



SO ORDERED,

Judge Jason D. Woodard

United States Bankruptcy Judge

The Order of the Court is set forth below. The case docket reflects the date entered.

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI**

IN RE:

FTZ NETWORKS, INC.,

Debtor.

CASE NO. 16-14020

CHAPTER 11

**AGREED ORDER GRANTING MOTION FOR ORDER CONDITIONING USE OF
CASH COLLATERAL AND FOR OTHER RELIEF**

THIS COURT, having been made aware of an agreement reached between the Debtor, and IBERIABANK (“Creditor”), and there being no objections to the relief sought in the Motion for Order Conditioning Use of Cash Collateral [Docket No. 26], and the Court finding that the relief sought in the Motion is proper, the Court now enters the following Agreed Order Granting Motion for Order Conditioning Use of Cash Collateral:

1. The Motion was brought by Creditor and seeks none of the provisions described in Local Rule 4001-1(b) (1)(B)(i). Creditor is amenable to Debtor’s use of the Cash Collateral, conditioned upon providing an accounting for its use since the petition date, providing a budget

for its use in the future, providing sufficient information to monitor compliance with that budget in the future, and paying adequate protection. The Order Granting Motion for Adequate Protection was entered by the Court as Docket Number 46 on January 17, 2017.

2. Debtor filed a petition in this Court under Chapter 11 of the United States Bankruptcy Code on November 14, 2016, under Case No. 16-14020 and operates as a Debtor-in-Possession.

3. This matter is a core proceeding pursuant to 28 U.S.C. § 157. This court has jurisdiction pursuant to 28 U.S.C. §§ 151, 157, & 1334.

4. Creditor is a secured creditor of Debtor.

5. Pursuant to a Promissory Note (“Note 3101”) dated May 20, 2015, executed by Debtor, Creditor is the holder of a secured claim against Debtor in the original principal amount of \$50,000.00. Wayne Coleman and Michael Niclosi personally guaranteed said indebtedness by Commercial Guaranties of the same date, the terms of which are also incorporated by reference. Note 3101 is secured by the following:

- a. The following collateral (the “Collateral”) as stated in that Commercial Security Agreement dated May 20, 2015 (“CSA”):

All inventory, equipment, accounts (including but not limited to all health-care-insurance receivables), chattel paper, instruments (including but not limited to all promissory notes), letter-of-credit rights, letters of credit, documents, deposit accounts, investment property, money, other rights to payment and performance, and general intangibles (including but not limited to all software and all payment intangibles); all fixtures; all attachments, accessions, accessories, fittings, increases, tools, parts, repairs, supplies, and commingled goods relating to the foregoing property, and all additions, replacements of and substitutions for all or any part of the foregoing property; all insurance refunds relating to the foregoing property; all good will relating to the foregoing property; all records and data and embedded software relating to the foregoing property, and all equipment, inventory and software to utilize, create, maintain and process any such records and data on electronic media; and all supporting obligations relating to the foregoing property; all whether now existing or hereafter arising, whether now

owned or hereafter acquired or whether now or hereafter subject to any rights in the foregoing property; and all products and proceeds (including but not limited to all insurance payments) of or relating to the foregoing property.

- b. A validly perfected UCC Financing Statement, filed with the Delaware Secretary of State on June 24, 2015, on all of the afore-described Collateral at Financing Statement No. 2015 3022117;
 - c. Personal commercial unlimited guaranty of Ernest Wayne Coleman dated May 20, 2015;
 - d. Personal commercial unlimited guaranty of Michael R. Niclosi dated May 20, 2015.
6. Pursuant to a Promissory Note (“Note 3128”) dated May 20, 2015, executed by Debtor, Creditor is the holder of a secured claim against Debtor in the original principal amount of \$75,000.00 and subsequently extended to \$150,000.00. Note 3128 is additionally personally guaranteed by Wayne Coleman and Michael Niclosi as referenced above. Note 3128 matures by its terms on July 18, 2017 at which time all sums of principal, interest, late charges, expenses and fees will be completely due and payable.
7. Pursuant to the terms of the CSA, the Collateral securing Note 3101 secures all debts of Debtor to Creditor, including Note 3128. Thus, Note 3128 and Note 3101 are secured debts.
8. As of November 28, 2016, the outstanding balance due on Note 3128 (excluding attorneys’ fees and expenses) was \$151,121.05 (the “3128 Indebtedness”).
9. As of November 28, 2016, the outstanding balance due on Note 3101 (excluding attorneys’ fees and expenses) was \$27,500.19 (the “3101 Indebtedness”).

10. The Debtor was not in default of its obligations to Creditor under the CSA, Note 3101, and Note 3128 at the time of the filing of the Petition. Since the filing of the Petition payment for November and December have accrued and have not been paid.

11. Creditor properly holds a validly perfected security interest in the Debtor's cash collateral as defined in 11 U.S.C. Section 363(a), without limitation. Creditor has a properly perfected lien on the Debtor's property (including proceeds) at the commencement of the case, including the Debtor's accounts, inventory, and other collateral which is or may result in Cash Collateral.

12. "Cash Collateral" as defined by Section 363(a) of the Bankruptcy Code means, "cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents whenever acquired in which the estate and an entity other than the estate have an interest and includes the proceeds, products, offspring, rents, or profits of property and the fees, charges, accounts or other payments subject to the security interest as provided in section 552(b) of this title, whether existing before or after the commencement of a case under this title." The terms "collateral" and "cash proceeds" are described in Mississippi Code Annotated Section 79-9-102.

13. Debtor has requested use of Creditor's Cash Collateral in order to continue the operation of its business as a Debtor-in-Possession under Chapter 11 of the Bankruptcy Code and to prevent immediate and irreparable harm to the estate pending a final hearing on the Motion.

14. Accordingly, good cause exists for the entry of this Order granting this Motion. This is necessary to avoid immediate and irreparable harm to Debtor. Entry of this Order is in the best interest of Debtor's estate and creditors as its implementation will, among other things, allow for Debtor to maintain operations and the use of Cash Collateral is necessary to sustain

Debtor's business operations and enhance Debtor's prospects for a successful completion of its Chapter 11 case.

15. Creditor has agreed to Debtor's use of Cash Collateral, subject to the terms and conditions of the Motion. Debtor has an immediate need to use Creditor's Cash Collateral.

16. Creditor maintains that as a condition of Debtor's use of Cash Collateral and as protection from the consequences of the imposition of the automatic stay, it is entitled to adequate protection pursuant to Sections 361 and 363(e) of the Bankruptcy Code. The Agreed order for Adequate Protection was entered by this Court as Docket Number 46 on January 17, 2017.

17. Those adequate protection payments should be in the monthly sums due and payable under the Notes and should continue until further order of this Court.

18. Creditor is willing to consent to Debtor's limited use of Cash Collateral only on the terms and conditions and with the protection and other relief provided herein, and Creditor is relying on such terms, conditions and protections in agreeing to the continued use of its Cash Collateral by the Debtor.

19. Creditor has requested that this Court enter this Order Conditioning the Debtor's use of the Cash Collateral and requiring the Debtor to provide an accounting of their use of Cash Collateral since the petition date by delivering to Creditor a budget and all bank statements since the filing of the Petition. The budget shall account for all operational expenses of the Debtor, including attorney fees and United States Trustee fees. To the extent that the Debtor generates from its operations funds in excess of those described in the budget, Debtor shall be free to use those funds in the ordinary course of its operations. Provided that so long as the Debtor is, at a minimum, operating as contemplated in the budget estimate, the Debtor is specifically authorized

to use the cash collateral to pay attorney fees and United States Trustee fees, as otherwise authorized by the Court.

20. This Court finds the Motion to Condition Use of Cash Collateral to be well taken in all respects and the same is GRANTED. The Debtor is allowed and authorized to use the Cash Collateral arising from Creditor's security interest conditioned upon the following conditions: (1) delivery of a monthly budget to Creditor within ten (10) days of the date of this Order; (2) accounting for the use of the Cash Collateral for the time frame of the Petition Date until the date of this order, also within ten (10) days of the date of this Order, and (3) continuing to account for the use of Cash Collateral by way of delivery of all bank account statements relating to the Cash Collateral to the Creditor within five (5) days after such statements are issued. Debtor's use of the Cash Collateral is also conditioned on the payment of adequate protection as outlined in the Agreed Order for Adequate Protection [Docket No. 46] and the payment of the two post-petition payments that are due. Only if these payments are made and the Debtor remains, at a minimum, in compliance with its estimated budget, will the Cash Collateral then be available for all of the Debtor's budgeted expenses.

END OF ORDER

Approved and Agreed:

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