

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

*In re:*

SMILES AND GIGGLES  
HEALTH PLAZA, LLC,  
Debtor.

Case No.: 8:16-bk-08203-KRM  
Chapter 11

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**EMERGENCY MOTION TO USE CASH COLLATERAL**

SMILES AND GIGGLES HEALTH PLAZA, LLC (hereinafter “Smiles and Giggles” or “Debtor”), does hereby file this Motion to Use Cash Collateral pursuant to 11 U.S.C. §363(a), and as grounds therefore, states that:

1. Smiles and Giggles filed its Petition herein under Chapter 11 of the Bankruptcy Code on September 23, 2016, and is acting as Debtor in Possession.
2. On the date of the filing of the Petition, the property of the Estate included real property located at 17020 County Line Road, Spring Hill, FL 34610.
3. Regions Bank asserts it has a secured claim by virtue of a first mortgage on the Debtor’s real property in the approximate amount of \$538,354.99.00 (the “Premises”).
4. It is necessary for the Debtor to use its cash, deposits, and rental proceeds to continue its business operations as Debtor in Possession in this case and to reorganize. If this Court does not grant this Motion and allow the use of cash collateral, the Debtor will be unable to operate, and in such a case, this reorganization would be seriously jeopardized.
5. As and for adequate protection for the use of cash collateral, the Debtor intends to make payments if ordered to do so.
6. As adequate protection, the Debtor will provide proof of insurance covering the assets which serve as collateral for the indebtedness within 15 days from the date of an Order

approving this Motion; monthly financial statements by the 20<sup>th</sup> day of each month following a monthly reporting period; the offer of the right of inspection of the assets upon reasonable notice without interfering with the business operation; and the continuance of the pre-petition liens to the extent that they existed on the Petition date, as well as the grant of post-petition replacement liens to the same extent and priority in post-petition assets of the same kind and type.

7. The foregoing constitutes cause to grant this Motion, and to allow the use of cash collateral under an Order granting preliminary relief. The Debtor anticipates that this Court would schedule a final hearing on this Motion within a reasonable time thereafter, to allow parties in interest to be heard on the Motion.
8. It is in the best interest of the Debtor, Creditors, and the reorganization process that this Motion be granted.

WHEREFORE, the Debtor prays that this Court grant this Motion, allow the use of cash collateral for business purposes, and for such other and further relief as is just and proper.

DAVID W. STEEN, P.A.

/s/ David W. Steen

David W. Steen, Esquire

Florida Bar No. 221546

2901 W Busch Boulevard, Suite 311

Tampa, Florida 33618

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*/s/ David W. Steen*

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Telephone: (813) 251-3100

E-Mail: [dwsteen@dsteenpa.com](mailto:dwsteen@dsteenpa.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY a true and correct copy of the foregoing **Emergency Motion to Use Cash Collateral** has been furnished by electronic (CM/ECF) and/or United States Mail to: U.S. Trustee, 501 E. Polk Street, Suite 1200, Tampa, Florida 33602; Ronald B. Cohn, Esquire, counsel for Regions Bank, 201 N. Franklin Street, Suite 3200, Tampa, FL 33601, email to: [rchoh@burr.com](mailto:rchoh@burr.com), [payers@bur.com](mailto:payers@bur.com) and [ebello@burr.com](mailto:ebello@burr.com); and those listed on the attached Local Rule 1007-2 Parties in Interest Matrix, on the 4<sup>th</sup> day of October, 2016.

/s/ David W. Steen  
David W. Steen, Esquire

SMILES AND GIGGLES HEALTH PLAZA, LLC  
AVERAGE MONTHLY BUDGET

INCOME

Rent	\$4,083.33
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EXPENSES

Management Fees	\$ 408.33
Taxes	\$ 285.83
Water Treatment	\$ 85.00
Lawn Care	\$ 175.00
Utility Expense	\$ 122.32
Progressive Waste	<u>\$ 122.32</u>

TOTAL	\$2,884.53
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**CERTIFICATION OF NECESSITY OF REQUEST FOR EMERGENCY HEARING**

I HEREBY CERTIFY, as a member of the Bar of the Court, that I have carefully examined the matter under consideration and to the best of my knowledge, information and belief formed after reasonable inquiry, all allegations are well grounded in fact and all contentions are warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law can be made, that the matter under consideration is not interposed for any improper purpose, such as to harass, to cause delay, or to increase the cost of litigation, and there is just cause to request a consideration of the following pleading on an emergency basis:

**EMERGENCY MOTION TO USE CASH COLLATERAL**

I CERTIFY FURTHER that there is a true necessity for an emergency hearing, specifically, because **SMILES AND GIGGLES HEALTH PLAZA, LLC** seeks to **use cash collateral** and requires a hearing on or by **as soon as possible** for the following reason: **The Debtor requests authority to use cash collateral immediately to fund the operating expenses necessary to continue the income for the business, to maximize the return on the assets, and to otherwise avoid irreparable harm and injury to its estate.**

I CERTIFY FURTHER that the necessity of this emergency hearing has not been caused by a lack of due diligence on my part, but has been brought about only by circumstances beyond my control or that of my client. I further certify that this motion is filed with full understanding of F.R.B.P. 9011 and the consequences of noncompliance with same.

DAVID W. STEEN, P.A.

/s/ David W. Steen

DAVID W. STEEN, ESQUIRE

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Label Matrix for local noticing  
113A-8  
Case 8:16-bk-08203-KRM  
Middle District of Florida  
Tampa  
Mon Oct 3 10:59:39 EDT 2016

Pasco County  
Solid Waste Department  
P O Box 2139  
New Port Richey, FL 34656-2139

Pasco County Tax Collector  
PO Box 276  
Dade City, FL 33526-0276

Regions Bank  
P O Box 2224  
Birmingham, AL 35246-0001

Wells Fargo  
420 Montgomery Street  
San Francisco, CA 94104-1298

End of Label Matrix  
Mailable recipients 4  
Bypassed recipients 0  
Total 4