

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
BRIDGEPORT DIVISION

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In re:	:	CHAPTER 11
HARBORSIDE ASSOCIATES, LLC,	:	CASE NO. 17-50749 (JAM)
	:	
Debtor.	:	RE: ECF NO. 21
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HARBORSIDE ASSOCIATES, LLC,	:	
	:	
Movant,	:	
	:	
v.	:	
	:	
SIoux, LLC, TOWN OF STRATFORD,	:	
and BAL HARBOUR, LLC as assignee	:	
THE SALCE COMPANIES, LLC	:	
	:	
Respondents.	:	
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**TENTH INTERIM ORDER AUTHORIZING USE OF CASH COLLATERAL AND
PROVIDING ADEQUATE PROTECTION TO SECURED CREDITOR**

UPON the Motion (the "Motion") of Harborside Associates, LLC, debtor and debtor-in-possession (the "Debtor") for authority to, *inter alia*, use the cash collateral of Sioux, LLC ("Secured Creditor") on an interim and final basis pursuant to 11 U.S.C. Sections 363(c)(2) and 361 and Federal Rule of Bankruptcy Procedure 4001, and an interim hearing ("Interim Hearing") having been held on September 25, 2018, and any objections to the Motion having been withdrawn, and upon the record taken at the Interim Hearing, and all of the pleadings heretofore filed in this proceeding, it is hereby found and determined as follows:

A. On June 28, 2017 (the "Petition Date") the Debtor filed a voluntary petition (the "Petition") for relief under Chapter 11 of Title 11, United States Code, 11 U.S.C. §101 et. seq. the

(the "Bankruptcy Code"), and has continued in possession of his property and the management of his business pursuant to 11 U.S.C. §§1107 and 1108.

B. As of the date hereof, the Office of the United States Trustee has not appointed an Official Committee of Unsecured Creditors as provided for in Section 1102 of the Code. No trustee or examiner has been appointed in this proceeding.

C. As of the Petition Date, the Secured Creditor alleges a first priority secured claim against certain real property owned by the Debtor and located at 946 Ferry Boulevard, Stratford, Connecticut (the "Property"), including the rents arising therefrom.

D. Secured Creditor has asserted that the liens and security interests granted to it (the "Pre-Petition Liens") were duly perfected and are senior in time to all other liens and security interests in the collateral. As more fully set forth in the Motion, there are multiple other liens covering the Property which are subsequent in right to the Mortgage including a lien allegedly held by Bal Harbour LLC ("Harbour") as assignee of The Salce Companies, LLC. Harbour filed an objection to the Debtor's use of cash collateral dated July 31, 2017 (the "Objection").

E. The use of cash collateral on an interim basis pending a final hearing is necessary to prevent immediate and irreparable harm to the Debtor's estate.

F. The Court finds that it is in the best interest of the estate, the Secured Creditor, Harbour, and all other creditors and parties-in-interest; and it is necessary to avoid irreparable harm to the Debtor and its estate, that the preliminary use by the Debtor of cash collateral on the terms and conditions set forth herein be approved, and it is hereby

ORDERED:

1. Pursuant to 11 U.S.C. § 363(c)(2)(B), the Debtor is hereby authorized to use cash collateral, including rental proceeds, which cash collateral may be subject to the liens of the

Secured Creditor and Harbour. The Debtor may use any cash collateral in accordance with the budget annexed hereto as Exhibit A (the “Budget”) commencing October 1, 2018 through October 31, 2018 (the “Current Period”). The use of cash collateral for tax payments and U.S. Trustee fee payments, as identified in the Budget, is necessary to prevent irreparable harm to the estate.

2. In exchange for the preliminary use of cash collateral by the Debtor, the Secured Creditor is hereby granted replacement and/or substitute liens (subject only to the carve-out in paragraph 5 of this order) as provided in Bankruptcy Code § 361(2) in post-petition cash collateral, and such replacement liens shall have the same validity, extent, and priority that the Secured Creditor possessed as to said liens on the Petition Date.

3. The term for use of cash collateral shall be for the Current Period. The Debtor is authorized and directed to execute, file, and record any security agreements, financing statements, instruments, or other documents as may be requested reasonably by the Secured Creditor to evidence and/or perfect the liens and/or security interests granted herein. The Secured Creditor is hereby authorized to file and/or record any such documents, and the automatic stay pursuant to Bankruptcy Code § 362 is hereby modified to allow them to file and record such documents as are necessary to evidence and perfect the replacement liens granted herein.

4. Notwithstanding any provision of this Order, nothing herein shall be deemed to be an adjudication or a declaration by the Court of rights with respect to the existence, validity, enforceability, subordination or priority of, or any causes of action relating to the liens or security interests granted by the Debtor or possessed by the Secured Creditor or Harbour prior to the Petition Date. This Order does not provide for cross collateralization. This Order is without prejudice to any party-in-interest challenging the validity of liens of the Secured Creditor or Harbour. Nothing herein shall be deemed to prevent Secured Creditor or Harbour from seeking to

terminate the use of cash collateral for any breach by the Debtor of the terms hereof or to obtain relief from the automatic stay or to assert any other rights, claims, remedies, or defenses available to them. Moreover, the entry of this Order is without prejudice to any objection that may be filed by any creditor to any further use of cash collateral.

5. The liens of the Secured Creditor and any replacement thereof pursuant to this Order, and any priority to which the Secured Creditor may be entitled or become entitled under Section 507(b) of the Bankruptcy Code, shall be subject and subordinate to a carve-out of such liens for amounts payable by the Debtor under Section 1930(a)(6) of Title 28 of the United States Code.

6. A further hearing on the Motion has been scheduled for October 23, 2018 at 10:00 a.m. at the U. S. Bankruptcy Court, 915 Lafayette Boulevard, Room 123, Bridgeport, CT.

Dated at Bridgeport, Connecticut this 27th day of September, 2018.

Julie A. Manning
Chief United States Bankruptcy Judge
District of Connecticut



EXHIBIT

A

EXHIBIT A

HARBORSIDE ASSOCIATES, LLC

946 Ferry Boulevard, Stratford, Connecticut

October-18

Beginning Cash	1-Oct
Estimated Opening Cash	\$106,910.77
Income	
Rental Income	18,000.00
Total Monthly Income	\$18,000.00
Expenses	
UST fees	216.67 ¹
RE Taxes	9,752.77
Total Monthly Expenses	(\$9,969.44)
Estimated Closing Balance	\$114,941.34

¹ accruing

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	:	
Debtor.	:	
_____	X	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 25, 2018 the foregoing document was filed electronically. Notice of this filing was sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing. Parties may access this filing through the Court's system.

Dated: September 25, 2018
New Haven, Connecticut

THE DEBTOR,
HARBORSIDE ASSOCIATES, LLC

By: /s/Douglas S. Skalka
Douglas S. Skalka (ct00616)
NEUBERT, PEPE & MONTEITH, P.C.
195 Church Street, 13th Floor
New Haven, Connecticut 06510
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dskalka@npmlaw.com

17-50749 Notice will be electronically mailed to:

William T. Blake, Jr. on behalf of Creditor
Bal Harbour, LLC as Assignee
wtb@quidproquo.com

William T. Blake, Jr. on behalf of Creditor
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Paul N. Gilmore on behalf of Equity
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pgilmore@uks.com

Carl T. Gulliver on behalf of Creditor Coan,
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James D. Hine, II on behalf of Creditor
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Jonathan J. Klein on behalf of Creditor
Sioux, LLC
jjkesq@hotmail.com

Jonathan J. Klein on behalf of Defendant
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Sean Robert Plumb on behalf of Creditor
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Douglas S. Skalka on behalf of Debtor
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npm.bankruptcy@gmail.com

U. S. Trustee
USTPRegion02.NH.ECF@USDOJ.GOV

17-50749 Notice will not be electronically mailed to:

Holley L. Claiborn
Office of The United States Trustee
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150 Court Street, Room 302
New Haven, CT 06510

The Proto Group, LLC
Attn: Louis Proto
114A Washington Avenue
North Haven, CT 06473