

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF CONNECTICUT

IN RE:

CHAPTER 11

LA4Ever, LLC, et al.
DEBTORS

Case No. 15-30546 AMN

JOINTLY ADMINISTERED

LA4Ever, LLC
LLCD, LLC
MOVANTS

Vs.

SOUTHPORT SECURED LENDING FUND, LLC
RESPONDENT

October 3, 2016

MOTION FOR CONTINUED USE OF CASH COLLATERAL

LA4Ever, LLC and LLCD, LLC, Debtors in Possession (together, the “Debtors”), through their attorneys, Coan, Lewendon, Gulliver & Miltenberger, LLC, file their motion for continued use of cash collateral pursuant to 11 U.S.C. § § 363 (c)(2)(B) and 362(d)(3) and Rule 4001(b) of the Federal Rules of Bankruptcy Procedure and other relevant provisions of the Bankruptcy Code and Rules, and respectfully represent as follows:

1. The Debtors filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code on April 8, 2015 (the “Petition Date”). Debtors are “single asset real estate” (“SARE”) debtors as the term is defined in Section 101(51B) of the Bankruptcy Code. These cases are jointly administered in accordance with an order entered April 23, 2015 at ECF #16.
2. The Debtors are conducting their businesses and managing their properties as Debtors in Possession pursuant to §§1107 and 1108 of the Bankruptcy Code.
3. LA4Ever, LLC (the “Debtor”) is a SARE Debtor owning real estate at 325-327 Saint John Street, in the Wooster Square neighborhood of New Haven, Connecticut (the “Saint John

Street Property”). The Saint John Street Property is a residential real estate apartment building with six units. At present all six units are occupied for a monthly rent roll of \$9,750.

4. LLCDC, LLC, (“LLCDC”) is also a SARE Debtor owning real estate at 23 Brown Street, also in the Wooster Square neighborhood in New Haven, Connecticut (the “Brown Street Property,” and together with the Saint John Street Property, the “Properties”). The Brown Street Property consists of five residential units and at present three of the five units are occupied for a monthly rent roll of \$3,500. Debtor expects to have the unoccupied units rented by about November 2016. The monthly rent roll for all five units is \$6,150.

5. Respondent Southport Secured Lending Fund, LLC, is a limited liability company organized and existing under the laws of the State of Connecticut, and maintains its offices at 501 Kings Highway East, Fairfield, CT 06825. On information and belief Respondent asserts a single claim evidenced by a note secured mortgages recorded against each one of the Properties. The Respondent’s collateral also includes conditional assignments of leases and rentals on each of the Properties. Therefore rental proceeds may constitute cash collateral as that term is used in §363 of the Bankruptcy Code.

6. Respondent’s claim is estimated at \$920,000 and bears non-default interest of 13%. The total value of the properties, less the senior indebtedness for real property taxes, and water and sewer charges, exceeds \$920,000.

7. Pursuant to §363(c)(4) and (2) of the Bankruptcy Code a Debtor must segregate and account for cash collateral in its possession upon the filing of a petition under Title 11, United States Code, unless the Court, after notice and a hearing, authorizes use of such cash collateral, which hearing may be a preliminary hearing and shall be scheduled in accordance with the needs of the Debtor. An exception to said provisions is contained in Section 362(d)(3) allowing SARE Debtors to use rentals to pay monthly payments “equal to interest at the then applicable non-default contract rate of interest on the value of the creditor’s interest in the real estate...” 11 U.S.C. Section 362(d)(3)(B)(ii).

8. Unless the Debtors in Possession are authorized to use cash collateral they will be unable to pay essential operating expenses necessary to the ongoing business of the Debtors in Possession. Without authorization to use cash collateral the Debtors in Possession will immediately cease operations.

9. With the petition Debtors filed their original motions for authority to use cash collateral and eighteen monthly orders have been previously entered authorizing cash collateral use from the Petition Date through October 31, 2016.

10. For the period from November 1, 2016, through November 30, 2016, the Debtors together require use of cash for essential expenses of the business in the total amount of \$6,831 as set forth in the budget appended as Exhibit A. Certain items such as real property taxes are liabilities that must be funded by setting aside money monthly in order to meet the Debtors' post-petition obligations as they become due. Further Debtors request authorization of up to 10% overage without further order should estimates in any particular category be low.

11. As adequate protection for the interests of the Respondent in the cash collateral assets of the Debtors in Possession, as the same subsequently may be proven to this Court, the Debtors in Possession hereby propose to provide said creditor with its respective lien rights on any post-petition rentals and leases to the same extent and in the same priority as existed at the time of the filing of the original petition. In addition, Debtors have been, and shall continue to pay to said creditor adequate protection payments totaling \$9,967 monthly.

WHEREFORE, the Debtors pray the Court enter an order pursuant to Section 363(c)(2)(B) and Section 362(d)(3) authorizing use of cash collateral on a preliminary basis as described above and on the attached Exhibit A for the period from November 1, 2016, through November 30, 2016, set a new hearing on consideration of continued cash collateral use, and such other and further relief this Court deems just and appropriate.

Dated at New Haven, CT, this 3rd day of October 2016.

LA4Ever, LLC
LLCD, LLC

By: /s/ Carl T. Gulliver
Carl T. Gulliver
Their Counsel
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EXHIBIT A
Projected Income and Expenses
November 2016

LA4Ever, LLC

Income	November
Rent Roll	\$9,750
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Expenses	
Real Property Tax	\$1,481
Insurance	\$951
Maintenance & Cleaning	\$288
Lawn Care/Groundskeeping	\$168
RWA Water bills	\$124
GNHWPCA Sewer	\$95
UI	\$144
SCGC	\$82
Repairs	\$110
Chapter 11 Quarterly Fees	\$217
Total Expenses	\$3,660
Net Profit/Loss - LA4Ever, LLC	\$6,090

LLCD, LLC

Income	November
Rent Roll	\$6,150
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Expenses	
Real Property Tax	\$906
Insurance	\$565
Maintenance & Cleaning	\$126
Lawn Care / Groundskeeping	\$66
RWA Water bills	\$77
GNHWPCA Sewer	\$67
UI	\$126
SCGC	\$0
Repairs	\$100
Chapter 11 Quarterly Fees	\$217
Total Expenses	\$2,250
Net Profit/Loss - LLCD, LLC	\$3,900

EXHIBIT A
Projected Income and Expenses
November 2016

<i>Net Profit</i>	\$9,990
<i>Before Mortgage Interest</i>	
<i>*Less Secured Creditor Payment</i>	\$9,967
<i>Net Income</i>	<hr/> \$23

*\$920,000 * 13%/12 = \$9,967/mo

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PROPOSED
ORDER AUTHORIZING USE OF CASH COLLATERAL

Upon the motion of LA4Ever, LLC and LLCD, LLC, Debtors in Possession, to use cash collateral, upon notice by the Debtors in Possession and after hearing thereon, and good cause having been shown, it is therefore by the Court,

ORDERED, that the Motion is granted and the Debtors in Possession be, and hereby are authorized to use rentals or other funds that may constitute cash collateral in which Southport Secured Lending Fund, LLC, may assert secured interests, and that such use, or escrow for future use, may be up to the total amount of expenses projected to be (i) \$5910, and (ii) \$9,967 for payment to secured creditor Southport Secured Lending Fund, LLC, or its servicer, of cash and rental proceeds in accordance with the budget appended to the Motion as Exhibit A, allowing up to 10% overage in any category without further order, for the period from November 1, 2016 through November 30, 2016, and it is further,

ORDERED, that to the extent the interest of Respondent in such cash collateral may be proven, and to the extent such cash collateral is used, said claimant is hereby granted secured interests in all post-petition rents and leases as the same may be generated, PROVIDED, however, that such post-petition secured interests shall be subordinate to all fees that shall become due the Office of the U.S. Trustee pursuant to 28 U.S.C. §1930(a)(6), and it is further

ORDERED, that a continued hearing on use of cash collateral during the Chapter 11 proceedings of LA4Ever, LLC, and LLCD, LLC, shall commence on the ___ day of November 2016, at ____ o'clock __. m., at the at the United States Bankruptcy Court for the District of Connecticut, 157 Church Street, New Haven, CT, 06510.