

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
at Baltimore**

IN RE: * Case No.: 16-25263-NVA
TOWN & COUNTRY CHIMNEY SERVICE, INC. * Chapter 11
Debtor *

* * * * *

**MOTION FOR USE OF CASH COLLATERAL AND PROVIDING FOR
ADEQUATE PROTECTION THEREFOR**

Town & Country Chimney Service, Inc. (“Debtor” and “Debtor-in Possession”), by its counsel, respectfully moves, pursuant to Sections 361, 363, and 552 of the United States Bankruptcy Code (the “Code”) and Rule 4001(b) of the Federal Rules of Bankruptcy Procedure (the “Rules”), for the entry of an Order permitting the Debtor’s use of cash collateral and providing creditors claiming an interest in that cash collateral with adequate protection for such use. In support of this Motion, the Debtor states as follows:

1. The Debtor filed its voluntary petition initiating this case on November 17, 2016 (the “Petition Date”). The Debtor has continued in possession of its assets and in control of its property pursuant to Sections 1107 and 1108 of the Code.

Jurisdiction and Venue

2. The Court has jurisdiction over this action pursuant to 28 U.S.C. Sec. 1334, and this is a core proceeding under 28 U.S.C. Sec. 157(b)(2)(M).

3. Venue of this proceeding and this Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory bases for relief are Sections 361, 363, and 552 of the Code and Rule 4001 of the Rules.

5. This is a matter requiring the Court's prompt attention under Rule 4001 because the Debtor has immediate need for the use of the cash collateral generated in its business and because a prohibition of the use of such cash collateral will cause immediate and irreparable harm to the Debtor and its business.

Background

6. The Debtor is a Maryland corporation that provide chimney cleaning and restoration services to commercial and residential clients. The Debtor has annual gross revenues of approximately \$795,000.00. The Debtor's assets consist primarily of cash, a nominal amount of accounts receivable, equipment, and vehicles.

7. The Debtor operates from leased space in Sykesville, Maryland.

Relief Requested

8. All cash, including cash on hand, collection of prepetition accounts receivable, proceeds from the operation of the Debtor's business, any checks, refunds (including tax refunds), negotiable instruments, documents of title, deposit accounts, securities, and other cash equivalents which are now or may hereafter come into the possession, custody or control of the Debtor are referred to herein as "Cash Collateral". The Debtor seeks the interim use of Cash Collateral to meet its ordinary and necessary overhead expenses, including but not limited to taxes, insurance, utilities, payroll, and routine and critical vendors and suppliers. The Debtor

desires to maintain and preserve the value of its assets for the benefit of its estate and creditors.

9. Pursuant to Section 363(c)(2)(B), the Debtor proposes to provide the creditors claiming an interest in such Cash Collateral with adequate protection for such use by paying each creditor an adequate protection payment and also granting them replacement liens on the Debtor's postpetition cash and accounts receivable.

Creditors Claiming an Interest in Cash Collateral

10. On or about November 19, 2015, Internal Revenue Service ("IRS") filed a federal tax lien in the amount of \$29.46.

11. On or about March 8, 2016, the Comptroller of Maryland ("MD") filed a state tax lien in the amount of \$3,857.00.

12. On or about April 19, 2016, IRS filed a federal tax lien in the amount of \$752.86.

13. On or about August 2, 2016, IRS filed a federal tax lien in the amount of \$10,715.22.

14. On or about August 24, 2016, IRS filed a federal tax lien in the amount of \$11,187.71.

15. On or about August 26, 2016, State of Maryland Department of Labor, Licensing and Regulation ("DLLR") filed a state tax lien in the amount of \$16,557.30.

16. A federal or state tax lien is the government's legal claim against the property of the Debtor and encompasses real and personal property, including Cash Collateral.

17. The Debtor requires the use of the Cash Collateral to, *inter alia*, pay contract obligations, vendors, and operating expenses, and to generally preserve and protect its assets so as not to impair the value of its assets.

18. Without the use of Cash Collateral, the value of the Debtor's assets, will immediately

and substantially diminish, and the Debtor will have no reasonable prospect of continuing to operate as a going concern, preserving the value of its assets or presenting a plan in this case. The ability of the Debtor to finance its operations and the availability of sufficient working capital and liquidity is vital to the Debtor's ability to preserve its assets and maintain its operations. The Debtor requires access to cash in order to maintain, preserve and continue its business operations. If the Debtor is unable to use Cash Collateral for such purposes, the recoveries for all creditors, including secured creditors, will be greatly reduced since, under a "shutdown" scenario, the value of the Debtor's estate would decline dramatically. Entry of an Order authorizing use of Cash Collateral is (a) critical to the Debtor's ability to maximize value for its creditors; (b) in the best interest of the Debtor and the estate; and (c) necessary to avoid immediate and irreparable harm to the Debtor, its creditors, assets, business, goodwill, and reputation.

Basis for Relief

19. Section 363(c)(2)(B) of the Code permits a debtor-in-possession to use cash collateral after notice and a hearing.

20. Section 361(2) sets forth the conditions under which a debtor may provide adequate protection to its creditors through an additional or replacement lien.

21. Pursuant to Code Section 363(c), the Debtor requests authority to use Cash Collateral in the ordinary course of business and to pay reasonable and necessary professional fees and expenses approved by the Court. As adequate protection for the use of Cash Collateral, the Debtor proposes to pay IRS, MD and DLLR adequate protection payments equal to the amount of their respective liens based on a sixty (60) month amortization (*i.e.*, IRS \$378.09/month; MD

\$64.28/month, and DLLR \$275.96/month) and to grant additional and replacement liens in substantially all of the Debtor's postpetition assets in the same manner and priority as their prepetition tax liens.

22. The prompt nature of the relief requested herein and the timing of the filing of the Debtor's petition does not permit widespread notice of this Motion, nor is such notice required. The Debtor has given notice of this Motion, including the prompt nature of the relief sought herein, and has served a copy of this Motion by first class mail to IRS, MD and DLLR, the other twenty largest unsecured creditors, and the United States Trustee. The Debtor requests that the notices set forth in this paragraph be deemed adequate and complete under the circumstances and that any further notice of the Motion or the relief requested herein be dispensed with and waived.

23. The Debtor submits, pursuant to Local Bankruptcy Rule 9013-2, that no memorandum of law will be filed, and the Debtor will rely solely upon the Motion.

WHEREFORE, the Debtor respectfully requests that this Court grant the Motion and enter the attached Order immediately pursuant to Rule 4001(b)(2), set a final hearing on the Motion on an expedited basis, and grant such other and further relief as the Court deems just and proper.

/s/ Edward M. Miller
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of November, 2016, a copy of the foregoing Motion was mailed electronically or by postage prepaid, first class, U.S. Mail, to IRS, MD, DLLR, and the 20 other largest unsecured creditors as set forth on the attached mailing matrix; and Office of the U.S. Trustee, 101 W. Lombard St. #2625, Baltimore, MD 21201.

/s/ Edward M. Miller

Edward M. Miller