

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO

In re:)	
)	
VESCO CONSULTING)	Case No. 16-21351 EEB
SERVICES, LLC,)	
)	Chapter 11
EIN: 46-2172249,)	
)	
Debtor.)	

STIPULATED MOTION BY DEBTOR TO CONTINUE USE OF CASH COLLATERAL
AND PROVIDE ADEQUATE PROTECTION

VESCO Consulting Services, LLC, the debtor-in-possession (the “**Debtor**”), moves for entry of an Order authorizing its continued use of cash collateral and providing adequate protection to secured creditors Points West Community Bank (“**Points West**”) and Colorado Department of Revenue (“**CDOR**”), pursuant to 11 U.S.C. §§ 361 and 363 and Fed. R. Bankr. P. 4001(b) and 9014. The following grounds support this Motion:

I. GENERAL BACKGROUND

1. On November 19, 2016, the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtor continues to operate its business as a debtor-in-possession pursuant to 11 U.S.C. §§ 1107 and 1108.

2. The Debtor leases properties to mine construction aggregates (sand and gravel) and sells and delivers the material to its customers, which are typically concrete and asphalt producers as well as oil and gas construction companies. The Debtor also engages in trucking activities, construction, custom crushing, and mine reclamation.

3. On December 29, 2016, the Debtor filed its *Stipulated Motion by Debtor for Authority to Use Cash Collateral and for Adequate Protection* (the “**Cash Collateral Motion**”) [Dkt. No. 59], whereby the Debtor, among other things, sought permission to use cash collateral and provide adequate protection to Points West and CDOR.

4. On January 13, 2017, the Court granted the Cash Collateral Motion, entering its *Amended Order Authorizing Use of Cash Collateral* (the “**CC Order**”) [Dkt. No. 75]. Generally, the CC Order (i) authorized use of cash collateral through June 30, 2017 pursuant to a budget; (ii) granted Points West adequate protection via a replacement lien, maintenance of adequate insurance, access to reports and other information, commitment to pay post-petition taxes, keeping the collateral in good repair, and re-commencing monthly loan payments; and (iii)

granted CDOR adequate protection via various payments and commitment to, post-petition, timely file tax returns and pay taxes.

5. Except for requesting a delay in the May 2017 adequate protection payments to Points West that is subject to the *Motion by Debtor to Amend Adequate Protection and Cash Collateral Orders* (the “**Motion to Amend**”) and the Order on same [Dkt. Nos. 156 and 164], dated May 23, 2017, the Debtor believes that it has otherwise complied with the CC Order.

6. In the Cash Collateral Motion, the Debtor requested authority to extend the six-month budgeted cash collateral use period on 14-day notice with opportunity for hearing solely to Points West, CDOR, and the U.S. Trustee by providing such parties with new budgets for additional monthly periods. Cash Collateral Motion, ¶ 21. The CC Order does not address this request, so the Debtor provides 14-day notice to all interested parties as a typical motion would.

II. RELIEF REQUESTED

7. The Debtor plans to continue operation of its business throughout the chapter 11 case in which Points West and CDOR claim an interest. In order to pay necessary operating expenses, the Debtor must continue to use cash collateral.

8. As such, the Debtor seeks authority to continue to use of cash collateral and provide adequate protection to Points West and CDOR as set forth in the CC Order, as supplemented by (i) the six-month period commencing July 1, 2017 pursuant to the budget that is **Exhibit A** hereto (the “**Budget**”); and (ii) the Motion to Amend and Order on same. Except to the extent inconsistent with the foregoing, the CC Order and all rights thereunder shall otherwise remain in full force and effect.

9. The Debtor proposes to meet the Budget subject to the ability to deviate from it by up to 15% per line item, per month. The Budget reflects a conservative analysis of the Debtor’s income and expenses over the projected periods.

10. If adjudication of this Motion passes June 30, 2017, Points West consents to the Debtor’s use of cash collateral, *nunc pro tunc* to July 1, 2017, while this Motion is pending.

III. STIPULATED NATURE OF RELIEF; WAIVER OF LOCAL RULE WAIT PERIOD

11. Counsel for Points West approves of the form and content of this Motion and the proposed order and stipulates to the sought relief. Counsel for the Debtor has endeavored to contact counsel for CDOR, but has yet to receive a response (likely as a result of a vacation). The Cash Collateral Motion and CC Order provide for certain payments to CDOR, which the Debtor has already made. As such, the Debtor doubts CDOR will have much interest in the relief sought herein, and the Debtor includes CDOR out of an abundance of caution.

12. In an effort to obtain entry of an Order on this Motion in advance of June 30,

2017, the Debtor respectfully requests that it be permitted to file an appropriate certificate immediately following the notice period as opposed to waiting an additional three court days as contemplated by LBR 9013-1.

WHEREFORE the Debtor respectfully requests that the Court consider this Motion and thereupon enter an Order authorizing its continued use of cash collateral and providing adequate protection to secured creditors Points West and CDOR, pursuant to 11 U.S.C. §§ 361 and 363 and Fed. R. Bankr. P. 4001(b) and 9014; and for such other and further relief as may be appropriate under the circumstances.

Dated: June 14, 2017.

Respectfully submitted,

LAW OFFICES OF KEVIN S. NEIMAN, PC

/s/ Kevin S. Neiman

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Counsel to the Debtor

In re VESCO Consulting Services, LLC ; Case No. 16-21351 EEB - EXHIBIT A (Cash Collateral Budget from July 2017 - December 2017)

	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	
BEGINNING CASH BALANCE	\$ 28,000.00	\$ 100,492.51	\$ 173,985.02	\$ 247,477.53	\$ 252,046.57	\$ 279,039.08	
INCOME AND RECEIPTS							
A/R COLLECTION	\$ 400,000.00	\$ 400,000.00	\$ 400,000.00	\$ 400,000.00	\$ 350,000.00	\$ 350,000.00	\$ 2,300,000.00
ASSET SALES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL RECEIPTS	\$ 400,000.00	\$ 400,000.00	\$ 400,000.00	\$ 400,000.00	\$ 350,000.00	\$ 350,000.00	\$ 2,300,000.00
EXPENSES							
RENT	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 15,000.00
EMPLOYEE SALARIES	\$ 65,000.00	\$ 65,000.00	\$ 65,000.00	\$ 65,000.00	\$ 65,000.00	\$ 65,000.00	\$ 390,000.00
EMPLOYEE BENEFITS	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 48,000.00
OWNER SALARY	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 60,000.00
OWNER BENEFITS	\$ 1,500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 2,000.00	\$ 2,000.00	\$ 7,000.00
TAXES	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 90,000.00
AP - OTHER EQPT NOTES (NON-PWB, VEHICLE)	\$ 65,000.00	\$ 65,000.00	\$ 65,000.00	\$ 65,000.00	\$ 65,000.00	\$ 65,000.00	\$ 390,000.00
AP - PWB - NOTE 6801	\$ 1,039.75	\$ 1,039.75	\$ 1,039.75	\$ 1,039.75	\$ 1,039.75	\$ 1,039.75	\$ 6,238.50
AP - PWB - NOTE 8701	\$ 17,310.26	\$ 17,310.26	\$ 17,310.26	\$ 17,310.26	\$ 17,310.26	\$ 17,310.26	\$ 103,861.56
AP - PWB - NOTE 2801	\$ 417.40	\$ 417.40	\$ 417.40	\$ 417.40	\$ 417.40	\$ 417.40	\$ 2,504.40
AP - PWB - NOTE 2301	\$ 1,425.58	\$ 1,425.58	\$ 1,425.58	\$ 1,425.58	\$ 1,425.58	\$ 1,425.58	\$ 4,276.74
AP - PWB - NOTE 2802	\$ 939.50	\$ 939.50	\$ 939.50	\$ 939.50	\$ 939.50	\$ 939.50	\$ 5,637.00
AP - VEHICLE NOTES PAYABLE	\$ 4,500.00	\$ 4,500.00	\$ 4,500.00	\$ 4,500.00	\$ 4,500.00	\$ 4,500.00	\$ 27,000.00
AP - 5/2017 CATCH-UP (PWB, CAT, KOMATSU)				\$ 67,298.47			
VEHICLES EXPENSES	\$ 46,000.00	\$ 46,000.00	\$ 46,000.00	\$ 46,000.00	\$ 46,000.00	\$ 46,000.00	\$ 276,000.00
MAINTENANCE	\$ 12,000.00	\$ 12,000.00	\$ 12,000.00	\$ 12,000.00	\$ 12,000.00	\$ 12,000.00	\$ 72,000.00
INSURANCE	\$ 12,000.00	\$ 12,000.00	\$ 12,000.00	\$ 12,000.00	\$ 12,000.00	\$ 12,000.00	\$ 72,000.00
ROYALTIES AND LEASE PAYMENTS	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 25,000.00	\$ 25,000.00	\$ 170,000.00
SUPPLIES	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 12,000.00
UTILITIES	\$ 375.00	\$ 375.00	\$ 375.00	\$ 375.00	\$ 375.00	\$ 375.00	\$ 2,250.00
EQUIPMENT RENTAL	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 45,000.00
PROFESSIONAL FEES AND COSTS	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 150,000.00
U.S. TRUSTEE FEES	\$ -	\$ -	\$ -	\$ 1,625.00	\$ -	\$ -	\$ 1,625.00
TOTAL EXPENSES	\$ 327,507.49	\$ 326,507.49	\$ 326,507.49	\$ 395,430.96	\$ 323,007.49	\$ 323,007.49	\$ 2,021,968.41
NET CASH FLOW	\$ 72,492.51	\$ 73,492.51	\$ 73,492.51	\$ 4,569.04	\$ 26,992.51	\$ 26,992.51	
ENDING CASH BALANCE	\$ 100,492.51	\$ 173,985.02	\$ 247,477.53	\$ 252,046.57	\$ 279,039.08	\$ 306,031.59	