

1 Michael A. Jones, State Bar #27311
Philip J. Giles, State Bar #30340
2 David B. Nelson, State Bar #34100
ALLEN BARNES & JONES, PLC
3 1850 N. Central Ave., Suite 1150
Phoenix, Arizona 85004
4 Ofc: (602) 256-6000
Fax: (602) 252-4712
5 Email mjones@allenbarneslaw.com
pgiles@allenbarneslaw.com
6 dnelson@allenbarneslaw.com

7 Proposed Attorneys for Debtors

8
9 **UNITED STATES BANKRUPTCY COURT**
10 **DISTRICT OF ARIZONA**

11 In re:
12 SILVERADO STAGES INC., et al.,
13 Debtors.

Chapter 11

Case No. 2:18-bk-12203-MCW
(Joint Administration Motion Pending)

14 This filing applies to:

- 15 ALL DEBTORS
16 SILVERADO STAGES INC.
17 SILVERADO CHARTER
SERVICES, LLC
18 MICHELANGELO LEASING INC.
19 SILVERADO STAGES SC, LLC
20 SILVERADO STAGES CC, LLC
21 SILVERADO STAGES NC, LLC
22 SILVERADO STAGES NV, LLC
23 SILVERADO STAGES AZ, LLC

Case No. 2:18-bk-12203-MCW
Case No. 2:18-bk-12205-DPC
Case No. 2:18-bk-12207-BKM
Case No. 2:18-bk-12209-MCW
Case No. 2:18-bk-12210-MCW
Case No. 2:18-bk-12213-EPB
Case No. 2:18-bk-12215-BKM
Case No. 2:18-bk-12218-EPB

**EMERGENCY MOTION FOR ENTRY OF
INTERIM AND FINAL ORDERS:**

**(a) AUTHORIZING THE DEBTORS' USE
OF CASH COLLATERAL;**

**(b) GRANTING ADEQUATE PROTECTION
TO WESTERN ALLIANCE BANK; AND**

**(c) SCHEDULING A FINAL HEARING
THEREON**

Hearing Date: TBD
Hearing Time: TBD
Hearing Loc.: TBD

26 Silverado Stages, Inc., a Wyoming corporation; Silverado Charter Services, LLC, a
27 California limited liability company; Michelangelo Leasing Inc. ("**Michelangelo**"), an Arizona
28 corporation; Silverado Stages SC, LLC, a California limited liability company; Silverado Stages

{00127820 6}

1 CC, LLC, a California limited liability company; Silverado Stages NC, LLC, a California
2 limited liability company; Silverado Stages NV, LLC, a Nevada limited liability company; and
3 Silverado Stages AZ, LLC, an Arizona limited liability company debtors and debtors-in-
4 possession (collectively, the “**Debtors**”), in the above-captioned Chapter 11 cases (collectively,
5 the “**Cases**”), file this Motion for entry of an interim order (“**Interim Order**”) substantially in
6 the form attached hereto as **Exhibit A** and subject to amendment or modification based on
7 negotiations with the parties-in-interest and after a final hearing on this Motion (“**Final**
8 **Hearing**”), a final order (“**Final Order**”, and together with the Interim Order, collectively, the
9 “**Cash Collateral Orders**”). To that end, the Debtors request that the Court: (a) provide the
10 Debtors with authority to use Western Alliance Bank, an Arizona corporation’s (“**WAB**”) cash
11 collateral; (b) grant adequate protection to WAB with respect to the Debtors’ use of cash
12 collateral and any diminution in the value of WAB’s interests in its prepetition collateral; and
13 (c) setting the time for the Final Hearing.

14 This Motion is brought on an emergency basis to avoid irreparable harm to the Debtors’
15 bankruptcy estate and is supported by the entire record before the Court, the contemporaneously
16 filed *Declaration of Brian Hunt, Chief Executive Officer, in Support of Debtors’ First Day*
17 *Filings* (“**Hunt Declaration**”) which is incorporated by this reference, the Debtors’ 28-day
18 budget (“**Budget**”) attached hereto as **Exhibit B**, and by the following Memorandum of Points
19 and Authorities. The Debtors seek interim approval to use cash collateral for a brief 28-day
20 period while the Debtors and WAB negotiate the Debtors’ use of cash over a more extended
21 period. The Debtors’ requested relief will ensure that WAB’s collateral is preserved while the
22 parties work through the initial issues in the Cases.

23 MEMORANDUM OF POINTS AND AUTHORITIES

24 I. JURISDICTION AND VENUE

25 1. The Debtors each filed voluntary petitions for relief in the District of Arizona
26 under Chapter 11 on October 5, 2018. The Debtors continue to operate their businesses as
27 Debtors-in-possession in accordance with Code §§ 1107 and 1108.
28

1 2. This Court has jurisdiction over the Cases under 28 U.S.C. §§ 157 and 1334.
2 This Motion is a core proceeding related to the administration of the bankruptcy estates under
3 28 U.S.C. § 157(b)(2)(A).

4 3. The Debtors are affiliated entities, share common management, and collectively
5 operate a service-oriented passenger transportation business known as “Silverado Stages”.

6 4. The Debtors maintain their headquarters and principal place of business in
7 Phoenix, Arizona, specifically at 2239 N. Black Canyon Hwy Phoenix, AZ 85009.
8 Accordingly, venue for these Cases is proper in this District under 28 U.S.C. §§ 1408 and 1409.

9 5. No trustee or examiner has been appointed in the Cases, nor has an official
10 committee of unsecured creditors been established.

11 **II. FACTUAL BACKGROUND**

12 6. In support of this Motion, the Debtors incorporate by this reference the factual
13 statements contained in the contemporaneously filed Declaration.

14 7. The Debtors are related entities and collectively operate a service-oriented
15 passenger transportation business known as “**Silverado Stages**”. Silverado Stages was founded
16 in 1987 and has a diverse background in passenger operations, including charters, local and
17 multi-state over-the-road tours, scheduled fixed routes, contract shuttles and ADA services.
18 Silverado Stages has worked with all levels of government, business, private parties and
19 military. Now operating a diverse fleet of over 300 passenger vehicles, over 60 of which are
20 ADA compliant, and operating throughout the western states, Silverado Stages is one of the
21 largest privately-owned bus operators in the United States. Silverado Stages operates from
22 leased terminal locations in San Luis Obispo, Sacramento, Santa Barbara, Torrance, San Diego,
23 Reno, Las Vegas, and its headquarters in Phoenix.

24 8. The Debtors’ revenue is primarily derived from charter transportation services,
25 contracts for ongoing transportation services, vehicle rentals, and vehicle sales.

26 9. Other than debt payments, the Debtors’ primary expenses consist of payroll,
27 lodging for its driver employees while they are on the road, fuel, vehicle maintenance, rent,
28 insurance, and utilities.

1 **Debtor’s Pre-Petition Debt Structure and Need to Use Cash Collateral**

2 **WAB CREDIT FACILITY**

3 10. In February 2017, the Debtors entered into certain loan documents with WAB
4 whereby WAB loaned money to some of the Debtor entities: (i) Silverado Stages, Inc.; (ii)
5 Silverado Charter Services, LLC; and (iii) Michelangelo (“**WAB Debtors**”), on a secured basis,
6 purportedly secured by a blanket lien against the WAB Debtors’ assets, including the WAB
7 Debtors’ cash and accounts receivable (collectively, “**Cash Collateral**”), pursuant to a security
8 agreement and filed UCC financing statements. WAB asserts a secured claim against the WAB
9 Debtors in the approximate amount of \$5.4 million. Silverado Stages, Inc. generates nearly all
10 of the Debtors’ income and holds nearly all of the Debtors’ assets, including Silverado Stages’
11 accounts receivable.

12 11. As of their bankruptcy filing date, the Debtors held \$1,150,000.00 in cash
13 (including \$190,000.00 in loan proceeds from Nineveh Holdings, LLC, a third-party entity) and
14 \$1 million in accounts receivable from non-affiliate companies.

15 12. The Debtors have many other secured creditors that hold collateral interests in
16 specific equipment or vehicles, however, the Debtors do not believe that any party other than
17 WAB has the right to assert a secured interest in the Debtors’ accounts receivable and cash.

18 13. To the best of their knowledge and after having conducted UCC searches with an
19 outside service in all relevant states, the Debtors will provide notice of their first day filings to
20 all of their alleged secured creditors, among others.

21 **III. AUTHORIZATION TO USE CASH COLLATERAL**

22 The Debtors respectfully requests this Court grant the Debtors authority to use the
23 WAB’s Cash Collateral on an interim basis and subject to the Budget¹, and set a Final Hearing
24 on this Motion. In order to give the Debtors and WAB time to reach a longer-term agreement
25 regarding the Debtors’ use of Cash Collateral, the Debtors propose to use the Cash Collateral in
26 accordance with the detailed Budget for a brief 28-day period. During that time, the Debtors
27 _____

28 ¹ The Debtor may not exceed the Budgeted expenditures by more than 10% in the aggregate over the duration of
the 28-day budget period.

1 will conduct good-faith negotiations with WAB for the Debtors' use of cash collateral over a
2 longer period, as well as potentially for access to debtor-in-possession financing. The Debtors
3 will adequately protect WAB for use of the Cash Collateral during this abbreviated period by:
4 (1) protecting the value of WAB's collateral; (2) granting replacement liens on similar
5 postpetition collateral to the extent of any diminution in WAB's pre-bankruptcy collateral; and
6 (3) accounting for the Cash Collateral during the pendency of the Cases ("**Adequate Protection**
7 **Terms**").

8 Pursuant to § 363(c)(2), the Court may authorize the Debtors to use the Cash Collateral
9 as long as WAB consents or it is adequately protected. See In re Mellor, 734 F.2d 1396, 1400
10 (9th Cir. 1984). The Bankruptcy Code permits the payment of adequate protection by granting
11 creditors any relief that will result in the realization of the "indubitable equivalent" of such
12 entity's interest in the property. 11 U.S.C. § 361(3). While the Bankruptcy Code does not
13 define "indubitable equivalent," courts view this provision as a "catch-all" for any other form of
14 adequate protection. See In re Timbers of Inwood Forest, Assocs. Ltd., 793 F.2d 1380, 1388
15 (5th Cir. 1988). In all events, it is understood that adequate protection is a concept which is
16 decided flexibly on a case-by-case basis. See In re Martin, 761 F.2d 472 (8th Cir. 1985).

17 Here, to the extent that the Debtors utilize the funds generated by the accounts securing
18 WAB's claims, WAB will be provided with replacement liens to the same extent and priority as
19 it currently holds, on any new postpetition cash and accounts. Granting replacement liens on
20 new cash or accounts generated by the Debtor's use of Cash Collateral is a common method of
21 providing adequate protection.²

22 Without immediate and interim use of the Cash Collateral, the Debtors will not have
23 access to cash to pay its operating expenses, or employee wages and salaries. In that event, the
24 Debtor's operations (Silverado Stages) will shut down, all ongoing business value will be lost
25 and unsecured creditors will lose any prospect for payment. Accordingly, where WAB is
26

27
28 ² See In re Wrecclesham Grange, Inc., 221 B.R. 978, 981 (Bankr. N.D. Florida, 1997); In re Barkley AAA Investors, Ltd., 175 B.R. 755 (Bankr. D. Kansas 1994).

1 adequately protected for the use of its collateral, and where all other parties benefit from its
2 continued operations, the Debtors should be permitted to use the Cash Collateral.

3 **IV. NOTICE AND REQUEST FOR FINAL HEARING**

4 Under Rule 4001(b)(2), the Debtors request the Court set a date for the Final Hearing.
5 No trustee, examiner, or official committee has been appointed in the Cases. Notice of this
6 Motion has been given to the Office of the United States Trustee, the Debtors' secured creditors
7 (including WAB), and the Debtors' twenty (20) largest unsecured creditors, the Debtors'
8 landlords, the Internal Revenue Service, and the Arizona Department of Revenue. Based on the
9 nature of the requested relief, the Debtors submit that no other notice need be given.

10 **WHEREFORE**, the Debtors respectfully request: (a) entry of an order substantially in
11 the form of the proposed Interim Order attached to this Motion as Exhibit A; (b) after a Final
12 Hearing on the relief requested in this Motion, entry of a Final Order approving the relief
13 requested herein, substantially in the form that shall be filed with the Court; and (c) such other
14 and further relief as is just and equitable.

15 DATED: October 8, 2018.

16 **ALLEN BARNES & JONES, PLC**

17 /s/ MAJ #27311

18 Michael A. Jones

19 Philip J. Giles

20 David B. Nelson

1850 N. Central Ave., Suite 1150

Phoenix, AZ 85004

Proposed Attorneys for Debtors

Exhibit A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA**

In re:
SILVERADO STAGES INC., et al.,
Debtors.

Chapter 11
Case No. 2:18-bk-12203-MCW
(Joint Administration Motion Pending)

This filing applies to:

- ALL DEBTORS
- SILVERADO STAGES INC.
- SILVERADO CHARTER SERVICES, LLC
- MICHELANGELO LEASING INC.
- SILVERADO STAGES SC, LLC
- SILVERADO STAGES CC, LLC
- SILVERADO STAGES NC, LLC
- SILVERADO STAGES NV, LLC
- SILVERADO STAGES AZ, LLC

Case No. 2:18-bk-12203-MCW
Case No. 2:18-bk-12205-DPC
Case No. 2:18-bk-12207-BKM
Case No. 2:18-bk-12209-MCW
Case No. 2:18-bk-12210-MCW
Case No. 2:18-bk-12213-EPB
Case No. 2:18-bk-12215-BKM
Case No. 2:18-bk-12218-EPB

**INTERIM ORDER GRANTING
EMERGENCY MOTION FOR
INTERIM AND FINAL ORDERS:**

- (a) AUTHORIZING THE DEBTORS’ USE
OF CASH COLLATERAL;**
- (b) GRANTING ADEQUATE PROTECTION
TO WESTERN ALLIANCE BANK; AND**
- (c) SCHEDULING A FINAL HEARING
THEREON**

This matter came before the Court on the *Debtors’ Emergency Motion for Entry of Interim and Final Orders: (a) Authorizing the Debtors’ Use of Cash Collateral; (b) Granting Adequate Protection to Western Alliance Bank; and (c) Scheduling a Final Hearing Thereon* (“**Motion**”) for entry of an interim and final orders under §§ 361 and 363 seeking authorization

1 to use Cash Collateral¹ in accordance with the Budget attached to the Motion as Exhibit B.
2 Having reviewed the Motion, the Hunt Declaration and the entire record in this case, the Court
3 finds and concludes that: (i) it has jurisdiction over the matters raised in the Motion under 28
4 U.S.C. §§ 157 and 1334; (ii) venue is proper under 28 U.S.C. §§ 1408 and 1409; (iii) this matter
5 is a core proceeding under 28 U.S.C. § 157(b)(2); (iv) the relief requested in the Motion is in the
6 best interests of the Debtors, their estates, their creditors, and other parties in interest; (v)
7 adequate and proper notice of the Motion and the hearing on it has been given and no other or
8 further notice is necessary; and (vi) good and sufficient cause exists for granting the relief
9 requested in the Motion as set forth in this Order. In light of the foregoing,

10 **IT IS ORDERED THAT:**

11 1. The Motion is GRANTED on an interim basis.

12 2. The Debtors are authorized to use the Cash Collateral in accordance with the
13 Budget. The Debtors may not exceed the budgeted expenditures by more than 10% in the
14 aggregate over the duration of the 28-day budget period.

15 3. The Adequate Protection Terms set forth in the Motion adequately protect
16 Western Alliance Bank for use of the Cash Collateral.

17 5. A final hearing on the Motion is scheduled for _____, 2018 at
18 ___:___ .m. Arizona Time before this Court. Any party in interest may file an objection to the
19 relief sought in the Motion on or within 10 days from entry of this Interim Order.

20 6. The Court retains jurisdiction with respect to all matters arising from or related to
21 the implementation of this Interim Order.

22 **DATED AND SIGNED ABOVE.**

23
24
25
26
27
28 _____
¹ Unless otherwise noted herein, capitalized terms shall retain the meanings attributed to them in the Motion.

Exhibit B

Silverado Stages, Inc., et al.
Weekly Cash Budget

Currency: USD Week Ending Week	10/5 Petition Date			
	Budget 10/13/2018	Budget 10/20/2018	Budget 10/27/2018	Budget 11/3/2018
	1	2	3	4
Cash Receipts - Charters	438,000	438,000	438,000	438,000
Cash Receipts - Contracts	396,090	396,090	396,090	396,090
Cash Receipts - Rental Income	600	-	-	11,100
Total Receipts	834,690	834,090	834,090	845,190
Payroll	(531,776)	(10,000)	(531,776)	(10,000)
Health Insurance	-	-	-	(95,667)
W/C Insurance	-	(64,317)	-	(31,718)
Hotel/Lodging	(24,600)	(24,600)	(24,600)	(24,600)
Vehicle Insurance	-	(152,000)	-	(14,917)
Fuel	(93,941)	(93,941)	(93,941)	(93,941)
Vehicle Maintenance	(125,000)	(125,000)	(125,000)	(125,000)
Bus Washing	-	-	-	(13,000)
Rent	(80,725)	-	(6,180)	(121,974)
Utilities/Phone/Internet	-	-	-	(10,100)
Merchant Account Fees	(14,200)	(40)	(40)	(200)
Other Taxes/Fees	(500)	-	-	(15,000)
Employee Reimbursements	(144)	-	-	-
Other A/P	-	-	-	(46,000)
Total Operating Disbursements	(870,886)	(469,898)	(781,537)	(602,116)
Sonoran Capital Advisors	(14,700)	(14,700)	(14,700)	(49,700)
Allen Barnes & Jones	(12,500)	(12,500)	(12,500)	(12,500)
Creditors Committee Fees	(7,500)	(7,500)	(7,500)	(7,500)
Litigation Counsel	(5,000)	(5,000)	(5,000)	(5,000)
Utilities Deposits	(26,471)	-	-	-
Disbursements from Administration	(66,171)	(39,700)	(39,700)	(74,700)
Total Disbursements	(937,056)	(509,598)	(821,237)	(676,816)
Net Cash Flow	(102,366)	324,492	12,853	168,374
Beginning Cash (Including Customer Deposits)	1,172,600	1,070,234	1,394,726	1,407,579
Change in Cash	(102,366)	324,492	12,853	168,374
Ending Cash	1,070,234	1,394,726	1,407,579	1,575,953
Customer Deposits	(420,000)	(420,000)	(420,000)	(420,000)
Ending Cash after Customer Deposits	650,234	974,726	987,579	1,155,953