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11 UNITED STATES BANKRUPTCY COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 In re
14 PACHECO BROTHERS GARDENING, INC.,
15
16 Debtor.

Case No. 17-40403 WJL

Chapter 11

**SUPPLEMENTAL BRIEF RE (1)
FINAL HEARING ON USE OF
CASH COLLATERAL; (2)
OWNERS' SALARIES; AND (3)
UPDATE ON OBTAINING
ALTERNATIVES TO POST-
PETITION FINANCING**

Date: March 1, 2017

Time: 2:00 p.m.

Ctrm: 220

U.S. Bankruptcy Court

1300 Clay Street

Oakland, California

18 Pacheco Brothers Gardening, Inc., debtor and debtor-in-possession herein (“Debtor”)
19 submits this Supplemental Brief re (1) Final Hearing on Use of Cash Collateral; (2) Owners’
20 Salaries; and (3) Update on Obtaining Alternatives to Post-Petition Financing as follows:

21 **I. INTRODUCTION**

22 At the hearing on the (1) Interim Use of Cash Collateral, (2) Motion for Authority to Pay
23 Pre-Petition Payroll; (3) Motion for Order Continuing Merchant Services and Compelling Banks
24 to Continue Merchant Services; and (4) Motion for Authorization for Unsecured Post-Petition

Supplemental Brief Re Approval of (1) Final Hearing on Use of Cash Collateral; (2) Owners’ Salaries; and (3) Update on Obtaining Alternatives to Post-Petition Financing -1-

1 Financing (“First Day Hearing”), the Court granted certain motions (some on a temporary basis)
2 and set a further hearing for March 1, 2017. The Court set a deadline of February 22, 2017 for the
3 Debtor to file any supplemental pleadings regarding any of the motions to be heard at the further
4 hearing. This supplemental brief sets forth (1) the budget for the next sixty (60) days as well as
5 revenue projections for the same period of time; (2) an explanation of the owners’ salaries, (3) and
6 an update on the alternatives to the post-petition financing.

7 **A. Sixty-Day Budget and Revenue Projections Objection**

8 Attached as Exhibit A to the Declaration of Lynn Pacheco, is a sixty (60) day budget
9 beginning the week of March 1, 2017 and ending the week of April 24, 2017. Each of the items
10 listed are projected expenses that the Debtor will incur and be paid from its existing cash on hand
11 and receivables collected post-petition.

12 Attached as Exhibit B is a revenue projection showing the Debtor’s projected revenue
13 including both generated accounts receivables and work in progress for the same period of time.
14 As set forth in the revenue projection, the Debtor anticipates generating approximately \$920,592
15 in revenue from March 1, 2017 through April 30, 2017.

16 The total amount of cash collateral that the Debtor anticipates using during the same period
17 of time is \$934,770.

18 **B. The Owners’ Salaries**

19 In response to the First Day Motions, Tom Del Conte and TDDC Ventures, Inc. (“Del
20 Conte”) filed an objection. Del Conte alleges, among other things, that the owners are getting
21 hefty raises in this bankruptcy while pre-petition they paid back loans in front of other creditors.
22 However, the repayment of the loans to the owners replaced their reduced salary and did not
23 impact the company’s revenues above the expense for their regular salary. At the advice of an
24 accountant, the owners, instead of taking full salary, reduced their salary and supplemented their
25 income by the repayment of their personal loans made to the company. The following is
26 breakdown of salary loans and the total amount of consideration received by each owner during
27 2016 and the proposed salaries for each in going forward.

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2016			
Owner	Salary	Loan Repayment	Total
George	\$99,568	\$44,544	\$144,112
Gary	\$65,289	\$82,177	\$147,466
Lynn	\$27,130	\$18,500	\$45,630

Post-Petition Salaries	
Owner	Yearly Salary
George	\$150,800
Gary	\$150,800
Lynn	\$54,288

As set forth above, the proposed post-petition salary is in line with the pre-petition compensation received by the owners. Further, the salaries proposed to be paid to the owners post-petition are comparable to owners/operators of business with 59 employees over a variety of locations and one that generates revenues of over \$5,500,000.

C. Alternatives to Post-Petition Financing

At the hearing on the Motion to Approve the Unsecured Post-Petition Financing, the Court inquired as to whether the Debtor’s bank, Bank of the West, would issue debit cards. Bank of the West has indicated that it will issue debit cards connected to the debtor in possession accounts of the Debtor. The Debtor will have debit cards issues and will use those cards to pay expenses pursuant to the approved budget. However, some vendors still require credit cards (not debit cards) to purchase supplies, services and materials. As such, the Debtor will need to access the Splash of Class credit cards to purchase certain expenses that required a credit card. To the extent possible, the Debtor will use the debit cards to pay for supplies, services or materials from vendors who accept debit cards and will only use the credit cards as a last resort. Therefore, at this time, the Debtor request authorization to use the credit cards post-petition to the extent necessary to augment purchases using its the debit cards.

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II. CONCLUSION

The Debtor requests that the Court approve the use of cash collateral on a final basis through April 30, 2017 as set forth in the budget attached as Exhibit A to the Declaration of Lynn Pacheco filed in support herewith. In addition, the Debtor requests that the Court overrule Del Conte's objection as to the owners' salaries and authorize the payments as set forth above. Finally, authorize the Debtor to incur unsecured post-petition financing through the use of, to the extent needed, the Splash of Class credit cards as previously requested.

Dated: February 22, 2017

Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.

By: /s/ Chris D. Kuhner
(Bar No. 173291)
Proposed Attorneys for Debtor Pacheco Brothers
Gardening, Inc.

DECLARATION OF SERVICE

I, the undersigned, declare:

I am employed in the City of Oakland, County of Alameda, California. I am over the age of 18 years and not a party to this action. My business address is 1970 Broadway, Suite 225, Oakland, California 94612.

I am readily familiar with the business practices of my employer, Kornfield, Nyberg, Bendes, Kuhner & Little, P.C., for the collection and processing of correspondence for mailing with the United States Postal Service and that correspondence is deposited with the United States Postal Service that same day in the ordinary course of business unless indicated below by electronic service.

On February 22, 2017, I served the following documents:

SUPPLEMENTAL BRIEF RE (1) FINAL HEARING ON USE OF CASH COLLATERAL; (2) OWNERS' SALARIES; AND (3) UPDATE ON OBTAINING ALTERNATIVES TO POST-PETITION FINANCING; AND

DECLARATION OF LYNN PACHECO IN SUPPORT OF SUPPLEMENTAL BRIEF RE (1) FINAL HEARING ON USE OF CASH COLLATERAL; (2) OWNERS' SALARIES; AND (3) UPDATE ON OBTAINING ALTERNATIVES TO POST-PETITION FINANCING

by faxing to the entities and fax numbers identified on Exhibit A attached hereto:

Via-ECF
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I placed such envelopes for collection and mailing at my employer's office following ordinary business practices, addressed to the addressee designated.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 22nd day of February, 2017 at Oakland, California.

/s/ Gail A. Michael