

ORDERED.

Dated: January 12, 2018



Michael G. Williamson
Chief United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re:

POSTO 9 LAKELAND, LLC,

Case No: 8:17-bk-07887-MGW [Lead Case]

POSTO 9 PROPERTIES, LLC,

Case No. 8:17-bk-07890-MGW

Chapter 11

Debtor.

(Jointly Administered Cases)

**FINAL ORDER AUTHORIZING DEBTOR'S USE OF
CASH COLLATERAL AND GRANTING REPLACEMENT LIENS**

(Doc. No. 6)

THIS CASE came before the Court for a continued hearing on January 10, 2018, at 9:30 a.m. (the “**Hearing**”) on the (i) *Debtor’s Emergency Motion for Entry of Interim and Final Orders Authorizing Use of Cash Collateral and Providing Adequate Protection* (Doc. No. 6) (the “**Motion**”), filed by Posto 9 Lakeland, LLC (the “**Debtor**”). Through the Motion, the Debtor (1) seeks the continued use of its property that may constitute “cash collateral” (as that term is defined in 11 U.S.C. § 363(a)) derived from the Debtor’s business operations (“**Cash Collateral**”); and (2) proposes certain adequate protection to CenterState Bank, N.A. (“**CenterState**”). Appearances were made as reflected on the record. The Court, having considered the Motion, and the arguments and proffers of counsel, the record, and for the reasons stated orally and recorded in open court

that shall constitute the Court's record, finds it appropriate to grant the relief requested. Accordingly, it is

ORDERED:

1. The Motion is **GRANTED**, on a final basis subject to the terms and conditions as set forth below.

2. The Debtor is authorized to continue to use Cash Collateral for ordinary expenses in compliance with the budget previously provided to CenterState (the "**Budget**"). The Debtor shall not exceed the Budget cumulatively of five percent (5%), nor any individual line item by more than ten percent (10%) per Budget line item, without the express written consent of CenterState. CenterState may approve a variance of more than five percent (5%) cumulatively or ten percent (10%) per budget line item, without further order of the Court.

3. As adequate protection, all income derived from the business operations of the Debtor will be deposited into the debtor-in-possession account (the "**DIP Account**").

4. The Debtor will disburse funds from the DIP Account to pay the reasonable and customary expenses associated with the operation of the Debtor's business in accordance with the Budget.

5. The Debtor will provide CenterState with monthly written reporting as to the status of its operations, collections, generation of accounts receivable, and disbursements in a format acceptable to CenterState.

6. As additional adequate protection, CenterState is granted a replacement lien in any Cash Collateral acquired by the Debtor subsequent to the Petition Date to the same extent, validity, and priority of their respective liens in such Cash Collateral as of the Petition Date.

7. As additional adequate protection of CenterState's interest in the Cash Collateral, CenterState shall be allowed to inspect the books and records of the Debtor after forty-eight (48) hours' notice to counsel for the Debtor, and such inspection shall occur during the Debtor's normal operating business hours.

8. As additional adequate protection of CenterState's interest in the Cash Collateral, CenterState shall be allowed to inspect the real property of the Debtor in which CenterState holds a mortgage interest after forty-eight (48) hours' notice to counsel for the Debtor, and such inspection shall occur during the Debtor's normal operating business hours, during which the Debtor shall cooperate in providing access to the real property.

9. As additional adequate protection of CenterState's interest in the Cash Collateral, the Debtor shall (a) provide proof of insurance on all real property in which CenterState holds a mortgage interest within two (2) days of this Final Order, (b) maintain all necessary insurance coverage on CenterState's collateral and under no circumstances shall the Debtor allow its insurance coverage to lapse, (c) continue to pay such monthly insurance payment in a timely manner, and (d) within two (2) days of the request of CenterState, the Debtor shall provide to CenterState's counsel a written statement supported by evidence of the Debtors' compliance with the foregoing.

10. Pending further Order of this Court, the Debtor shall not be required to make any adequate protection payments.

11. The Debtor is authorized to use the Cash Collateral to the extent necessary to pay any deposits requested or required by any "utility" as "adequate assurance" of payment pursuant to 11 U.S.C. § 366.

12. The subject of this Final Order is a “core” proceeding within the meaning of 28 U.S.C. § 157. Notice of the Hearing on the Motion was adequate and appropriate under the circumstances of this chapter 11 case as contemplated by 11 U.S.C. §102(l) and Fed.R.Bankr.P. 4001(b)(2).

13. Any use of the Cash Collateral in accordance with the Budget and this Final Order is hereby authorized pursuant to the applicable provisions of Section 363(c) of the Bankruptcy Code and Fed.R.Bankr.P. 4001(b)(2) as necessary to avoid immediate and irreparable harm to the estate, and all adequate protection provided for herein is enforceable to the extent of any use of the Cash Collateral by the Debtor pursuant to this Final Order.

14. In the event of a default by Debtor under the terms of this Final Order, CenterState shall provide the Debtor notice of such a default. If the Debtor does not cure the specified default within forty-eight (48) hours, CenterState shall file a notice with the Court and the Court will set a hearing on prohibition of further use of the Cash Collateral.

Attorney Eric D. Jacobs is directed to serve a copy of this order on interested parties and file a proof of service within 3 days of entry of the order.