-in-Possession (the "Debtor"), by and through undersigned counsel, moves this Court for entry of an order authorizing its continued use of cash collateral on which the lender Paradise Bank/U.S. Small Business Administration (the "Lender"), alleges a first priority lien, and to provide adequate protection to the Lender. In support of its motion, the Debtor states as follows:

1. This case was commenced by the filing of a voluntary petition under Chapter 11 of the Bankruptcy Code on September 26, 2019 [ECF 1]. The Debtor continues to operate its business as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

2. The Debtor is a automotive repair center located at 2740 MW 1st Avenue Boca Raton, FL 33431 and is the owner of the inventory, accounts, equipment, and intangibles (the "Property") which is the subject of the Lender's UCC Financing Statement described *infra*.

3. As of the filing date, the Debtor is allegedly indebted to the Lender in the total amount of approximately $1,198,893.92 (the "Indebtedness").

4. The Indebtedness is secured by, *inter alia*, Promissory Note, Commercial Security Agreement, and Guaranty dated January 29, 2014, and UCC financing statement filed in the Florida Secured Transaction Registry on January 28, 2014 ID number 201400649240, Florida (referred to as the "UCC").

5. The cash generated by the Debtor may constitute cash collateral within the meaning of § 363(a) of the Bankruptcy Code (the "Cash Collateral"). The Debtor requires the use of the Cash Collateral for the continued operation of its business in the ordinary course, including payment of expenses attendant thereto, and the Debtor is willing to provide the Lender with adequate protection of its secured interest in the Cash Collateral. Without the use of the Cash Collateral, the Debtor will be forced to discontinue its business operations. The loan documents are available from undersigned counsel upon written request.

6. By the terms of the Note and Security Agreement, the Debtor granted to the Lender a security interest in the Property, which is located at the Debtor's place of business.

7. In order to (i) adequately protect the Lender in connection with the Debtor's use of the Cash Collateral, and (ii) provide the Lender with additional adequate protection in respect to any decrease in the value of its interests in the Property and Cash Collateral (collectively, the "Collateral") resulting from the stay imposed under § 362 of the Bankruptcy Code, or the use of the Collateral by the Debtor, the Debtor would offer as adequate protection of the Lender's

collective lien, a first priority post-petition lien on all cash generated by the Debtor's services post-petition.

8. An immediate and critical need exists for the Debtor to be permitted to access Cash Collateral in order to adequately maintain and service the Property. Therefore, the Debtor seeks a preliminary hearing in accordance with Rule 4001(b)(2) of the Bankruptcy Rules. At the preliminary hearing, the Debtor will seek entry of an interim order in order to preserve the value of its assets so as to avoid immediate and irreparable harm to the estate and to afford the Debtor adequate time to negotiate and seek approval for additional cash collateral use, subject to and within the limits imposed by a mutually agreed-upon budget (the "Budget").

9. Accordingly, it is appropriate for the Court to enter an order authorizing the use of Cash Collateral by the Debtor in accordance with the terms of the Budget, attached hereto as Exhibit "A"

10. The terms of the proposed use of the Cash Collateral and adequate protection arrangements are fair and reasonable under the circumstances and reflect the Debtor's exercise of prudent business judgment.

11. The Debtor believes that the relief sought in this Motion is in the best interest of the Debtor, the estate and creditors, and that the entry of an interim order will allow for the continued operation of the Debtor's business for the purposes set forth above.

WHEREFORE, the Debtor respectfully requests an order authorizing the use of the Cash Collateral pursuant to the terms described herein, and granting such other relief as this Court deems just and proper.

I HEREBY CERTIFY that a true and correct copy of the foregoing will be furnished to all creditors and interested parties with the Notice of Hearing on this Motion.

Respectfully submitted,

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By: *<u>/s/Aaron A. Wernick</u>*
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Exhibit A - Monthly Budget

European Foreign Domestic Auto Repair Centre, Inc. Boca East Monthly Budget		
Total Income	**$**	**110,000**
Expenses:		
FurrCohen Legal Fees (Subject to court approval)	$	9,000
United States Trustee Fees	$	975
Office Supplies	$	500
Payroll	$	55,000
Taxes	$	2,100
Bookkeeping/Accounting	$	2,800
Utilities	$	2,875
Amerigas	$	900
Workers' Compensation Insurance	$	2,100
Health Insurance	$	7,200
General Liability Insurance	$	2,000
Auto Body Supplies	$	18,775
Total Expenses	**$**	**104,225**
Net Operating Income	**$**	**5,775**