

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:	:	
	:	CHAPTER 11
GELT PROPERTIES, LLC, et al,	:	
	:	Bankruptcy No. 11-15826(MDC)
Debtor.	:	(Jointly Administered)

In re:	:	
	:	CHAPTER 11
GELT FINANCIAL CORPORATION	:	
	:	Bankruptcy No. 11-15827 (MDC)
Debtor.	:	

**MOTION OF THE DEBTORS AND DEBTORS-IN-POSSESSION FOR ORDER,
PURSUANT TO 11 U.S.C. §§364(C) AND (D) FOR AUTHORITY TO
OBTAIN SECURED POST-PETITION FINANCING
AND REQUEST FOR EXPEDITED HEARING**

Gelt Financial Corporation and Gelt Properties, LLC (the “Debtors” and “Debtors-in-Possession”), by and through undersigned counsel, Ciardi Ciardi & Astin, hereby move (the “Motion”) for this Court's authorization, pursuant to sections 363(b), 363(c), 364(c)(1), 364(c)(2), 364(c)(3) and 364(d) of Title 11 of the United States Code, 11 U.S.C. §§101, *et seq.* (as amended, the “Bankruptcy Code”) and Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (as amended, the “Bankruptcy Rules”), for the Debtors, *inter alia*, (i) to obtain secured post-petition financing consisting of a term loan made by Golf Finance, Inc. (“Golf”) to the Debtors under and pursuant to the Loan Documents (as hereinafter defined); (ii) to grant to Golf, pursuant to sections 364(c) and 364(d) of the Bankruptcy Code, liens and security interests in the Beneficial Portfolio (as the same is defined in the Post-Petition Loan Documents) to secure the Debtors’ obligations under the Loan Documents, and (iii) to grant to Golf, pursuant to section 364(c)(1) of the Bankruptcy Code, priority in payment with respect to

such obligations over any and all administrative expenses of the kinds specified in sections 503(b) and 507(b) of the Bankruptcy Code; and in support thereof respectfully represents as follows:

BACKGROUND

1. On July 26, 2011 (the "Petition Date"), Gelt Financial Corporation ("Gelt Financial") and Gelt Properties, LLC ("Gelt Properties") (collectively the "Debtors") filed separate voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code §§ 101, et seq. An Order for Relief was entered simultaneously therewith. The cases of each debtor are being jointly administered. Since the Petition Date, the Debtors have continued in the operation of their business as debtors-in-possession pursuant to §§1107(a) and 1108 of the Bankruptcy Code.

2. This Court has jurisdiction over the Chapter 11 Case and the Motion pursuant to 28 U.S.C. §§157(b) and 1334. Consideration of the Motion constitutes a core proceeding as defined in 28 U.S.C. §157(b)(2).

3. The Debtors have reached an agreement with GOLF to provide post-petition financing in the form of a \$700,000 term loan (the "DIP Agreement") secured by liens and security interests in the Beneficial Portfolio to secure the Debtors' obligations under the Post-Petition Loan Documents as well as priority payment with respect to such obligations over any and all administrative expenses of the kinds specified in sections 503(b) and 507(b) of the Bankruptcy Code. The Debtors and Golf shall provide all loan documents in advance of any scheduled hearing.

4. Upon the Petition Date, Uninvest Bank, N.A. ("Uninvest") was a secured creditor of the Debtors. In 2012, the Debtors and Uninvest reached a global settlement of the Uninvest Secured

Claim pursuant to which Univest accepted and received certain "Up Front Payments" from the Debtors and reduced the Univest Claims to \$3,000,000, which sum includes attorney's fees, interest and late fees as of the date of this Agreement (the "Reduced Indebtedness" and/or the Amended Univest Claims"). The Amended Univest Claims were then sold to Golf Finance, Inc. The Debtors and Golf intend to enter into standard loan documents, modifying and restating their prior obligations, consistent with the following terms and the Agreement between the Debtors and Univest:

(a) The Reduced Indebtedness will be paid over a seven year term, with payment of interest only at the rate of 3% for years 1-3 and 4% for years 4-7. A balloon payment of all remaining Reduced Indebtedness will be due at the end of the 7 year term.

(b) As properties are sold that secure the Golf Loan, Golf will be paid 100% of its 70% advance for said property and said payment will be applied to principal. If any such sale does not result in a payment of 100% of the 70% advance, Golf shall have the deficiency paid from future sales that exceed the 100%/70% standard.

(c) The Parties will reach agreement as to the timing and notice procedures of mortgage extensions.

(d) The Reduced Indebtedness will be secured in the same manner as the Indebtedness and will be guaranteed by Gelt Properties, LLC, Uri Shoham, H. Jack Miller and M. Ari Miller. All guaranty documents will include confession of judgement provisions and will provide a 180 day cure period.

(e) The terms and conditions of the foregoing paragraphs a. - e. shall be incorporated in and subject to the Debtors' Plan of Reorganization. To the extent the Debtors' bankruptcy cases are converted, dismissed or the Debtors are unable to confirm a plan of reorganization, the foregoing revised payment terms will be *void ab initio* and the Indebtedness, with credit being given for the payments referenced above.

5. The Debtors require the financing to meet current obligations and perform under the proposed Plan of Reorganization.

6. Specifically, the Debtors do not have sufficient available sources of working capital or other financing to continue existing operations and fulfill obligations under the

Beneficial Savings Bank Settlement Agreement. The Debtors' ability to maintain business relationships with their customers and lenders, to maintain their properties and otherwise finance ongoing operations, is essential to a successful reorganization.

7. Golf has indicated its willingness to extend post-petition financing to the Debtor, but only in accordance with and under the terms set forth in the Senior Secured Super Priority Debtor in Possession Financing Agreement (the "DIP Agreement"), the salient terms of which are summarized as follows:¹

Borrower: Gelt Properties, LLC
Gelt Financial Corporation

DIP Agreement Amount: \$700,000 Term Loan

Repayment/Security/Priority: Commencing on the Effective Date and on the last day of every month thereafter for eighteen (18) months, the Company shall make monthly payments of interest only on the then outstanding balance of the Term Loan to the Lender at an interest rate of ten percent (10%) per annum. Payments not made on or before the date on which they are due shall be subject to a late fee equal to ten percent (10%) of the amount due, which such late fee shall be immediately due and payable. In addition, the Company shall pay to Lender within three (3) business days of receipt one hundred percent (100%) of any principal amount received by the Company that relates to the Collateral, including, but not limited to, funds received from monthly amortized payments, prepayments, refinancing payments and payoffs, and Lender shall apply such payments as follows: seventy percent (70%) to the Term Loan and thirty percent (30%) to pay down the principal under the Existing Financing Agreement. After the repayment in full of the Term Loan, the Collateral shall remain collateral for the Existing Financing Agreement and the Company shall pay to Lender within three (3) business days of receipt one hundred percent (100%) of any principal amount received by the Company that relates to the Collateral, including, but not limited to, monthly amortized payments, prepayments,

¹ This summary is qualified in its entirety by reference to the provisions of the Credit Facility.

refinancing payments and payoffs, and Lender shall, absent an Event of Default, apply or pay, as the case may be, such payments as follows: (a) apply seventy percent (70%) (or, in the event of default, one hundred percent (100%)) of such payments to repay Company's obligations under the Existing Financing Agreement in accordance with the terms thereof, and (b) pay thirty percent (30%) (or, in the event of default, nothing) to the Company, which the Company may use for general operations. The Term Loan shall be due and payable in full eighteen (18) months following the Effective Date of this Agreement. All funds paid to Lender on account of the Term Loan shall be applied as follows: (a) first, to payment of fees and expenses of Lenders payable or reimbursable by Company under this Agreement, (b) second, to payment of all accrued unpaid interest, (c) third, to payment of principal, (d) to payment of all other Obligations then outstanding, including, but not limited to, under the Existing Financing Agreement, and (e) fifth, to payment of all other obligations and liabilities require by the terms of the Financing Orders.

Further, the Debtors represent, warrant and covenant that, upon the entry by the Bankruptcy Court of the Final Order, all of the Obligations: (a) shall at all times constitute a Superpriority Claim having priority pursuant to Section 364(c)(1) of the Bankruptcy Code, over any claims of any Person, whether now existing or hereafter arising, including any claims, under Sections 105(a), 326, 330, 328, 331, 503(a), 503(b), 506(c), 507, 546(c), 546(d), 726, 1113 and 1114 of the Bankruptcy Code, on the Collateral subject only to Permitted Tax Liens; and (b) pursuant to Section 364(c) and Section 364(d) of the Bankruptcy Code shall at all times be secured by a first priority perfected lien on the Collateral. The liens securing the Obligations shall not be subject to Section 551 of the Bankruptcy Code.

Representations, Warranties
and Covenants:

Those customary in transactions of this type including regular reporting obligations.

8. The terms of the DIP Agreement are fair and reasonable in light of the Debtors' credit and as compared to the terms offered by other lenders.

9. The DIP Agreement allows the Debtors to continue to operate their business and fulfill their obligations under the Beneficial Savings Bank Settlement Agreement as well as the proposed Plan of Reorganization.

10. The Debtors are unable to obtain credit on an unsecured basis or on the basis of a general administrative claim from any party or entity.

11. The Golf liens and security interests granted under section 364 of the Bankruptcy Code shall attach to the Beneficial Portfolio to secure the Debtors' obligations under the Post-Petition Loan Documents as well as priority payment with respect to such obligations over any and all administrative expenses of the kinds specified in sections 503(b) and 507(b) of the Bankruptcy Code on the Collateral only.

12. No additional financing statements or mortgages shall be required to be filed to perfect the post-petition superpriority administrative claim, liens and security interests granted to Golf under this Motion, the proposed order and the DIP Agreement. However, should Golf elect to file or record financing statements or other documents including mortgage documents, the Debtors request the Court's permission to do so and also request modification of the automatic stay to allow for the recording of the same.

13. The granting of the super-priority administrative claims, security interests, and liens to Golf will enable Golf to provide post-petition financing to the Debtors through the DIP Agreement which will permit the Debtors to continue operations and proceed with reorganization efforts.

14. In accordance with Section 364(c), the Debtors represent that they are unable to obtain credit for operations on an (a) unsecured basis; (b) on the basis of a general administrative claim; or (c) on any basis more favorable to the Debtors than proposed in the Motion.

15. The Debtors believe that the request to obtain post-petition credit secured by super-priority lien is proper, reasonable and necessary to continue the Debtors' operations.

16. Approval of the Debtors' request to obtain post-petition credit from Golf secured by the requested liens against the Beneficial Portfolio is in the best interest of the Debtors and the creditors of the Debtors' collective estate.

17. The terms and provisions of the DIP Agreement described in the Motion, including the proposed order, are fair and reasonable and were negotiated by the parties in good faith and at arms' length. Consequently, the Debtors request that this Court find that any loans made by Golf, pursuant to the DIP Agreement, are made in good faith for the purposes of §364(e) of the Bankruptcy Code.

18. In addition to providing the funds necessary to meet the Debtor's immediate cash needs, the term loan contemplated by the DIP Agreement provides the funds necessary to fulfill the Debtors' obligations under the Beneficial Savings Bank Settlement Agreement which results in a substantial discount of the Beneficial Savings Bank claim and therefore inures to the benefit of the Debtors' collective estate and creditors. The Debtors are unable to obtain unsecured credit or debt allowable as an administrative expense under Section 503(b)(1) of the Bankruptcy Code in an amount sufficient and readily available to maintain ongoing operations.

19. The Debtors request entry of the order substantially in the form attached hereto and for the entry of an Order scheduling a final hearing.

REQUEST FOR ORDER SHORTENING TIME

20. Rule 4001(c) of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") provides that a final hearing on a motion to obtain credit pursuant to Section 364 may not be commenced earlier than 15 days after the service of such motion. See FED. R. BANK. P. 4001(c)

Upon request, however, the court is empowered to conduct a preliminary expedited hearing on the motion and authorize the obtaining of credit to the extent necessary to avoid immediate and irreparable harm to a debtor's estate. See FED. R. BANKR. P. 4001(c)(2).

21. The Debtors request that an expedited hearing be scheduled on the Motion for November 26, 2013 at 11:00 a.m., or as soon thereafter as the Court's calendar permits.

22. Debtors therefore request an order scheduling an expedited hearing, limiting notice and reducing the notice period in connection with the Motion. Upon filing the Motion, counsel for the Debtors has contacted the Office of the United States Trustee, counsel for the Official Committee of Unsecured Creditors, and counsel for Golf.

WHEREFORE, the Debtors request that this Court enter an order in the form attached hereto and for such other and further relief as this Court deems just.

Respectfully submitted,

CIARDI CIARDI & ASTIN

Dated:

By: /s/ Albert A. Ciardi, III
Albert A. Ciardi, III, Esquire
Jennifer C. McEntee, Esquire
One Commerce Square, Suite 1930
2005 Market Street
Philadelphia, PA 19103
(T) 215-575-3550
(F) 215-575-3551
Attorneys for the Debtors and the
Debtors-in-Possession