

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION
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In re:

PREMIER WELLNESS CENTERS LLC.
EIN#26-2015790,
Debtor. _____ /

Case No. 16-10191-PGH
Chapter 11

EMERGENCY FIFTH MOTION TO APPROVE USE OF CASH COLLATERAL

Expedited Hearing Requested

Exigency

Debtor requests an emergency hearing, as Debtor's approved use of cash expires on June 28, 2017, and an evidentiary hearing on confirmation of the proposed plan is set for July 26, 2017. Debtor cannot operate without cash. Debtor's counsel requests a hearing of 5 minutes in duration on Tuesday, June 27, 2017.

COMES NOW, DEBTOR, PREMIER WELLNESS CENTERS LLC., by and through its undersigned Counsel, and files this Emergency Fifth Motion to Approve Use of Cash Collateral and as grounds therefor states as follows:

BACKGROUND

1. The Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on January 6, 2016.
2. The Debtor was granted use of cash collateral (ECF#228) through June 28, 2017.
3. A Second Motion to Approve Use of Cash Collateral (ECF#89) was filed on August 4, 2016 and an order granting use of cash collateral through November 29, 2016 was entered on August 19, 2016 (ECF#104).
4. A Third Motion to Approve use of Cash Collateral (ECF#139) was filed on

November 28, 2016, and an order granting use of cash collateral through February 27, 2017 was entered on December 2, 2016 (ECF#142).

5. A Fourth Motion to Approve use of Cash Collateral (ECF#217) was filed on February 24, 2017, and an order granting use of cash collateral through June 28, 2017 was entered on March 3, 2017 (ECF#225).

6. A Plan of Reorganization was filed on November 1, 2016 (ECF#129) and the confirmation hearing is pending a new date for an evidentiary hearing.

7. Counsel for Creditor, The Morganti Group, has recently notified undersigned counsel that its discovery is complete. The parties have agreed to the available date of July 26, 2017.

8. Creditor, JPMorgan Chase Bank (“Chase”) has a valid, properly perfected, first priority lien on all of the Debtor’s personal property, including but not limited to inventory, equipment, machinery, accounts and accounts receivable securing aggregate indebtedness of at approximately \$308,232.17.

9. Chase’s security interest covers all of the Debtor’s rights, title and interest in the Debtor’s cash and accounts.

10. Foundation Group LLC (“Foundation”) has a valid, properly perfected, second - priority blanket lien on all of the Debtor’s personal property, including but not limited to inventory, equipment, machinery, accounts and accounts receivable.

11. Said security interests, render the Debtor’s cash and receivables collateral under 11 U.S.C. § 363 and requires the Debtor to adequately protect Chase and Foundation’s interest. A debtor must obtain the secured parties’ consent and the Court’s authorization to use cash collateral.

12. The use of and access to these funds is essential to the Debtor’s on-going business

operations.

RELIEF REQUESTED

13. At hearing on this motion, Debtor will seek interim relief:

- approving the proposed budget attached hereto as Exhibit “A” on an interim basis following the hearing on this motion for ninety (90) days,
- and granting the proposed order attached hereto as Exhibit “B.”

14. NO STIPULATION OR AGREED ORDER WILL BE BINDING ON ANY INTERESTED PARTY EXCEPT UPON NOTICE UNDER THE LOCAL RULE AND GUIDELINES FOR MOTIONS SEEKING AUTHORITY TO USE CASH COLLATERAL.

WHEREFORE, Debtor respectfully requests an Order from this Court authorizing the Debtor's use of and access to its cash collateral, and granting such other and further relief as the Court deems just and proper.

I hereby certify that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this Court set forth in Local rule 2090-1(A).

MARKARIAN FRANK & HAYES
Attorneys for Debtor
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By: /s/Malinda L. Hayes
MALINDA L. HAYES, Esq.
Florida Bar No. 0073503

Service List

Notice provided by Electronic Mail to:

Charles S Brumby on behalf of Creditor Stuart North, LLC
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Malinda L Hayes, Esq. on behalf of Accountant Ralph Manalastas
malinda@businessmindedlawfirm.com, mlhbnk@gmail.com

Malinda L Hayes, Esq. on behalf of Debtor Premier Wellness Centers LLC
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Dennis J LeVine, Esq on behalf of Creditor JPMorgan Chase Bank, N.A.
tbyington@kelleykronenberg.com

David K Markarian on behalf of Debtor Premier Wellness Centers LLC
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Howard S Toland on behalf of Creditor Foundation Group LLC
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Notice provided by U.S. Mail to:

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JPMorgan Chase Bank
c/o Dennis LeVine, Esq.
Kelly Kronenberg Attorneys at Law
1511 N. Westshore Blvd., Suite 400
Tampa, FL 33607-4596

Foundation Group, LLC
Attn: Sam Hu, Head of Compliance
11501 Sunset Hills Road, Suite 250
Reston, VA 20190

Notice provided by U.S. Mail and Certified Mail/Return Receipt to:

Foundation Group, LLC
Attn: Sam Graziano, CEO
9 East 37th Street, 2nd Floor
New York, NY 10016

ATTORNEY MALINDA L. HAYES SHALL MAIL A COPY OF THIS MOTION IMMEDIATELY UPON RECEIPT OF THE NOTICE OF HEARING TO ALL CREDITORS AND FILE A CERTIFICATE OF SERVICE

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