



IT IS ORDERED as set forth below:

Date: June 26, 2013

Wendy L. Hagenau

**Wendy L. Hagenau
U.S. Bankruptcy Court Judge**

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

| | | |
|---------------------------|---|-----------------------|
| IN RE: |) | CHAPTER 11 |
| |) | |
| GETAUTOINSURANCE.COM |) | CASE NO. 13-52728-WLH |
| AGENCY, LLC, et al., |) | Jointly Administered |
| |) | |
| Debtors. |) | |
| ----- | | |
| IN RE: |) | CHAPTER 11 |
| |) | |
| GETAUTOINSURANCE.COM |) | CASE NO. 13-52728-WLH |
| AGENCY, LLC, et al., |) | Jointly Administered |
| |) | |
| Movants, |) | |
| |) | |
| v. |) | CONTESTED MATTER |
| |) | |
| EASTSIDE COMMERCIAL BANK, |) | |
| |) | |
| Respondent. |) | |

**AGREED ORDER ALLOWING INTERIM USE OF
CASH COLLATERAL BY DEBTOR**

As evidenced by the signatures of counsel below, Lindsay General Insurance Agency, LLC, a Debtor and Debtor-in-possession in the above-styled case, and Eastside Commercial Bank (hereinafter "Eastside") hereby each stipulate and agree, and the Court finds as follows with respect to Debtors' use of "Cash Collateral" (as hereinafter defined):

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b) (2) (A) and (M). Proper notice of this matter has been given pursuant to Fed. R. Bankr. P. 4001(d).

2. The above-captioned Debtors are Debtors-in-possession in the above-captioned Chapter 11 cases (the "Bankruptcy Case")¹, having filed voluntary petitions under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") on February 7, 2013 (the "Petition Date") in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the "Bankruptcy Court"). No trustee has been appointed and Debtors are operating the business as debtors-in-possession.

3. Debtors are in the process of converting their business lead generation sales to independent insurance agents.

4. Eastside is the owner of a Promissory Note (the "Note") in the original principal amount of \$500,000.00, as modified, together with all documents executed and delivered in connection therewith, as the same have been amended, restated, assigned and modified from time to time, including a Change In Terms Agreement dated April 22, 2013 in the principal amount of \$2,498,732.54 (the "Loan Documents").

5. As security for the obligations under the Loan Documents, Lindsay General Insurance Agency, LLC ("Lindsay") and other non-debtor affiliated entities executed and

¹ On March 19, 2013, the Court entered an order jointly administering the cases [Doc. No. 31].

delivered a Security Agreement, pursuant to which Lindsay granted Eastside a valid first priority lien and security interest in all right, title and interest to all personalty of Lindsay, *inter alia*, fixtures, furniture, equipment and inventory, and issues, profits and revenues therefrom, and an assignment of the commissions collected from past business transactions (the "Cash Collateral").

6. Lindsay executed and delivered UCC-1 Financing Statements reflecting Eastside's security interest (the "Financing Statements"), which were subsequently properly recorded. The Financing Statements and the Notice Filing are included in the Loan Documents.

7. As of the Petition Date, the debt owed to Eastside is \$2,498,732.54 (the "Pre-Petition Debt"), exclusive of accrued and accruing pre- and post-petition interest, attorneys' fees, costs and other charges.

8. Lindsay maintains that Cash Collateral which was in its possession as of the Petition Date or which was or are generated post-petition, constitute cash collateral within the meaning of 11 U.S.C. § 363(a).

9. Eastside and Lindsay have agreed that, on an interim basis pending a final hearing by the Court, Lindsay shall be permitted to use Cash Collateral only under the terms and conditions contained in this Agreed Order during the term hereof, or during any extensions thereof, or pursuant to any other orders of the Bankruptcy Court, which orders shall issue only after notice to Eastside and an opportunity for Eastside to be heard.

10. Lindsay represents that it is without sufficient funds to support the continuing operations of the business unless Lindsay uses a portion of Cash Collateral and that the present circumstances requires Lindsay to make use of Cash Collateral.

11. For the purpose of allowing Lindsay to use Cash Collateral, Lindsay and Eastside agree as set forth in below in each of the lettered paragraphs, which constitute individually and

collectively the Agreed Order of this Court:

A. Lindsay shall provide for the establishment of the following post-petition bank account, which account shall be designated as a Debtor-In-Possession account (the "Operating Account") into which will be deposited all of the Cash Collateral (hereinafter referred to as the "Cash Collateral Account").

B. Lindsay shall at all times (a) sequester, segregate and account for all Cash Collateral that comes into Lindsay's possession, custody or control, (b) keep and provide on a periodic basis (no less than monthly) records reasonably sufficient for Eastside to determine the status of Cash Collateral collections and expenditures, (c) shall provide to Eastside copies of the monthly operating reports filed with this Court and with the Office of the United States Trustee.

C. From the Cash Collateral Account, Lindsay shall pay the current, normal, actual, ordinary, and reasonable post-petition expenses of operating and maintaining the business (the "Post-Petition Expenses"). The amounts and the extent of said payments are categorized and enumerated in the Budget attached as Exhibit A (the "Budget"). Lindsay may not exceed the Budget for any given month by more than ten (10%) percent of the aggregate amount budgeted for that month without the prior written consent of Eastside or further Order of the Bankruptcy Court, as provided below. Lindsay shall only incur and pay Post-Petition Expenses to the extent specifically provided in the Budget; provided, however, in addition, Lindsay may use the Cash Collateral to pay the quarterly fee due to the United States Trustee pursuant to Chapter 123 of Title 28, United States Code Section 1930, as the Court or the United States Trustee shall direct; and further provided, that Lindsay shall be permitted to pay the actual utility charges and deposits required under Section 366(b).

D. In order to obtain approval for expenditures which exceed the amounts

authorized in this Agreed Order and the Budget, Lindsay shall request such approval by written request to Eastside. This written request must be given by facsimile to Eastside as set forth herein. Eastside shall have five (5) business days in which to respond to Lindsay's written request by serving notice to Lindsay by facsimile as set forth herein. Should Eastside fail to respond to Lindsay's written request within five (5) business days, Lindsay shall treat such failure to respond as no opposition by Eastside to the expenditure(s) for which permission was sought in the written request. In the event any request hereunder is rejected by Eastside, Lindsay may not use Cash Collateral for such disapproved item without additional Bankruptcy Court approval, after notice and an opportunity for hearing are given to Eastside.

E. Lindsay shall pay as adequate protection payments from the Petition Date forward, on a monthly basis, to Eastside an amount equal to accrued interest after payment of authorized expenditures as set forth on Exhibit "A" attached hereto (the "Eastside Payments"). The first Eastside Payment shall be due no later than May 22, 2013², and each subsequent Eastside Payment shall be paid on or before the 22nd of the month following the prior month.

F. During the term of this Agreed Order and except as otherwise provided in this Agreed Order, or in any subsequent order of this Court, regardless of whether any of the following items appear in the Budget, Lindsay shall not use any Cash Collateral for the following purposes: (1) for the payment of any pre-petition debts or obligations of Lindsay or claims against Lindsay unless specifically authorized to do so by the Bankruptcy Court on notice to Eastside and an opportunity for Eastside to be heard (it being understood that Eastside reserves all rights to object to any such payment on any ground at law or equity); (2) for the payment of any debts or obligations of Lindsay that are not directly related to the management or operation

² Accrued and unpaid interest through April 22, 2013 will be paid to Eastside no later than April 30, 2013.

of the Property; (3) for prepayment of services that have not yet been rendered, goods which have not yet been received, or any other items and expenses for which payment is not currently due (other than utility deposits authorized under Section 366(b)), unless such prepayment is made in the ordinary course of Lindsay's business or Lindsay obtains prior express written permission of Eastside or is specifically authorized to do so by the Bankruptcy Court on notice to Eastside and an opportunity for Eastside to be heard; or (4) for payment of attorneys' fees of Lindsay's counsel or for the payment of fees to any other professional employed by Lindsay including, but not limited to, accounting or appraisal fees, unless otherwise agreed to by Lindsay and Eastside or authorized by Order of the Court.

G. Lindsay agrees to keep the Business insured against all insurable hazards, in amounts and in accordance with the provisions of the Loan Documents, and shall provide to Eastside the number(s) of any and all insurance policies in effect, the names, addresses, and contact persons of any entities issuing such insurance, and a summary of the terms and payment arrangements for any such insurance policies. Eastside shall be named the additional insured and first loss payee on such insurance policies.

H. As additional protection for Eastside's liens and/or ownership interests in the Cash Collateral, Lindsay is authorized to assign and does hereby assign to, and grant a first priority security interest in favor of Eastside as collateral to secure the obligations under the Loan Documents, all of Lindsay's right, title and interest in all hereinafter acquired furniture, fixtures, equipment, accounts, contract rights, receipts, and accounts receivable, or other items of personalty or intangible property acquired post-petition by Lindsay with the Cash Collateral to the extent that Lindsay utilizes the Cash Collateral to acquire such property and the use of the Cash Collateral results in a decrease in Eastside's interest in the Cash Collateral. Further,

Lindsay hereby acknowledges that Eastside has, and to the extent necessary grants Eastside, a continuing lien and security interest in all accounts receivable and receipts, including, but not limited to, those acquired and/or deposited into the Cash Collateral Account by Lindsay after the commencement of this Chapter 11 case to the extent provided by 11 U.S.C. § 552, such post-petition interest does include any deposits based upon a recovery of any avoidance actions, post petition.

I. The replacement liens and security interests granted herein on property of this estate are valid, binding, effective, enforceable, and fully perfected, and no filing or recordation or other act in accordance with any applicable local, state, or federal law, rule, or regulation, is necessary to create or perfect such liens and security interests. The above provision notwithstanding, Lindsay shall cooperate with Eastside to execute such documents and instruments, and do such other things as Eastside may reasonably request, to evidence and perfect such replacement liens and security interests for the convenience and information of third parties, and to evidence the obligations assigned hereunder.

J. Lindsay shall be in default under this Agreed Order if: (a) Lindsay fails to pay any amount required by this Agreed Order; (b) Lindsay fails to perform any of its obligations, agreements, or promises under this Agreed Order; (c) Lindsay makes any payment other than as authorized to be paid pursuant to this Agreed Order; or (d) Lindsay shall have made any material misstatement or misrepresentation in connection with any of the post-petition monthly reports forwarded to Eastside pursuant to this Agreed Order.

K. Eastside may waive any default hereunder after same has been declared, without impairing its right to declare a subsequent default hereunder and without any further notice from Eastside that Lindsay must strictly comply with the obligations imposed hereunder.

L. Lindsay shall be permitted and authorized to use Cash Collateral pursuant to the terms of this Agreed Order during the “Cash Collateral Period,” as defined below.

M. The “Cash Collateral Period” shall be that period of time from the entry of this Agreed Order to the earliest of the following events: (a) appointment of a Chapter 11 Trustee; (b) conversion of this Bankruptcy Case to a case under Chapter 7 of Title 11 of the United States Code; (c) occurrence of a default hereunder which remains uncured as provided herein; (d) entry of an order dismissing the Bankruptcy Case and such Order becoming effective pursuant to its terms; (e) transfer of the Property to Eastside; (f) December 22, 2013; (g) the date Lindsay’s right to use Cash Collateral terminates in accordance with paragraph N below (the “Termination Date”), (h) further order of this Bankruptcy Court terminating Lindsay’s use of Cash Collateral authorized hereunder; or (i) the entry of a final order authorizing the use of Cash Collateral. Following termination of the Cash Collateral Period, Lindsay shall immediately transfer and turn over to Eastside all Cash Collateral and otherwise account for all Cash Collateral, unless otherwise provided for in an appropriate Order of the Court.

N. Upon the occurrence of an Event of Default, Eastside may elect to terminate Lindsay’s right to use Cash Collateral hereunder by giving written notice of termination to counsel for Lindsay and filing a copy of such written notice with the Court. Unless otherwise directed by order of this Court, Debtors’ right to use Eastside’s Cash Collateral shall terminate on the seventh day following receipt of such written notice.

O. Lindsay has the burden of returning to this Court to seek authorization for any further use of the Cash Collateral in the event such right is terminated under this Agreed Order, upon expiration of, or for a period ending after, the Cash Collateral Period, or otherwise. Notwithstanding the termination of Lindsay’s right to use Cash Collateral hereunder or the

expiration of this Agreed Order, the rights, liens, and security interests granted to Eastside hereunder shall survive. This Agreed Order and the terms, conditions, and protections herein shall inure to the benefit of and may be enforced by Eastside, or its principals, agents, successors, and assigns. Furthermore, this Agreed Order shall be binding upon Lindsay and any successors-in-interest to Lindsay, including, without limitation, any trustee(s) appointed in this case under the United States Bankruptcy Code.

P. Entry of this Agreed Order shall not in any way constitute: (a) a finding that the Cash Collateral constitutes cash collateral that Lindsay has any right to use or that said Cash Collateral does not constitute property of the bankruptcy estate; (b) a finding of complete adequate protection of the interests of Eastside in the business or Cash Collateral or the lack thereof; (c) a preclusion or a waiver of any right of Eastside or Lindsay to file any pleadings, including but not limited to adversary proceedings; (d) agreement, consent, or acquiescence to the terms of any plan of reorganization by virtue of any term or provision of this Agreed Order; (e) a preclusion or waiver to assert any other rights, remedies or defenses available to Eastside or Lindsay, or to respond to any motion, application, proposal, or other action; (f) a finding that Eastside is an insider of, in control of, or liable to any person (as defined in the Bankruptcy Code) in any way under any theory of successor liability or similar theory or otherwise obligated in any way for any debt of Lindsay and; (g) a preclusion, waiver or modification of any rights or remedies that Eastside or Lindsay have under the Loan Documents or other applicable law.

Q. Eastside shall, during regular business hours have reasonable access to the business and to the books and records of Lindsay. Lindsay shall further provide representatives of Eastside with reasonable opportunities to obtain information from Lindsay with respect to the operation of the business, its books, records, and management of the business. Further, Lindsay

shall permit Eastside's representatives reasonable access, in accordance with the Loan Documents, during business hours for the purpose of examining any and all information and documents relating to the Lindsay's' past and current financial condition, assets and transfers.

R. All notices required or permitted under this Agreed Order shall be sent to the respective party and attorney at the address listed below by certified mail, return receipt requested, hand-delivery, or by facsimile transmission. In the event of notice by certified mail, notice shall be effective upon receipt or refusal of delivery as shown by the return receipt. In the event of notice by facsimile transmission, notice shall be effective upon successful facsimile transmission. In the event of notice by hand-delivery, notice shall be effective upon receipt.

If notice is given to Eastside, it shall be sent to:

John May, President
Eastside Bank
1051 Culpepper Drive, Suite 100
Conyers, Georgia 30094
Telephone: (678) 210-0225
Facsimile: (678) 210-0230

With a copy to: Louis G. McBryan, Esq.
Howick, Westfall, McBryan & Kaplan, LLP
3101 Towercreek Parkway
One Tower Creek, Suite 600
Atlanta, Georgia 30339
Telephone: (678) 384-7000
Facsimile: (678) 384-7034

If notice is given to Lindsay, it shall be sent to:

Kerry Sebree, President
Lindsay General Insurance Agency, LLC
1855 Satellite Blvd., Ste. 100
Duluth, GA 30097
Telephone: (817) 888-2217
Facsimile: (678) 439-1506

With a copy to: Evan M. Altman, Esq.
Building 2
8325 Dunwoody Place
Atlanta, Georgia 30350-3307
Telephone: (770) 394-6466
Facsimile: (678) 405-1903

George M. Geeslin, Esq.
Eight Piedmont Center, Suite 550
3525 Piedmont Road, N.E.
Atlanta, Georgia 30305-1565
Telephone: (404) 841-3464
Facsimile: (404) 816-1108

S. NOTICE IS HEREBY GIVEN that a Final Hearing on the Lindsay's Motion to Approve Use of Cash Collateral will be held on the **25th day of July, 2013, at 1:30 p.m., Courtroom 1403**, U.S. Courthouse, 75 Spring Street, Atlanta, Georgia 30303. Lindsay's Counsel shall promptly mail copies of this Order and Notice to the United States Trustee and to the parties in interest.

T. The use of Cash Collateral contemplated herein shall in no way affect the validity, perfection, or priority of the security interests, mortgages, and liens granted to Eastside by this Agreed Order or otherwise, and the use of Cash Collateral contemplated herein shall not constitute a waiver by Eastside of its rights to timely and full payment under the Loan Documents, except as may be limited by applicable law including the Bankruptcy Code. Nothing herein shall be deemed as a waiver by Lindsay or the estate of the ability to challenge the

aforementioned rights under the Loan Documents or otherwise applicable law.

U. Nothing contained herein shall be construed to alter, modify, or change in any respect the terms and conditions of the Loan Documents.

V. Nothing in this Order shall be deemed to permit authorization to charge or surcharge the Pre-Petition Collateral or Post-Petition Collateral with any expense of administration, whether pursuant to 11 U.S.C. § 506(c), or otherwise.

W. Lindsay is hereby enjoined from using Cash Collateral, except as provided for in this Agreed Order or in an order entered by the Bankruptcy Court following notice to and an opportunity for Eastside to be heard. Nothing herein contained shall be in prejudice of the right of Eastside or Lindsay to seek modification, extension or termination of this Agreed Order based upon a change of circumstances.

X. Nothing herein shall prejudice Eastside's right to challenge any aspect of this Bankruptcy Case or to seek any relief under Title 11 or Title 28 with respect to any aspect of this Bankruptcy Case. Similarly, nothing herein shall otherwise prejudice Lindsay's rights as debtor in possession under section 1107 or impair Lindsay's duties under section 521 of the Bankruptcy Code.

Y. Time is of the essence with respect to all performance required by this Agreed Order.

IT IS SO ORDERED.

[END OF DOCUMENT]

[SIGNATURES FOLLOWS]

PREPARED BY AND CONSENTED TO:

| | |
|--|---|
| <p>Prepared and presented by:</p> <p>_____/s/_____ Evan M. Altman, Georgia Bar No. 014066 Northridge 400 8325 Dunwoody Place Building Two Atlanta, Georgia 30350 (770) 394-6466 Telephone <i>Attorney for Lindsay</i></p> | <p>Prepared and presented by:</p> <p>_____/s/_____ George M. Geeslin, Georgia Bar No. 288725 Eight Piedmont Center Suite 550 3525 Piedmont Road, N.E. Atlanta, Georgia 30305-1565 (404) 841-3464 Telephone <i>Attorney for Lindsay</i></p> |
| <p>Consented to by:</p> <p>HOWICK, WESTFALL, MCBRYAN & KAPLAN LLP</p> <p>_____/s/_____ Louis G. McBryan, Georgia Bar No. 480993 Suite 600, One Tower Creek 3101 Towercreek Parkway Atlanta, Georgia 30339 678.384.7000 Telephone <i>Attorneys for Eastside Commercial Bank</i></p> | <p>No Opposition by:</p> <p>_____/s/_____ Lindsay N. P. Swift, Ga. Bar 541621 75 Spring St., SW, Room 362 Atlanta, GA 30303 (404) 331-4437 Telephone <i>Lindsay.n.swift@usdoj.gov</i> <i>Attorney for the U.S. Trustee</i></p> |

EXHIBIT "A"

TO

**AGREED ORDER ALLOWING
INTERIM USE OF CASH COLLATERAL
BY DEBTOR**

Lindsay General Insurance Agency, LLC
 Pro-Forma Monthly Budget

| | Apr-13 | May-13 | Jun-13 | Jul-13 | Aug-13 | Sep-13 | Oct-13 | Nov-13 | Dec-13 | Total |
|---------------------------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|----------|
| Income | | | | | | | | | | |
| Commission Income | | | | | | | | | | |
| Total Income | | | | | | | | | | |
| Expenses | | | | | | | | | | |
| Offices Services | 169 | 169 | 169 | 169 | 169 | 169 | 169 | 169 | 169 | 1,521 |
| Eastside Commercial Bank Note Payment | 7,940 | 7,940 | 7,940 | 7,940 | 7,940 | 7,940 | 8,068 | 8,068 | 8,068 | 74,844 |
| Postage | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 90 |
| General Corporate Insurance | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 900 |
| Attorney (BK) | 750 | 750 | 750 | 750 | 750 | 750 | 750 | 750 | 750 | 6,750 |
| Trustee Payments | 217 | 217 | 217 | 217 | 217 | 217 | 217 | 217 | 217 | 1,953 |
| Insurance | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 900 |
| Total Expense | 9,286 | 9,286 | 9,286 | 9,286 | 9,286 | 9,286 | 9,414 | 9,414 | 9,414 | 83,958 |
| Net Income/Loss | (9,286) | (9,286) | (9,286) | (9,286) | (9,286) | (9,286) | (9,414) | (9,414) | (9,414) | (83,958) |

DISTRIBUTION LIST

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