

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF CONNECTICUT  
HARTFORD DIVISION**

IN RE:	:	CHAPTER 11
HUDSON HOSPITALITY	:	CASE NO. 17-20717-JJT
HOLDINGS, LLC	:	
DEBTOR	:	

**MOTION TO APPROVE ORDER (A) AUTHORIZING USE OF  
CASH COLLATERAL; (B) GRANTING ADEQUATE PROTECTION TO PRE-  
PETITION SECURED LENDER; AND (C) AUTHORIZING DEBTOR TO OBTAIN  
POST-PETITION FINANCING PURSUANT  
TO 11 U.S.C. §§ 105, 363(b)(1), 363(c), AND 364(c)**

Hudson Hospitality Holdings, LLC, the above-captioned debtor and debtor-in-possession (the “Debtor”), by and through its undersigned counsel, respectfully moves the Court for a final order for authority to use cash collateral and to obtain post-petition financing pursuant to 11 U.S.C. §§ 105, 363(b)(1), 363(c), and 364(c). In support thereof, the Debtor represents as follows:

**I. Jurisdiction and General Factual Background**

1. On May 16, 2017 (the “Petition Date”), Hudson Hospitality Holdings, LLC (“the Debtor”) commenced its reorganization case by filing a voluntary petition for the relief afforded by Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”). In accordance with §§ 1107 and 1108 of the Bankruptcy Code, the Debtor was authorized to continue in possession of its properties and operate and manage its business as a Debtor-in-Possession. No trustee, examiner, or committee has been appointed in the Debtors’ chapter 11 cases.

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue of the Debtors’ chapter 11 cases and this Motion are proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

3. The statutory predicate for the relief requested herein are §§ 105(a), 361, 362, and 363 of the Bankruptcy Code.

4. The Debtor owns and operates a 147-room hotel in Mystic, Connecticut (the “Hotel”).

5. Madeline Penachio-Konigsberg (“Ms. Konigsberg”) is and has always been the sole member of the Debtor.

6. Ms. Konigsberg is 73 years old. She acquired a Master’s Degree in Social Work in 1971 and a Doctorate Degree in Social Work in 1973, and has subsequently worked for the New York State Department of Health since that time. She is currently retired but continues to work part-time there as a Health Program Administrator. Ms. Konigsberg has no business or transactional training, education, experience, or background whatsoever.

7. Ms. Konigsberg first met claimed creditor Agha Jafri (“Agha”) when they worked together at the New York State Department of Health in 1980. In 1995, he became her supervisor.

8. During that time, Ms. Konigsberg was in the process of divorcing her husband of twenty-eight years. She was divorced in 2002 and, as a result, became the sole owner of substantial, debt-free real estate and financial investments.

9. Agha was aware of the pending divorce and her resulting substantial financial assets. After her divorce, Agha took a larger interest in Ms. Konigsberg personally. In spite of his being married at the time to Masoomah Jafri, Agha and Ms. Konigsberg had an intimate relationship. Agha assured Ms. Konigsberg that he was going to divorce his wife and they would be together. As time passed and Agha remained married, Ms. Konigsberg stopped seeing him in 2005 – 2006 because of this. About a year later, Agha told her that he was divorced and they began seeing each other again. Ms. Konigsberg has since learned that Agha, in fact, never divorced.

10. Over time, Ms. Konigsberg came to rely a great deal upon Agha's financial advice.

11. In 2016, as a result of warnings from Ms. Konigsberg's former investment advisors, Neuberger Berman ("Neuberger"), and from documentary evidence gathered by her attorney, Ms. Konigsberg learned that Agha and his brother Zulfikar Jafri ("Zulfi"; together "the Jafris") had exploited her financially through fraud, forgeries, breach of fiduciary duty, misrepresentations, and/or theft. One such instance was the 2015 purchase of the Hotel by the Debtor funded largely with Ms. Konigsberg's money.

12. In 2015, the Jafris had told Ms. Konigsberg that they wanted her to purchase the Hotel. The Hotel had formerly been owned by Whitehall Avenue, LLC ("Whitehall"), in which Zulfi had a majority interest.

13. On or about January 24, 2011, Whitehall had filed a voluntary petition under Chapter 11. That case was dismissed on February 22, 2012. On May 13, 2012 Whitehall refiled.

14. A trustee was appointed in the Whitehall bankruptcy, and the Trustee abandoned Whitehall's interest in the Hotel in October, 2014. As a result, the secured lender, Ittleson Whitehall Hotel, LLC ("Ittleson Whitehall") foreclosed on the Hotel. Title vested in Ittleson Whitehall on or about February 18, 2015.

15. The Jafris convinced Ms. Konigsberg to fund the purchase of the Hotel from Ittleson Whitehall. They told Ms. Konigsberg that they had the necessary funds and lenders to purchase the Hotel, but because of time constraints, they needed money from her to purchase the Hotel right away. They convinced Ms. Konigsberg that although they had the money to do so, it was not readily available. The Jafris repeatedly assured Ms. Konigsberg that she would only be making a short-term loan, that her funds would only be needed for a short period of time, and that she would be promptly repaid.

16. One or both of the Jafris caused the Debtor to be formed under Connecticut law, and made Ms. Konigsberg the sole member. The signature on the Articles of Organization of Hudson, which Ms. Konigsberg has seen only lately, is a forgery.

17. To obtain funds for the down payment on the Hotel, the Jafris arranged to borrow \$550,000 from Gary Klein, a private lender. Ms. Konigsberg's signature on the March 31, 2015 Klein Note (the "Klein Note") is a forgery, and the notarization of her signature is also false.

18. To secure the Klein Note, the Jafris convinced Ms. Konigsberg to execute a mortgage on her home at 2087-2088 Fairfield Beach Road, Fairfield, Connecticut. This mortgage is dated ten days before the date of the Klein Note. Apparently recognizing the infirmities in the Klein Note, the Jafris also persuaded Ms. Konigsberg to execute a "Document Re-Execution Agreement", whereby she agreed to "re-execute and redeliver the note and/or mortgage delivered in connection with the [Klein Loan]".

19. HHH closed on the purchase of the Hotel on August 28, 2015. The total purchase price was \$3,449,250. Ms. Konigsberg provided \$1,200,000 in cash at the closing, which she obtained from her personal investments held at Neuberger. The balance of the purchase price of \$2,200,000 was obtained through a purchase money note and mortgage, which the Jafris insisted Ms. Konigsberg personally guarantee. Ms. Konigsberg's guarantee was secured by a house she owns in Wilton, Connecticut, and a negative pledge of her personal residence, a cooperative apartment, at 55 Sutton Place South, Apt. 2i, New York 10022.

20. Following the closing on the purchase of the Hotel by HHH, the Jafris told Ms. Konigsberg that she had to provide \$300,000 to HHH, so that it would have operating capital.

21. From the date of the closing until approximately June, 2016, Zulfi oversaw the payment of the Debtor's expenses. At his request, Ms. Konigsberg simply signed "blank" checks,

which Zulfi filled out as to both payee and amount. From the banking records obtained by Ms. Konigsberg's attorney, it appears that Zulfi spent hundreds of thousands of dollars of the Debtor's funds on the Jafri's personal expenses and other expenditures unrelated to the Debtor's business, including payments to other Jafri family members and the payment of Zulfikar Jafri's personal attorney's fees arising out of the Whitehall bankruptcy.

22. Ms. Konigsberg also learned that while the Hotel was owned by Whitehall, and long before it was owned by HHH, someone forged her signature on HHH's personal property leases for mattresses, furniture, and televisions, and also forged her signature on personal guarantees.

23. Since HHH's acquisition of the Hotel, HHH has lost in excess of one million dollars (\$1,000,000), and Ms. Konigsberg has been funding those losses from her personal resources.

24. Prior to the bankruptcy filing, the Hotel experienced extensive water damage due to a leaky roof. A large chunk of rooms cannot be rented at this time due to the mold and water damage in those rooms.

25. Ms. Konigsberg has also been plagued with litigation against HHH and against her personally, incredibly including suits filed by the Jafri's. There are now at least four pending suits against Ms. Konigsberg and/or Hudson: *Jafri, Agha, et al. v. Hudson Hospitality Holdings, LLC, et al.* (FBT-CV-16-6061169-S, Bridgeport JDD-01); *Simplexgrinnell Limited Partnership v. Hudson Hospitality Holdings, LLC* (HHB-CV-17-6037624-S, New Britain JDD-01); *Jafri, Zulfikar H. v. Hudson Hospitality Holdings, LLC* (FST-CV-17-6031315-S, Stamford JDD-01) (removed to federal court); and *Montagnino, Thomas, et al. v. Hudson Hospitality Holdings, LLC, et al.* (FST-CV-17-6031654-S, Stamford JD) (removed to federal court).

26. As a result, Ms. Konigsberg has a personal interest in ensuring HHH continues to operate as a hotel and maintain its value as the primary asset of the Debtor's estate.

27. Furthermore, Ms. Konigsberg has continued to provide cash infusions to the Hotel when large payments needed to be made, e.g., to meet payroll; deposit to utility Eversource, to ensure that the Hotel continued to operate. These cash infusions were frequently made on an emergency basis.

28. In addition, prior to the Petition Date, HHH mortgaged 9 Whitehall Avenue, Stonington, Connecticut 06378 (the "Property") for \$2,200,000 to 9 Whitehall Avenue Lender LLC (the "Lender"), which was secured by a mortgage note secured on the Property (the "Pre-Petition Mortgage"). As of the Petition Date, the Lender was owed approximately \$2,200,000.

## **II. Relief Sought**

### **A. Line of Credit from Ms. Konigsberg**

29. Prior to the Petition Date, HHH was unable to meet its cash needs without additional funding from Ms. Konigsberg. The Court-appointed CRO, Matthew Walston (the "CRO"), has been working with HHH's manager and Debtor's counsel to ensure that HHH will have sufficient weekly cash flow to operate on a week-to-week basis from room rentals and other services. However, without funding from Ms. Konigsberg, HHH will not have sufficient funds to operate the Hotel during the off season, to maintain interest payments to the Lender, and to fund the sale process designed to maximize the assets of the Estate.

30. Thus, HHH seeks to borrow funds from Ms. Konigsberg, pursuant to the budget attached hereto as Exhibit A, in an amount up to \$325,000. In addition to the budgeted expenses, HHH is seeking to borrow funds for post-petition interest payments to the Lender that have accrued since the commencement of the case but prior to September 2017 and to pay the retainer of the

real estate broker and advisor retained by order of the Court.

31. Furthermore, Ms. Konigsberg has made emergency loans to the Hotel since the Petition Date so that the Hotel would continue to operate. For example, she wired \$18,000 to the Hotel to pay the deposit demanded by Eversource, a utility company, so that the Hotel would continue to operate over the Fourth of July weekend, a holiday weekend that provided a large source of cash to the Hotel and allowed it to continue to operate.

32. Pursuant to the provisions of § 364(c) of the Bankruptcy Code, the Court, after notice and hearing, may authorize the extension of credit to a debtor-in-possession as an administrative claim. Ms. Konigsberg has agreed to provide the Debtor with a commercial line of credit promissory note in the amount of Three Hundred Twenty-Five Thousand Dollars (\$325,000.00). Ms. Konigsberg as the sole member of the Debtor is an insider.

33. The terms of the loan are as follows:

- a. Amount: up to \$325,000
- b. Secured loan subordinate to any valid existing pre-petition liens, specifically, to the Pre-Petition Mortgage;
- c. Secured by:
  - i. Demand open-end mortgage deed on property located at or known as 9 Whitehall Avenue, Stonington, Connecticut 06378 (the "Property");
  - ii. Security Agreement against all personal property owned by HHH; and
- d. Interest: The interest rate will be fixed at six percent (6%) per annum.
- e. Maturity Rate: the earlier of i) the sale of the Property; ii) conversion of HHH's case to case under Chapter 7; iii) the appointment of a Chapter 11 Trustee; iv) dismissal of the case; or v) September 30, 2018.

34. The funds sought to be borrowed are necessary, among other things, for the Debtor to maintain its operations as a hotel, to pay for necessary repairs and maintenance of guest rooms, to allow for adequate protection payments, and to pay the Debtor's proposed real estate broker and advisor its retainer for expenses. Without access to the line of credit, the Debtor will be unable to meet its day-to-day operating cash needs as the summer season winds down or to engage in a meaningful sale process. Consequently, if relief is not granted, the Debtor's going concern value will be immediately and irreparably jeopardized to the detriment of the estate, the creditors, and all other parties in interest.

35. To date, the Debtor has been unable to obtain funding on any other basis more beneficial to the estate than that proposed herein. The Debtor believes it would be futile to seek financing even on the same basis as Ms. Konigsberg is prepared to advance the funds, because the borrowing will be secured only by a second mortgage, the cash flow from the Property is insufficient to pay current interest on the advances, and repayment of the advances depends on a sale of the Property. Even were a "hard money" lender willing to make a loan under these circumstances, such a lender would undoubtedly require points and interest far in excess of six percent (6%).

36. In sum, it is the Debtor's business judgment that the terms of this financing facility, when taken, provide the Debtor with the most preferable terms for post-petition financing.

#### **B. Use of Cash Collateral**

37. The Property is currently valued at approximately \$4,000,000. Thus, the Lender's interest in the Cash Collateral is protected by the equity cushion on the Property. As additional adequate protection on the Property, the Debtor will make interest payments to the Lender at the contract rate.

38. Approval of the use of cash is in the best interests of the Debtor, the estate, and creditors. The use of cash collateral will enable the Debtor to pay post-petition obligations and preserve the integrity of its operations while it continues to provide its customary service to hotel guests. Absent the use of cash collateral, the Debtor's ability to continue its operations in the ordinary course would be jeopardized.

WHEREFORE, the Debtor respectfully requests that this Court enter the proposed Order authorizing the Debtor to obtain unsecured credit in the amount up to Three Hundred Twenty Five Thousand Dollars (\$325,000 ) upon the terms and conditions set forth herein, allow the use of cash collateral with the Lender's consent, and for such other and further relief this Court deems just and proper.

Dated at Bridgeport, Connecticut, this 26th day of September, 2017.

THE DEBTOR,  
HUDSON HOSPITALITY HOLDINGS, LLC

By: /s/James Berman  
James Berman, Esq. (ct06027)  
Joanna M. Kornafel, Esq. (ct29199)  
Zeisler & Zeisler, P. C.  
10 Middle St.  
15<sup>th</sup> Floor  
Bridgeport, CT 06604  
Telephone: (203) 368-4234  
Facsimile: (203) 367-9678  
Email: [jberman@zeislaw.com](mailto:jberman@zeislaw.com)  
[jkornafel@zeislaw.com](mailto:jkornafel@zeislaw.com)