

1 **5 PAGES**

2 **LAW OFFICES OF GABRIEL LIBERMAN, APC**

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9 Attorney for FIRST CAPITAL RETAIL, LLC

10 UNITED STATES BANKRUPTCY COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 SACRAMENTO DIVISION

13 In re

14 FIRST CAPITAL RETAIL, LLC

15 FEIN: 47-2494283

16 Debtor,

Case No. 2017-26125

DCN: GEL-004

**ORDER CONDITIONALLY GRANTING
MOTION FOR AN ORDER AUTHORIZING
USE OF CASH COLLATERAL OF BYLINE
BANK**

Date: October 16, 2017

Time: 10:00 AM

Location: 501 I Street, 7th floor,
Courtroom 28;
Sacramento, CA

Judge: Honorable Michael S. McManus

22 On October 6, 2017, First Capital Retail, LLC (the “Debtor”) filed its Emergency Motion for an
23 Order Authorizing Use Cash Collateral of Byline Bank, N.A., Docket No. 45. (the “Motion”). No
24 written opposition was required to be filed and no written opposition was filed. The matter originally
25 came on hearing on October 16, 2017 at 10:00 a.m. before the Honorable Michael S. McManus and
26 Debtor was conditionally granted use of cash collateral on an interim basis for the interim period
27 covering September 14, 2017 through October 31, 2017. The matter was continued to October 30, 2017
28 at 10:00 a.m.

RECEIVED

December 06, 2017

CLERK, U. S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
0006180677

1 Appearing at the October 16, 2017 hearing was Gabriel E. Liberman, Attorney for the Debtor,
 2 Reed Waddell, Attorney for secured creditor Byline Bank, Dustin Branch, Attorney for Landlord
 3 Creditors The Macerich Company and Starwood Retail Partners LLC, Amir Gamliel, Attorney for
 4 Landlord Creditor 2250 Town Circle Holdings, LLC, Eric Goldberg, Attorney for Cinnabon Frachisor
 5 SPV and Ivan Gold for Landlord Creditors Tyler Mall Limited Partnership and GGP Northridge Fashion
 6 Center, LP successor by merger to U.K. - American Properties, Inc.

7 The Court, after consideration of the Motion, the documents filed in support of the Motion and
 8 the objections stated orally on the record at the hearing on the Motion, **IT IS HEREBY ORDERED**
 9 **THAT:**

- 10 1. The Motion for an Order Authorizing Use Cash Collateral of Byline Bank is approved on an
 11 interim basis for the period September 14, 2017 through October 31, 2017 (the “First Interim
 12 Period”);
- 13 2. Debtor is authorized to use cash collateral as provided in the budget attached hereto as Exhibit A
 14 for the First Interim Period with a 5% variance;
- 15 3. Adequate protection is granted to Byline Bank in the form of replacement liens on all the
 16 Debtor’s post-petition collateral, nunc pro tunc, to the petition date, and confirming that the
 17 actual interest payments to be made to Byline Bank on a monthly basis, retroactive to the petition
 18 date, are to be made at the non-default contract rate provided in Byline Bank’s loan documents;
 19 and
- 20 4. The Hearing on interim or final approval of the Motion for an Order Authorizing Use Cash
 21 Collateral of Byline Bank will be held on October 30, 2017 at 10:00 a.m. in Department A,
 22 Courtroom 28.

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Approved as to form by:

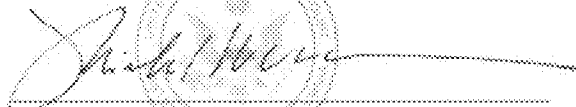
FRANDZEL ROBINS BLOOM & CSATO, L.C.

/s/ Reed S. Waddell
Reed S. Waddell
Attorney for Secured Creditor, Byline Bank

IT IS SO ORDERED:

Dated: December 07, 2017

By the Court


Michael S. McManus
United States Bankruptcy Judge

7 Ordinary Income/Expense

Income	
4000 · Sales - Taxable	624,942.64
4001 · Sales - Non Taxable	198,752.48
4005 · Chargebacks	-99.43
4120 · Sales Returns & Adjustments	0.00
4190 · Stored Value Dividend	0.00
Total Income	823,595.69
Cost of Goods Sold	
5000 · Cost of Goods Sold	141,631.13
5010 · Food Products	0.00
5015 · Beverage Products	14,233.33
5020 · Paper Products	75.70
5030 · Janitorial	1,743.34
5040 · Labor	
5042 · Labor - Crews	104,011.24
5045 · Labor - Management	118,581.86
5047 · Labor - Bonuses	0.00
5049 · Labor - Admin	0.00
Total 5040 · Labor	222,593.10
5050 · Labor Burden & Benefits	
5052 · Labor Burden & Benefits - Crews	9,868.48
5055 · Labor Burden & Benefits - Mgmt	12,632.66
5057 · Labor Burden & Benefits - Bonus	0.00
Total 5050 · Labor Burden & Benefits	22,501.14
5060 · Workers Compensation	
5062 · Workers Comp - Crews	5,784.86
5065 · Workers Comp - Management	5,696.92
Total 5060 · Workers Compensation	11,481.78
5070 · Contract Labor	0.00
5072 · Payroll Processing Fees	6,993.69
5075 · HR & District Manager	15,453.61
5085 · Small Equipment	0.00
5090 · Merchant Account Fees	11,519.45
Total COGS	448,226.27
Gross Profit	375,369.42
Expense	
6010 · Accounting Expense	16,500.00
6020 · Advertising Expense	0.00
6030 · Bank Service Charges	1,960.34
6035 · Cash Over/Short	1,308.02
6040 · Company Repairs & Maintenance	5,150.06
6050 · Computer Expenses	-845.25
6070 · Dues and Subscriptions	15.00
6080 · Franchise Fees Expense	
6081 · Franchise Royalties Expense	51,551.93
6082 · Franchise Advertising Expense	12,887.99
Total 6080 · Franchise Fees Expense	64,439.92
6090 · Insurance Expense	
6091 · Ins Exp - General Liability	0.00
6090 · Insurance Expense - Other	6,497.65
Total 6090 · Insurance Expense	6,497.65
6100 · Janitorial Expense	0.00
6105 · Late Fees/Finance Charges	0.00
6110 · Legal and Professional Expense	0.00
6120 · Licenses and Permits Expense	587.00
6135 · Loan Fees	0.00
6140 · Meals & Entertainment	2,000.00
6150 · Office Supplies	0.00
6155 · Outside Services/office rents	5,100.00
6160 · Payroll Taxes-Employer	0.00
6170 · Property Taxes	5,102.01
6180 · Postage Expense	630.52
6190 · Rent or Lease Expense	
6191 · Base Rent	149,996.00
6192 · Percent Rent	4,021.97
6193 · Storage Rent	900.00
6194 · Common Area Maintenance	22,107.61
6195 · Landlord Advertising Expense	1,760.56
6196 · HVAC	940.79
6190 · Rent or Lease Expense - Other	2,421.49
Total 6190 · Rent or Lease Expense	182,148.42
6205 · Technology	354.95

SEPTEMBER 14- OCTOBER 31, 2017

6207 · Telephone Internet Data	
6208 · POS Montly Hosting	1,498.00
6207 · Telephone Internet Data - Other	4,094.57
Total 6207 · Telephone Internet Data	<u>5,592.57</u>
6210 · Training/Conferences	0.00
6220 · Travel Expense	5,000.00
6230 · Uniform Expense	0.00
6250 · Utilities Expense	
6252 · Utilities - Electric	12,621.30
6253 · Utilities - Water	1,076.30
6254 · Utilities - Trash	1,831.21
6255 · Utilities - Fire Detection Syst	35.00
6256 · Security Services	0.00
6259 · Utilities - Misc	795.84
6250 · Utilities Expense - Other	
Total 6250 · Utilities Expense	<u>16,359.65</u>
Total Expense	<u>317,900.86</u>
Net Ordinary Income	57,468.56
Other Income/Expense	
Other Expense	
8010 · Loss on Sale of Receivables	0.00
8050 · Interest Expense	
8052 · Loan Interest - 25314	905.08
8051 · Loan Interest - 23676	10,127.39
8050 · Interest Expense - Other	0.00
Total 8050 · Interest Expense	<u>11,032.47</u>
8070 · Penalties and Fines Expense	0.00
8080 · State LLC Taxes & Fees	0.00
8090 · Suspense	0.00
Total Other Expense	<u>11,032.47</u>
Net Other Income	<u>-11,032.47</u>
Net Income	<u><u>46,436.09</u></u>