

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF ILLINOIS  
BENTON DIVISION

IN RE: )  
 ) Chapter 11  
 KOHN FUNERAL HOME, LLC, )  
 ) 16-60489  
 Debtor in Possession. )

**MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS AUTHORIZING  
DEBTOR'S USE OF CASH COLLATERAL PURSUANT TO SECTION 363 OF THE  
BANKRUPTCY CODE**

NOW COMES Debtor in Possession, KOHN FUNERAL HOME, LLC, by and through its attorneys, Orr Law, LLC, and moves this Honorable Court, pursuant to Section 363 of the Bankruptcy Code, and Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure, for the entry of interim and final orders authorizing the Debtor to use cash collateral, as that term is defined by Section 363(a) of the Code, and in support of this Motion, the Debtor respectfully states as follows:

1. On December 22, 2016, Debtor filed for bankruptcy protection under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Illinois.
2. Debtor continues to operate its business and manage its affairs as debtor-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this case, and no official committee of creditors or equity interest holders has been established in this case.
3. Debtor's secured creditors for its real and personal property are First Community Bank Xenia Flora and Flora Bank & Trust.
4. As of the date of the order of relief, Debtor owed these Banks at least \$653,412.15

which included principal, interest, fees and costs.

5. Flora Bank & Trust did not attempt to perfect a lien upon on the cash collateral of the Debtor.
6. First Community Bank Xenia Flora attempted to perfect a lien upon the cash collateral; however, that lien may be avoidable. On November 23, 2010, First Community Bank Xenia Flora filed a UCC financing statement with the Illinois Secretary of State listing the Debtor incorrectly as “Byrd & Kohn Funeral Home.” (Document 15786078). This is not the legal name of the Debtor and not comply with the Revised Article 9. Moreover, First Community Bank Xenia Flora failed to file a continuation statement within five years as required by Article 9. 810 ILCS 5/9-515. On October 28, 2016, First Community Bank Xenia Flora filed a UCC financing statement for the correct legal name of the Debtor. That said, it was filed within 90 days of the filing of this matter. First Community Bank Xenia Flora has informally expressed an opinion that it is under-secured and that the valuations given by Debtor are overly optimistic. If First Community Bank Xenia Flora is under-secured, then its lien upon the cash collateral may be avoided by the Debtor for the benefit of the bankruptcy estate. 11 U.S.C. § 547.
7. Debtor requires the use of cash collateral to continue its business operations and to pay its regular daily expenses, including employees’ wages, contract labor, utilities, taxes, and the other costs of conducting business.
8. Debtor requires cash collateral to pay operating expenses such as payroll. A monthly budget demonstrating the amount of funds needed for the operation of the business until the entry of a final order permitting use of cash collateral is to

be reviewed and approved by First Community Bank Xenia Flora and the Court.

9. Debtor cannot continue to operate its business without the use of the cash collateral. Collection of payments from business in the ordinary course of business is central to the business. In the absence of the use of that cash collateral, serious and irreparable harm to the Debtor and the bankruptcy estate would occur. The preservation and maintenance of relationships with customers and trade creditors, the preservation of the value of the business as a going concern, and the reduction of claims against the Debtor are essential to a successful reorganization of the Debtor under Chapter 11 of the Bankruptcy Code.
10. The ability of the Debtor to continue in business and successfully reorganize depends upon obtaining authority from this Court for the use of cash collateral.
11. Absent the requested relief, the Debtor will be unable to pay its payroll and operating expenses and maintain the property for the benefit of the bankruptcy estate. Immediate and irreparable harm to the Debtor's business and value of the estate will occur absent the relief requested in this Motion.
12. Pursuant to Section 363(c)(2) of the bankruptcy Code, if First Community Bank's interest in the cash collateral is valid, the Debtor may use the cash collateral only with the consent of First Community Bank or with the Court's approval.
13. First Community Bank's interest, if it is valid, will be adequately protected. Such adequate protection will be provided to the Bank through the payment of the Bank's loan in the ordinary course of business and by granting the Bank a replacement lien in its respective collateral.
14. Approval of the attached Interim Order is in the best interest of the Debtor's

estate, and the Debtor believes the other creditors will not be prejudiced by the entry of the Interim Order.

15. Debtor requests that it be immediately authorized, pursuant to Section 363(c) of the Bankruptcy Code, to use cash collateral according to the terms of the Interim Order.
16. Use of cash collateral represents the Debtor's sole source of operating funds and working capital. Without the right to use cash collateral, the Debtor would be forced to cease operations. The Debtor seeks, therefore, after a preliminary hearing, immediate use of cash collateral to avoid immediate and irreparable harm to the Debtor and its estate. A copy of the proposed order is attached hereto and incorporated herein by reference as Exhibit A.
17. Notice of this motion has been given to the following parties, or in lieu thereof, to their counsel, if known: (a) the United States Trustee; (b) the Debtor's 20 largest creditors; and (c) any party with an interest in the cash collateral. In light of the nature of the relief requested herein, the Debtor submits that no other or further notice is required.
18. Debtor further requests that the Court deem service of this Motion, pursuant to Bankruptcy Rules 4001(b)(1) and 4001(c)(1) and service of the proposed interim order, good and sufficient notice of the final hearing.
19. No prior request for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, Debtor KOHN FUNERAL HOME, LLC respectfully requests that the Court enter an interim order after a preliminary hearing:

- A. Authorizing the Debtor's immediate use of cash collateral in an amount sufficient to avoid immediate and irreparable harm to the Debtor and its estate;
- B. After a final hearing, enter a final order authorizing the Debtor use of cash collateral in the ordinary course of business; and
- C. Such other and further relief as this Court may deem just and proper.

KOHN FUNERAL HOME, LLC,  
Debtor in Possession

Dated: January 30, 2017

By: \_\_\_\_/s/ Roy Jackson Dent\_\_\_\_\_  
Of Orr Law, LLC

Roy Jackson Dent  
IL Bar # 6255835  
ORR LAW, LLC  
215 N. 4<sup>th</sup> Street  
Effingham, IL 62401  
Telephone: 217-342-1212  
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E-Mail: [roy.jackson.dent@gmail.com](mailto:roy.jackson.dent@gmail.com)

**EXHIBIT A**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF ILLINOIS  
BENTON DIVISION

IN RE: )  
 ) Chapter 11  
 KOHN FUNERAL HOME, LLC, )  
 ) 16-60489  
 Debtor in Possession. )

**ORDER AUTHORIZING INTERIM USE OF CASH COLLATERAL AND GRANTING  
ADEQUATE PROTECTION**

This matter comes before the Court on the Motion for Authorizing Interim Use of Cash Collateral filed by Debtor Kohn Funeral Home, LLC, the Court finds and concludes as follows:

1. The Court has jurisdiction over the Motion and issues presented therein pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (M).
2. Appropriate notice of the hearing on the Motion was provided to creditors and parties in interest as required under Rule 4001(b)(3) of the Federal Rules of Bankruptcy Procedure.
3. On December 22, 2016, Debtor filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code.
4. Debtor has operated since the petition date and continues to operate its business as a debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.
5. Debtor's secured creditors include First Community Bank of Xenia Flora and Flora Bank & Trust.
6. As of the date of the order of relief, Debtor owed these Banks at least \$653,412.15 which included principal, interest, fees and costs.
7. Flora Bank & Trust did not attempt to perfect a lien upon on the cash collateral of the

Debtor.

8. On October 28, 2016, First Community Bank Xenia Flora filed a UCC financing statement for the correct legal name of the Debtor.

9. Debtor requires the use of cash collateral to continue its business operations and to pay its regular daily expenses, including employees' wages, contract labor, utilities, taxes, and the other costs of conducting business.

10. Good cause has been shown for the entry of this Order. The ability of the Debtor to operate and maintain its business and maximize a return for the creditors requires the availability of cash collateral on and subject to the terms and conditions set forth in this Order. In the absence of the use of the cash collateral, the continued operation and maintenance of the Debtor's business may not be possible, and serious and irreparable harm to the Debtor, its estate, and its creditors would occur.

NOW THEREFORE, the interim relief requested in the Motion is GRANTED and it is hereby ORDERED:

A. The Debtor is permitted to use cash collateral only to the extents set forth herein or otherwise approved by the Court;

B. As adequate protection, First Community Bank Xenia Flora shall receive valid, binding, enforceable, and duly perfected replacement security interests that are only valid and non-avoidable to the same extent that the pre-petition liens of First Community Bank is valid and non-avoidable. The security and priorities granted to First Community Bank shall not affect or impair the separate existing collateral of all other creditors. As further adequate protection, First Community Bank shall receive regular payments on its loan in the ordinary course of Debtor's business;

C. A final hearing on the Motion shall be held on \_\_\_\_\_ at 9:00 a.m.;

D. Debtor shall at all times maintain a policy of property and casualty insurance in an amount equal to the value of the real estate and accompanying personal property;

E. Any objections to this agreement for the use of cash collateral shall be filed with the Court and served by fax and e-mail upon: Roy Jackson Dent, Orr Law, LLC, 215 N. 4<sup>th</sup> Street, Effingham, IL 62401 (e-mail: [roy.jackson.dent@gmail.com](mailto:roy.jackson.dent@gmail.com); facsimile: (217) 342-1214); United States Trustee, Office of the United States Trustee, Becker Building, Room 1100, 401 Main Street, Peoria, IL 61602; and

F. Debtor shall serve a copy of this Order on the twenty largest unsecured creditors, all parties requesting notice, and the United States Trustee as required by Rule 4001(d) of the Federal Rules of Bankruptcy Procedure.

ENTERED: \_\_\_\_\_

\_\_\_\_\_  
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF ILLINOIS  
BENTON DIVISION

IN RE: )  
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**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing instruments entitled **MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS AUTHORIZING DEBTOR'S USE OF CASH COLLATERAL PURSUANT TO SECTION 363 OF THE THE BANKRUPTCY CODE** has been electronically served on the 30<sup>th</sup> day of January, 2017, upon:

U.S. Trustee  
Southern District of Illinois  
Becker Building, Room 1100  
401 Main Street  
Peoria, IL 61602

Kristine M. Tuttle  
Black, Ballard, McDonald, PC  
108 S. 9<sup>th</sup> Street  
Mt. Vernon, IL 62824

And by first class United States Mail deposited this day in at the United States Post Office in Effingham, Illinois, upon:

Adams Memorial  
1286 W. State Street  
Charleston, IL 61920-8602

Continental Casket Co.  
123 S. 4<sup>th</sup> Street  
Watseka, IL 60970-1601

CrediSolve  
P.O. Box 48439  
Minneapolis, MN 55448-0439

Flora Bank & Trust  
1010 W. North Ave.  
Flora, IL 62839-1284

IDES  
2444 W. Lawrence Ave.  
Chicago, IL 60625-2912

Illinois Dept. of Rev.  
Bankruptcy Unit  
100 Randolph Street  
Level 7-425  
Chicago, IL 60601

IRS  
P.O. Box 7346  
Philadelphia, PA 19101-7346

Messenger Supply Co.  
2767 Momentum Pl  
Chicago, IL 60689-5327

Public Relations Institute  
P.O. Box 890287  
Charlotte, NC 28289-0287

Rex Vault Company  
807 E. Jourdan St.  
Newton, IL 62448-1544

Dated this 30th day of January, 2017.

By:     /s/ Roy Jackson Dent \_\_\_\_\_  
Roy Jackson Dent

Roy Jackson Dent  
ORR LAW, LLC  
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Effingham, IL 62401  
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Facsimile: (217) 342-1214  
E-Mail: [roy.jackson.dent@gmail.com](mailto:roy.jackson.dent@gmail.com)