

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**In re: ROADRUNNER ENTERPRISES, INC.,  
Debtor-in-Possession.**

**Case No. 15-30604-KRH  
Chapter 11**

**STIPULATED ORDER BETWEEN DEBTOR AND TOWNE BANK AUTHORIZING  
DEBTOR'S INTERIM AND LIMITED USE OF  
CASH COLLATERAL AND FOR ADEQUATE PROTECTION**

The Debtor, Roadrunner Enterprises, Inc., (“Debtor”) and Towne Bank, by their respective undersigned counsel, represent and agree as follows:

**BACKGROUND**

A. On February 6, 2015 (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code.

B. The Debtor owns real estate as set forth on the attached Exhibit “A” (the “Collateral”).

C. The Debtor has, since the filing of the Petition, continued to operate its business as a debtor-in-possession pursuant to § 1107 of the Bankruptcy Code.

D. The Debtor has executed numerous promissory notes and deeds of trust which are presently held by Towne Bank (the “Existing Documentation”) and are secured by the Collateral.

The obligations due under the Existing Documentation mentioned aforesaid in favor of Towne Bank are defined herein as the “Obligations.”

E. The Debtor requires use of cash collateral to continue its business. The proposed

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use of cash collateral is necessary to avoid immediate and irreparable harm to the Debtor and the estate. Towne Bank is willing to consent to the Debtor's interim use of Towne Bank 's cash collateral, subject to the Debtor's strict compliance with the terms and conditions of this Stipulation and Order, and upon the Court's approval of the adequate protection set forth below.

F. On February 12, 2015 the Debtor filed a Motion for Interim and Final Orders (I) Authorizing the Use of Cash Collateral; (II) Granting of Adequate Protection; and (III) Scheduling a Final Hearing. This Order constitutes an interim Order governing the rights of the Debtor with respect to the Debtor's continued use of cash collateral (as defined in § 363(a) of the Bankruptcy Code) in which Towne Bank has an interest (the "Cash Collateral") upon the provision of adequate protection to Towne Bank.

G. The Debtor proposes to use the Cash Collateral in the ordinary and normal course of its business.

### **ORDER**

1. This Order shall govern the Debtor's use of its cash, negotiable instruments, items of payment, and other proceeds of the Collateral (the "Cash Collateral") for the period through and including May 6, 2015.

2. The Debtor hereby grants, confirms and acknowledges to Towne Bank a perfected first priority lien and security interest in the Collateral and the Cash Collateral of the Debtor whether now owned or hereafter acquired, whether generated or received prior to or after the filing of the Debtor's bankruptcy petition, as security for any and all Obligations owed by the Debtor to Towne Bank whether arising before or after the date of the Debtor's bankruptcy filing and hereby acknowledges the validity, priority, and perfection of the security interests in favor of Towne Bank as evidenced by the Existing Documentation. As adequate protection for the

Debtor's use of the Cash Collateral, Towne Bank is hereby granted post-petition replacement and renewal liens in the Collateral. Notwithstanding the foregoing, upon the entry of this Order, the Debtor shall execute and deliver any and all documents that Towne Bank may reasonably require to create, perfect, confirm, or protect the security interests, liens, and other rights in favor of Towne Bank in the Collateral and to consummate the provisions of this Agreement. The Debtor shall not cause or permit, or consent to cause or permit, any liens, mortgages, or security interests, pursuant to § 364 of the Bankruptcy Code having priority, equal or senior to any of the security interests or liens evidenced by the Existing Documentation.

3. The Debtor is authorized to receive, collect, and make use of all Cash Collateral in its ordinary course of business for actual expenses incurred according to the Debtor-in-Possession Budget attached hereto as Exhibit "B", subject to (a) the limitations set forth therein with respect to "Shared Expenses" of which Towne Bank's Cash Collateral shall be responsible for 38.9% and (b) Towne Bank's continuing first priority liens and security interests, and subject to the terms and conditions of this Stipulated and Order. The Debtor shall separately account for the Cash Collateral as distinct from the cash collateral in which any other lender(s) have an interest. By accepting or authorizing payments hereunder, Towne Bank will not be deemed to have waived any default or any event of default which may exist or any rights, remedies or privileges available under the terms of the Existing Documentation, or any other applicable law except to the extent specifically set forth herein or as may be modified by application of the Bankruptcy Code. In making decisions to permit the use of Cash Collateral or in connection with operating within this Cash Collateral Stipulation and Order, Towne Bank shall not be deemed to be in control of the operations of the Debtor or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtor (as such terms, or any similar terms, are used

in the United States Comprehensive, Environmental Response, Compensation and Liability Act, as amended, or any similar Federal or state statute).

4. The Debtor may use Cash Collateral only to pay actual post-petition expenses incurred as itemized on the attached Exhibit "C" and subject to the limitations set forth therein with respect to "Shared Expenses".

5. The Debtor shall make payment to Towne Bank of all cash flow collected in excess of expenditures made in accordance with the Budget on April 30, 2015.

6. Except in strict accordance with the Budget, the Debtor shall not use the Cash Collateral to make any payments to insiders (as such term is defined by § 101(31) of the Bankruptcy Code) of the Debtor without the prior written consent of Towne Bank. No portion of the Cash Collateral shall be used to pay for attorneys', accountants' or other professionals' fees or expenses incurred by the Debtor during this bankruptcy proceeding. Any additional requested payment or expenditure or post-petition expenditures outside the ordinary course of the Debtor's business shall be approved and authorized by Towne Bank in its sole discretion. Nothing herein shall be deemed to be a consent by Towne Bank to subordinate its secured claim to the administrative expenses of this bankruptcy proceeding or any superseding proceeding under the Bankruptcy Code, and the Debtor hereby waives its right to surcharge Towne Bank or any portion of the Collateral pursuant to § 506(c) of the Bankruptcy Code. To the extent that any part of the Cash Collateral is used by the Debtor for purposes not permitted by this Order or to the extent that the value of the Collateral diminishes during the course of this case, Towne Bank shall have an allowed claim therefor, which claim shall have priority over all other administrative expenses allowable under Bankruptcy Code § 507(a)(1) all as contemplated by § 507(b) of the Bankruptcy Code. The foregoing is without prejudice to any other claim that Towne Bank may have under §

507(b) of the Bankruptcy Code arising under the circumstances contemplated by § 507(b) of the Bankruptcy Code.

7. The Debtor agrees it shall permit Towne Bank, its agents, servants, and employees to examine its property, financial records, and operations upon two (2) business days notice. The Debtor shall not delay or otherwise prevent or interfere with such inspection and Towne Bank shall use reasonable efforts to minimize the disruption to the Debtor.

8. The Debtor agrees to provide promptly to Towne Bank, directly or through its counsel, such information and documents as Towne Bank shall reasonably request. Specifically, Debtor shall provide the following information to Towne Bank without the necessity of specific request:

(a) all reports provided to the Office of the United States Trustee pursuant to the terms and conditions of the Consent Order between the Debtor and the Office of the United States Trustee;

(b) monthly profit and loss statements for the Debtor.

9. The full amount of any diminution in value of the Collateral shall be given priority status under § 364(c)(1) and § 507(b) of the Bankruptcy Code. No costs or expenses of administration which have been or may be incurred in these proceedings, or in any other proceeding related thereto, and no priority claims are or will be prior to or on parity with the adequate protection claims of Towne Bank and no such costs or expense of administration shall be imposed upon Towne Bank or the Collateral.

10. Upon the sale and/or other disposition of any Collateral other than in the ordinary course of business the Debtor shall immediately tender the proceeds or portion thereof as appropriate to Towne Bank to which Towne Bank is entitled under the Existing Documentation

and the same shall be applied to the Debtor's obligations to Towne Bank according to the terms of the Obligations.

11. No provision in this Order is intended as a waiver, release, or modification of obligations of third-party guarantors under any guarantees or of the obligations of the Debtor, nor does Towne Bank make any representations or agreement whatsoever that it will forbear from enforcing its rights against any guarantors.

12. The Debtor shall provide to Towne Bank such other and further financial, accounts receivable, inventory, accounting, or operational information relating to the Debtor as Towne Bank may reasonably request from the Debtor from time to time, to be in a form containing such information and detail as Towne Bank may reasonably request.

13. The Debtor's authorization to use the Cash Collateral subject to and on the terms and conditions of this Order, shall terminate without any further Order of this Court at 5:00 p.m. on May 6, 2015 unless the Debtor's right to use Cash Collateral has been previously terminated pursuant to the provisions of this Stipulated Order.

14. In the event of (i) failure of the Debtor to fully perform any of its obligations as provided in this Order or breach of any covenant made herein, (ii) appointment of a trustee or of an examiner with enhanced powers for the Debtor or the property of the estate of the Debtor, or (iii) conversion of the Chapter 11 case to a case under Chapter 7 of the Bankruptcy Code, (iv) dismissal of the Chapter 11 case or of any subsequent case under Chapter 7 of the Bankruptcy Code, or (v) confirmation of a Chapter 11 plan of reorganization for the Debtor (collectively "Default Events"); then and upon the occurrence of any of the foregoing, which remains uncured for two (2) business days after a written notice of a Default Event has been given to counsel for the Debtor, the Debtor shall immediately cease using Cash Collateral and deliver all Cash Collateral to Towne Bank.

Termination of the Debtor's right to use Cash Collateral shall in no manner affect the validity, enforceability, or priority of the claims, liens, or other protections accorded to Towne Bank pursuant to the provisions of this Order.

15. All of the terms and provisions of this Stipulated Order, including but not limited to the security interests and liens created and perfected hereby, shall be binding upon the Debtor, any subsequently appointed trustee either under Chapter 7 or Chapter 11 of the Bankruptcy Code, and upon all creditors of the Debtor, including those that may have extended or may hereafter extend credit to the Debtor, and all other parties in interest.

16. The Debtor agrees not to create, permit, assume, or suffer to exist any lien or security interest in favor of any person or entity other than Towne Bank on any property of the Debtor, except any liens or security interests that existed prior to the date of the commencement of this case or any liens or security interests expressly consented to in advance in writing by Towne Bank.

17. The Debtor agrees that this Stipulated Order is not intended nor shall it be construed as a waiver or limitation in any way by Towne Bank of any rights or remedies it may have under the Existing Documentation, or under the Bankruptcy Code, or other applicable law which it may have against any party except as specifically set forth herein, including but not limited to the right to request additional adequate protection of its interest in the Collateral or the collateral granted herein, object to further use of cash collateral, file a motion for relief from or modification of the automatic stay under § 362 of the Bankruptcy Code, request the appointment of a Trustee or Examiner, or propose a Chapter 11 plan or plans and nothing contained herein shall be construed as an indication that Towne Bank regards itself as being fully and adequately protected.

18. This Stipulated Order is not intended to cause and shall not cause a novation of the Obligations, the Existing Documentation, nor shall it extinguish, affect or impair the Debtor's, any guarantor's or any co-obligor's obligations under the Obligations or the Existing Documentation. This Stipulated Order shall not release, terminate or limit the priority of any security interests and liens held by Towne Bank in any assets of the Debtor or of any guarantor of the Obligations.

19. This Stipulated Order is immediately valid and fully effective upon its entry, and is subject to a final order authorizing use of cash collateral. A final hearing on the Debtor's Motion is hereby set for May 6, 2015 at 2:00 p.m. Counsel for the Debtor is directed to serve a copy of this Order and a Notice of the final hearing on the creditors listed in the Debtor's Schedules pursuant to Federal Bankruptcy Rule 1007(d).

20. The provisions of this Agreement and any order confirming this Agreement and any action taken pursuant hereto shall be binding upon any trustee or examiner appointed in this case or any superseding case and shall survive the entry of any order confirming a plan of reorganization (unless any such order or plan shall otherwise provide), dismissing the Debtor's bankruptcy case, or converting the Debtor's bankruptcy case to a case under Chapter 7 of the Bankruptcy Code. The terms and conditions of this Agreement, as well as liens and security interests granted, re-granted or confirmed to Towne Bank hereunder, shall continue in full force and effect in this or any subsequent proceeding under the Bankruptcy Code, and such liens and security interests shall retain their priorities as provided in this Agreement until satisfied, discharged or otherwise modified by an order of the Bankruptcy Court.

21. The automatic stay of § 362 of the Bankruptcy Code is modified to the extent necessary to effectuate this Agreement. The provisions of this Stipulated Order and any action



taken hereto shall survive the entry of any Stipulated Order that may be entered dismissing this case or converting this case to one under Chapter 7 of the Bankruptcy Code, and the terms and conditions of this Stipulated Order as well as the liens and security interests granted pursuant hereto shall continue in this and/or any superseding proceeding under the Code and such liens and security interests shall retain their priorities provided by this Stipulated Order until satisfied and discharged or otherwise modified by Order of the Court.

It is so **ORDERED** this \_\_\_\_ day of April, 2015.

Apr 16 2015

/s/ Kevin R. Huennekens

Kevin R. Huennekens, Judge  
United States Bankruptcy Court  
Eastern District of Virginia

At: Richmond, Virginia

Entered on Docket:4/16/15

WE ASK FOR THIS:

/s/ Robert A. Canfield  
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SEEN:

/s/ Robert B. Van Arsdale  
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Robert.B.Van.Arsdale@usdoj.gov  
*Assistant United States Trustee*

**CERTIFICATION**

I hereby certify that the foregoing proposed Stipulated Order has been endorsed by all necessary parties pursuant to the Rules of Bankruptcy Procedure and Local Rules.

/s/ Robert A. Canfield

**Copy to:** All necessary parties who receive ECF notifications in this case.

**EXHIBIT A**

20311 Hickory Branch Drive, Petersburg, VA 23803  
20309 Hickory Branch Drive, Petersburg, VA 23803  
102 Burt Street (formerly 401 W Main), Waverly, VA 23890  
16500 Harrowgate Road, Chester, VA 23831  
16506 Harrowgate Road, Chester, VA 23831  
20310 Stonewood Manor Drive, Petersburg, VA 23803  
248 Bluffs Terrace, Colonial Heights, VA 23484  
3605 Main Street, Petersburg, VA 23803  
16309 Happy Hill Road, Colonial Heights, VA 23834  
3811 Plantation Court  
29245 Meadowview Drive, Waverly, VA 23890  
29219 Meadowview Drive, Waverly, VA 23890  
29209 Forestview Drive, Waverly, VA 23890  
4117 Ralph Road, South Chesterfield, VA 23803  
13911 Jefferson Davis Highway, Chester, VA 23831  
20500 Hickory Court, South Chesterfield, VA 23803  
20208 Stonewood Manor Drive, Petersburg, VA 23803  
118 Grigg Street, Petersburg, VA 23803  
520 Virginia Ave, Petersburg, VA 23803  
1046 Nottoway Street, Petersburg, VA 23803  
129 Park Drive North, Petersburg, VA 23805  
29156 Meadowview Drive, Waverly, VA 23890  
306 Jasper Lane, Waverly, VA 23890

**EXHIBIT B**

**Shared Expenses**

Est. Regular Maintenance	\$3,800	\$3,800	\$3,801	\$3,802
Payroll (Rental Repairs)	\$2,769	\$2,769	\$2,769	\$2,769
Payroll (Property MGMT)	\$892	\$892	\$892	\$892
Payroll (Bookkeeping 70%)	\$2,755	\$2,411	\$2,411	\$2,411
Payroll (Diana 80%)	\$7,064	\$5,631	\$5,631	\$5,631
Diana Health Ins.	\$500	\$500	\$500	\$500
Alfa Ins.- Auto	\$131	\$131	\$131	\$131
Bankruptcy Court Fees (25%)			\$488	
Vehicles-Gas Silverado	\$400	\$400	\$400	\$400
Vehicles-Gas Escalade	\$200	\$200	\$200	\$200
Total Expense	\$18,512	\$16,734	\$17,223	\$16,736

**EXHIBIT C**