

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
*Tampa Division*  
www.flmb.uscourts.gov

IN RE:

Chapter 11

MCHYL ENTERPRISES, INC.,

Case No.: 8:18-bk-01594

Debtor. \_\_\_\_\_/

**MOTION FOR AUTHORITY TO USE CASH COLLATERAL  
NUNC PRO TUNC AND PROVIDING ADEQUATE PROTECTION**

**\*\*Expedited Hearing Request Pursuant to Local Rule 9075-1\*\***

**The above-captioned Debtor being the Debtor-in-Possession, respectfully requests an emergency hearing in this matter to prevent immediate and irreparable harm that would occur if the Debtor does not have immediate access to use of cash collateral to fund the continued operation of its business, payroll, and critical expenses in order to preserve the value of the estate. As such, the Debtor respectfully requests that this Motion be set for hearing on an Expedited Basis.**

COMES NOW, MCHYL ENTERPRISES, INC. (the “Debtor”), by and through its undersigned counsel, files this its *Motion for Authority to Use Cash Collateral Nunc Pro Tunc and Providing Adequate Protection* pursuant to §§ 105 and §363 (c)(2)(B) of Title 11 of the Bankruptcy Code, 11 U.S.C. §101, et. seq. as amended (the “Bankruptcy Code”) and Rules 4001(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). In support of this Motion, the Debtor states as follows:

**JURISDICTION**

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157 (b)(2). Venue is proper before this

Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested is 11 U.S.C. §§ 105 and 363 and Rule 4001(d)(1)(D), Federal Rules of Bankruptcy Procedure.

### BACKGROUND

3. On March 1, 2018, the Debtor filed its voluntary petition under Chapter 11 of the Bankruptcy Code (the “Petition Date”) and pursuant to Bankruptcy Code §§1107(a) and 1108, is operating its business and managing its affairs as a Debtor-in-possession.

4. As of the date hereof, no trustee, examiner, or statutory committee has been appointed in either of these cases.

5. Upon information and belief the following creditors may claim blanket liens against the Debtor’s assets:

Claimant	Claim Amount	UCC-1 Filing Date
American Express Bank, FSB	\$85,000.00	12/31/2013
First Home Bank	\$300,000.00	10/15/2015
Synovus Bank	\$98,000.00	6/29/2017
Regents Capital Corporation	\$5,500.00	8/30/2017
First Corporate Solutions	Unknown	2/8/2018

(collectively, the “Secured Creditors”). The Debtor reserves the right to challenge the validity, priority and extent of the Secured Creditors’ liens against the Debtor’s assets.

6. In addition, the following creditors hold first position liens on specific assets of the Debtor:

a. Geneva Capital, LLC holds a claim in the amount of \$10,000.00 secured by lien on the following: Plate Maker - Lease #47410- Screen Platerite 4100 - 418, Oneac Line

Conditioner, Bacher Punch, Xitron Navigator GPS V10, PDF Soft Proofing, In RIP Trapping, Dell Computer (collectively, the “Geneva Collateral”). The Debtor estimates that Geneva Capital, LLC is presently undersecured.

b. Xerox Corporation holds a claim in the amount of \$800,000.00 secured by lien on the Xerox IGEN150C and Xerox IG150EF12 (collectively, the “Xerox Collateral”). The Debtor estimates that Xerox Corporation is presently undersecured.

c. Audi Financial Services holds a claim in the amount of \$17,500.00 secured by a lien on a 2015 Audi A3 2.0, VIN: xxx1543 (the “Audi Collateral”). The Debtor estimates that Audi Financial Services is undersecured.

d. Lincoln Automotive Financial holds a claim in the amount of \$5,300.00 secured by a lien on a 2014 Lincoln MXZ, VIN: xxx5185 (the “Lincoln Collateral”). The Debtor estimates that Lincoln Automotive Financial is oversecured by approximately \$6,700.00.

7. The Debtor estimates that the collective claims of the Secured Creditors are secured by \$145,629.55 (the “Secured Creditor Assets”) after deducting the first position liens on the Geneva, Xerox, Audi and Lincoln Collateral. The Secured Creditor Assets includes \$34,269.55 in accounts receivables which are less than ninety days old and the Debtor expects to collect.

**RELIEF REQUESTED**

8. The Debtor seeks an order of this Court authorizing the Debtor to use cash, accounts receivable and other income derived from the Debtor’s operations to fund its operating expenses and costs of administration in this Chapter 11 case for the duration of the chapter 11 case (the “Cash Collateral”) pursuant to 11 U.S.C. §§ 105 and 363, Federal Rules of Bankruptcy

Procedure 4001(b)(2) and Local Rule 4001-3, since any cash collateral generated by the Debtor may constitute the cash collateral of the Secured Creditors.

**Terms and Use of Cash Collateral and Offer of Adequate Protection**

8. In order for the Debtor to remain in business, it is imperative that it have the use of the Cash Collateral.

9. As adequate protection for the use of cash collateral, Debtor offers the Secured Creditors the following:

a. Post-petition replacement liens on the Secured Creditor Assets to the same extent, validity and priority as existed pre-petition;

b. The right to inspect the Secured Creditor Assets on forty-eight (48) hours notice, provided that said inspection does not interfere with the operations of the Debtor; and

c. Copies of monthly financial documents generated in the ordinary course of business and other information as the Secured Creditors reasonably request with respect to the Debtor's operations.

**Purposes for the Use of Cash Collateral and Cash Flow Budget**

10. The Debtor must have access to and authorization to use Cash Collateral in the amounts and for the purposes set forth in the budget, attached as **Exhibit "A"** to this Motion (the "Budget"). The use of such Cash Collateral is necessary to avoid immediate and irreparable harm to the Debtor's estate. The Cash Collateral will be used to maintain business operations and preserve value of the estate. Among other things, the Debtor proposes to use Cash Collateral in accordance with the Budget for payment of necessary owner/operators, employees, supplies, and ordinary business expenses related to its operations. This Motion is filed without prejudice to the Debtor's right to request further authority to use Cash Collateral in excess of the amounts

sought herein.<sup>1</sup>

11. The Debtor requests authority to use Cash Collateral immediately to pay the expenses set forth in the Budget as payment of such expenses is necessary to maintain its business, maximize the return on its assets, and to otherwise avoid irreparable harm and injury to its estate

12. In order to ensure that the Debtor operates effectively throughout this bankruptcy proceeding, the Debtor also requests permission to:

- (a) exceed any line item on the budget by an amount equal to ten percent (10%) of each such line item; or
- (b) to exceed any line item by more than ten percent (10%) so long as the total of all amounts in excess of all line items for the Budget do not exceed ten percent (10%) in the aggregate of the total budget.

**WHEREFORE**, MCHYL ENTERPRISES, INC., the Debtor, respectfully requests that this Honorable Court (i) enter an order granting this Motion on an emergency interim basis *nunc pro tunc* to the Petition Date; (ii) authorizes the Debtor's use of Cash Collateral in accordance with the Budget and to provide related adequate protection; (iii) permitting the Debtor to deviate from the Budget in the amount of ten percent (10%) to the extent necessary; (iv) scheduling a Final Hearing in order to authorize the Debtor's use of cash collateral; and (v) granting such other and further relief as the Court shall deem just and proper.

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<sup>1</sup> The Budget reflects general line items reflecting the projections of the Debtor's normal operating expenses for the period covered by the Budget. The Debtor's expenditures will be in reasonable compliance with Budget.

**RESPECTFULLY SUBMITTED**, on this 1<sup>st</sup> day of March, 2018.

BUDDY D. FORD, P.A.,

/s/ Jonathan A. Semach

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Office Email: All@tampaesq.com

Attorney for Debtor

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 1<sup>st</sup> day of March, 2018, a true and correct copy of the foregoing was sent by ■ CM/ECF Electronic Mail to:

United States Trustee - TPA, USTPRegion21.TP.ECF@USDOJ.GOV

and, by ■ U.S. Mail to:

MCHYL Enterprises, Inc., 11548 Pyramid Drive, Odessa, FL 33556

American Express, 4315 South 2700 West, Salt Lake City, UT 84184

American Express Company, 200 Vesey Street, New York, NY 10285;

CT Corporation System, as registered agent for American Express, 11200 South Pine Island Road, Plantation, FL 33324;

Audi Financial Services, PO Box 5215, Carol Stream, IL 60197-5215

First Corporate Solutions, 914 S. Street, Sacramento, CA 95811

First Home Bank/SBA, 9190 Seminole Blvd., Seminole, FL 33772;

Anthony N. Leo, as registered agent for First Home Bank, 700 Central Avenue, St. Petersburg, FL 33701;

US Small Business Administration, c/o US Attorney's Office, "Civil Process Clerk", 400 N. Tampa, Street, Tampa, FL 33602;

US Small Business Administration, c/o US Attorney General, 10<sup>th</sup> St. & Constitution Ave., Washington DC 20530;

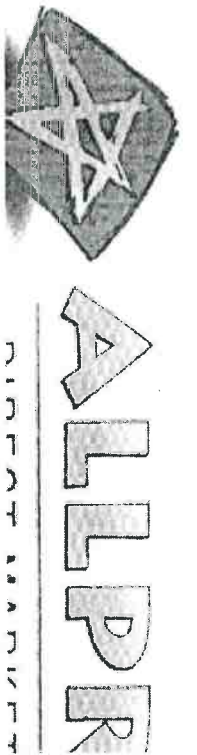
US Small Business Administration, c/o Department of Justice, Tax Division, PO Box 14198, ben Franklin Station, Washington D.C., 20044

US Small Business Administration, Sacramento District Office, 6501 Sylvan Road, Ste. 100, Citrus Heights, CA 95610;

US Small Business Administration, c/o Department of Justice, Tax Division, Attorney General, 950 Pennsylvania Ave. NW, Washington D.C. 20530-0001;  
Geneva Capital, LLC, 522 Broadway St., Ste. 4, Alexandria, MN 56308;  
Business Filings Incorporated, as registered agent for Geneva Capital, LLC, 1200 South Pine Island Road, Plantation, Florida 33324;  
Lincoln Automotive Financial, PO Box 650575, Dallas, TX 75265-0575;  
Regents Capital Corporation, 3200 Bristol St. Ste. 400, Costa Mesa, CA 92626;  
Corporation Service Company, as registered agent for Regents Capital Corporation, 1201 Hays Street, Tallahassee, Florida 32301;  
Synovus Bank, 1148 Broadway, Columbus, GA 31901;  
Synovus Bank, 1111 Bay Avenue, Ste. 501, Columbus, GA 31901;  
Corporation Service Company, as registered agent for Synovus Bank, 1201 Hays Street, Tallahassee, Florida 32301-2525;  
Xerox Corporation, 1301 Ridgeview Bldg. 300, Lewisville, TX 75057;  
Xerox Corporation, 201 Merritt 7, Norwalk, CT 06851; and  
Prentice-Hall Corporation System, Inc., as registered agent for Xerox Corporation, 1201 Hays Street, Ste. 105, Tallahassee, Florida 32301.

/s/ Jonathan A, Semach  
Jonathan A. Semach, Esquire (FBN: 0060071)  
Email: Jonathan@tampaesq.com

3/1/2018



	March	April	May	June	July	August	Total
<b>Revenue</b>							
Total Revenue	\$213,000.00	\$184,000.00	\$212,000.00	\$170,000.00	\$160,000.00	\$240,000	\$1,179,000.00
<b>Expense</b>							
Postage	\$ 81,000.00	\$ 58,000.00	\$ 60,000.00	\$ 46,000.00	\$ 45,000.00	\$ 68,000.00	\$ 358,000.00
Cost of Goods	\$ 50,000.00	\$ 38,000.00	\$ 57,000.00	\$ 35,000.00	\$ 32,000.00	\$ 51,000.00	\$ 263,000.00
Auto	\$ 1,600.00	\$ 1,250.00	\$ 1,700.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 7,550.00
Merchant Services	\$ 6,000.00	\$ 4,200.00	\$ 4,125.00	\$ 3,500.00	\$ 3,000.00	\$ 3,200.00	\$ 24,025.00
Leases	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 30,000.00
Payroll	\$ 44,000.00	\$ 44,000.00	\$ 44,000.00	\$ 44,000.00	\$ 44,000.00	\$ 44,000.00	\$ 264,000.00
Interest Expense	\$ 950.00	\$ 950.00	\$ 950.00	\$ 950.00	\$ 950.00	\$ 950.00	\$ 5,700.00
Rent	\$ 6,420.00	\$ 6,420.00	\$ 6,420.00	\$ 6,420.00	\$ 6,420.00	\$ 6,420.00	\$ 38,520.00
Insurance	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 30,000.00
Telephone	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 9,000.00
Travel Meals	\$ 1,700.00	\$ 1,700.00	\$ 1,700.00	\$ 1,700.00	\$ 1,700.00	\$ 1,700.00	\$ 10,200.00
Utilities	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 15,000.00
Supplies	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 4,800.00
IT Equipment Repair	\$ 3,500.00	\$ 3,500.00	\$ 3,500.00	\$ 3,500.00	\$ 3,500.00	\$ 3,500.00	\$ 21,000.00
Advertising	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 12,000.00
<b>Total Expenses</b>	\$211,970.00	\$174,820.00	\$196,195.00	\$158,870.00	\$154,370.00	\$196,570.00	\$1,092,795.00

