


Below is an Order of the Court.



FRANK R. ALLEY
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

In re:

PACIFIC RECYCLING, INC.

Debtor.

Case No. 15-62925-fra11

**FINAL ORDER FOR CASH
COLLATERAL**

THIS MATTER, came before the Court on the Motion for Order Authorizing Use of Cash Collateral [Dkt 60] (the "Motion") of Pacific Recycling, Inc., debtor and debtor-in-possession (herein referred to as "Debtor") in this Chapter 11 case, for interim and final orders authorizing Debtor to use cash collateral; notice of the Motion having been given pursuant to Bankruptcy Rule 4001, and the Court having heard and considered the arguments of counsel at the final hearing on November 3, 2015 and all relevant pleadings, exhibits and documents of record in this case;

Now, therefore, the Court hereby finds and concludes:

1. On August 27, 2015, (the “Petition Date”), Debtor filed a voluntary petition (the “Petition”) for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code (the “Code”).

2. Debtor’s primary business is operating a metal recycling center in Eugene, Oregon (the “Recycling Center”). There are three creditors who may claim an interest in cash collateral, including cash and bank deposits, accounts receivable and scrap metal inventory. Debtor is in possession of the Recycling Center and will continue to operate as a debtor-in-possession.

3. In 2014, Siuslaw Bank provided a line of credit to the Debtor for operating purposes, which is now held by Banner Bank (“Banner”). As of the Petition Date, approximately \$1 million was owing to Banner on the line of credit (the “Banner Loan”). In addition, Banner claims a lien on inventory, accounts receivable and other assets to secure the Debtor’s obligation as guarantor on a real estate loan to PAC Recycling, LLC with an outstanding balance of approximately \$2.5 million. Banner relies on a cross-collateral clause in the security agreement. Banner’s lien was perfected by filing a UCC financing statement with the State of Oregon on May 1, 2014. VFI and Strategic Funding Source also filed financing statements claiming a security interest in Debtor’s inventory.

4. Debtor has an immediate need to use cash collateral to protect the estate from harm and preserve its value and will suffer irreparable harm if the immediate use of cash is not granted.

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

6. To the extent any provision of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, Local Bankruptcy Rules, or applicable law requires a finding of “cause” for entry of any provision of this Order, such cause exists.

IT IS THEREFORE ORDERED that:

1. The Motion for Final Order is approved.
2. Banner, VFI and Strategic Funding (the “Secured Creditors”) shall retain their liens on pre-petition inventory, accounts receivable, funds on deposit in the cash collateral account and other assets, if any, in the same priority as existed on the petition date. Nothing contained in this order shall improve the position of the Secured Creditors or affect their priority vis a vis the other Secured Creditors. The Secured Creditors shall not be entitled to a lien on any post-petition inventory or proceeds from the sale thereof.
3. Debtor is authorized to use cash collateral in the sum of up to \$40,962 per week (the “Cost Payments”) to cover costs of the processing and selling Debtor’s pre-petition inventory. Debtor shall use such Cost Payments to pay expenses associated with the liquidation of the pre-petition inventory, including payroll, payroll taxes, insurance, utility service, office expenses, freight charges and other expenditures. Debtor shall proceed in good faith with reasonable diligence to process and sell the pre-petition inventory as promptly as is commercially reasonable. Debtor is authorized to sell the inventory at the estimated prices projected on Exhibit A, attached hereto or the current market price if at least 90% of the projected sales price. A lesser price must be approved or rejected by Banner Bank within 48 hours after written notice from Debtor. Debtor is also authorized to use cash collateral to pay up to \$16,000 to EWEB as a deposit for electrical service.
4. All proceeds from the sale of pre-petition inventory shall be deposited in the cash collateral account at Wells Fargo Bank. In no event shall the cash collateral utilized by the Debtor exceed the lesser of:

(a) The total of \$218,800 for loading, handling and processing costs, including operation of the shredder, plus actual freight charges incurred in connection with sale of the pre-petition inventory; or

(b) The sum of \$327,000, without further order of the court.

5. Debtor shall provide documentation to Banner and other interested parties on a weekly basis, including copies of invoices and freight records, to verify the quantity of pre-petition inventory that has been sold and the charges associated with transportation of the material. Debtor's Cost Payments shall be subject to true-up in the 4th and 8th weeks of the sale period, to determine if the actual tonnage is consistent with the estimates and whether actual freight charges are consistent with the estimates. If all of the pre-petition inventory is sold in less than 8 weeks, the final true-up will occur prior to and in connection with the final Cost Payment to Debtor. For example, if Debtor has incurred greater costs than projected during the first 30 days because it has processed and sold more inventory than projected, it would be entitled to an additional Cost Payment based on the tonnage sold, using the cost/ton on Exhibit A – but with a corresponding reduction in future payments. And if Debtor has sold less than the projected tonnage during the first 30 days, then its next weekly Cost Payment would be reduced accordingly. The final true-up will be based on actual tons sold, using the cost/ton on Exhibit A.

6. Upon entry of this order, Debtor is authorized to disburse the sum of \$100,000.00 to Banner Bank, which shall reduce the principal amount of Banner's claim. On a weekly basis, after deducting the reimbursement of expenses for Debtor as authorized herein, Debtor shall retain the sum of \$82,000.00 in the cash collateral account to cover the maximum allowable expenses for a two week period of time and disburse any excess funds to Banner Bank. When the final true-up is completed, all remaining funds in the cash collateral account shall be disbursed to Banner. In no event shall funds paid to Banner exceed the sum of \$1,025,200.22 without further order of the court.

7. Each of the following shall be an Event of Default under this Order: (a) disbursement of more than \$40,962 per week from the Cash Collateral account (plus or minus any true-up amount and plus the EWEB security deposit described above) unless authorized by Banner in writing; (b) failure to comply with any of the obligations imposed by this Order; (c) conversion of this case to a case under Chapter 7 of the Bankruptcy Code; and (d) dismissal of this case. In the event of default under paragraphs 7(a) or 7(b), Banner shall provide written notice to Debtor prior to requesting a hearing to terminate the use of cash collateral. No such notice shall be required and authorization to use of cash collateral shall terminate immediately in the event of default under paragraphs 7(c) or 7(d).

8. The provisions of this Final Order shall remain in full force and effect unless modified or vacated by some other subsequent order of this Court.

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Presented by:

CABLE HUSTON LLP

By: /s/ Laura J. Walker
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Attorneys for Debtor

cc: List of Interested Parties
US Trustee
USTPRegion18.PL.ECF@usdoj.gov

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September Fair Market Value	Commodity Description	Offer 1 (bulk sale offer / no shredding)			Offer 2 (bulk sale offer / no shredding)			Offer 3 (shredding)		
		Wgt (NT)	Price/NT*	Value	Wgt (NT)	Price/NT*	Value	Wgt (NT)	Price/NT*	Value
shreddable	Unprepared	2,850.00	100.00	285,000.00	2,850.00	110.00	313,500.00	2,251.00	145.00	326,395.00
shreddable	Tin / Car Bodies	660.00	100.00	66,000.00	660.00	110.00	72,600.00	522.00	145.00	75,680.00
shreddable	Steel Motor Blocks	60.00	100.00	6,000.00	60.00	110.00	6,600.00	50.00	145.00	7,250.00
shreddable	Aluminum Bearing	380.00	200.00	76,000.00	380.00	200.00	76,000.00	202.00	145.00	29,290.00
no shred	Zorba	0.00	0.00	0.00	0.00	0.00	0.00	255.00	1,140.00	290,700.00
no shred	Prepared HMS	1,340.00	131.00	175,540.00	1,340.00	120.00	160,800.00	1,340.00	131.00	175,540.00
no shred	Unprepared Torchcut / Plate	160.00	131.00	20,960.00	160.00	120.00	19,200.00	160.00	131.00	20,960.00
no shred	Unprepared Manganese	50.00	131.00	6,550.00	50.00	120.00	6,000.00	50.00	131.00	6,550.00
no shred	Non-Ferrous *	112.00	750.00	84,000.00	112.00	750.00	84,000.00	112.00	750.00	84,000.00
	Total Sales Value =	5,612.00		720,050.00	5,612.00		738,700.00	4,942.00		1,016,375.00

Creditor	Processing Expenses	Offer 1 (bulk sale offer / no shredding)			Offer 2 (bulk sale offer / no shredding)			Offer 3 (shredding)		
		Wgt (NT)	Price/NT	Value	Wgt (NT)	Price/NT	Value	Wgt (NT)	Price/NT	Value
PRI	Cost of loading / handling	5,612.00	20.00	112,240.00	5,612.00	20.00	112,240.00	5,612.00	20.00	112,240.00
PRI	Cost of freight FOB Eugene (prepared hms) *	1,500.00	17.00	25,500.00	1,500.00	10.00	15,000.00	1,500.00	17.00	25,500.00
PCS 1 / SSI 2	Cost of freight FOB Portland (shreddable) *	3,950.00	22.00	86,900.00	3,950.00	27.00	106,650.00			
PRI	Cost of freight FOB Seattle (mang / non-ferrous) *	162.00	44.00	7,128.00	162.00	44.00	7,128.00	162.00	44.00	7,128.00
PRI	Cost of processing torchcut / non-ferrous	272.00	30.00	8,160.00	272.00	30.00	8,160.00			
PRI	Shredder direct operating expenses:									
PRI	Cost of freight / disposal (fluff)									
PRI	Cost of freight / loading (Eugene UP Railcars) *									
PRI	Cost of freight FOB Seattle (zorba) *									
	Total Expenses =			239,928.00			249,178.00			327,655.60

* Non-Ferrous (breakdown)	Net After Costs =		
	Wgt (lbs)	* Price/lb	Value
Copper	7,100.00	2.08	14,752.00
Insulated Copper	4,445.00	0.96	4,285.00
Copper Bearing	98,020.00	0.18	18,123.00
Brass	1,710.00	1.60	2,743.00
Brass Bearing	990.00	1.00	990.00
Radiators	1,935.00	1.01	1,951.00
Aluminum	44,600.00	0.53	23,581.00
Aluminum Bearing (see bulk offer / shredding)	0.00	0.00	0.00
Stainless	960.00	0.34	326.00
Stainless Bearing	2,100.00	0.25	515.00
Lead (batteries)	62,200.00	0.27	16,794.00
	Total lbs =	224,600.00	84,000.00
	* NT =	112.00	

* Shredder Direct operating expenses:

Miscellaneous \$	2.00 /ton
Labor \$	4.70 /ton
Repairs, Parts, Maintenance \$	5.00 /ton
Power Costs \$	18.30 /ton
Total / Ton Ferrous Produced \$	30.00 /ton

The above expenses will vary almost directly with the number of tons processed.

* UP = Union Pacific Team Track (Eugene)

* Prices for Non-Ferrous based on market value 9/04/15 LME Spot Copper 2.3105

* Prices for Ferrous based on market value September 2015

* All freight costs are based on average loading weights divided into per load charges

CERTIFICATE OF SERVICE

I certify that on November 3, 2015, I served or caused to be served the foregoing **FINAL ORDER FOR CASH COLLATERAL**. All parties have reviewed the order.

I also certify that I served or caused to be served the foregoing document by **MAILING** a full, true and correct copy thereof in a sealed, postage-paid envelope, addressed as shown below, and deposited with the U.S. Postal Service at Portland, Oregon, on the date set forth below:

Office of the United States Trustee
405 E 8th Avenue #1100
Eugene, OR 97401-2706

Pacific Recycling, Inc.
3300 Cross Street
PO Box 2633
Eugene, OR 97402

Dorman Construction, Inc.
Attn: Steve Dorman
303 S 5th Street #135
Springfield, OR 97477

HMS Trading International, LLC
Attn: Lisa Li
PO Box 403
Corte Madera, CA 94976

Ideal Steel
Attn: Sarah Coffman
90693 Link Road
Eugene, OR 97402

Strategic Funding Source, Inc.
1501 Broadway, Suite 360
New York, NY 10036

VFI KR SPE I LLC
6340 South 300 East, 4th Floor
Salt Lake City, UT 84121

DATED this 3rd day of November, 2015.

CABLE HUSTON LLP

By: /s/ Laura J. Walker
Laura J. Walker, OSB No. 794329
Donald J. Koehler II, OSB No. 130313
Of Attorneys for Debtor

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