

UNITED STATES BANKRUPTCY COURT

**EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - DETROIT**

IN THE MATTER OF:

Zweite Stufe, Inc.

Debtor.

Bankruptcy Case No. 16-53059
Honorable Mark A. Randon
Chapter 11

**ORDER GRANTING THE DEBTOR'S FIRST DAY MOTION FOR ENTRY
OF AN INTERIM AND FINAL ORDER AUTHORIZING THE DEBTOR
TO USE CASH COLLATERAL AND GRANTING ADEQUATE
PROTECTION**

This matter having come before the court on the First Day Motion for Entry of an Order Authorizing the Debtor to Use Cash Collateral and Granting Adequate Protection (the "Motion")¹ filed by the above captioned debtor (the "Debtor"); after notice and hearing, the Court having reviewed the Motion;

THE COURT HEREBY FINDS:

A. On September 21, 2016, (the "Petition Date"), Debtor filed for relief under Chapter 11 of the United States Bankruptcy code (the "Bankruptcy Code").

B. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

C. The Court consideration of this Motion constitutes a core proceeding as defined in 28 U.S.C. §§ 157(b)(2)(A),(K) and (M).

¹ Capitalized terms used but not defined herein shall have the meanings as set forth in the Motion.

D. The procedures set forth in this Order, constitute sufficient “notice and hearing” under Section 102 and 363(c) of the Bankruptcy Code, Bankruptcy Rule 2002, 4001, 6004 and 9006. This Order is being entered on an interim basis pursuant to Bankruptcy Rule 4001 and is expressly subject to the rights of parties in interest to object as specifically provided in paragraph 9 below.

E. The Debtor requires funds to pay expenses in connection with maintaining operations, including purchasing services, supplies and material, satisfying taxes, payroll, and fringe benefits for employees and paying utilities. Failure to pay these and similar critical expenses would cause the Debtor immediate and irreparable harm by disrupting the Debtor’s ability to maintain operations and shutting down the Debtor’s locations.

F. The Debtor does not have sufficient unencumbered funds to meet these expenses. Accordingly, the Debtor requires authorization to use cash collateral to avoid immediate and irreparable harm. The amount of cash the Debtor proposes to use before entry of a final order granting the Motion (including adequate protection payments as authorized under this Order) is set forth in the Budget attached to the Motion. Specifically, during the first sixty (60) days of this case, the Debtor requires the use of \$372,823.16.

G. The legal and factual bases set forth in the Motion establish just cause for the relief granted herein.

Therefore, IT IS HEREBY ORDERED that:

1. The Motion is Granted.
2. The Debtor is authorized to use Cash Collateral and grant adequate protection in accordance with the terms of the Motion.
3. To avoid immediate and irreparable harm before the date of the final hearing or the date this order becomes a final order in the absence of a timely objection and final hearing, Debtor is permitted to use Cash Collateral in the amount of \$372,823.16 and Debtor's authorized use of Cash Collateral is limited to that amount prior to the entry of a final order authorizing the Debtor to use Cash collateral or the time this Order becomes a final order, as the case may be. Pending a final order, the Debtor may use cash collateral in accordance in the amounts set forth above in accordance with the Budget, with a ten percent (10%) variance for each line item.
4. To the extent of any diminution in value of the Pre-Petition Cash Collateral, the Secured Creditor with an interest in cash collateral is hereby granted the following Replacement Liens as adequate protection. The Replacement Liens shall be liens on each of the respective Debtor's assets which are created, acquired, or arise after Petition Date, but limited to only those types and descriptions of collateral in which the Secured Creditor holds a pre-petition lien or security

interest. The Replacement Liens shall have the same priority and validity as the Secured Creditor's pre-petition security interest and liens.

5. As additional adequate protection, the Debtor shall make monthly payments to the Secured Creditor in the amount of \$4,000.00 which is the monthly interest accruing under the Debtor's obligation to the Secured Creditor at the applicable interest rates for each Secured Creditor. To the extent that it is later determined that the Secured Creditor is not permitted interest payments under 11 U.S.C. §506(b) (or otherwise) or that the amounts paid by the Debtor as adequate protection payments is more than the Secured Creditor is entitled to receive as interest under the applicable provisions of the Bankruptcy Code, the Debtors may request that some or all of these adequate protection payments be characterized as principal payments.

6. Nothing in this Order constitutes an admission by the Debtor or prejudices the rights of the Debtor to challenge the amount, validity, enforceability, priority or perfection of any liens or security interests asserted by the Secured Creditor.

7. The Debtor shall, within one (1) business day following the entry of this order, serve copies of this order and the Debtor's motion for entry of this order with all attachments on each of the Debtor's 20 largest unsecured creditors, the Secured Creditor, any committee formed in this case, the United States Trustee's

Office, and all other parties who are required to be served under Fed. R. Bankr. P. 4001(d).

8. The Debtor is authorized to escrow Professional Fees, as more fully set forth in the Motion.

9. All parties seeking to object to this Order must file a written objection within fourteen (14) days after the entry of this Order, except that an official committee may file objections within fourteen (14) days after the official committee is served with the entered Order. If an objection is timely filed, the final hearing on this Order will be held before the Honorable Mark A. Randon, United States Bankruptcy Judge, in courtroom 1825, located at 211 West Fort Street, Detroit, Michigan, on **October 31, 2016 at 11:00 a.m.** If no timely objection is filed, then this Order will become a final order without a further hearing, and the Debtor will be authorized to spend for those expenses referenced in the Motion, as well as any other expenses necessary for operating the business in the ordinary course going forward.

10. The Debtor's use of Cash Collateral shall conform to the amounts set forth in the Budgets within a ten percent (10%) variance. The Debtor may file with the Court modified or supplemental Budgets from time to time and shall be authorized to use Cash Collateral in accordance with such modified or supplemental Budgets without a hearing unless an objection is filed within fourteen

days after the such modified or supplemental Budgets are filed. The Debtor's authority to use Cash Collateral shall continue otherwise ordered by this Court.

Signed on September 28, 2016

 /s/ Mark A. Randon
Mark A. Randon
United States Bankruptcy Judge