

**UNITED STATES BANKRUPTCY COURT
Northern District of Florida
Pensacola Division**

IN RE: PAYROLL MANAGEMENT, INC.,

Debtor.

Bankruptcy Case No. 18-30298-JCO

Chapter: 11
Judge: Jerry C. Oldshue

**AGREED MOTION FOR ORDER
AUTHORIZING USE OF CASH COLLATERAL**

PAYROLL MANAGEMENT, INC. (the “Debtor”), by its undersigned counsel, and with the consent of the Internal Revenue Service (“IRS”), hereby files its Agreed Motion Order Authorizing Use of Cash Collateral pursuant to 11 U.S.C. §363 (the “Motion”) and respectfully shows the Court as follows:

INTRODUCTION AND PROCEDURAL BACKGROUND

1. On or about March 27, 2018 (the “Petition Date”) the Debtor filed a petition for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code, 11 U.S.C. §§101 *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of Florida, Pensacola Division (the “Bankruptcy Court”).
2. This Court has jurisdiction over this Motion under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The authority for the relief requested herein is Bankruptcy Code §363(c)(2).
4. The Debtor is authorized to continue in possession of its property and no creditors' committee has been appointed.

ARGUMENT AND RELIEF REQUESTED

5. The Debtor is an S Corporation organized under the laws of the State of Florida. The Debtor was established in 1995 under former ownership as an employee leasing company. The current owner acquired the Company in 2011.

6. Through this Bankruptcy Case, the Debtor seeks to liquidate its remaining assets in an orderly manner so as to maximize the recovery for the benefit of its creditors. These assets include potential recovery of insurance deposits, state tax refunds, recovery of accounts receivable, and potential litigation recoveries including a pending BP Claim.

7. On or about June 27, 2018, the Court approved the sale of the Debtor's real property located at 49 Laurie Drive, free and clear of liens, with liens to attach to proceeds (Doc. 75). The proceeds from the sale of the real property totaling \$108,535.81 (the "Laurie Drive Proceeds") are currently held in the Debtor's DIP account.

8. The IRS and the Florida Department of Revenue had filed pre-petition tax liens, which liens remain attached to the Laurie Drive Proceeds.

9. The IRS, who has consented to this Motion, has a first position lien in the amount of \$21,151,266.57. Due to the size and priority of the IRS' lien, the lien of the Florida Department of Revenue is unsecured.

10. While the Debtor asserts that no additional liens against the Laurie Drive Proceeds exist or would supersede the lien of the IRS or the Florida Department of Revenue, the following parties may also attempt to assert a lien against the Laurie Drive Proceeds: US Capital Partners, Inc., Sunz Insurance Solutions, LLC, Centennial Bank and Vensure Employer Services, Inc., all of which parties have received notice of this Motion.

11. It is necessary for the Debtor to expend additional funds in order to continue the administration of the case and to collect and recover, for the benefit of creditors, the Debtor's significant additional assets.

12. Accordingly, the Debtor seeks an order authorizing the use of the Laurie Drive Proceeds, which is the cash collateral of the IRS and Florida DOR for these purposes.

13. The Debtor's use of the cash collateral is essential to the continuing administration of the case and the actions necessary to complete the liquidation of assets for the benefit of the estate's creditors and for an effective reorganization.

14. The Debtor seeks authorization to use cash collateral consisting of the Laurie Drive Proceeds up to the following amounts and for the following purposes:

Purpose	Amount of Cash Collateral Necessary	Professional, Employee or Vendor¹
Preparation and completion of 2017 and 2018 Tax Returns and other tax related services for Debtor	\$35,000.00	McCullar & Company
Legal Services to Debtor's Counsel for continued administration of the case	\$35,000.00	Zalkin Revell
Litigation Costs in efforts to recover other assets ²	\$25,000.00	Zalkin Revel and co-counsel to be determined
General Administrative Costs for Debtor's employees ³	\$8,000.00	To be Determined
Administrative software costs	\$5,000.00	Great Plains, Prism HR, Starrs and possibly others

1 Professionals identified herein have been or shall be retained prior to any disbursements of funds to said professional.

2 The Debtor estimates retaining additional professionals to recover other assets, some on a contingency fee basis that will require out of pocket expenditures.

3 The Debtor anticipates the need to hire one or more employees or book-keeping personnel on a short-term basis to update the company books in anticipation of the tax returns, to assist McCullar & Company in preparation of the final tax returns and assist in responding to inquiries from various parties.

15. The expenses incurred by the Debtor and for which cash collateral will be used will all be incurred in the course of the liquidating the Debtor's remaining assets and administration of the Debtor's estate.

16. Under Bankruptcy Code § 363(c)(2), the Debtor is entitled to use Cash Collateral as long as the holders of the liens consent or their interests therein are adequately protected. The IRS has consented to this Motion upon the terms described, herein. In light of the priority and amount of the IRS lien, it is not believed that the any of the other potential lienholders will have any objection to the relief requested, herein.

17. Bankruptcy Code Section 363(o) provides that at a hearing on the use of cash collateral, the entity asserting an interest in the cash collateral has the burden of proof on the issue of the validity, priority, or extent of such interest, and the debtor-in-possession has the burden of proof on the issue of adequate protection.

18. As to any additional un-marshaled assets of the Debtor, it is believed that the IRS has a first priority lien in an amount exceeding \$22 million, with all other asserted lien holders being unsecured. However, all other potential lien holders are receiving service of this Motion so that they will have the opportunity to be heard.

19. The Debtor proposes to give the IRS (or any other lien-holder found to have superior priority lien) a replacement lien of equal value in any recovered additional assets that are brought into the estate as a result of efforts of the Debtor through the use of the funds described, herein.

20. It is the Debtor's position that the creditors who may have an interest in the cash collateral discussed, herein, will be adequately protected because (1) they will receive replacement liens in additional recovered assets, (2) they will receive the benefit of additional recovered assets by virtue of the efforts and funding described, herein, which assets would not otherwise become available to the said lien-holders, and (3) if the case is not maintained and pursued due to lack of funding, the

creditors interests would be harmed because the additional assets would not be able to be pursued and recovered.

WHEREFORE, the Debtor requests that the Court **GRANT** the Agreed Motion to Use Cash Collateral, and for such other relief as is just and proper.

Respectfully submitted this
25th day of October, 2018

ZALKIN REVELL, PLLC

/s/ Natasha Z. Revell

NATASHA Z. REVELL

TERESA M. DORR

ZALKIN REVELL, PLLC

2441 US Highway 98W, Ste. 109

Santa Rosa Beach, FL 32459

(850) 267-2111 (Tel)

(866) 560-7111 (Fax)

tasha@zalkinrevell.com

Counsel for Debtor-in-Possession

ZALKIN REVELL, PLLC

/s/ Kenneth W. Revell

KENNETH W. REVELL

ZALKIN REVELL, PLLC

Georgia Bar No. 601333

2410 Westgate Dr., Suite 100

Albany, GA 31707

(229) 435-1611 (Tel)

(866) 560-7111(Fax)

krevell@zalkinrevell.com

Counsel for Debtor-in-Possession

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing:

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was served on the following parties by either electronic mail through the Courts CM/ECF system or by standard first class mail on the 25th day of October, 2018:

Parties who are currently on the list to receive email notice/service for this case:

- United States Trustee, USTPRegion21.TL.ECF@usdoj.gov
- Jason Egan, Esq. Jason.h.egan@usdoj.gov
- Natasha Z. Revell, Esq. tasha@zalkinrevell.com
- Teresa M. Dorr, Esq. tdorr@zalkinrevell.com
- Mark S. Roher, Esq. mroher@markroherlaw.com, ecf@markroherlaw.com, ecf2@markroherlaw.com
- James E. Sorensen, Esq. bk@scllaw.com, jim@scllaw.com
- David Whitney Adams dadams@bj-law.com, sbrant@bj-law.com, zglaser@bj-law.com

Parties who were served via standard first class mail:

- Top 20 Creditors (other than those served electronically) and other interested parties as set forth on the attached Service List.

/s/ Natasha Z. Revell
NATASHA REVELL
ZALKIN REVELL, PLLC
2441 US Highway 98W, Ste. 109
Santa Rosa Beach, FL 32459
(850) 267-2111 (Tel)
tasha@zalkinrevell.com

Counsel to Debtor-in-Possession

SERVICE LIST

Am Trust North America
59 Maiden Lane
New York, NY 10038

Lopez & Morales
11606 City Hall Promenade
Ste. 201
Miramar, FL 33025

Sunz Insurance Solutions, LLC
1301 6th Ave.
West Bradenton, FL 34205

Caplin & Drysdale
One Thomas Circle NW
Ste. 1100
Washington, DC 20005

Marsh Clear Sight
540 W. Madison Street
Ste. 1200
Chicago, IL 60661

US Capital Partners, Inc.
555 Montgomery Street Suite 1501
San Francisco, CA 94111

Colondy Fass & Talenfeld
215 South Monroe Street
Suite 701
Tallahassee, FL 32301

Miller, Tack & Madson
3550 Buschwood Park Dr.
Suite 135
Tampa, FL 33618

Vensure Employer Services, Inc.
2600 W. Geronimo Place, Suite 100
Chandler, AZ 85224

Deductible Recovery Group (Zurich)
PO Box 6066-11
Hermitage, PA 16148-1066

Napeo
707 N St. Asaph Street
Alexandria, VA 22314

Florida Department of Revenue
Bankruptcy Unit
PO Box 6668
Tallahassee FL 32314-6668

EF Operating c/o
J2 Cloud Services, LLC
10394 W. Chatfield Ave., Suite 109
Littleton, CO 80127

Proskauer
2255 Glade Road
Ste. 421 Atrium
Boca Raton, FL 33431

FEDEX
PO Box 660481
Dallas, TX 75266-0481

State of Alabama Department of
Revenue
50 North Ripley Street
Montgomery, AL 3613

Florida Department of Revenue
Pensacola Service Center
2205 La Vista Ave. Suite B
Pensacola, FL 32504-8210

State of Florida
Division of Reemployment
5050 West Tennessee Street
Tallahassee, FL 32399

Internal Revenue Service
Centralized Insolvency Operation
PO Box 7346
Philadelphia, PA 19107-7346

State of Georgia
Department of Revenue
1800 Century Blvd. NE
Atlanta, GA 30345