



SO ORDERED,

Judge Katharine M. Samson
United States Bankruptcy Judge
Date Signed: October 14, 2016

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

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

IN RE: ISAAC'S AUTOMOTIVE, INC.
DEBTOR

CASE NO. 16-50695-KMS
CHAPTER 11

AGREED ORDER (A) ON HOPE ENTERPRISE CORPORATION'S
MOTION TO PROHIBIT USE OF CASH COLLATERAL; AND
(B) REGARDING CASH MANAGEMENT

This matter is before the Court on *Hope Enterprise Corporation's Motion to Prohibit Use of Cash Collateral* (Dkt. # 36, the "Motion") filed by Hope Enterprise Corporation ("Hope"), and *Debtor's Response to Motion to Prohibit Use of Cash Collateral* (Dkt. # 55, the "Response") filed by Isaac's Automotive, Inc. (the "Debtor"). The Court, having considered the Motion, the Response, and the record herein, being fully advised in the premises, and being further advised that Hope and the Debtor stipulate and agree to the relief set forth in this Agreed Order, the parties agree hereby finds that the relief set forth in this Agreed Order should be granted, and further finds (KMS) as follows:

HOPE AND THE DEBTOR STIPULATE AS FOLLOWS:

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(b) and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. On January 3, 2014, Hope extended a commercial loan to the Debtor in the original principal amount of \$321,570.00 (the “Loan”), as evidenced by, among other things, a *Promissory Note* (the “Note”) that the Debtor executed in favor of Hope, a true and correct copy of which is attached to the Motion as Exhibit “A.”

3. In connection therewith, and as partial security for the Loan, the Debtor executed in favor of Hope a *Commercial Security Agreement* (the “Security Agreement”) dated January 3, 2014, in which the Debtor granted to Hope a first-priority security interest in, among other things, all of the Debtor’s accounts receivable, which includes (but is not limited to) any “right to the payment of money, whether or not evidenced by an instrument or chattel paper, including a right to payment for goods sold or leased or for services rendered,” as set forth more specifically in the Security Agreement, a true and correct copy of which is attached to the Motion as Exhibit “B.”

4. Hope properly perfected its security interest(s) in, *inter alia*, the Debtor’s accounts receivable on March 20, 2014 by filing a UCC-1 financing statement (the “Financing Statement”) in the UCC records of the office of the Mississippi Secretary of State, a true and correct copy of which is attached to the Motion as Exhibit “C.”

5. The Debtor filed its Chapter 11 Petition in this Court on April 26, 2016 (the “Petition Date”). The Debtor has continued to operate its business as debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. The Debtor is an automotive service and repair facility, which derives its business income from the rendering of services and the sale of goods incident thereto.

7. Therefore, under the terms and conditions of the Security Agreement, and pursuant to 11 U.S.C. § 363(a), all of the Debtor’s business income is Hope’s cash collateral (the “Cash Collateral”).

8. Since the Petition Date, the Debtor has continued to collect and use Hope's Cash Collateral without gaining the consent of Hope or authorization from this Court as required by 11 U.S.C. § 363(c)(2).

9. The Debtor wishes to continue using Hope's Cash Collateral under the terms of this Agreed Order in order to make post-petition payroll payments and to make expenditures necessary to continue operating the Debtor's business. The Debtor's access to sufficient working capital and liquidity through the use of Cash Collateral under the terms of this Agreed Order is vital to the preservation and maintenance of the going-concern value of the Debtor's estate, the orderly operation of the Debtor's business and, ultimately, the success of this Bankruptcy Case.

10. Solely on the terms and conditions set forth in this Agreed Order, Hope is prepared to consent to the Debtor's use of its Cash Collateral *provided* that the Court authorize the Debtor, pursuant to Sections 361 and 363 of the Bankruptcy Code, to grant to Hope as and for adequate protection: (A) a replacement security interest in and lien and mortgage upon the Cash Collateral in favor of Hope with the same validity, extent, and priority as its prepetition lien thereon (the "Replacement Lien"); and (B) superpriority administrative expense claims under section 507(b) of the Bankruptcy Code (collectively, the "Adequate Protection Priority Claims"). The Replacement Lien and the Adequate Protection Priority Claims shall secure or provide a claim for (as applicable) the repayment of the Loan in an amount equal to the diminution in the value of Hope's interests in its prepetition collateral from and after the Petition Date including, without limitation, any such diminution resulting from: (A) the use by the Debtor of such collateral, including the Cash Collateral, and any cash constituting proceeds of such collateral; (B) the imposition of the automatic stay pursuant to section 362(a) of the Bankruptcy Code; and/or (C) any other reason (the "Adequate Protection Obligations").

11. Good cause has been shown for immediate entry of this Agreed Order pursuant to Federal Rule of Bankruptcy Procedure 4001(d)(4) and Local Rule 4001-1. Entry of this Agreed Order is in the best interest of the Debtor, its estate, and its creditors. The terms of this Agreed Order are fair and reasonable under the circumstances, reflect the Debtor's exercise of prudent business judgment consistent with its fiduciary duties, and are supported by reasonable equivalent value and fair consideration.

IT IS THEREFORE ORDERED AND ADJUDGED AS FOLLOWS:

A. Use of Cash Collateral; Budget. Through and including October 7, 2016 (the "Expiration Date"), the Debtor is hereby authorized to use Cash Collateral solely for the purposes and up to the amounts set forth in a Budget acceptable in form and substance to the Debtor and Hope (the "Budget"). The Budget shall be filed no later than Tuesday, August 30, 2016, and upon filing, shall be deemed a part of this Agreed Order. Payment by the Debtor of any expense *other* than for the items and up to the limits set forth in the Budget shall constitute a violation of this Agreed Order and an Event of Default (as defined below).

B. Subsequent Budgets; Extension of Expiration Date. Provided that there is no Event of Default under this Agreed Order, no later than ten (10) business days prior to the Expiration Date, the Debtor may submit to Hope a budget detailing its proposed continued use of Cash Collateral after the Expiration Date (the "Subsequent Budget"). Such Subsequent Budget, if approved by Hope and upon filing, shall be incorporated herein as the "Budget," shall extend the Expiration Date through the end of the last week reflected in the Subsequent Budget, and continued use of Cash Collateral by the Debtor shall be permitted under and governed by the terms of this Agreed Order and the newly approved Budget without further Order of the Court.

C. Reporting. Each Monthly Operating Report filed by the Debtor for any period of time covered by this Agreed Order, the Budget, or any Subsequent Budget shall include, in

addition to the information and documents required by the Office of the United States Trustee, a reconciliation of the budgeted income and expenditures as reflected in the Budget with the Debtor's actual income and expenditures for the corresponding week(s).

D. Automatic Effectiveness of Liens. Except as expressly set forth herein, the liens granted pursuant to this Agreed Order shall not be (a) subject to any lien that is avoided and preserved for the benefit of the Debtor's estate under Section 551 of the Bankruptcy Code or (b) subordinated to or made *pari passu* with any other lien under Sections 363 and 364 of the Bankruptcy Code. The Replacement Lien shall not be subject to challenge and shall attach and become valid, perfected, enforceable, non-avoidable, and effective by operation of law as of the Petition Date without any further action by the Debtor or Hope, and without the necessity of execution by the Debtor, or the filing or recordation, of any financing statements, security agreements, vehicle-lien applications, mortgages, filings with the U.S. Patent and Trademark Office, or other documents or the taking of any other actions. If Hope hereafter requests that the Debtor execute and deliver to Hope financing statements, security agreements, collateral assignments, mortgages or other instruments and documents considered by Hope to be reasonably necessary or desirable to further evidence the perfection of the Replacement Lien, the Debtor is hereby authorized to execute and deliver such financing statements, security agreements, mortgages, collateral assignments, instruments and documents, and Hope is hereby authorized to file or record such documents in its discretion, in which event all such documents shall be deemed to have been filed or recorded at the time and on the date of entry of this Agreed Order.

E. Adequate Protection for Hope. As adequate protection for the payment of the Adequate Protection Obligations, Hope shall be, and hereby is, granted the Replacement Lien and the Adequate Protection Priority Claims (each as defined in paragraph 10, above). With

respect to adequate protection claims arising from any diminution in the value of Hope's interests in its prepetition collateral (including the Cash Collateral), the Adequate Protection Priority Claims shall be senior in priority to all other adequate protection claims.

F. Binding Nature of Order. The provisions of this Agreed Order shall be binding upon the Debtor and its respective successors and assigns (including, without limitation, any trustee or other fiduciary hereafter elected or appointed for or on behalf of the Debtor's estate or with respect to its property).

G. Survival of Order. The provisions of this Agreed Order and any actions taken pursuant thereto (a) shall survive the entry of any order: (i) confirming any Plan of Reorganization in this Bankruptcy Case; (ii) converting the Bankruptcy Case to a case under Chapter 7 of the Bankruptcy Code; or (iii) dismissing the Bankruptcy Case; and (b) shall continue in full force and effect notwithstanding the entry of any such order, and the claims, liens, and security interests granted pursuant to this Agreed Order shall maintain their priority as provided by this Agreed Order.

H. Additional Protection of Hope in Connection with Debtor's Use of Cash Collateral. If any or all of the provisions of this Agreed Order are hereafter reversed, modified, vacated, or stayed, such reversal, modification, vacation or stay shall not affect (a) the validity of any adequate protection obligations owing to Hope incurred prior to the actual receipt by Hope of written notice of the effective date of such reversal, modification, vacation, or stay, or (b) the validity or enforceability of any claim, lien, security interest or priority authorized or created with respect to any adequate protection obligations owing to Hope. Notwithstanding any such reversal, modification, vacation, or stay, any use of Cash Collateral or adequate protection obligations owing to Hope by the Debtor prior to Hope's actual receipt of written notice of the effective date of such reversal, modification, vacation, or stay, shall be governed in all respects

by the provisions of this Agreed Order, and Hope shall be entitled to all of the rights, remedies, protections, and benefits granted under this Agreed Order with respect to all uses of Cash Collateral and adequate protection obligations owing to Hope.

I. Events of Default. Except as otherwise provided in this Agreed Order or to the extent Hope may otherwise agree in writing, (i) any violation by the Debtor of any of the terms of this Agreed Order, (ii) any failure to comply with the Budget; or (iii) the conversion to Chapter 7 of the Bankruptcy Code or dismissal of any of the Bankruptcy Case shall constitute an event of default (each, an "Event of Default"). Upon the occurrence of an Event of Default, the Debtor shall have no further right to use the Cash Collateral.

END OF ORDER

AGREED TO AND APPROVED FOR ENTRY BY:

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