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9 **UNITED STATES BANKRUPTCY COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN JOSE DIVISION**

12 In re:
13 CASA DE MONTGOMERY, INC.
14 Debtor

Case No.: 17-53037-SLJ

MOTION FOR USE CASH COLLATERAL

CHAPTER 11

15 Date: Feb. 7, 2018
16 Time: 10:30 A.M.
Court: 3099

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18 COMES NOW Debtor Casa De Montgomery, Inc. by and through The Fuller Law Firm, P.C., its
19 attorneys of record, and moves the Court for authorization to use secured creditor's cash collateral. This
20 is intended to be a final hearing. In support of this motion, Debtor states the following:

21 **I. INTRODUCTORY STATEMENT**

22
23 Debtor filed the herein case on Dec. 19, 2017. At the time of the filing of the petition, debtor
24 was the owner of real property commonly known as 4573 Branciforte Drive, Santa Cruz, CA 95065
25 ["Property"]. The petition was filed to stay the sale of the Property brought by Sequoia Mortgage
26 Capital, the holder of the note secured by a first trust deed. Debtor seeks to refinance the Property to
27 pay off secured creditors and to pay general unsecured creditors in full over time.
28

1 Debtor seeks authority to use secured creditor's cash collateral to pay utilities, property taxes
2 insurance and maintenance of the Property.

3 The undersigned is the Certifying Professional, has drafted this motion and as set forth in the
4 attestation clause in this motion believes that it complies with the Court's Guidelines for Cash
5 Collateral Motions.
6

7 **II. ASSETS**

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9 Debtor's assets at the time of filing consisted of the following:

10 Real Property at 4573 Branciforte Drive, Santa Cruz, CA
11 consisting of 15,647 SF buildings on 12.68 acres. \$3,200,000¹

12 Cash in Wells Fargo Bank \$ 1,802.00

13
14 **III. NAME OF ENTITIES WITH INTEREST IN CASH COLLATERAL**

15 The Property is encumbered by the following liens:

16 Santa Cruz Co. Tax Collector \$ 13,512

17 1st T.D. Sequoia Mortgage Capital \$2,118,186²

18 2nd T.D. Gerardo Soto \$ 60,000
19

20 **IV. INCOME**

21
22 Gerta Grindstaff rents a room within the house on the property for storage. She pays
23 \$585.00/month on a month-to-month rental basis.

24 On Dec. 15, 2017 Firearms, Inc. entered into a lease for the use of the 10,000 square foot mixed
25

26 _____
27 ¹ Per appraisal by Granite Appraisal Group as of July 2017.

28 ² Debtor's calculated figure. No claim has been filed.

1 use building and adjoining land for \$19,000/month rental with payments commencing on March 1, 2018.
2 It is also to pay its share of utilities based on a separate subpanel.

3 **V. PURPOSE OF CASH COLLATERAL**

4 Debtor seeks authority to use cash collateral to pay for property taxes, insurance, utilities and
5 minor repairs and maintenance pursuant to the following budget:
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7

A	B	C
Description	Approximate Current Amount	Proposed Monthly withholding from cash collateral
Property taxes	\$717	725
Insurance	\$340.	375
P.O. box rental	12	15.00
PG&E and Utilities	1,707 ³	600.00
Critical repairs and maintenance	500.	500.
Total	3,276	2,215

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20 Debtor proposes that it be allowed to withhold from cash collateral the amounts set forth in
21 Budget Column "C" and accrue said amount for future use, if not expended in any given month. Debtor
22 concedes that no cash collateral may be used to pay debtor's principals or for any other purpose absent
23 further order from the Court.
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26 _____
27 ³ Firefarms, Inc. will pay its share of utilities. Hence Debtor's share is estimated at 1/3 or
28 \$569.

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VI. TERMS, DURATION AND ADEQUATE PROTECTION

Debtor proposes to pay on entry of an order on this motion and thereafter by the 10th of the month commencing March 2018, all cash collateral accrued post-petition, less the budgeted items in Column “C” above (whether expended that month or accrued) to Sequoia Mortgage Capital. Conditioned on timely receipt of rents, such disbursements to Sequoia Mortgage Capital are estimated as follows:

Rent-Grindstaff	585.00	
Rent – Firefarm, Inc.	19,000	
Total Rent		19,585
Authorized use of Cash Collateral	2,215	
Net payable to Sequoia Mortgage Capital		17,370

Debtor proposes that these payments continue until the sooner of confirmation, dismissal, or conversion.

VII. DISCLOSURES UNDER GUIDELINES FOR USE OF CASH COLLATERAL

Nothing in this motion seeks to

1. challenge the validity of any obligation,
2. challenge the amount of any claim or the priority of the debt.
3. allow for relief from stay in the event of default;
4. modify non-bankruptcy law relating to perfection of any lien;
5. modify any statute of limitations;
6. indemnify any entity;
7. impact any rights under 11 U.S.C 506(c);

WHEREFORE, Debtor prays for an order:

1. Allowing Debtor to use cash collateral to continue operating the Property subject to the limitations set forth herein.

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2. Condition the use of such cash collateral on payment to Sequoia Mortgage Capital of all post-petition cash collateral received less the budgeted numbers set forth in the Table above under Column “C”.
3. Providing that such authorization to use cash collateral shall terminate on confirmation, dismissal or conversion of the case to another Chapter.
4. And for such other and further relief as is just and equitable.

The undersigned Certifying Professional has prepared the herein motion for use of cash collateral; to the best of his knowledge, information and belief, formed after reasonable inquiry, the terms of the relief sought in the motion are in conformity with the Court’s Guidelines For Cash Collateral and Financing Motions and Stipulations excepts as set forth above. I understand and have advised the debtor in possession that the court may grant appropriate relief under Fed.R.Bankr.P. 9024 if it determines that the Introductory Statement did not adequately disclose a material element of the motion.

Respectfully submitted,

Dated: Jan. 4, 2018

THE FULLER LAW FIRM, P.C.

By: /s/ Lars. T. Fuller
LARS T. FULLER
Attorney for Debtor