

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
BRIDGEPORT DIVISION**

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	:	
In re:	:	CHAPTER 11
	:	
SUCCESS, INC.,	:	CASE NO. 16-50884 (JAM)
	:	
Debtor.	:	RE: ECF NO. 20
	X	

**SECOND INTERIM ORDER AUTHORIZING USE OF CASH COLLATERAL AND
PROVIDING ADEQUATE PROTECTION TO SECURED CREDITOR**

Upon the Motion (the “Motion”) of Success, Inc., Debtor and Debtor-in-Possession (the “Debtor”) for authority to, *inter alia*, use the cash collateral of AS Peleus LLC (“Secured Creditor”) on an interim and final basis pursuant to 11 U.S.C. Sections 363(c)(2) and 361 and Federal Rule of Bankruptcy Procedure 4001, and an initial hearing on the Motion having been held on August 31, 2016 (the “Initial Hearing”) and a subsequent hearing held on September 13, 2016 (collectively, with the Initial Hearing, the “Interim Hearings”) and upon the record at the Interim Hearings, and based on the record at the hearing held on December 20, 2016, and all of the pleadings heretofore filed in this proceeding, it is hereby found and determined as follows:

A. On July 1, 2016 (the “Petition Date”) the Debtor filed a voluntary petition (the “Petition”) for relief under Chapter 11 of Title 11, United States Code, 11 U.S.C. §101 et. seq. the (the “Bankruptcy Code”), and has continued in possession of its property and the management of its business pursuant to 11 U.S.C. §§1107 and 1108.

B. As of the date hereof, the Office of the United States Trustee has not appointed an Official Committee of Unsecured Creditors as provided for in Section 1102 of the Code. No trustee or examiner has been appointed in this proceeding.

C. As of the Petition Date, the Secured Creditor has a first priority secured claim

against certain real property owned by the Debtor and located at 520 Success Avenue, Stratford, Connecticut, and which property is located in both the Town of Stratford and the City of Bridgeport (the "Property"), including the rents arising therefrom.

D. Secured Creditor asserts that the liens and security interests granted to it (the "Pre-Petition Liens") were duly perfected and are senior in time to all other liens and security interests in the collateral. As more fully set forth in the Motion, there are several other liens covering the Property which are subsequent in right to the Mortgage.

E. The use of cash collateral on an interim basis is necessary to prevent immediate and irreparable harm to the Debtor's estate in that without authorization to use cash collateral, the Debtor's ability to sustain its operations and meet its current necessary and integral business obligations will be impossible.

F. The Court finds that it is in the best interest of the estate, the Secured Creditor and all other creditors and parties-in-interest; and it is necessary to avoid irreparable harm to the Debtor and its estate, that the use by the Debtor of cash collateral on the terms and conditions set forth herein be approved, and it is hereby

ORDERED, that:

1. Pursuant to 11 U.S.C. § 363(c)(2)(B), the Debtor is hereby authorized to use cash collateral, including rental proceeds, which cash collateral may be subject to the liens of the Secured Creditor. The Debtor may use any cash collateral in accordance with the budget annexed hereto as Exhibit A (the "Budget") from December 31, 2016 through January 31, 2017 (the "Current Period") with a variance of 10% permitted. The use of cash collateral for the expenses identified in the Budget is necessary to prevent irreparable harm to the estate.

2. In exchange for the use of cash collateral by the Debtor, and as adequate protection for Secured Creditor's interests therein, (i) the Secured Creditor is hereby granted replacement and/or substitute liens (subject only to the carve-out in paragraph 6 of this proposed order) as provided in Bankruptcy Code § 361(2) in post-petition cash collateral, and such replacement liens shall have the same validity, extent, and priority that the Secured Creditor possessed as to said liens on the Petition Date; (ii) per the Preliminary Cash Collateral Order (Dkt. No. 58), the Debtor has paid the Secured Creditor the total of \$4,800, for the 2nd installment of the 2015 postpetition real estate taxes, to be held in escrow pending further order of this Court (the "Existing Escrow Funds"); (iii) on or before January 3, 2017, the Debtor shall pay to the Secured Creditor adequate protection payment of \$4,000.00; (iv) on or before January 3, 2017, the Debtor shall pay to the Secured Creditor the sum of \$1,600 (to be held in escrow pending further order of this Court) for postpetition real estate tax installment payments; and (v) on or before January 3, 2017, the Debtor shall pay to the holders of real estate tax liens on the Property the amounts identified in the Budget for interest accruing on their tax liens.

3. On or before January 15, 2017, the Secured Lender is hereby authorized and directed to pay, out of the Existing Escrow Funds, the Town of Stratford the sum of \$3,281.30 and the City of Bridgeport the sum of \$1,134.97, and the Town of Stratford and City of Bridgeport shall apply those funds towards the second installment payments due for 2015 respectively. Secured Lender shall continue to hold any remaining amount out of the Existing Escrow Funds, along with the additional escrow payment required by this Order pending further order of this Court.

4. If the Debtor fails to make the adequate protection payment or the tax payment to the Secured Creditor and real estate tax lien holders required by this Order, then the Secured

Creditor may file an affidavit of noncompliance with the Court (and serve Debtor's counsel) and the Court shall immediately schedule a hearing to consider granting the Secured Creditor *in rem* relief from the automatic stay.

5. The term for use of cash collateral shall be for the Current Period. The Debtor and its officers and agents are authorized and directed to execute, file, and record any security agreements, financing statements, instruments, or other documents as may be requested reasonably by the Secured Creditor to evidence and/or perfect the liens and/or security interests granted herein. The Secured Creditor is hereby authorized to file and/or record any such documents, and the automatic stay pursuant to Bankruptcy Code § 362 is hereby modified to allow them to file and record such documents as are necessary to evidence and perfect the replacement liens granted herein. Notwithstanding any provision of this Order, nothing herein shall be deemed to be an adjudication or a declaration by the Court of rights with respect to the existence, validity, enforceability, subordination or priority of, or any causes of action relating to the liens or security interests granted by the Debtor or possessed by the Secured Creditor prior to the Petition Date. This Order does not provide for cross collateralization. Moreover, the Secured Creditor's consent to the use of cash collateral pursuant to this Order shall in no way be interpreted as its consent or agreement to any future budget as may be proposed by the Debtor, and the Secured Creditor reserves any and all objections to confirmation of any proposed plan of reorganization and nothing herein shall be deemed an acceptance of the Secured Creditor as to the amounts it shall otherwise be entitled to under a plan.

6. Nothing herein shall be deemed to prevent Secured Creditor from seeking to terminate the use of cash collateral for any breach by the Debtor of the terms hereof or to obtain

relief from the automatic stay or to assert any other rights, claims, remedies, or defenses available to them.

7. The liens of the Secured Creditor and any replacement thereof pursuant to this Order, and any priority to which the Secured Creditor may be entitled or become entitled under § 507(b) of the Bankruptcy Code, shall be subject and subordinate to a carve-out of such liens for amounts payable by the Debtor under § 1930(a)(6) of Title 28 of the United States Code.

8. A further hearing on the Motion has been scheduled for January 24, 2017 at 11:00 a.m. at the U. S. Bankruptcy Court, 915 Lafayette Boulevard, Bridgeport, Connecticut.

DATED: December 30, 2016

Julie A. Manning
Chief United States Bankruptcy Judge
District of Connecticut

EXHIBIT A

SUCCESS, INC.

520 Success Avenue, Bridgeport and Stratford Connecticut
January-17

Income	
Rental Income	6,500.00
Total Monthly Income	\$6,500.00
Expenses	
Adequate protection	4,000.00
UST fees	216.67 *
R/E taxes to be held in escrow with Secured Creditor	1,600.00 *
R/E taxes (interest)	452.44
WPCA	50.00
Water	150.00
Total Monthly Expenses	-\$6,469.11
Estimated Closing Balance	\$30.89

*accruing