

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND  
(Greenbelt Division)**

<b>In re:</b>	*	
		<b>Case No. 16-25126 WIL</b>
<b>S&amp;R PISHVA INVESTMENTS, LLC,</b>	*	
		<b>(Chapter 11)</b>
<b>Debtor.</b>	*	
*   *   *   *   *   *   *   *   *   *   *   *		

**MOTION OF MELVIN M. AND MONA JANIS  
TO PROHIBIT USE OF CASH COLLATERAL**

Melvin M. and Mona Janis (“Janis”), by their undersigned counsel, file this motion seeking entry of an order prohibiting the use of cash collateral by the debtor in the above-captioned case (the “Motion”). In support of the Motion, Janis states as follows:

**Background**

1. S&R Pishva Investments, LLC, the debtor-in-possession in the above-captioned case (the “Debtor”), commenced this proceeding (the “Bankruptcy Case”) by filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on November 15, 2016 (the “Petition Date”).
2. The Debtor continues to operate its business and manage its properties as a debtor-in-possession pursuant to 11 U.S.C. §§ 1107 and 1108.
3. Prior to the Petition Date, on March 31, 2010, Janis extended a commercial loan to Debtor as is evidenced by that promissory note of even date in the principal amount of \$450,000.00 (the “Promissory Note”). A true and correct copy of the Promissory Note is attached hereto as *Exhibit A*, and is incorporated herein by reference.

4. The obligations under the Promissory Note are secured by a Deferred Purchase Money Deed of Trust and Security Agreement with Assignment of Rents dated March 31, 2010 (the “Deed of Trust”), encumbering that real property owned by Debtor commonly known as 12830 New Hampshire Avenue, Silver Spring (a/k/a Colesville), Maryland 20904 (the “Commercial Property”). A true and correct copy of the Deed of Trust is attached hereto as ***Exhibit B***, and is incorporated herein by reference.

5. The Deed of Trust also grants Janis a perfected, first priority security interest in all rents, revenues, income and profits derived from the Commercial Property. (Deed of Trust, ¶ 10)

#### **Argument**

6. The rents, revenues, income and profits arising from the use of the Commercial Property constitutes “cash collateral,” as that term is defined by 11 U.S.C. § 363(a).

7. “The [Debtor] may not use, sell, or lease cash collateral . . . unless (A) each entity that has an interest in such cash collateral consents; or (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.” 11 U.S.C. § 363(c)(2).

8. Janis does not consent to the Debtor’s use of cash collateral derived from the Commercial Property, and this Court has not authorized such use.

9. Debtor is collecting rental income, as well as deriving income and profits, from the Commercial Property. Janis is concerned that Debtor is using such cash collateral without the consent of Janis or this Court’s authorization in violation of 11 U.S.C § 363(c)(2).

10. In light of the foregoing, this Motion seeks entry of an order prohibiting the Debtor’s use of cash collateral.

11. As required by Local Bankruptcy Rule 9013-2, Janis hereby states that no memorandum will be filed and that it will rely solely upon this Motion.

WHEREFORE, for the foregoing reasons, Melvin M. and Mona Janis respectfully request this Court to enter an Order:

- (A) Prohibiting the Debtor's use of cash collateral; and
- (B) Granting such other and further relief as equity and justice may require.

/s/ Craig B. Leavers  
Craig B. Leavers, Bar No. 26914  
HOFMEISTER, BREZA & LEAVERS  
11350 McCormick Road  
Executive Plaza III, Suite 1300  
Hunt Valley, Maryland 21031  
(410) 828-4442

*Attorney for Melvin M. and Mona Janis*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 28<sup>th</sup> day of November, 2016, a copy of the foregoing was served on the parties listed below by first-class mail, unless said party is a registered CM/ECF participant and the Notice of Electronic Filing indicates that Notice was electronically mailed to said party.

S&R Pishva Investments LLC  
10505 Tyler Terrace  
Potomac, MD 20854  
*(Debtor)*

Timothy J. Sessing, Esq.  
12850 Middlebrook Road, Suite 308  
Germantown, MD 20874  
*(Attorneys for Debtor)*

Office of the U.S. Trustee  
ATTN: Jeanne M. Crouse, Esq.  
6305 Ivy Lane, Suite 600  
Greenbelt, MD 20770

/s/ Craig B. Leavers  
Craig B. Leavers