

UNITED STATES BANKURPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION  
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In re:

Chapter 11

LTG LLC,

Case No.: 9:18-bk-01936-FMD

Debtor.

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**DEBTOR'S EMERGENCY MOTION FOR ENTRY  
OF INTERIM AND FINAL ORDERS AUTHORIZING  
USE OF CASH COLLATERAL AND GRANTING  
REPLACEMENT LIENS PURSUANT TO SECTIONS 105(a),  
361, 363, 541 AND 552 OF THE BANKRUPTCY CODE AND RULE  
4001 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

**STATEMENT OF RELIEF REQUESTED**

The Debtor seeks authority to use cash collateral to fund its operating expenses and the costs of administering this Chapter 11 case in accordance with a proposed budget attached hereto and to provide replacement liens as described below as adequate protection for the interests in the cash collateral. The Debtor believes that the lender listed herein may assert a valid and perfected security interest in the cash collateral. As adequate protection, the Debtor proposes to grant to the lender a replacement lien to the same extent, validity, and priority as the security interests held by the lender as of the Petition Date.

LTG LLC (the “**Debtor**”), by and through its undersigned attorneys, files its *Motion for Entry of Interim and Final Orders Authorizing Use of Cash Collateral and Granting Replacement Liens Pursuant to Sections 105(a), 361, 363, 541 and 552 of the Bankruptcy Code and Rule 4001 of the Federal Rules of Bankruptcy Procedure* (the “**Motion**”) and requests the entry of interim and final orders approving the Debtor’s use of cash collateral. In support of the Motion, the Debtor respectfully represents as follows:

**Jurisdiction and Venue**

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§157 and 1334. The subject matter of this Motion is a core proceeding pursuant to 28 U.S.C. §157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§1408 and 1409.

2. The statutory predicates for the relief requested herein are Sections 361 and 363 of the Bankruptcy Code and Rule 4001 of the Federal Rules of Bankruptcy Procedure.

**Background**

3. On March 14, 2018 (the “**Petition Date**”), the Debtor filed its Voluntary Petition for Relief under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”).

4. The Debtor continues to operate its business and manage its property as debtor in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

5. The Debtor, doing business as Ace Rent A Car, is an industry leader in the short-term car rental business, providing superior customer service and quality vehicles. For a more detailed background description and the reasons for the bankruptcy filing, please see the description contained in the Debtor’s Case Management Summary.

**Summary of Prepetition Secured Indebtedness**

6. Prepetition, the Debtor obtained financing from various lenders (collectively, the “**Lenders**”), which have asserted, or may assert, a security interest in the Debtor’s cash collateral:

Secured Party	Collateral	Amount Outstanding <sup>1</sup>
Corporation Service Company	<b>All accounts</b> , chattel paper, goods, inventory, equipment, instruments, reserves, reserve accounts, investment property (if any), documents, general intangibles, all future receivables, all other assets and personal property, including funds held in accounts, all products and proceeds	Unknown
American Express Bank, FSB	<b>All Assets</b>	\$376,000.00
Corporation Service Company	<b>Accounts including credit card receivables</b> , chattel paper, inventory, equipment, instruments including promissory notes, investment property, documents, <b>deposit accounts</b> , letter of credit rights, general intangibles, supporting obligations, and proceeds and products of the foregoing.	Unknown
ACT Leasing Services, Inc.	Motor vehicles leased by secured party to debtor, existing and future vehicle rental revenues thereof, insurance, purchase options, chattel paper, <b>security deposits by renters, reserves and accounts relating to the foregoing</b> , all proceeds.	\$495,000.00

7. The Loan Documents purport to grant to the Lenders a security interest in all of the Debtor's certain personal property, including accounts receivable and rents.

8. Accordingly, the Lenders may assert that it has a lien on accounts receivable and rents, and that it therefore has an interest in the Debtor's cash collateral within the meaning of 11 U.S.C. § 363(a) (the "**Cash Collateral**").

9. The Debtor intends to use the Cash Collateral in the continued operation of its business and in accordance with the budget (the "**Budget**") attached as **Exhibit A** and by reference incorporated herein.

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<sup>1</sup> The amounts in this column are approximate amounts and the Debtor reserves all rights with respect to the amount, extent, validity, and priority of the Lenders' claims.

10. Accordingly, the Debtor seeks the entry of an interim order authorizing the use of Cash Collateral (the “**Interim Order**”) to avoid immediate and irreparable harm to the estate pending a final hearing and the entry of a final order.

11. The significant provisions of the Interim Order are as follows:<sup>2</sup>

- (a) Interim Relief. The Order shall be granted on an interim basis, pending a final hearing on the Motion.
- (b) Budget. The Debtor’s use of Cash Collateral will be materially consistent with the Budget. The Budget initially covers the four week period beginning March 23, 2018 through April 13, 2018 - Interim Order at ¶ 2; and
- (c) Adequate Protection. The following shall constitute good and sufficient adequate protection to the Lenders for the Debtor’s use of the Cash Collateral:
  - i. Adequate Protection Liens. The Debtor shall provide the Lenders with replacement liens identical in extent, validity and priority as such liens existed on the Petition Date – Interim Order at ¶ 4; and
  - ii. Reporting Requirements. The Debtor shall provide on a monthly basis profit and loss statements on a cash basis to counsel for the Lenders – Interim Order at ¶ 3.
- (d) Event of Default: It shall be an event of default if the Debtor exceeds the 15% variance (the “**Variance**”) on an aggregate basis provided for in the Interim Order; provided, however, in the event of a default, the Debtor’s authority to use Cash Collateral shall continue until the Lenders obtains an order by appropriate motion after notice and a hearing requiring the Debtor to cease using Cash Collateral. Notwithstanding the foregoing, subject to the provisions of paragraph ten (10) of the Interim Order, expenditures in excess of the Variance or not on the Budget will not be deemed to be unauthorized use of Cash Collateral, unless the recipient cannot establish that the expense would be entitled to administrative expense priority if the recipient had extended credit for the expenditure--Interim Order at ¶ 2, 10.

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<sup>2</sup> The summary of the Interim Order is provided for the convenience of the Court and other parties in interest. To the extent there are conflicts between this summary and the Interim Order annexed hereto as Exhibit B, the terms of the Interim Order shall govern. Capitalized terms used in the summary but not otherwise defined herein shall have the meaning(s) set forth in the Interim Order.

12. At the initial hearing on this Motion, the Debtor will seek to use Cash Collateral in the amount of approximately \$853,000.00 (the “**March Budget**”) or such other amount as is necessary to avoid immediate and irreparable harm on an interim basis pending entry of a final order on this Motion.

**Relief Requested and Legal Authority for the Relief Requested**

13. The Debtor believes that the Lenders will assert a lien on the Cash Collateral. The Debtor reserves its rights to contest the validity and priority of the lien. The Debtor files this Motion and seeks entry of an order authorizing the use of Cash Collateral generally and for purposes which include the following:

- (a) care, maintenance, and preservation of the Debtor’s assets;
- (b) payment of necessary suppliers, utilities, and other business expenses;
- (c) other payments necessary to sustain continued business operations; and
- (d) costs of administration in this Chapter 11 case.

14. The Debtor requests authority to use Cash Collateral immediately to pay the operating expenses set forth on the Budget attached hereto as **Exhibit A** and incorporated herein by reference, which are necessary to continue the operation of the Debtor’s business, to maximize the return on its assets, and to otherwise avoid irreparable harm and injury to its business and its estate.

15. There is insufficient time for a final evidentiary hearing, as required by Rule 4001(b)(2) of the Federal Rules of Bankruptcy Procedure, to be held before the Debtor must arguably use Cash Collateral. If this Motion is not considered on an expedited basis and if the Debtor is denied the ability to immediately use Cash Collateral, there will be direct and

immediate harm to the continuing operation of the Debtor's business. In order to continue its business activity in an effort to achieve successful reorganization, the Debtor needs to use Cash Collateral in its ordinary business operations. The inability of the Debtor to meet its ordinary business expenses will require the Debtor to discontinue normal operations which will result in irreparable injury to the Debtor and its chances for reorganization. Any such discontinuation would also adversely impact upon the value of any secured party's collateral. Indeed, it is in the best interests of all creditors and the Debtor that the Debtor uses its Cash Collateral since such usage will preserve the value of any secured party's collateral. Accordingly, Rule 4001(b)(2) of the Federal Rules of Bankruptcy Procedure authorizes this Court to hold an immediate preliminary hearing on this Motion.

16. "Cash Collateral" is defined as "cash, negotiable instruments, documents of title, securities, deposit accounts or other cash equivalents in which the estate and an entity other than the estate have an interest." 11 U.S.C. § 363(a). Pursuant to section 363(c)(2) of the Bankruptcy Code, the Court may authorize the Debtor to use Cash Collateral as long as the secured creditor consents or its interest is adequately protected. *See, e.g., In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984); *see also In re McCormick*, 354 B.R. 246, 251 (Bankr. C.D. Ill. 2006) (to use the cash collateral of a secured creditor, the debtor must have the consent of the secured creditor or must establish to the court that the secured creditor's interest in the cash collateral is adequately protected).

17. In the event that the Lenders assert a lien on Cash Collateral, in exchange for the Debtor's ability to use Cash Collateral in the operation of its business, the Debtor proposes to grant, as adequate protection, to the Lenders a replacement lien equal in extent, validity, and priority to the lien held by the Lenders as of the Petition Date. The Debtor asserts that any

interests of the Lenders will be adequately protected by the replacement lien, the budgetary constraints discussed above, and the reporting requirements discussed above.

18. If allowed to use Cash Collateral, the Debtor believes that it can stabilize its business operations and maintain and increase the going concern value. Otherwise, the Debtor's business operations will cease and its assets will have only liquidation value.

**Basis for Emergency Relief**

19. The facts previously set out herein clearly justify an immediate hearing on this Motion. If the Debtor cannot utilize Cash Collateral, the Debtor will be unable to pay operating expenses necessary to continue the operation of the Debtor's business and will be irreparably harmed. The Debtor has narrowly tailored the relief requested on an emergency basis in order to allow it to survive pending a final Cash Collateral hearing, as required by Rule 4001(b)(2) of the Federal Rules of Bankruptcy Procedure.

WHEREFORE, the Debtor respectfully requests that this Court: (1) enter the Interim Order granting the instant Motion and authorizing the interim use of Cash Collateral, the proposed form of which is attached as **Exhibit B**, (2) schedule a preliminary hearing on the Motion at the earliest possible time, (3) schedule a final cash collateral hearing in accordance with Bankruptcy Rule 4001(b)(2), (4) authorize the Debtor to use the Cash Collateral in the operation of its business, and (5) grant such other and further relief as may be just and proper.

/s/ Stephen R. Leslie  
Stephen R. Leslie (FBN 000349)  
Mark F. Robens (FBN 108910)  
Stichter Riedel Blain & Postler, P.A.  
110 East Madison Street, Suite 200  
Tampa, Florida 33602  
(813) 229-0144 – Phone  
Email: [sleslie@srbp.com](mailto:sleslie@srbp.com); [mrobens@srbp.com](mailto:mrobens@srbp.com)  
Attorneys for Debtor

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct of the foregoing ***Debtor's Motion for Entry of Final Order Authorizing Use of Cash Collateral and Granting Replacement Liens Pursuant to Sections 105(a), 361, 363, 541 and 552 of the Bankruptcy Code and Rule 4001 of the Federal Rules of Bankruptcy Procedure*** has been furnished on this 15<sup>th</sup> day of March, 2018, by either the Court's CM/ECF Noticing System or U.S. Mail to:

Office of the United States Trustee  
LBR 1007-2 Parties in Interest matrix

Corporate Service Co., as Representative  
P.O. Box 2576  
Springfield IL 62708

American Express Bank, FSB  
4315 S. 2700 West  
Salt Lake City UT 84184

Sanibel Captiva Community Bank  
2475 Library Way  
Sanibel FL 33957

Act Leasing Services, Inc.  
215 Salem St., #10  
Woburn MA 01801

Stephen R. Leslie  
Stephen R. Leslie

113A-9

4529 W. 96th St.

Case 9:18-bk-01936-FMD

Indianapolis, IN 46268-3107

Middle District of Florida

Ft. Myers

Thu Mar 15 13:19:14 EDT 2018

Alas Leasing

936 NW 132nd Ave.

Fort Lauderdale, FL 33325-1340

Alliance One

P.O. Box 11641

Tacoma, WA 98411-6641

BanCorp

626 Jacksonville Rd.. #205

Warminster, PA 18974-4861

Colorado Dept. of Revenue

Denver, CO 80261-0013

Commercial Fleet Capital

350 Bishops Way

Brookfield, WI 53005-6221

Courtney Leasing, Inc.

8126 Benrus St.

Orlando, FL 32827-5074

Denver International Airport

Attn: Airport Revenue Fund

P.O. Box 492065

Denver, CO 80249

GOAA

P.O. Box 864634

Orlando, FL 32886-4634

Linebarger Goggan Blair &amp; Sampson LLP

Box 70218

San Antonio, TX 78270-2118

Marple Leasing

3015 West Chester Pike

Broomall, PA 19008-1309

Mike Albert Leasing

10381 Evendale Dr.

Cincinnati, OH 45241-2513

Park Dia

4500 Cherry Creek Dr. S., #550

Denver, CO 80246-1518

PeopleReady

1015 A St.

Tacoma, WA 98402-5122

Rex Auto

1451 W. Landstreet Rd., #202

Orlando, FL 32824-8096

Union Leasing

425 N. Martindale

Schaumburg, IL 60173-2287

United Rental Group

1501 NW 49th St., #180

Fort Lauderdale, FL 33309-3723

WEX Bank/RaceTrac Elite

P.O. Box 6293

Carol Stream, IL 60197-6293

Western Fleet Services

15600 E. 19th Ave., Unit C

Aurora, CO 80011-4632

End of Label Matrix

Mailable recipients 20

Bypassed recipients 0

Total 20

# **EXHIBIT A**

## Statement of Forecasted Cash Receipts and Disbursements -

Period Ending April 13, 2018

	W/E 3/23 BUDGET	W/E 3/30 BUDGET	1 W/E 4/6 BUDGET	2 W/E 4/13 BUDGET
<b>BALANCE FORWARD</b>	0	1	25	41
<b>BEGINNING CASH</b>	<b>20</b>			
<b>CASH RECEIPTS (000)</b>				
Rental revenue	228	235	200	175
<b>TOTAL CASH RECEIPTS</b>	<b>228</b>	<b>235</b>	<b>200</b>	<b>175</b>
<b>CASH DISBURSEMENTS (000)</b>				
Airport fees	46	67	0	0
Vehicle lease	0	90	100	70
Credit card Fees	0	0	38	0
Rent	35	23	0	0
Payroll	155	0	0	110
Group Medical Prem	0	0	15	0
Fuel	5	25	25	25
Trade Payables	0	0	0	0
Utilities	6	6	6	6
<b>TOTAL CASH DISBURSEMENTS</b>	<b>247</b>	<b>211</b>	<b>184</b>	<b>211</b>
<b>Cash Balance (000)</b>	<b>1</b>	<b>25</b>	<b>41</b>	<b>5</b>

<sup>1</sup> Draft subject to revisions prior to hearing

# **EXHIBIT B**

UNITED STATES BANKURPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION  
[www.flmb.uscourts.gov](http://www.flmb.uscourts.gov)

In re:

Chapter 11

LTG LLC,

Case No.: 9:18-bk-01936-FMD

Debtor.

/

**INTERIM ORDER GRANTING  
DEBTOR'S EMERGENCY MOTION FOR ENTRY  
OF INTERIM AND FINAL ORDERS AUTHORIZING  
USE OF CASH COLLATERAL AND GRANTING  
REPLACEMENT LIENS PURSUANT TO SECTIONS 105(a),  
361, 363, 541 AND 552 OF THE BANKRUPTCY CODE AND RULE  
4001 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE<sup>1</sup>**

THIS CASE came on for hearing on \_\_\_\_\_, 2018 at \_\_\_\_\_, upon the *Debtor's Emergency Motion for Entry of Interim and Final Orders Authorizing Use of Cash Collateral and Granting Replacement Liens Pursuant to Sections 105(a), 361, 363, 541 and 552 of the Bankruptcy Code and Rule 4001 of the Federal Rules of Bankruptcy Procedure* (the “**Motion**”) (Doc. No. \*\*\*\*). The Motion seeks the entry of interim and final orders authorizing the use of “Cash Collateral” as defined in Section 363(a) of the Bankruptcy Code. The Court, having reviewed the Motion and having heard the argument and proffers of counsel, finds that the Motion should be granted on an interim basis pending a final hearing. Accordingly, for the

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<sup>1</sup> Unless otherwise defined herein, capitalized terms shall have the same meaning ascribed to them in the Motion.

reasons stated orally and recorded in open Court, which shall constitute the decision of the Court, it is

**ORDERED** that:

1. The Motion is granted on an interim basis pending a final hearing to be conducted by the Court on \_\_\_\_\_ (the “**Final Hearing**”).
2. The Debtor is authorized to use Cash Collateral (as that term is defined in Section 363(a) of the Bankruptcy Code) including, without limitation, cash, deposit accounts, accounts receivable, and rental revenue in accordance with the budget (the “**Budget**”), a copy of which is attached hereto as Exhibit A, so long as the aggregate of all expenses for each month do not exceed the amount in the Budget by more than fifteen percent (15%) for any such month on a cumulative basis (the “**Variance**”). Notwithstanding the foregoing, subject to the provisions of paragraph ten of this Order, expenditures in excess of the Variance or not on the Budget will not be deemed to be unauthorized use of Cash Collateral, unless the recipient cannot establish that the expense would be entitled to administrative expense priority if the recipient had extended credit for the expenditure.
3. Beginning on April 1, 2018, the Debtor shall provide on a monthly basis profit and loss statements for the prior month on a cash basis (that include a comparison of budgeted numbers to actual numbers) to counsel for the Lenders.
4. The Lenders are granted as adequate protection post-petition replacement liens against the Debtor’s Cash Collateral to the same extent, validity, and priority as existed as of the Petition Date without the need to file or execute any document as may otherwise be required under applicable nonbankruptcy law.
5. The Debtor shall maintain insurance coverage for the Cash Collateral in accordance with the obligations under the loan and security documents.

6. This Order is not and shall not be construed as determinative as to whether or not any creditor has a valid lien on any property of the Debtor or its estate. This Order is not and shall not be construed as determinative as to the extent or amount of any secured claim associated with any such lien.

7. This Order is without prejudice to the Debtor's right to challenge the extent, validity, or priority of any lien or claim of any creditor, and is likewise without prejudice to the right of any creditor to seek modified adequate protection or restrictions on use of cash collateral and nothing contained in this Order shall be deemed to constitute a waiver of any party's rights or any other right or remedy available to the Debtor or the Lenders.

8. The provisions of this Order shall remain in full force and effect unless modified or vacated by subsequent order of this Court.

9. This Order is without prejudice to the Debtor's rights to seek authority by separate motion to pay monies in excess of the amounts set forth in the Budget.

10. It shall be an event of default if the Debtor exceeds the Variance without the prior written consent of counsel for the Lenders, which consent shall not be unreasonably withheld; provided, however, in the event of a default, the Debtor's authority to use Cash Collateral shall continue until a Lender obtains an order by appropriate motion after notice and hearing requiring the Debtor to cease using Cash Collateral.

11. All persons and entities owing monies to the Debtor are authorized and directed to pay the monies to the Debtor, without setoff, which sums shall upon collection by the Debtor constitute Cash Collateral.

*Attorney Stephen R. Leslie is directed to serve a copy of this order on interested parties who are non-CM/ECF users and to file a proof of service within 3 days of entry of the order*

## **EXHIBIT A**