



SO ORDERED.

SIGNED this 14th day of November, 2016.

Catharine R Aron

UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION

IN RE:)
) CASE NO. 16-50346
NAS HOLDINGS, INC.)
)
) Chapter 11
Debtors.)
)

**SEVENTH INTERIM ORDER AUTHORIZING DEBTOR’S USE OF CASH
COLLATERAL PURSUANT TO 11 U.S.C. § 363**

THIS MATTER came on for hearing on November 2, 2016, upon the continued Motion of NAS Holdings, Inc. (“Debtor”) for authority to use cash collateral and to provide adequate protection to the secured creditors originally filed on April 4, 2016 and originally heard on April 21, 2016. The appropriate parties to this motion have agreed to consent to the entry of a Seventh Interim Order for Use of Cash Collateral. Representatives of the parties are, Kenneth Love for the Debtor, and Robert E. Price, Jr. for the U.S. Bankruptcy Administrator. The Order will follow the terms of the sixth Interim Order. The Court, after considering the arguments from counsel and the Bankruptcy Administrator’s office, finds that good and sufficient cause exists to grant the

motion on an interim basis. The Court makes the following findings of fact and conclusions of law.

1. The Debtor filed its voluntary Chapter 11 bankruptcy petition on April 1, 2016. The Debtor is continuing as debtor-in-possession.

2. This Court has jurisdiction of this matter pursuant to 28 U.S.C. §§ 157 and 1334, and 11 U.S.C. §§ 1107 and 1008. This is a core proceeding under 28 U.S.C. § 157.

3. The Debtor is a holding company, running three franchises of Brixx Wood Fired Pizza in Greensboro and Winston Salem, North Carolina and in Marietta, Georgia.

4. Prior to filing, NAS Holdings, Inc. and NAS International, Inc. attempted a merger via an executed merger agreement between the corporations. The Court has denied the Debtor's motion to allow the merger. This and all future orders will only deal with the income and debts of the Debtor and not those of NAS International, Inc.,

5. BB&T and Bank of North Carolina are duly scheduled creditors of NAS Holdings, Inc. and NAS International, Inc. respectively. After the order denying the motion of the Debtor to merge with NAS International, Inc. was entered, BB&T remains a party-in-interest in this bankruptcy case. Bank of North Carolina is no longer a party-in-interest in this case.

6. BB&T holds two secured liens against restaurant equipment and fixtures of the debtor. The monthly payments for the two loans are \$7,269.00 and \$3,730.00 respectively.

7. Bank of North Carolina holds a secured lien against restaurant equipment and fixtures of NAS International, Inc. This lien will not be provided for within this Order.

Instead NAS International, Inc. will be responsible for direct payments to Bank of North Carolina.

8. At this time, the amounts owed to the secured creditors are current.

9. When the case was filed the Debtor was initially liable for rental payments on the store locations for the three pizza restaurant locations. The Debtor, now is liable for current payments for the lease for the Greensboro location.

10. The rent for the Greensboro location is a fixed rental amount.

11. The parties have also tentatively agreed to allow the Debtor to pay its manager/representative in this matter, Nakeet Vadgama, a monthly salary of \$1,000.00 beginning June 2016, pending further orders of this Court. The remainder of his salary will be paid by NAS International, Inc.

12. The Debtor contends that BB&T is entitled to adequate protection relative to its interests in the Cash Collateral.

13. The Debtor is entitled to use the Cash Collateral for its ordinary and reasonable operating expenses, which shall include payment of reasonable and necessary operating expenses in line with the budget presented at the hearing.

14. The Debtor asserts that the terms and conditions of this Order appear to provide adequate protection of the interests of BB&T for the Debtor's use of Cash Collateral. BB&T has consented to the limited use of its Cash Collateral upon and only upon the express terms of this Order from the Petition Date through the future hearing date of November 30, 2016.

15. The Debtor asserts that the terms, conditions, and limitations of this Order are reasonably tailored to protect the interests of all creditors of the bankruptcy estate.

16. The authorized use of the Cash Collateral as set forth herein is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

17. The requirements of the Bankruptcy Rules and the Bankruptcy Code, including without limitation Bankruptcy Rule 4001(d), have been satisfied for the Debtor's use of BB&T's and for the grant of adequate protection to BB&T upon the terms set forth in this Order.

18. At the May 17, 2016 hearing, the Court appointed an examiner in this matter. At the July 27, 2016 hearing, the Court extended the appointment of the examiner and as such all payments made by the Debtor will continue to be subject to review and approval of the examiner. The Court Ordered that the Debtor make a payment of \$7,000.00 to the examiner within 10 days of the entry of the Bankruptcy Administrator's order to pay the examiner. The balance will be paid at \$2,500.00 a month, in four monthly installments, until the full allowed amount of compensation is paid.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED as follows:

(a), Authority to Use Cash Collateral. Subject to further Orders of this Court, by entry of the Order, Debtor is authorized through and including November 30, 2016 to use Cash Collateral in the ordinary course of business provided such use is limited to the payment of necessary and reasonable operating expenses, as set forth in the budget

attached hereto as Exhibit A. The Debtor is further authorized to make the necessary rental payments for the as needed to meet the current rental obligations.

(b). Prohibition Against Unauthorized Use. Except as specifically authorized hereunder, the Debtor and its principals, shall not expend Cash Collateral pending further hearing and Order of this Court. Unless otherwise authorized by order of the Court, Debtor shall not use Cash Collateral for payment of any prepetition indebtedness or obligations of, or prepetition claims against the Debtor.

(c). Preservation of Rights. This Order is without prejudice to the rights of any party, including a subsequently appointed trustee.

(d). Service of Order. Counsel for the Debtor shall serve a copy of this Order electronically or by first class mail (which pursuant to the Bankruptcy Rules, will be deemed sufficient upon (i) the Bankruptcy Administrator; (ii) the creditors included on the list filed pursuant to Bankruptcy Rule 1007(d); (iii) all known secured creditors; and (iv) any persona who has filed with this Court on or before the dated of this Order a request to be served with copies of all pleadings, notices, and other papers filed in this bankruptcy case.

(e). Responses. Any objection or other responses to Debtor's Motion shall be filed at least three business days prior to the Further Hearing as defined below, and shall be filed with this Court and served on (i) counsel for the Debtor, and (ii) the Bankruptcy Administrator. If a written objection or other response is timely filed and served in accordance with the above, the Court will consider such objection or response at the Further Hearing.

(f). Adequate Protection. As adequate protection, BB&T shall retain its liens on all prepetition collateral and both creditors are hereby granted replacement liens upon all collateral of the type and kind upon which they have and had prepetition liens, to the same extent, priority, and validity as it had on the Petition Date and shall be deemed perfected without further action by BB&T.

The Debtor shall continue to make regular monthly payments to BB&T as they come due. The Debtor shall continuously maintain an insurance policy on the restaurant equipment and fixtures.

(g). Monthly reports. By the 20th of each month, the Debtor shall provide to BB&T, the appointed Examiner, and the Bankruptcy Administrator a budget to actual report, reflecting the actual income received and the expenses incurred during the previous month compared to the budget attached hereto.

(h). Access to Property. Upon reasonable prior notice of at least 24 hours, the Debtor shall provide to representative, agents and/or employees of BB&T, physical access to the Property for the purpose of appraising or evaluating their collateral.

(i) . Default. It shall be a default hereunder for one or more of the following to occur.

- (1) The Debtor shall fail to comply with any of the terms or conditions of this Order;
- (2) The Debtor shall use Cash Collateral other than as agreed by this Order;
- (3) Cancellation or lapse of the Debtor's applicable insurance coverage;

(4) Cessation of business operations by Debtor; or

(5) Dismissal of this case.

Upon service upon Debtor's counsel by BB&T, or the Bankruptcy Administrator of a written notice of any default (which shall be served upon the Debtor and the Debtor's counsel by facsimile or electronic mail and shall be served upon the Bankruptcy Administrator by electronic mail), the Debtor shall have a period of five (5) business days to cure such default. If the Debtor fails to cure the default within such cure period, the Debtor's authority to use Cash Collateral shall be terminated immediately, pending further order of this Court.

(j). Continuing Validity of Post-Petition Liens. If any or all of the provisions of this Order are hereby modified, vacated, or stayed by subsequent order of this Court, or by any other Court, or the use of Cash Collateral pursuant hereto is terminated, such stay, modification, vacation, or termination shall not affect the validity and enforceability of any lien or priority authorized herein with respect to BB&T.

(k). Super-Priority Claim. As further adequate protection for BB&T's interests, this Order grants BB&T, for the benefit of itself, as and to the extent provided by Section 507(b) of the Bankruptcy Code, an allowed super-priority administrative expense claim pursuant to Section 503(b) and 507(a)(2) of the Bankruptcy Code, to the extent of any diminution in value of BB&T's interests in prepetition collateral caused solely by the use of Cash Collateral pursuant to the term of this Order. BB&T's super-priority claim shall have priority over all administrative expense claims and unsecured claims against the Debtor or its estate now existing or hereafter arising, of any kind and nature whatsoever.

(1). Further Hearing. This Order is a preliminary order on use of Cash Collateral, and a further interim hearing (the “Further Hearing”) shall be held on November 30, 2016 at 2:00pm at the U.S. Bankruptcy Court for the Middle District of North Carolina, 226 S Liberty Street, Winston Salem, NC 27101.

END OF DOCUMENT

Revised Budget

NAS Holdings, Inc.

November 2016 projected

Carryover funds in DIP account	\$8,840.25
Expected Income	\$24,000.00
Expected cash	\$32,840.25
Expenses	
Rent	\$12,126.17
BBT-1 Loan	\$7,269.00
BBT-2 Loan	\$3,730.00
Salary- Neeket Vadgama	\$1,000.00
Payment to Examiner	\$2,500.00
Total Expenses	\$26,625.17