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Quinn's Junction Properties, LC

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

In re

Bankruptcy No. 16-24458 (JTM)

QUINN'S JUNCTION PROPERTIES, LC.,

Chapter 11

Debtor.

**MOTION FOR ORDER AUTHORIZING
THE USE OF CASH COLLATERAL THROUGH JANUARY 31, 2017**

Quinn's Junction Properties, LC, debtor and debtor-in-possession (the "Debtor") in the above-captioned bankruptcy case (the "Case"), moves this Court for a final order approving the use of cash collateral ("Cash Collateral") through January 31, 2017 (the "Second Cash Collateral Motion"). In support of this Motion, the Debtor respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334.
2. This is a core proceeding under 28 U.S.C. § 157(b).
3. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and

1409.

PROCEDURAL BACKGROUND

4. On May 23, 2016 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"), in the United States Bankruptcy Court for the District of Utah.

5. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor is managing its assets and properties as debtor-in-possession.

6. No trustee or examiner has been appointed, and no official committee of creditors or equity interest holders has yet been established.

DEBTOR'S BACKGROUND

7. The Debtor is a Utah limited liability company doing business principally in Summit County, Utah.

8. The Debtor owns real property improved with facilities including a film studio, soundstages, production offices and related structures (the "Real Property").

9. Although the Debtor is the owner of the Real Property, the Real Property is managed and operated by the Debtor's wholly-owned subsidiary, Park City Film Studios Development Company, LC ("PCFS"), pursuant to an agreement between the Debtor and PCFS.

10. For example, the Debtor does not have any employees. All employees who manage the Real Property are PCFS employees. Similarly, the ordinary costs of operating the Real Property, such as insurance, utilities, and maintenance, are paid by PCFS.

11. If PCFS's operation of the Real Property guarantees net revenue over the

expenses of the operation, then, in the Debtor's discretion, those net revenues would be distributed by PCFS to the Debtor.

12. The Real Property generates rental income. Although this rental income is received by PCFS, and not the Debtor, for the reasons explained above, arguably this rental income constitutes cash collateral of the Debtor's creditors secured by the Real Property. Accordingly, out of an abundance of caution, the Debtor seeks authority for PCFS's use of cash collateral pursuant to the Budget attached as Exhibit A (the "Budget").

13. However, it should be noted, as is reflected on the Budget, that PCFS obtains income and money entirely separate and apart from the rental income and that the income is not cash collateral. For example, PCFS obtains income services it provides to tenants of the Real Property, and PCFS also obtains loans from affiliates to ensure its operation expenses are met if rental income is insufficient.

14. The Debtor obtained an initial round of post-petition financing from R3 Media Corporation ("R3M") in the amount of \$100,000. The Debtor anticipates obtaining additional loans as needed from R3M. The loans from R3M provide the primary source for funding payment of post-petition operating expenses and/or administrative expenses.

15. The largest asset of the Debtor's estate is the Real Property project commonly known as the Park City Film Studios in Park City, Utah, and certain commercially zoned undeveloped real estate surrounding it. The Real Property has an appraised value of \$36,315,000.

16. The Debtor obtained a construction loan secured by a first position deed

of trust on the Real Property from Bank of Utah. Bank of Utah's claim secured by the Property is approximately \$4 million.

17. Quinn Capital Partners, LLC, with its principal Gary Crandall and entities owned by Mr. Crandall including Newpark Retail, LLC, and Harmony Health, LLC (collectively "Quinn Capital"), assert second and third liens on the Real Property.¹ The Debtor has disputed both of Quinn Capital's asserted liens, as well as the alleged interest payments and fees associated with the asserted liens.

18. Bank of Utah has a senior lien on "rents" and other income from the Real Property. Quinn Capital asserts a junior lien on rents. The Debtor has included in the Budget projected rental incomes based on current probable revenues. As rental income is acquired, the Debtor will use this additional income to reduce its debt obligations and thereby provide further adequate protection to Bank of Utah and Quinn Capital.

19. The Debtor has entered into a court-approved adequate protection stipulation with creditor Bank of Utah, which stipulation provides that the Debtor will make interest-only payments of \$23,883.30 per 30 day month to Bank of Utah pursuant to Bank of Utah's secured loan.

20. The Debtor's and PCFS's projected cash needs to operate in the near term, are detailed on the Budget.

¹ In its two claims filed in the case (Claims no. 1, 2), Quinn Capital asserts secured claims of approximately \$19 million. The Debtor vigorously disputes Quinn Capital's assertion that it possesses secured claims totaling \$19 million. The Debtor issued a note to Quinn Capital secured by Real Property in the amount of \$6.4 million. Quinn Capital loaned the Debtor an additional \$5.88 million, all of which appears to be unsecured and total approximately \$12.28 million. Additionally, in December 2015 Gary Crandall purchased the Sahara Mechanics (general contractor) Lien for \$4.35 million. The Debtor disputes this amount, which will be litigated in state court. Even accounting for the disputed Sahara Mechanics Lien, both claims total \$16.63 million—not \$19 million. The Debtor believes that in arriving at its asserted \$19 million secured claim, Quinn Capital has included loan amounts which are not secured, disputed attorney fees, and interest payments which were calculated at default rates when the Debtor was not in default, or which are otherwise improperly calculated.

RELIEF REQUESTED

21. The Debtor respectfully requests the Court to authorize the Debtor and PCFS's use of Cash Collateral through January 31, 2017, because each of the lien holders with an interest in the Cash Collateral is adequately protected, as further described below.

COMPLIANCE WITH BANKRUPTCY RULE 4001 AND LOCAL RULE 4001-2

22. The Debtor respectfully requests entry of an order in the form attached as Exhibit B authorizing its use of Cash Collateral on a final basis through January 31, 2017.

23. Bank of Utah and Quinn Capital are the only entities that claim an interest in the Debtor's Cash Collateral.

24. The Debtor and PCFS seek to use the Cash Collateral for the operation of its business in the ordinary course as authorized by §§ 1107 and 1108 of the Bankruptcy Code and pursuant to cash needs detailed on Exhibit A.

25. Bank of Utah is adequately protected by the adequate protection stipulation ("Stipulation") it has entered into with the Debtor. Pursuant to the Stipulation, the Debtor has made, and will continue to make, monthly adequate protection cash payments to Bank of Utah. By entering into the Stipulation, Bank of Utah has essentially consented to the relief sought in the Second Cash Collateral Motion.

26. The Debtor submits that Quinn Capital (as well as Bank of Utah) will be adequately protected because there is an equity cushion in the Real Property which vastly exceeds the combined value of all liens on the Real Property.

27. Quinn Capital is also adequately protected because of (a) payments that

the Debtor will make to Bank of Utah on account of Bank of Utah's first priority secured claim; (b) through the R3M loans to fund the continued operation of the Real Property, and (c) the enhancements in the value of the Real Property that naturally results from its operation.

28. As demonstrated on the attached Budget, the total value of the Secured Creditors' Cash Collateral will be adequately protected during the budget period.

29. The Debtor does not request any "extraordinary relief" within the meaning of Local Rule 4001-2.

DISCUSSION

30. Section 363(c)(2)(B) of the Bankruptcy Code enables this Court to authorize the use of cash collateral. Under Bankruptcy Code § 363(e), the court "shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest." Adequate protection is governed by section 361, which provides:

When adequate protection is required under section 362, 363, or 364 of this title of an interest of an entity in property, such adequate protection may be provided by—

(1) requiring the trustee to make a cash payment or periodic cash payments to such entity, to the extent that the stay under section 362 of this title, use, sale, or lease under section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of such entity's interest in such property;

(2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale lease, or grant results in a decrease in the value of such entity's interest in such property; or

(3) granting such other relief, other than entitling such entity to compensation allowable under section 503(b)(1) of this title as an administrative expense, as will result in the realization by such entity of the indubitable equivalent of such entity's interest in such property.

The three methods of adequate protection delineated in section 361 are "nonexclusive." Travelers Ins. Co. v. American Agcredit Corp. (In re Blehm Land & Cattle Co.), 859 F.2d 137, 139 (10th Cir. 1988). Adequate protection is a concept "which is to be decided flexibly on the proverbial 'case-by-case' basis." MBank Dallas, N.A. v. O'Connor (In re O'Connor), 808 F.2d 1393, 1396-97 (10th Cir. 1987).

31. Here, Bank of Utah is adequately protected through the separate adequate protection stipulation it has entered into with the Debtor. As with Quinn Capital, the equity cushion of the Real Property adequately protects Bank of Utah's interests in the Cash Collateral. Although the Debtor presently anticipates that most if not all adequate protection payments to Bank of Utah will come from non-estate sources, if revenues generated from the Real Property are sufficient, the Debtor intends to pay Bank of Utah from the proceeds of those revenues.

32. Quinn Capital is also adequately protected. As described above, even accepting Quinn Capital's assertion that its liens are properly valued at \$20 million (which the Debtor disputes) combined with Bank of Utah's lien of approximately \$4 million, all liens on the Real Property total roughly \$24 million. The Real Property's

appraised value is over \$36 million, amounting to an equity cushion to the lien holders of nearly \$12 million. This is more than sufficient to properly allow the Debtor to use its Cash Collateral to continue its business operation. Further, Quinn Capital agreed to a consent order authorizing the Debtor to use cash collateral through October 31, 2016. The Debtor submits that no material change has occurred in this case that justifies Quinn Capital objecting to the Debtor's continued use of cash collateral through January 31, 2017.

33. The Debtor and PCFS will use the Cash Collateral to continue to operate its business, which will preserve its value as a going concern for the benefit of the bankruptcy estate and its creditors. Absent this relief, PCFS would not be able to pay its employees and could be forced to stop its operations. This in turn would result in irreparable harm to the Debtor's estate and a diminished return to creditors.

WHEREFORE, the Debtor respectfully requests the Court to enter a final order, in the form attached as Exhibit B, authorizing the Debtor and PCFS to use Cash Collateral through January 31, 2017. Finally, the Debtor requests such other and further relief as is just and proper under these circumstances.

Dated: October 5, 2016

COHNE KINGHORN
A Professional Corporation

/s/ Adam Reiser
GEORGE HOFMANN
MATTHEW BOLEY
ADAM REISER
Attorneys for the Debtor

EXHIBIT A

Quinn's Junction Properties, L.C.

Cash Collateral Budget

November 1, 2016 to January 31, 2017

<i>For the Month Ended</i>	11/30/2016	12/31/2016	1/31/2017	Total
Estimated Beginning Cash	\$ 656	\$ 2,293	\$ 1,648	\$ 656
Estimated Cash Deposits				
Cash Distributions from Park City Film Studios	-	-	-	-
Cash From Tenant Improvements				-
R3M Media Corporation loan ⁽¹⁾	65,000		5,150	70,150
Retainer applied toward professional fees	59,089			59,089
Total Estimated Cash Deposits	124,088.83	-	5,150.00	129,238.83
Estimated Cash Expenditures				
Property Taxes	(52,486)			(52,486)
Utilities			(3,855)	(3,855)
Storm Water Fee	(645)	(645)	(645)	(1,935)
Professional Fees - Debtor's Accountant ⁽²⁾	(8,863)			(8,863)
Professional Fees - Debtor's Counsel ⁽²⁾	(60,458)			(60,458)
Tenant Improvements				-
US Trustee Fees			(650)	(650)
Other Expenses				-
Total Estimated Cash Expenditures	(122,452)	(645)	(5,150)	(128,247)
Net Cash Flow	1,637	(645)	-	992
Ending Cash Balance	\$ 2,293	\$ 1,648	\$ 1,648	\$ 1,648

Footnotes

(1) R3 Media Corporation was approved for an initial loan of \$100,000, of which \$39,000 has been advanced.

(2) In the prior cash collateral budget, fees were accrued each month but have not yet been paid. All accrued fees are expected to be paid in November 2016 at the amounts estimated.

Park City Film Studios
Cash Collateral Budget
November 1, 2016 to January 31, 2017

For the Month Ended

	11/30/2016	12/31/2016	1/31/2017	Total
Estimated Beginning Cash Balance	\$ 2,734	\$ 2,649	\$ 1,697	\$ 2,734
Estimated Cash Deposits				
Rental Income*	48,000		75,000	123,000
R3M Media Corporation loan	10,000	60,000	8,000	78,000
A/R Collections				-
Other				-
Total Estimated Cash Deposits	58,000	60,000	83,000	201,000
Estimated Cash Expenditures				
Payroll & Liabilities	(20,800)	(20,800)	(20,800)	(62,400)
Contracted Services			(7,400)	(7,400)
Healthcare Premium	(334)			(334)
Insurance Expense			(13,276)	(13,276)
Computer and IT	(4,350)	(4,350)	(4,350)	(13,050)
Telephone Expense	(158)	(158)	(158)	(473)
Advertising and Promotion	(1,500)	(1,500)	(5,000)	(8,000)
Dues and Subscriptions	(86)	(86)	(86)	(257)
Professional Fees	(400)	(400)	(400)	(1,200)
Office and Other Supplies	(300)	(300)	(300)	(900)
Other expenses	(7,500)	(7,500)	(7,500)	(22,500)
Janitorial	(600)	(600)	(600)	(1,800)
Dumpsters	(268)	(268)	(268)	(805)
Sewer	(546)	(546)	(546)	(1,638)
Gas	(4,600)	(8,400)	(6,500)	(19,500)
Power	(8,500)	(8,500)	(8,500)	(25,500)
Fire Monitoring & Inspections	(84)	(84)	(84)	(252)
Snow removal	(6,800)	(6,200)	(6,200)	(19,200)
Donation	-	-	-	-
Meals and Entertainment	(170)	(170)	(170)	(510)
Travel Expense	(440)	(440)	(440)	(1,320)
Repairs and Maintenance	(650)	(650)	(650)	(1,950)
Landscaping	-	-	-	-
Total Estimated Cash Expenditures	(58,086)	(60,952)	(83,228)	(202,265)
Net Cash Flow	(86)	(952)	(228)	(1,265)
Distributions to Quinn's Junction	-	-	-	-
Ending Cash Balance	\$ 2,649	\$ 1,697	\$ 1,469	\$ 1,469

*Rental income is based on current probable revenues. Additional rental income is anticipated, but not yet probable, and may be received over the period shown.

EXHIBIT B

Prepared and Submitted by:

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Quinn's Junction Properties, LC

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

In re: QUINN'S JUNCTION PROPERTIES, LC, Debtor.	Bankruptcy Case No. 16-24458 Chapter 11
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**ORDER ON DEBTOR'S MOTION FOR ORDER AUTHORIZING THE USE OF CASH
COLLATERAL THROUGH JANUARY 31, 2017.**

Debtor Quinn's Junction Properties, LC ("**Debtor**") filed its *Motion For Order Authorizing Use of Cash Collateral Through January 31, 2017* (the "**Second Cash Collateral Motion**") on October 5, 2016.

The Court, having considered the Second Cash Collateral Motion, and good cause appearing therefore, it is hereby

ORDERED AS FOLLOWS:

1. The Second Cash Collateral Motion is granted subject to the provisions of this Order.
2. Debtor and its property manager Park City Film Studios Development Company, LC ("**PCFS**") are granted permission to use cash collateral as provided in this Order. Debtor is expressly responsible for PCFS's compliance with the terms of this Order.
3. Debtor and PCFS shall spend cash collateral in accordance with the Budget for the term of the Budget, subject to a permitted variance in the amount of 10% per line item, and 5% in the aggregate. A copy of the Budget is attached to this Order as Exhibit A and incorporated by reference as a part of this Order. However, Debtor and PCFS shall not pay any administrative claims for professional fees or expenses of professionals, or repay any amounts borrowed from R3Media Corporation, from the cash collateral unless authorized to pay such claims after notice of application for payment, hearing and an opportunity for parties in interest to object.
4. For the avoidance of doubt, nothing in this Order shall affect the Debtor or PCFS's use of cash which is not cash collateral. In addition, nothing in this Order shall restrict the use by the Debtor or PCFS of the proceeds of loans extended by R3Media Corporation.

5. Debtor and PCFS shall provide reasonable accountings of their expenditures of cash collateral under the Budget upon request.
6. Any cash collateral as limited in this Order, which is collected by Debtor or PCFS during the term of the Budget and this Order which exceeds the amounts stated in the Budget (and exclusive of administrative claims) shall be held by the Debtor and PCFS and not spent pending consent of the lienholders in such cash collateral or further order of this Court, subject to the variances permitted in the paragraphs above.
7. The permission to spend cash collateral under the Budget granted by this Order shall terminate as of January 31, 2017 unless extended by Order of this Court.

-----END OF ORDER-----

DESIGNATION OF PARTIES TO BE SERVED

Service of the foregoing **ORDER ON DEBTOR'S MOTION FOR ORDER AUTHORIZING THE USE OF CASH COLLATERAL THROUGH JANUARY 31, 2017** shall be served to the parties and in the manner designated below:

By Electronic Service: I certify that the parties of the record in this case as identified below, are registered CM/ECF users and will be served notice of entry of the foregoing Order through the CM/ECF system:

- Megan K Baker baker.megan@dorsey.com, long.candy@dorsey.com;posada.monica@dorsey.com
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- Steven T. Waterman waterman.steven@dorsey.com, bingham.karen@dorsey.com;ventrello.ashley@dorsey.com

By U.S. Mail: In addition to the parties of record receiving notice through the CM/ECF system, the following parties should be served notice pursuant to Fed. R. Civ. P. 5(b).

- None
- Manual Notice List:
Stanley J. Preston
Preston & Scott, LLC
111 E. Broadway, Suite 1200
Salt Lake City, UT 84111
- All parties on the Court's official case matrix.

/s/ Adam Reiser