

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:)	Bankr. No. 12-40768
)	Chapter 11
HILLTOP FARMS, LLC)	
SSN/ITIN: 68-0626218)	
)	STIPULATION REGARDING DEBTOR'S
Debtor.)	AUTHORITY TO USE CASH COLLATERAL
)	(AUGUST 1, 2013 THROUGH AND
)	INCLUDING AUGUST 31, 2013)
)	

Debtor Hilltop Farms, LLC and First Bank & Trust ("FB&T"), by and through their counsel of record, hereby enter into the following stipulation (the "Stipulation") in connection with Debtor's use of cash collateral of FB&T. Debtor and FB&T agree as follows:

1. Debtor filed for relief under 11 U.S.C. Chapter 11 on or about November 2, 2012. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, 28 U.S.C. § 157, and the Order of General Reference dated July 27, 1984, entered by the United States District Court, District of South Dakota.

2. The parties have previously entered into Stipulations Regarding Debtor's Motion for Authority to Use Cash Collateral (12-01-12 to 4-30-13 and 4-30-13 through 5-31-13; and through June 30, 2013; and through and including July 31, 2013), which Stipulations have been approved by the Court (Doc. 68-1 and Doc. 72); (Doc. 107 and 110); (Doc. 121 and 122); and (Doc. 141 and 142).

3. FB&T consents to the Debtor's limited use of cash collateral as set forth in the budget attached as Exhibit A to this Stipulation detailing Debtor's proposed uses of FB&T's cash collateral from August 1, 2013 through and including August 31, 2013 (the "Budget").

4. FB&T and Debtor specifically acknowledge and agree that the execution of this Stipulation shall not prejudice FB&T's rights to seek any other relief from the Court in connection with this proceeding at any time, including, but not limited to, the filing of a Motion for Relief from Stay or Motion to Dismiss the case. For the avoidance of doubt, FB&T and Debtor agree that FB&T may seek such relief in advance of the August 31, 2013 end date for the cash collateral use set forth in this Stipulation.

5. The Debtor's use of FB&T's cash collateral shall be limited to the sum of \$155,681.44 as set forth in the Budget. The Debtor's uses of cash collateral shall be only those uses specifically detailed in said Budget, and shall not include any increase for the category "Owner's Draw-Wilfried." The owner's draw shall remain at \$5,000.00 per month for Wilfried and \$2,500.00 for Olga.

6. Debtor acknowledges that FB&T holds a valid and perfected first position blanket security interest in all of the Debtor's personal property as identified in the security documents, as well as valid mortgages upon Debtor's dairy property, farmland property, and a residential property in Elkton, South Dakota, and Debtor asserts that FB&T's claim is over secured when all collateral between Debtor, Hilltop Dairy, LLP, and t' Werkel BV, Inc. is considered. FB&T alleges that the total

indebtedness (excluding credit card debt) owed to First Bank & Trust by Debtor and its co-borrower affiliates (Hilltop Dairy, LLP and 'T Werkel BV, Inc.) as of the date of the bankruptcy filing, November 2, 2012, was as follows:

Principal	\$9,449,455.26
Accrued Interest	378,835.27
Late Charges	400.00
Attorneys' Fees	<u>13,939.84</u>
Total	\$9,842,630.37 Plus accruing fees and interest thereafter.

7. As adequate protection for the use of FB&T's cash collateral, Debtor grants FB&T a replacement lien for the time period through August 31, 2013, upon all post-petition receivables of the Debtor, including, but not limited to, the sums due and owing pursuant to any oral or written month-to-month lease agreements (including lease agreements with Debtor's affiliate, Hilltop Dairy, LLP, for the use of real and personal property by said entity) as well as any post-petition rental income received by the Debtor in connection with any residential properties owned or managed by the Debtor, as well as a replacement lien in the new calf/offspring born post-petition through August 31, 2013.

8. The Debtor acknowledges and agrees that the replacement liens granted by Debtor shall be deemed to be properly perfected without further act or filing on the part of FB&T or the Debtor. Notwithstanding the foregoing, FB&T may file financing statements or take such other additional steps as FB&T may deem reasonably necessary in order to perfect its security interests in the property of the Debtor. Debtor shall cooperate with FB&T to accomplish any steps to perfect the security interest granted herein.

9. Debtor and FB&T agree that the Court may enter an Order approving this Stipulation in the form attached hereto as Exhibit "B" and is incorporated herein by this reference.

10. In the event Debtor breaches or defaults under any of the terms of this Stipulation, FB&T shall provide Debtor and its counsel with five (5) business days prior written notice of FB&T's intention to seek relief from the Court in the form of terminating or modifying the Order allowing use of the cash collateral as set forth herein or other relief as a result of said breach or default. During said five (5) business day period, FB&T and Debtor, through their respective counsel, shall discuss in good faith any alleged breach and attempt to resolve the same prior to FB&T seeking relief from the Court.

11. Following the execution of this Stipulation, and only during the time period through August 31, 2013, Debtor shall comply with the following requirements:

- (a) Debtor shall maintain all of Debtor's financial accounts, including Debtor's DIP accounts, at FB&T.
- (b) Debtor shall provide FB&T with copies of all reports provided to the United States Trustee, by forwarding the same electronically to FB&T's counsel of record simultaneous with their transmission to the Trustee's office.
- (c) Debtor shall maintain insurance on all property subject to the mortgages and security interests in favor of FB&T, with deductibles consistent with those

carried historically, with FB&T named as loss payee, or an additional insured where applicable, insuring such property for its full, insurable value against perils covered by fire and extended coverage policies of insurance.

- (d) Debtor shall provide FB&T with copies of all receipts, invoices, bills of sale, or other documents evidencing the purchase or sale of livestock by Debtor.
- (e) Debtor shall produce to FB&T records demonstrating the purchase of any "feed & grain," the payment of any utility bills, and any other documents FB&T may request in connection with uses of cash collateral identified in the Budget, if such records are provided to or reasonably able to be obtained by Debtor.
- (f) Debtor shall provide FB&T with a monthly verified certificate identifying the total livestock in Debtor's possession, including detail regarding any livestock leased to Debtor.
- (g) Debtor shall provide a written report tracking the incoming and outgoing of all livestock which shall be provided on or before the 10th day of the following month.
- (h) Debtor shall provide FB&T with copies of any paperwork or documents that Debtor receives detailing the milk sold to Land O'Lakes (or any other party to whom milk is sold) noting detailed information regarding the milk sold and price paid.
- (i) Debtor shall provide FB&T with copies of any and all lease agreements for any livestock in Debtor's possession, including milk cows.
- (j) On or before the 10th day of each month, Debtor shall provide FB&T with a report noting the amount of Debtor's feed inventory and the amount of feed used during the prior month.
- (k) Debtor shall provide FB&T with such other reasonable information as Bank may request relating to Debtor's business operations, including Debtor's business transactions with its affiliated entities, Hilltop Dairy, LLP, and T Werkel BV, Inc.

12. Pursuant to the Agreement set forth in this Stipulation, FB&T consents to the uses of cash collateral identified in Exhibit A through August 31, 2013. FB&T continues, however, to object to Debtor's proposed use of cash collateral beyond August 31, 2013.

13. Debtor agrees to allow FB&T to review and inspect its operations, including reasonable inspection and counting of all livestock owned or in the possession of Debtor as well as inspection of all other real and personal property of Debtor upon forty-eight (48) hours prior notice to Debtor and Debtor's attorneys of record.

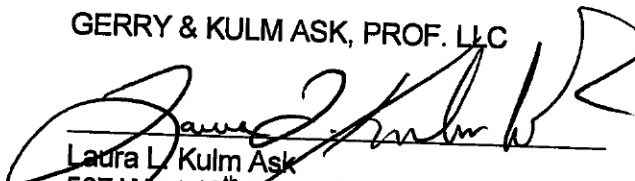
14. Debtor shall pay to FB&T the adequate protection payments of \$10,000 per month on August 1, 2013, as described in the attached Exhibit A.

15. Debtor shall segregate and account for all cash collateral in which FB&T claims or holds a security interest.

16. Debtor acknowledges that this Stipulation is being executed by FB&T and Debtor simultaneous with execution of a similar Stipulation in connection with the Chapter 11 proceeding commenced by Debtor's affiliate, Hilltop Dairy, LLP (Bankr. No. 13-40002). Debtor acknowledges and agrees that any defaults by Hilltop Dairy, LLP under the provisions of its separate Stipulation with FB&T shall be deemed to be defaults under this Stipulation as well.

Dated this 22nd day of July, 2013.

GERRY & KULM ASK, PROF. LLC



Laura L. Kulm Ask
507 West 10th Street, P.O. Box 966
Sioux Falls, SD 57101-0966
Telephone: (605)336-6400
Fax: (605)336-6842
Email: ask@sgsllc.com
Attorneys for Debtor

Dated this 22nd day of July, 2013.

DAVENPORT, EVANS, HURWITZ &
SMITH, L.L.P.



Robert E. Hayes
Keith A. Gauer
206 West 14th Street
P.O. Box 1030
Sioux Falls, SD 57101-1030
Telephone: (605)336-2880
Fax: (605)335-3639
Email: kgauer@dehs.com
Attorneys for First Bank & Trust