

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

In re:

Hampton Lake, LLC,

Debtor.

Case No. 13-02482-jw

Chapter 11

**AMENDED FINAL ORDER (A) AUTHORIZING DEBTOR'S
USE OF CASH COLLATERAL AND (B) GRANTING REPLACEMENT LIENS**

The relief set forth on the following pages, for a total of 7 pages including this page (but excluding the Exhibit) is hereby **ORDERED**.

**FILED BY THE COURT
05/28/2013**



Entered: 05/28/2013

US Bankruptcy Judge
District of South Carolina

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

In re:

Hampton Lake, LLC,
Debtor.

Case No. 13-02482-jw

Chapter 11

**AMENDED FINAL ORDER (A) AUTHORIZING DEBTOR'S
USE OF CASH COLLATERAL AND (B) GRANTING REPLACEMENT LIENS¹**

This matter came before the Court on the Motion of Hampton Lake, LLC (the "Debtor") for Authorization to use Cash Collateral (the "Motion") of Crimson Portfolio, LLC and SABAL Financial Group, L.P. (collectively, "Lender"). Lender asserts a security interest in its cash collateral.

The Debtor proposes to pay Lender proceeds from property sales as established in the Budget (as that term is defined below) and to grant Lender replacement liens to the same extent and priority as Lender's pre-petition liens, up to the extent of any diminution in the Cash Collateral post-petition. Lender has consented to the form of the Budget attached hereto as **Exhibit A** subject to the property sale payments, the replacement liens, and other conditions set forth herein

It appearing from the Certificates of Service on file with the Court that the Debtor served the Motion and the Notice of Expedited Hearing in accordance with the Court's Order and Notice of Hearing and, and having considered the objections filed by the Lender and the Office of the United States Trustee and the evidence presented at the hearing, and based upon the consents of counsel stated on the record at the hearing in this matter, the Court finds that it is in the best interest of the Debtor and all creditors of the Debtor to permit the Debtor to use the Cash Collateral on the conditions set forth herein. The Court is of the opinion that the protections set forth and incorporated in this Order should remain in full force and effect through and including the term of the Budget attached as **Exhibit A** or until further order of the Court. The Court further finds that the property sale payments to Lender are necessary and in the best interests of

¹ This Order is amended to correct the four digits of the account number referenced in Paragraph N.

the bankruptcy estate. Having reviewed the Motion and the objections thereto, and considered the statements of counsel at the hearing and the applicable law, the Court, otherwise being duly advised of the premises, hereby finds and concludes as follows:

FINDINGS OF FACT

1. On April 29, 2013 (the "Petition Date"), Debtor filed a voluntary petition for reorganization under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. 101 *et seq.* (the "Bankruptcy Code").

2. The Debtor continues in possession of the property as Debtor in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. An Official Committee of Unsecured Creditors was appointed on May 7, 2013.

3. This Court has jurisdiction over the Motion pursuant to 28 U.S.C §§157 and 1334. The statutory predicates for the relief sought herein are Sections 105(a), 361, 363(c)(2) and (e) of the Bankruptcy Code and Rules 4001(b) and 9014 of the Federal Rules of Bankruptcy Procedure. Consideration of the Motion constitutes a core proceeding, as defined in 28 U.S.C. §157(b)(2).

4. Lender asserts a secured claim against the Debtor and asserts a security interest in the Debtor's Cash Collateral.

5. Debtor does not have sufficient unencumbered cash or other assets with which to continue to operate its business in Chapter 11 pending the Debtor's Chapter 11 plan of reorganization. As a result, an immediate and ongoing need exists for Debtor to use the Cash Collateral in order to continue the operation of its business under Chapter 11 of the Bankruptcy Code, to minimize the disruption of Debtor as a going concern, and to maximize the value of Debtor's estate and the value of the Cash Collateral.

6. Good cause has been shown for the entry of this Order and authorization for Debtor to use the Cash Collateral in accordance with the budget attached hereto as **Exhibit A** (the "Budget"). The Debtor's need for use of Cash Collateral afforded herein is immediate and critical.

7. Entry of this Order will minimize disruption of Debtor's business and operations. Moreover, it will preserve the assets of the Debtor's estate and appears to be in the best interest of Debtor, its creditors, and the bankruptcy estate. The terms of the use of the Cash Collateral

are fair and reasonable, reflect Debtor's exercise of prudent business judgment, and are supported by reasonably equivalent value and fair consideration.

8. The Debtor has requested that Lender be granted a replacement lien on Cash Collateral as set forth in the Debtor's Motion, as well as replacement liens on any and all other property that may be acquired by the Debtor post-petition, with such replacement liens to have the same rank and priority as Lender's pre-petition liens.

9. Debtor will make distributions to Lender from its post-petition property sales as set forth in the Budget and any sale order.

10. During the pendency of this case, the Debtor may use the Cash Collateral only in the ordinary course of its business and in accordance with the Budget.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

A. All findings of fact that are or may be deemed conclusions of law are hereby incorporated as conclusions of law.

B. Notice of the hearing of the Motion was provided as set forth in the Certificate of Service filed by Debtor and in accordance with the Court's Order and Notice of Hearing on these matters.

C. Debtor does not have sufficient unencumbered cash or other assets with which to continue to operate its business in Chapter 11 without use of the Cash Collateral.

D. The Debtor's use of the Cash Collateral and the relief requested by Debtor related thereto appears necessary, appropriate, and essential to the reorganization efforts of Debtor. The entry of this Order appears to be in the best interests of Debtor, its creditors, and the bankruptcy estate.

E. The Debtor shall be authorized to use the Cash Collateral solely for the purpose of funding the ordinary and necessary costs of operating and maintaining its business limited in kind and amount to the total expenses set forth in the Budget attached hereto. All disbursements by Debtor shall be made in strict compliance with the terms of this Order and the attached Budget, except that the Debtor may exceed any line item in the Budget that contains a dollar amount as long as (i) Debtor's total expenses for the period do not exceed the total amount requested in the Budget, and (ii) the Debtor does not exceed any line item in the Budget by more than \$10,000 without Lender's prior consent, (iii) the payments to Lender provided herein are otherwise timely paid in full, and (iv) the Debtor adheres to the agreements in paragraphs M.1, M.2, and M.3 below. Nothing herein shall prevent Lender from consenting to other or further

variations from the Budget nor shall this Order be interpreted to prevent the Debtor or any party from seeking further orders of the Court.

F. As adequate protection for any diminution of the Cash Collateral, Lender is **GRANTED** a post-petition replacement lien and security interest in the post-petition Cash Collateral to the same extent and priority as its pre-petition liens in and to the Cash Collateral as well as replacement liens, up to the diminution in value of any Lender collateral, on any and all other property that may be acquired by the Debtor post-petition with such replacement liens to have the same rank and priority as Lender's pre-petition liens.

G. Lender shall not be required to file any UCC Financing Statements, nor any other document or take any other action (including possession of any of the Cash Collateral) in order to validate or perfect the security interests and liens granted to it hereunder, as all such liens and security interests shall be deemed automatically perfected by and upon entry of and this Order.

H. In addition, as further conditions to the Debtor's use of cash collateral, the Debtor has agreed to the following terms with Lender:

1. The Debtor will provide reasonable internal financial documents showing actual income and expenditures on a weekly basis to Lender.
2. The Debtor agrees to grant representatives of Lender reasonable access to its collateral during all reasonable business hours for purposes of inspection and appraisal or such other time as conveniently arranged with the Debtor. In addition, the Debtor shall make its books and records reasonably available to representatives of Lender for purposes of inspection during regular business hours or such other time as conveniently arranged with the Debtor.
3. Debtor shall maintain insurance with respect to Lender's collateral in accordance with the requirements of the parties' loan documents.
4. The authority provided in this Order shall be superseded upon entry of a further order regarding use of cash collateral or upon confirmation of a plan. Notwithstanding the foregoing, the authority provided by this Order shall terminate immediately and automatically upon the occurrence of the following: (a) entry of an order dismissing or converting the Debtor's chapter 11 case to a chapter 7 case; (b) entry of an order appointing a chapter 11 trustee; or (c) written agreement of the Debtor and Lender.

Any such termination shall not affect or in any way impair any right, interest, or lien granted to Lender under this Order.

5. Nothing herein constitutes a finding regarding the value of Lender's collateral or proposed treatment of Lender's claim under a plan of reorganization. The parties' right to assert and/or dispute valuation and treatment of Lender's claims under a plan of reorganization is hereby preserved. Lender and the Debtor agree that this Order is not intended nor shall it be construed as a waiver or limitation in any way by Lender or the Debtor of any rights or remedies under the Bankruptcy Code or other applicable law which they may have, including without limitation Lender's right to file a Motion for Relief from the Automatic Stay under 11 U.S.C. § 362.

I. Through and until further order of the Court or confirmation of a plan, the Debtor shall set aside ten percent (10%) of the net sales proceeds remaining after payment of all commissions, attorney's fees, closing costs, and management/operational expenses, with Lender's lien attaching to such proceeds as set forth herein. This shall also apply to the funds from the first seven (7) sales approved by this Court by separate order on May 10, 2013. These funds shall be put in an escrow account segregated from the Debtor's operating account, and Sabal's replacement liens shall attach to such account.

J. Through and until further order of the Court or confirmation of a plan, the Debtor shall pay to Sabal the greater of 55% of the gross sale proceeds or \$60,000, whichever is greater, from each of the Debtor's real estate sales.

K. Reed Development, Inc. ("Reed Development"), the Debtor's Manager, has agreed to reduce its monthly management fee to \$30,000 per month going forward and to repay \$22,902 in pre-petition overpayments to Reed Development by further reducing the May and June 2013 monthly management fees by \$11,451 each. These reductions are reflected in the attached Budget.

L. Hampton Lake Realty, Inc. ("HL Realty"), the Debtor's real estate agency, has agreed to reduce its commissions on the sale of developer lots from 10% to a weighted average of 7.3%. These reductions are reflected in the attached Budget.

M. In addition to the other reductions outlined herein, and in order to resolve the objections of the U.S. Trustee:

1. The Debtor requested and John P. Reed, Jr. ("Pratt Reed") agreed to forego his \$1,000

per closing override, any draws against future commissions, and any sales bonuses.

2. The Debtor further requested and Pratt Reed further agreed that as he earns sales commissions, fifty percent (50%) of all such commissions will be used to offset the receivable Pratt Reed owes to the Debtor.
3. HL Realty and the Debtor have agreed that they will not pay any annual incentive bonuses during the pendency of the bankruptcy case. Except as specifically set forth herein, this does not preclude the payment of norm sales agent bonuses and incentives to the HL Realty sales staff as contemplated in the budget.

The Budget attached to this Order contemplates these reductions.

N. This Order and the attached Budget contemplate the release of funds from an NBSC (Synovus) concentration account, Account #5004 (the "Concentration Account") to the Debtor for use in accordance with the Budget. NBSC (Synovus) shall release such Concentration Account funds so that they may be deposited in the debtor in possession operating account. Lender's lien as set forth herein shall continue to apply to such funds and the Debtor and Lender will cooperate to reconcile the balance in the Concentration Account and the closings which were completed pre-petition.

AND IT IS SO ORDERED.

	1	2	3	4	5	6	7	8	9	10	11	12	13
	5/1-5/5	5/6-5/12	5/13-5/19	5/20-5/26	5/27-6/2	6/3-6/9	6/10-6/16	6/17-6/23	6/24-6/30	7/1 - 7/7	7/8 - 7/14	7/15 - 7/21	7/22 - 7/28
HAMPTON LAKE, LLC WEEKLY CASH FLOW													
Beginning Cash	616,538	616,538	617,191	607,357	650,596	609,975	579,639	605,674	560,750	525,333	482,929	501,715	513,715
<i>Lot Sales Count</i>			2	2	2	1	1	1	1	0	2	1	
Lot Sales Revenue			169,800	289,800	111,420	114,900	114,900	114,900	85,012	0	214,856	107,428	107,428
Misc Income													
Commercial Property Sales													
Total Revenue	0	0	169,800	289,800	111,420	114,900	114,900	114,900	85,012	0	214,856	107,428	107,428
Development & Closing Expenses													
Commissions			21,530	33,706	8,134	8,388	8,388	8,388	6,206	0	15,684	7,842	7,842
Closing Costs & Incentives			1,916	7,170	5,162	5,292	5,292	5,292	5,068	0	12,393	6,197	6,197
POA Subsidy				25,205				23,665			21,291		
Road Top Cap Construction													
Property Taxes			134	156	211	300	300	300	300		476	238	
Professional Fees								25,000	30,000		10,000		
US Trustee Fees													
Insurance								12,625				3,125	
TOTAL DEVELOPMENT & CLOSING EXPENSES	0	0	23,579	66,237	13,507	13,979	13,979	75,269	41,573	0	59,845	17,402	14,000
General & Admin Expenses													
D - Mgmt Fees-Reed Dev				18,549		18,549				30,000			
D - Miscellaneous Expense			0	959		959				459			
D - Licenses & Permits											500		
TOTAL GENERAL & ADMINISTRATIVE EXPENSES	0	0	0	19,508	0	19,508	0	0	0	30,459	500	0	0
HAMPTON LAKE, LLC WEEKLY CASH FLOW													
Marketing													
M-Creative Fees - WDM			500					500			500		
M-Creative Fees - MD Design			1,100					1,100				1,100	
M-Creative Fees - Phebesmith			410									410	
M-Database Tools- BrightDoor Fees (CRM)					3,583				3,583				3,583
M-Teamwork- Reed Credit Card Reimb					125				125				125
M-Realtor Events												1,000	
M-Giveaways Incentives				250				250				250	
M-Sneak a Peak HL Community Assocn- Lodging/Food/Spa						3,000			3,000				3,000
M-Hampton Hall-Golf					55			55				55	
M-TTA-(Sav Trolley)- Reed Dev Credit Card Reimb			78		78	39		117	78			117	
M-CES- Nature Cruise-Reed Dev credit Card Reimb			100		100	50		150	100				
M- Email Marketing WDM			1,250			1,250						1,250	
M- Email Marketing Google- Reed Dev Credit Card Reimb			1,000		1,457	500		500	1,457		500	500	1,000
M- Email Marketing E360			450					450					
M- Utilities - Web hosting - Colophone			40			40					40		
M- Local Media - Island Packet Print COD-Reed Dev Credit Card Reimb			3,947					3,947				3,947	
M- Local Newspaper Contingency					500							500	
M-Local Magazines - Hilton Head Monthly					625								
M-Local Magazines - Island Real Estate					1,167								
M-Local Magazines - Pink Magazine					551							551	
M-Regional Magazines - Coastal Living					4,700								
M-Interactive & Misc Marketing - RetireNet.com					59				59				
M-Social Media - Facebook-Reed Dev Credit Card Reimb			50		50	50		100	50			100	
M-Social Media - LinkedIn						83			83				
M-Broadcast Marketing - WHHI-TV			500			500					500		
M- Billboard/Sign - Univ Investments			2,800			2,800					2,800		

	1	2	3	4	5	6	7	8	9	10	11	12	13
	5/1-5/5	5/6-5/12	5/13-5/19	5/20-5/26	5/27-6/2	6/3-6/9	6/10-6/16	6/17-6/23	6/24-6/30	7/1 - 7/7	7/8 - 7/14	7/15 - 7/21	7/22 - 7/28
M- Collateral -Lines from the Lake Newsletters - Printing									1,050				
M- Collateral - MD Design or Kennickell								1,200					
M- Collateral Printing /Reprints MD Design or Kennickell					1,000				550			550	
M- Misc Exp Marketing Vendors (WEB)-Reed Dev Credit Card Reimb					250				250				
M-PSA Essentials-Reed Dev Credit Card Reimb			90		118			90	118				90
M- Miscellaneous						575			575				575
M- Postage/Shipping/Courier					200				400				200
M- Salaries & Wages		5,310		5,305		5,310		5,305		5,305		5,305	5,305
M- Payroll Taxes		455		447		455		447		455		455	455
M- BCBC Medical Group			1,385				1,385					1,385	
M- Assurant Dental			107				107					107	
M- Companion Life			16				16					16	
M- Section 401k Contribution		215		210		215		210		210		210	210
TOTAL MARKETING EXPENSES	0	5,980	13,823	6,212	14,618	14,867	1,508	14,421	11,478	5,970	5,848	17,290	8,210

	1	2	3	4	5	6	7	8	9	10	11	12	13
	5/1-5/5	5/6-5/12	5/13-5/19	5/20-5/26	5/27-6/2	6/3-6/9	6/10-6/16	6/17-6/23	6/24-6/30	7/1 - 7/7	7/8 - 7/14	7/15 - 7/21	7/22 - 7/28
HAMPTON LAKE, LLC WEEKLY CASH FLOW													
Sales Operations													
S- Salaries & Wages		4,936		9,722		7,450		7,457		7,457		7,457	
S- Payroll Taxes		690		765		680		685		685		685	
S- BCBC Medical			2,770			2,770					2,770		
S-Assurant Dental			139			139					139		
S-Companion Life			25			25					25		
S- Section 401k Contributio		150		326		240		246		246		246	
S- Contract Labor				375	375	375			375		375		
S- Computer Expendables-Best Buy/Newegg-Reed CC Reimb					150				150				150
S- Equipment Lease GE Capital					500				1,000				
S- Janitorial Service Donald Adams			360		365	360		365			360		
S- Landscaping Palmetto Coastal					2,500				1,730				1,730
S- Maintenance Contracts GE Capital					750				750				
S- Meals & Entertainment HL Community Assoc					100			100			100		
S- Meals & Entertainment Salesperson Exp Reimb			500		500	250		150	250		150	250	
S- 278 Office Rent HTP Bluffton			2,000			2,000				2,000			
S- Guest Services Refreshments Capitol Coffee					430			430			430		
S- Guest Services Refreshments HH Cookie					70				70				45
S- Guest Services Refreshments Crystal Springs			75		25	75		25			25		
S- Office Supplies Capitol Coffee			300		425			350	300		300		
S- Pest Control HH Exterminators					85				85				
S- Postage Stamps.com- Reed dev Credit Card Reimb			350		300	100		300	200			200	
S- Repairs & Maintenance Donald Adams			150			200					50		
S- Security/Fire Protection Palmetto Electric			40			40					40		
S- Security/ Fire Protection Fire Prot.Services								55					
S- Telephone Basic Hargray			1,575			1,575					1,575		
S- Telephone Long Distance Hargray			125			125					125		
S- Conference Calling (Intercall) -Reed Dev Credit Card Reimb					55				55				55
S- Cell phone Reimbursement - Pratt Reed					230				230				
S- Info Ctr Williams Scotsman-Lease			1,620			1,620				1,620			
S- Info Ctr Palmetto Coastal-Landscape					320				320				
S- Info Ctr Palmetto Electric			260			260				260			
S- Into Ctr BJWSA-Water			100			100				100			
S- Utilities Palmetto Electric			1,400		1,400					1,400			
S- Utilities BJWSA-Water			250		250					250			
S- Utilites Waste Disposal Waste Mgt			100		100					100			
TOTAL SALES DEPARTMENT EXPENSES	0	5,777	12,139	11,188	9,290	18,024	0	10,163	5,515	14,118	6,664	8,888	4,888
HAMPTON LAKE REALTY, LLC WKLY CASH FLOW													
	0	0	2	2	2	1	1	1	1	0	2	1	1
Gross Commissions - Resales / Bidr Referrals				32,885	18,379	4,568	9,765	12,358	12,829	15,822	13,451	17,851	8,386
Developer Commissions (House portion)			2,644	12,490	2,563	2,643	-1,379	2,643	-1,020	0	4,942	-1,289	2,643
TOTAL REVENUE	0	2,644	45,375	20,942	7,211	8,386	15,001	11,809	15,822	18,393	16,562	10,000	10,000
Commission payouts(resales)/overrides				11,887	4,249	6,022	8,654	11,439	8,439	2,891	3,185	5,188	10,000
MLS Fees								808				808	
Professional Fees					2,500	700			2,500				2,500
Marketing Contribution (Weekley Model Expense or Billboard)						3,000					3,000		
Draw - paid to Salesmen						12,000				12,000			
Payback of Draw	-12,482		-5,000		-2,500		-2,500		-2,500		-5,000		
TOTAL EXPENSES HAMPTON LAKE REALTY	-12,482	0	6,887	6,749	19,222	8,654	9,747	10,939	12,391	6,185	996	13,000	13,000
NET CASH HAMPTON LAKE REALTY	12,482	2,644	38,488	14,193	-12,011	-268	5,254	870	3,431	12,208	15,566	-2,000	-2,000

	1	2	3	4	5	6	7	8	9	10	11	12	13
	5/1-5/5	5/6-5/12	5/13-5/19	5/20-5/26	5/27-6/2	6/3-6/9	6/10-6/16	6/17-6/23	6/24-6/30	7/1 - 7/7	7/8 - 7/14	7/15 - 7/21	7/22 - 7/28
Net Cash Flows from all Operations	0	725	122,902	225,143	88,198	36,510	99,145	20,300	27,315	-47,116	154,207	79,414	77,000
Net Cash	616,538	617,263	740,093	832,501	738,795	646,485	678,784	625,975	588,065	478,217	637,136	581,129	590,000
Payments to Sabal		0	-120,445	-159,390	-120,000	-63,195	-63,195	-63,195	-60,000	0	-120,000	-60,000	-60,000
Cash Held in Escrow pending order from court (10)%		-73	-12,290	-22,514	-8,820	-3,651	-9,914	-2,030	-2,732	4,712	-15,421	-7,941	-7,000
Ending Cash for Operations	616,538	617,191	607,357	650,596	609,975	579,639	605,674	560,750	525,333	482,929	501,715	513,188	522,000
Hampton Lake, LLC Summary													
Total Revenue	0	0	169,800	289,800	111,420	114,900	114,900	114,900	85,012	0	214,856	107,428	107,000
Development & Closing Costs Expense	0	0	-23,579	-66,237	-13,507	-13,979	-13,979	-75,269	-41,573	0	-59,845	-17,402	-14,000
General & Admin Expense	0	0	0	-19,508	0	-19,508	0	0	0	-30,459	-500	0	0
Marketing Expense	0	-5,980	-13,823	-6,212	-14,618	-14,867	-1,508	-14,421	-11,478	-5,970	-5,848	-17,290	-8,000
Sales Operations Expense	0	-5,777	-12,139	-11,188	-9,290	-18,024	0	-10,163	-5,515	-14,118	-6,664	-8,888	-4,000
Revenue from Hampton Lake Realty	0	0	2,644	45,375	20,942	7,211	8,386	15,001	11,809	15,822	18,393	16,562	10,000
Expenses from Hampton Lake Realty	0	12,482	0	-6,887	-6,749	-19,222	-8,654	-9,747	-10,939	-12,391	-6,185	-996	-13,000
Total Cash Flows	0	725	122,902	225,143	88,198	36,510	99,145	20,300	27,315	-47,116	154,207	79,414	77,000
Payments to Insiders (included in Cash Flows)													
Selling Bonuses	0	0	0	0	0	0	0	0	0	0	0	0	0
Management Fees	0	0	0	18,549	0	18,549	0	0	0	30,000	0	0	0
Payroll & Associated Expense (Pratt Reed)		1,545	1,500	6,527	230	5,537	0	4,037	230	4,037	1,500	4,037	0
Hampton Lake Expenses Reimbursed to Reed Dev. Credit Card	0	0	5,615	0	2,683	739	0	5,204	2,583	0	700	5,084	2,000
M- Billboard/Sign - Univ Investments		0	2,800	0	0	2,800	0	0	0	0	2,800	0	0
Total Payments to Insiders	0	1,545	9,915	25,076	2,913	27,625	0	9,241	2,813	34,037	5,000	9,121	2,000