

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
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In re:

Case No. 16-26397-RBR
Chapter 11

SEATRUCK, INC.,

Debtor. _____/

**DEBTOR'S MOTION FOR USE OF CASH COLLATERAL
ON AN EMERGENCY INTERIM BASIS**

Emergency Hearing Requested

SeaTruck, Inc. (the "Debtor") requests an emergency hearing in this matter as soon thereafter as the Court may direct, to prevent direct, immediate and substantial harm to the Debtor's estate, which harm will occur if the Debtor is not authorized to use cash collateral on an interim basis for expenses incurred prior to the filing of this case. The Debtor respectfully requests that the Court waive the provisions of Local Rule 9075-1(B) of the Local Rules for the United States Bankruptcy Court for the Southern District of Florida, which requires an affirmative statement that the Debtor made a bona fide effort to resolve the issues raised in this motion, as the relief requested herein is urgent in nature and does not lend itself to advance resolution as to all possible interested parties.

SeaTruck, Inc., debtor and debtor in possession ("SeaTruck" or the "Debtor"), by and through its undersigned counsel, hereby moves this Court, pursuant to 11 U.S.C. § 363(c), Fed. R. Bankr. P. 4001(d), Local Rules 4001-2, 9013-1(G) and 9075-1, and this Court's *Guidelines for Motions Seeking Authority to Use Cash Collateral*, for entry of an order authorizing the use of cash collateral on an emergency basis pending interim and final hearings.

INTRODUCTION

1. On December 9, 2016 (the "Filing Date"), the Debtor filed a Petition for relief pursuant to §301 of Chapter 11 of Title 11 of the United States Code (the "Code"). The Debtor was thereupon authorized to continue with the operation of its business and affairs as a debtor in possession pursuant to sections 1107(a) and 1108 of the Code.

2. The Debtor's cash on hand and cash in its bank accounts constitute cash collateral as defined in section 363(a) of Title 11 of the Code.

3. The Debtor requires court authority to use this cash collateral in order to continue operating its business and managing its affairs as a debtor in possession.

4. In accordance with this Court's *Guidelines for Motions Seeking Authority to Use Cash Collateral*, as adequate protection for the Debtor's use of cash collateral, the Debtor proposes to:

- **grant Stonegate Bank replacement liens against all collateral that had been pledged to it prior to the commencement of this case; and**
- **furnish Stonegate Bank with monthly interest payments; and**
- **furnish Stonegate Bank with such adequate protection as is generally provided by Chapter 11 debtors, e.g., furnishing it with copies of reports filed with the Office of the United States Trustee.**

SeaTruck will make monthly adequate protection payments to Stonegate Bank consisting of interest against the outstanding amount out pursuant to a line of credit that was provided on or about February 23, 2016, and that currently has an outstanding balance of \$232,091.13. This constitutes adequate protection for the Debtor's use of cash collateral on an emergency, interim

basis. A budget setting forth the use of such cash collateral for the next thirty days is attached hereto as Exhibit A.

BACKGROUND

5. The Debtor's factual background, including but not limited to past and current business operations and the events surrounding the commencement of this bankruptcy case, is set forth in detail in the *Declaration of Jared Schatz in Support of Chapter 11 Petition and Request for First Day Relief* (the "Schatz Declaration"). The Schatz Declaration is hereby incorporated by reference into this motion in support thereof.

THE DEBTOR SHOULD BE PERMITTED TO USE CASH COLLATERAL ON AN EMERGENCY BASIS

6. The Debtor requires the use of cash collateral for payment of expenses related to its limited operations while it winds down its affairs. The Budget provides details regarding expenses on a line item basis.

7. The Debtor's operations are fairly simple. The only known operating expenses consist of taxes and bank fees that are paid on a monthly basis.

8. In view of the adequate protection that will be provided to Stonegate, the Debtor should be permitted to use this cash collateral on an emergency basis, pending interim and final hearings.

9. The Debtor may use Stonegate's cash collateral without its consent, provided it obtains court approval pursuant to section 363(c)(2)(B) of the Code. Such approval will ordinarily be granted as long as the Debtor provides adequate protection of Stonegate's interest in such cash collateral. The sufficiency of proposed adequate protection is determined on a case by case basis.

10. Section 361 of the Code provides that a debtor in possession may supply adequate protection to an entity by granting replacement liens to such entity sufficient to cover any decrease in the value of the collateral at issue. The Debtor proposes to provide Stonegate with replacement liens as to all collateral that was pledged to it pre-petition. Accordingly, Stonegate will be adequately protected.

CONCLUSION

11. For the reasons set forth above, the Debtor should be authorized to use cash collateral on an emergency and interim basis, pending interim and final hearings.

WHEREFORE, the Debtor respectfully requests entry of an order pursuant to section 363(c) of the Code authorizing its use of cash collateral on an emergency basis, along with any other and further relief this Court may deem appropriate under the circumstances.

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the Southern District of Florida and that I am in compliance with the additional qualifications to practice in this Court as set forth in Local Rule 2090-1(A).

/s/ Eric A. Rosen

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