

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF KANSAS  
WICHITA DIVISION**

**In Re:** ) **In Proceedings Under Chapter 11**  
 )  
**MISSION TOWERS PROPERTIES I, LLC,** ) **Case No. 10-12286**  
 )  
**Debtor.** )

**DEBTOR'S MOTION PURSUANT TO SECTIONS 105, 361, 362, 363 AND 507 OF  
THE BANKRUPTCY CODE AND BANKRUPTCY RULE 4001 FOR ENTRY OF  
AN ORDER (I) AUTHORIZING USE OF CASH COLLATERAL, (II)  
GRANTING ADEQUATE PROTECTION , (III) MODIFYING THE  
AUTOMATIC STAY AND (IV) SCHEDULING A FINAL HEARING**

COMES NOW Mission Towers Properties I, LLC (the “**Debtor**”) by and through its counsel of record, Edward J. Nazar and Nicholas R. Grillot of Redmond & Nazar, L.L.P., and hereby moves the Court for an order (1) authorizing the use of cash collateral of Union Bank (the “**Secured Lender**”), (2) granting adequate protection, (3) modifying the automatic stay, and (4) scheduling a final hearing.

In support thereof, the Debtor asserts:

### Background

1. On July 9, 2010 (the “**Petition Date**”), the Debtor filed a voluntary petition (the “**Voluntary Petition**”) under Chapter 11 of Title 11 of the U.S. Bankruptcy Code, 11 U.S.C.A. §§ 101 et seq. (the “**Bankruptcy Code**”). The Debtor has continued in the management and control of its business and property as debtor in possession pursuant to Bankruptcy Code §§ 1107 and 1108.

2. Secured Lender is a state banking corporation duly organized under the laws of Missouri.

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### **Jurisdiction and Venue**

3. This Court has subject matter jurisdiction to consider and determine this matter pursuant to 28 U.S.C. 1334.

4. This is a core proceedings to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. § 1408 and 28 U.S.C. § 1409.

### **Debtor's Business**

5. The Debtor is the owner of a nine-story office building located at 5700 Broadmoor, Mission, Kansas 66224, known as Mission Towers (the “**Property**”).

### **The Secured Lender's Claim**

6. The following documents securing Secured Lender's claim against the Debtor were executed and delivered by the Debtor for good and sufficient consideration and duly recorded or filed, if applicable, by Secured Lender:

(a) Promissory Note, dated September 16, 2004, in the original principal amount of \$7,697,259.67 (“**First Note**”);

(b) Mortgage, Assignment of Leases, Security Agreement, Fixture Filing and Financing Statement, recorded September 21, 2004, modified by Amended and Restated Mortgage, Assignment of Leases, Security Agreement, Fixture Filing and Financing Statement dated September 29, 2009, recorded October 8, 2009 (“**First Mortgage**”);

(c) Promissory Note dated March 31, 2006, in the original principal amount of \$2,230,000 (“**Second Note**”);

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(d) Mortgage, Assignment of Leases, Security Agreement, Fixture Filing and Financing Statement, recorded April 3, 2006, modified by an Amended and Restated Mortgage, Assignment of Leases, Security Agreement, Fixture Filing and Financing Statement, recorded October 8, 2009 (“**Second Mortgage**”);

(e) Promissory Note dated September 11, 2008, in the original principal amount of \$2,650,000 (“**Third Note**”);

(f) Mortgage, Security Agreement and Fixture Filing, executed by Borrower, and recorded on September 16, 2008, modified by an Amended and Restated Mortgage, Security Agreement and Fixture Filing, in the amount of \$3,250,000, dated Sept. 29, 2009, recorded March 5, 2010 (“**Third Mortgage**”);

(g) Assignment of Leases, Rents and Profits, recorded on September 16, 2008

(h) Loans Modification Agreement, dated March 13, 2009, which increased the face amount of the Third Note from \$2,650,000 to \$3,250,000, provided for interest-only payments on the Notes between December 2008 through August 2009, and required that the Debtor enter into a lockbox arrangement with Secured Lender (“**Loan Modification Agreement**”), and

(i) Lock Box and Restricted Account Agreement March 13, 2009 (“**Lock Box Agreement**”), pursuant to which Debtor agreed to direct its tenants to

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remit payment of all Rents directly to Plaintiff, and all Rents to be deposited into a restricted access depository account in Debtor's name (the "**Lock Box Account**") and applied in accordance with the Lock Box Agreement.

The Notes, Mortgages, Assignment of Rents, Loan Modification Agreement, Lock Box Agreement and each other document executed in connection therewith are hereinafter collectively referred to as the "**Loan Documents**".

7. Pursuant to the Mortgages and Assignment of Rents, the Debtor assigned to Secured Lender, among other things, all right, title and interest in and to the present and future rents of the Property. The Mortgages granted to the Debtor the right to collect the Rents (as defined below) so long as the Debtor was not in default under the terms of the Loan Documents.

8. The Mortgages and Assignment of Rents created a valid and duly perfected first priority mortgage lien on the Property and a present assignment of and first lien security interest in the Rents.

9. The Debtor acknowledges and admits that, as of the Petition Date, the Debtor was indebted to Secured Lender in the principal amount of \$7,373,787.53, plus accrued interest of \$61,413.17, late charges of \$4,250, release fees of \$50 and other charges authorized under the First Note; the principal amount of \$2,199,051.25, plus accrued interest of \$61,786.70, late charges of 11,659.55, release fees of \$50 and other charges authorized under the Second Note; and the principal amount of \$2,847,137.23,

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plus accrued interest of \$4,982.49, late charges of \$16,616.14, release fees of \$50 and other charges authorized under the Third Note.

10. The Debtor is in default of its obligations under the Loan Documents.

#### **Post-Petition Rents**

11. On and after the Petition Date, the Debtor and/or Secured Lender has received and collected and continues to receive and collect, rents, issues and profits (collectively, together with the Post-Petition Rents as hereinafter defined, and including, without limitation, forfeited security deposits, recoveries of delinquent rent, interest income and other profits from rent receipts arising from the Property, the “**Rents**”). The Rents, whether in possession of the Debtor or Secured Lender, constitute an asset of the Debtor’s bankruptcy estate and are cash collateral within the meaning of 11 U.S.C. §363.

12. The use of Rents is necessary to operate the Property, provide services to tenants of the Property and preserve and maintain the integrity and value of the Property.

13. The Debtor believes that it is in the best interest of the estate and its creditors to utilize the Rents in the manner provided for herein.

14. Secured Lender asserts that all funds currently held by the Debtor and itself constitute Rents and are cash collateral within the meaning of § 363 of the Bankruptcy Code.

#### **Summary of Relief Requested**

15. By this motion (the “Motion”), the debtor requests (i) pursuant to Sections 105, 361, 362, 363 and 507 of Title 11 of the United States Bankruptcy Code (the

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“Bankruptcy Code”) and Rule 4001(b)(1) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”):

- a. Authority to use cash collateral;
- b. Authority to grant adequate protection to Union Bank

and (ii) pursuant to Bankruptcy Rule 4001(b)(2), the scheduling of a final hearing (the “Final Hearing”) with respect to the foregoing relief.

**Bankruptcy Rule 4001 Concise Statement**

In accordance with Bankruptcy Rule 4001, below is a summary of the nature of the debtor's request and proposed use of Cash Collateral. It should be noted that the Secured Lender is the only party with interest in the Cash Collateral:

1. Segregation of Rents. Any and all Rents hereafter received by the Debtor shall be collected, secured, maintained and segregated and immediately deposited in the Debtor's Lock Box Account at Union Bank, which shall be designated as a debtor-in-possession account. All Rents deposited in the Lock Box Account which exceed the Debtor's Operating Expenses as defined below shall be deposited in a separate interest bearing account at Union Bank (the “**Cash Collateral Account**”) on or before the 15th of the month following the calendar month in which the Rents were collected. The Cash Collateral Account shall be kept separate and apart from any other revenues of the Debtor, shall not be commingled or intermingled with other revenues of the Debtor not constituting Rents, and shall not be used except in accordance with the terms of this Order.

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2. Use of Rents. The Rents shall not be used except to pay the ordinary, necessary and reasonable post-petition operating expenses, including United States Trustee fees calculated under 28 U.S.C. §1930 (collectively, the "**Operating Expenses**") of the Property, set forth in the Debtor's month-by-month Operating Expense Budget for July 10, 2010 to September 30, 2010, attached hereto as Exhibit A. The Operating Expense Budget may be modified by written agreement of the Debtor and Secured Lender. All Operating Expenses shall be paid as and when the same become due and payable. Notwithstanding anything herein to the contrary, in any calendar month Rents shall: (a) not be used to pay Operating Expenses in an amount that exceeds by more than 10%, on a line-item basis, the amount of the relevant line-item expense set forth in the Budget, without obtaining the prior written consent of Secured Lender, (b) not be used to make any payments to insiders of the Debtor; (c) not be used to pay any professional fees without the prior express written consent of Secured Lender, and (d) not be used to pay or incur any obligations for expenditures (collectively, the "**Capital Expenditures**") related to structural damage or repairs to the Property (and the electrical, plumbing, ventilating and other systems (collectively, the "**Systems**") servicing the Property) without the prior consent of Secured Lender (other than repair of the water main line damaged July 10, 2010 and other miscellaneous expenditures for parking lot repair, card reader repair and other expenditures to a maximum of \$4,000.

3. Extension of Operating Budget. Prior to August 31, 2010, the Debtor shall propose an Operating Expense Budget for an additional 3 months for consideration

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by the Secured Lender. In the event that the Debtor and Secured Lender are unable to reach an agreement on the extended Operating Expense Budget, expenses going forward shall be limited to those set forth for July 10, 2010 through September 30, 2010. To the extent that additional Operating Expense Budgets are required, Debtor shall propose to the Secured Lender an additional 3 month Operating Expense Budget at least 30 days prior to the last day of the budgeted period, with operating expenses capped at 110% of the final budgeted month to continue in the event the Debtor and Secured Lender are not able to agree on an extension to the Operating Expense Budget. Nothing contained herein shall constitute an agreement by the Secured Lender to consent to any future budget proposal or in any way as a waiver of the Secured Lender's rights to contest the plan of reorganization proposed by the Debtor or to seek relief from the automatic stay at the conclusion of any budget period or in the event the Debtor's plan of reorganization is not confirmed.

4. Capital Expenditures Budget. Prior to July 31, 2010, the Debtor shall propose a Capital Expenditures Budget for the period of July 9, 2010 through December 31, 2010, for consideration by the Secured Lender. To the extent of availability of funds after payment of Operating Expenses and interest payments to Secured Lender in accordance with paragraph 5 below, Secured Lender shall set aside funds from the Cash Collateral Account, to be used by the Debtor for the sole purpose of Capital Expenditures for the Property in accordance with a Capital Expenditures Budget authorized by Secured Lender.

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5. Obligations.

(a) Periodic Payments. As adequate protection for the use by Debtor of Secured Lender's cash collateral, with respect to each calendar month ending during the period commencing on the Petition Date and terminating on the date on which the authorization contained in this Order is terminated, the Secured Lender shall be entitled to auto-debit from the Debtor's Cash Collateral Account on the seventh day of the next succeeding calendar month, (a) the interest due on the Notes at the non-default rate of interest under each such Note and (b) all excess cash flow from the Property from the preceding calendar month which was not disbursed to pay Operating Expenses and Capital Expenditures (individually, the "**Periodic Payment**" and collectively, the "**Periodic Payments**"). Application of the Periodic Payments to the obligations owed to Secured Lender will be addressed in any final order authorizing use of cash collateral.

(b) Financial and Business Reports. On or before the respective dates set forth below, the Debtor shall deliver to Secured Lender the following financial information and business data;

(i) Operating Reports. The Debtor shall provide financial information and business data to the Debtor to enable the Debtor to prepare and file timely monthly operating reports with the United States Trustee, and the Debtor shall prepare and timely file monthly operating reports with the United States Trustee and deliver copies to the Secured

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Lender;

(ii) Check Records. Each month, the Debtor shall deliver to Secured Lender copies of the Debtor's check registers for the Debtor's Operating Account (or a written summary identifying by check number, payee and purpose for each check written by the Debtor) in respect of the immediately preceding month; and

(iii) Financial Statements. Promptly upon the Debtor's receipt or preparation thereof, the Debtor shall prepare and deliver to Secured Lender a copy of (a) the Debtor's financial statements for each annual, quarterly or other reporting period, (b) the Debtor's federal and state income tax returns in respect of its most recently ended fiscal year and the current fiscal year, and (c) all financial reports filed with the U.S. Trustee.

(c) Books and Records. The Debtor shall make available for review and copying by Secured Lender upon written request therefore, copies of (i) all vouchers, invoices, contracts and other writing relating to any and all disbursements made or obligations incurred by the Debtor with respect to the maintenance and operation of the Property and (ii) any and all other books and records of the Debtor pertaining to the Debtor's business or financial affairs.

(d) Maintenance and Management of Property. Subject to the limitations for use of revenues herein, the Debtor shall maintain, keep and preserve the Property in accordance with the terms and provisions of the Loan

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Documents to the same extent enforced prepetition.

(e) Insurance. The Debtor shall maintain casualty insurance upon the Property in a value at least equal to the outstanding principal balance on the Loan and provide such documentation of insurance coverage as is reasonably requested by the Secured Lender.

(f) Taxes. The Debtor shall make timely payment of all real estate taxes assessed for the post-petition period in respect of the Property and provide to the Secured Lender such proof of payment as the Secured Lender shall reasonably request. Each month, the Debtor shall pay to Secured Lender 1/12<sup>th</sup> of the estimated annual real estate taxes to be held in escrow by Secured Lender for payment of said real estate taxes.

(g) Audits and Inspections. Upon reasonable prior notice, the Debtor shall permit representatives, agents and/or employees of Secured Lender to visit, inspect, have reasonable access to and consult with, as the case may be (a) the Debtor's books and records, (b) the personnel of the Debtor who are familiar with the Debtor's books and records or the information set forth therein, (c) the Property, (d) any property manager retained by the Debtor and (e) such other information as Secured Lender may reasonably request, and shall cooperate and consult with, and provide such representatives, agents and/or employees all such information as they may reasonably request for all reasonable purposes including, without limitation, the following:

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(i) to determine and verify compliance by the Debtor with the

terms of this Interim Agreed Order Authorizing the Use of Cash Collateral

(the “**Cash Collateral Order**”);

(ii) to appraise and evaluate the Property; and

(iii) to audit or review the operations of the Debtor's business.

6. Post-Petition Liens. As further adequate protection for the use of the Rents

and to secure in all respects the interest of Secured Lender against any diminution in the value of such cash collateral, and in order to secure the Debtor's obligations to Secured Lender under the Loan Documents, whether incurred prior to or following the Petition Date, Secured Lender should be granted a first-priority lien and security interest and shall have a continuing lien and security interest (the “**Post-Petition Lien**”) on the Property and any and all rents, income and profits (collectively, the “**Post-Petition Rents**”) arising there from.

7. Validity and Perfection of Post-Petition Liens. The Post-Petition Lien

should be, and for all purposes deemed to be, valid, enforceable and duly perfected, and no filing or recordation or other act in accordance with any applicable local, state, federal or common law, rule or regulation shall be necessary to create or perfect such mortgages, liens and security interests.

8. Ratification of Prior Acts. Secured Lender shall have no liability to the

Debtor for any act or omission in good faith hereunder or with regard to the subject matter hereof whether such act occurred before or after the filing by Debtor of its petition

herein, nor shall any act or omission of Secured Lender in good faith under a Cash Collateral Order give rise to any defense, counterclaim, or right of setoff under the Notes or any of the Loan Documents, and, the Debtor expressly waives any such defense, counterclaims or right of setoff. Entry of a Cash Collateral Order in no way constitutes a waiver or forgiveness by Secured Lender of existing defaults by the Debtor under the terms of the Notes or the Loan Documents and does not constitute a waiver by Secured Lender of all or any of its rights under the Notes or the Loan Documents, or under applicable law.

9. Relief From Stay to Apply Periodic Payments. The automatic stay under Bankruptcy Code § 362(a) should be modified to the extent necessary to permit Secured Lender to apply the Periodic Payments in accordance with paragraph 5(a) above.

10. Relief from Stay. In the event that the Debtor shall fail to make any Periodic Payment, on or before the tenth (10th) day following receipt by the Debtor's counsel of record of a written notice from Secured Lender or its counsel of record specifying such failure, Debtor's authority to use cash collateral shall immediately terminate and the automatic stay shall be immediately lifted, without further order of this Court, and Secured Lender shall be entitled to avail itself of all available rights and remedies at law or equity, and Secured Creditor shall be entitled to, and Debtor hereby consents to, the immediate appointment of a receiver for the Property.

11. Prohibition of Bankruptcy Code. The Debtor shall not cause or permit, or consent to cause or permit, any liens, mortgages or security interests, pursuant to

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Bankruptcy Code § 362(d), having priority that is equal or senior to any of the liens evidenced by the Loan Documents to encumber any or all of the Property or the Rents.

12. Section 506(c) Waiver. No costs, expenses, fees, or charges incurred by the Debtor or any other party in connection with the preservation or disposition of the Property, whether incurred in connection with the within Chapter 11 case shall be charged to or recovered from Secured Lender or the Property, whether pursuant to Code § 506(c) or otherwise, unless consented to by Secured Lender, except that items included in the Budget may be paid by the Debtor out of Secured Lender's cash collateral so long as this order remains in effect. Secured Lender does not consent to the incurrence of the Debtor, the Debtor's counsel or any other person, party or entity of any of the costs, expenses, fees, or charges contemplated under Bankruptcy Code § 506(c), other than the expenses associated with the sale of the Property under 11 U.S.C. §363, and no such consent shall be implied from any action, inaction or acquiescence by Secured Lender. Secured Lender reserves the right to object to any Section 506(c) surcharge claim.

13. Section 507(b) Priority. To the extent the Debtor's use of Cash Collateral results in a decrease in the value of Secured Lender's interest in the Property and Rents as of the Petition Date, or to the extent that any of the Rents collected after the date of this Motion are used by the Debtor for purposes not permitted by any Cash Collateral Order or by subsequent court order or consent of Secured Lender, Secured Lender shall have an allowed claim having priority over any other obligations now in existence or hereafter incurred by the Debtor and over any and all administrative expenses or priority claims of

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any kind including as specified in, or ordered pursuant to, §§ 326, 330, 331, 503(b), 506(c), 507(a) or 507(b) and 726 of the Bankruptcy Code, with the exception of or a “carve-out” for allowed professional fees paid as a retainer to Redmond & Nazar, L.L.P. and the United States Trustee’s fees. The foregoing is without prejudice to any other claim that Secured Lender may have under Bankruptcy Code § 507(b) arising under the circumstances contemplated by Bankruptcy Code § 507(b).

14. Further Relief. Any entry of a Cash Collateral Order shall not prejudice, impair or otherwise affect the rights of Secured Lender or any other party in interest to seek (i) the appointment of a trustee under Bankruptcy Code § 1104, relief from the automatic stay under Bankruptcy Code § 362(d) and Code § 362(iii), relief in the event the Debtor has heretofore used or hereafter uses the Rents contrary to the provisions of any Cash Collateral Order, (iv) dismissal or conversion of the within case under Bankruptcy Code § 1112, or (v) any other appropriate relief.

15. Proposed Term of Order. The Debtor request the use the Rents through August 30, 2010, so long as the Debtor is in compliance with the terms and provisions of any Cash Collateral Order, or as otherwise ordered by the Court. Further use of Rents and cash collateral shall be conditioned upon entry of a final order authorizing use of cash collateral, upon terms acceptable to Secured Lender or as otherwise ordered by the Court. Secured Lender shall notify the Debtor’s counsel in writing of any noncompliance by the Debtor with the terms and provisions of this Cash Collateral Order.

**The Proposed Use of Cash Collateral Should Be Approved**

**A. The Use of Cash Collateral is Warranted and Should be Approved**

16. Pursuant to Section 363(c)(2) of the Bankruptcy Code, a debtor may not use cash collateral unless:

“(A) each entity that has an interest in such cash collateral consents; or (B) the court, after notice and a hearing, authorized such use, sale or lease in accordance with the provisions of this section.” 11 U.S.C. §363(c)(2).

17. As set forth above, cash is necessary for working capital and capital expenditures, and operating costs and expenses at the outset of, and during, this Chapter 11 case. The debtor does not have available sources of working capital and financing to carry on the operation of its business without the use of Cash Collateral. The debtor's ability to maintain business relationships with its vendors, suppliers and customers and to meet payroll and other operating expenses is essential to the debtor's continued viability and the value of its business as going concerns. The use of Cash Collateral is therefore critical to the preservation and maintenance of the going concern value of the debtor, as well as the value of the Collateral.

**B. The Proposed Adequate Protection Should be Approved**

18. Section 363(e) of the Bankruptcy Code provides that:

“on request of an entity that has an interest in property used... or proposed to be used... by the [debtor in possession], the court...

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shall prohibit or condition such use... as is necessary to provide

adequate protection of such business.” 11 U.S.C. §363(e).

“The concept of ‘adequate protection’ is not defined in the

[Bankruptcy] Code except by the implications of the examples of

adequate protection listed in §361.” *In Re Beker Indus. Corp.*, 58

B.R. 725, 736 (Bankr. S.D.N.Y. 1986).

Section 361 of the Bankruptcy Code contains a non-exhaustive list of acceptable

forms of adequate protection, including a cash payment or periodic cash

payments, additional liens, replacement liens, and the “indubitable equivalent of

such equity’s interest in such property.” 11 U.S.C. §361.

19. The determination of adequate protection is a “fact-specific inquiry.” *In Re Mosello*, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1996) (“Its application is left to the vagaries of each case...”) (citation omitted). The focus of the adequate protection requirement is to preserve the secured creditor’s position at the time of the bankruptcy filing and to protect the secured creditor from diminution in the value of its collateral during the reorganization process. *Id.* at 288 (citation omitted); *Beker*, 58 B.R. at 736. See *In Re WorldCom, Inc.*, 304 B.R. 611, 618-19 (Bankr. S.D.N.Y. 2004) (“The legislative history for section 361 of the Bankruptcy Code, which sets forth how adequate protection may be provided under section 363, makes clear that the purpose is to insure that the secured creditor receives the value for which the creditor bargained for prior to the debtor’s bankruptcy.”). “However, neither the legislative history nor the Bankruptcy

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Code require the Court to protect a creditor beyond what was bargained for by the parties." *Id.* at 619. *See Beker*, 58 B.R. at 741 ("Adequate protection, not absolute protection, is the statutory standard.").

20. The Proposed Adequate Protection offered by the debtor to Union Bank is appropriate. Union Bank is receiving Adequate Protection Liens and Adequate Protection Superpriority Claims in the same priority as existed prior to the Commencement Date to adequately protect against the diminution of the value of their Collateral. The debtor believes that it is in the best interest of its estate, creditors and all parties in interest, that it reaches a consensual rather a litigated resolution with Union Bank regarding the use of Cash Collateral and provide them with the Proposed Adequate Protection. The Proposed Adequate Protection will sufficiently protect the interest of Union Bank in the Cash Collateral. Accordingly, the Proposed Adequate Protection is fair and reasonable and sufficient to satisfy the requirement of Section 363(c)(2) of the Bankruptcy Code.

**The Interim Approval Should be Granted**

21. Bankruptcy Rule 4001(b) provides that a final hearing on a motion to use cash collateral may not be commenced earlier than fifteen (15) days after the service of such motion. Upon request, however, the Court is empowered to conduct a preliminary expedited hearing on the motion and authorize the use of cash collateral to the extent necessary to avoid immediate and irreparable harm to the debtor's estate pending a final hearing.

In the United States Bankruptcy Court for the District of Kansas  
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Bankruptcy Case No. 10-11369-11  
*Debtor's Motion Pursuant to Sections 105, 361, 362, 363 And 507 of The Bankruptcy Code and  
Bankruptcy Rule 4001 for Entry of An Order (I) Authorizing Use Of Cash Collateral, (II)  
Granting Adequate Protection, (III) Modifying The Automatic State, And (IV) Scheduling A Final  
Hearing*

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22. Absent authorization from the Court to use Cash Collateral on an interim basis pending Final Hearing, the debtor will be immediately and irreparably harmed. As set forth above, the debtor's ability to use Cash Collateral is critical to its ability to operate its business and continue the orderly liquidation of its store location. Without immediate liquidity provided by the use of Cash Collateral, the debtor will simply be unable to conduct normal business operations, will be unable to pay basic expenses, like payroll, and utilities and will suffer a precipitous loss of value to the detriment of all parties in interest. Indeed, absent the interim use of Cash Collateral, the debtor's business will be brought to an immediate halt and the debtor's objective of liquidating its business as going concern, while maintaining the value of the assets for the benefit of its creditors will fail without a fair opportunity to achieve the purpose of Chapter 11 of the Bankruptcy Code. Serious and irreparable harm to the debtor and its estate would occur, with disastrous consequences for the debtor, its estate and creditors.

23. The Interim Order seeks approval to use Cash Collateral only in the amount necessary to sustain the debtor's operation prior to the Final Hearing, as set forth above.

24. Moreover, the Debtor and Secured Lender have agreed to terms on an Interim Cash Collateral Order consistent with the terms referenced above. A Copy of the Agreed Interim Order is Attached Hereto as Exhibit B.

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**The Debtor Satisfies Bankruptcy Rule 6003**

25. The debtor submits that the facts cited herein illustrate that the relief requested is necessary to avoid immediate and irreparable harm to the debtor and its estate. Based on the foregoing, Bankruptcy Rule 6003 has been satisfied.

**Notice**

26. No trustee or examiner has been appointed in this Chapter 11 case. The debtor has served notice of this motion on (i) the United States Trustee; (ii) counsel for Union Bank, N.A.; (iii) the Internal Revenue Service; (iv) the Kansas Department of Revenue; and (v) those creditors as set forth on the matrix attached hereto. The debtor submits that no other or further notice need be provided.

27. No previous request for the relief sought herein has been made by the debtor to this or any other court.

WHEREFORE the debtor respectfully requests that this Court grant the relief requested herein and such other and further relief as it deems just and proper.

RESPECTFULLY SUBMITTED:

REDMOND & NAZAR, L.L.P.

/s/ Nicholas R. Grillot  
Edward J. Nazar, #09854  
Nicholas R. Grillot, #22054  
245 North Waco, Suite 402  
Wichita, Kansas 67202  
Telephone: (316) 262-8361  
Fax: (316) 263-0610  
E-mail: ngrillot@redmondnazar.com

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**EXHIBIT A**

**Operating Expense Budget**

(Attached)

MISSION TOWERS 6 MONTH CASH FLOW PROJECTION						
	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11
Rental Income:	\$206,323	\$206,323	\$206,323	\$206,323	\$206,323	\$206,323
Operating Expenses:						
Property Taxes:	\$27,500	\$27,500	\$27,500	\$27,500	\$27,500	\$27,500
Insurance:	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500
Utilities:	\$35,923	\$35,923	\$35,923	\$35,923	\$35,923	\$35,923
Management & Maintenance:	\$21,429	\$21,429	\$21,429	\$21,429	\$21,429	\$21,429
Janitorial & Cleaning:	\$12,500	\$12,500	\$12,500	\$12,500	\$12,500	\$12,500
Landscaping & Grounds:	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Miscellaneous:	\$3,251	\$3,251	\$3,251	\$3,251	\$3,251	\$3,251
Total Operating Expenses:	\$109,102	\$109,102	\$109,102	\$109,102	\$109,102	\$109,102
<b>Net Operating Income:</b>	<b>\$97,220</b>	<b>\$97,220</b>	<b>\$97,220</b>	<b>\$97,220</b>	<b>\$97,220</b>	<b>\$97,220</b>

Label Matrix for local noticing 1083-6 Case 10-12286 District of Kansas Wichita Fri Jul 16 17:19:40 CDT 2010	(p) INTERNAL REVENUE SERVICE CENTRALIZED INSOLVENCY OPERATIONS PO BOX 21126 PHILADELPHIA PA 19114-0326	Mission Towers Properties I LLC 4901 W 136th St Leawood, KS 66224-5926
US Attorney 301 N Main 1200 Epic Center Wichita, KS 67202-4812	Wichita Headquarter Office 167 US Courthouse 401 North Market Wichita, KS 67202-2089	AT&T Communications PO Box 930170 Dallas TX 75393-0170
Ameristone 6909 Martindale Rd Shawnee KS 66218-9331	Cintas Corp 2050 E Kansas City Rd Olathe KS 66061-5859	City Wide Maintenance Co Inc 8454 Nieman Rd Lenexa KS 66214-1512
Deffenbaugh Industries Inc 2601 S Midwest Drive Kansas City KS 66111-8801	Design Mechanical PO Box 875988 Kansas City MO 64187-5988	Fremont Industries PO Box 67 4400 Valley Industrial Blvd Shakopee MN 55379-1859
Gabriel Murphy 4901 W 136th St Leawood KS 66224-5926	Goodwin Pro Turf 6945 W 152nd Terr Overland Park KS 66223-3124	Jefferson Welles 1100 Main St Kansas City MO 64105-2120
Johnson County Treasurer 111 S Cherry St Olathe KS 66061-3471	Johnson County Wastewater 11811 S Sunset Dr Suite 2500 Olathe KS 66061-7061	Kansas City Power & Light PO Box 219330 Kansas City MO 64121-9330
Kansas Gas Service PO Box 3535 Topeka KS 66601-3535	Mitch Murchs Maintenance Management PO Box 798129 St Louis MO 63179-8001	Murphy Properties III LP 4901 West 136th Street Kansas City MO 64138
Oneok Energy Marketing Company PO Box 502890 St Louis MO 63179	Protection One PO Box 5714 Carol Stream IL 60197-5714	Schindler Elevator PO Box 93050 Chicago IL 60673-3050
Sonnenschein Nath Rosenthal 4520 Main St Suite 1100 Kansas City MO 64111-7700	Sprint PO Box 4181 Carol Stream IL 60197-4181	St Pauls Travelers co Schifman Remley 5201 Johnson Drive Suite 500 Mission KS 66205-2930
Terminix PO Box 742592 Cincinnati OH 45274-2592	U.S. Trustee Office of the United States Trustee 301 North Main Suite 1150 Wichita, KS 67202-4811	Union Bank 9300 Blue Ridge Boulevard Kansas City MO 64138-3844

Water One  
PO Box 808007  
Kansas City MO 64180-8007

Windstream  
PO Box 580451  
Charlotte NC 28258-0451

Edward J Nazar  
245 North Waco  
Ste 402  
Wichita, KS 67202-1117

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

IRS  
Internal Revenue Service  
271 W. 3rd St. N.  
Suite 3000  
Mail Stop 5333 WIC  
Wichita, KS 67202

(d) Internal Revenue Service  
271 W 3rd St N Ste 3000  
Stop 5333 WIC  
Wichita, KS 67202

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u) Union Bank	End of Label Matrix
	Mailable recipients 32
	Bypassed recipients 1
	Total 33