



ORDERED in the Southern District of Florida on May 8, 2017.

Raymond B. Ray, Judge
United States Bankruptcy Court

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION**

IN THE MATTER OF:

DR. MARCEL B. GEGATI, P.A.,

Debtor

_____ /

**CASE NO.: 16-26559-RBR
Substantively Consolidated
CHAPTER 11**

GEGATI REAL ESTATE, LLC,

Debtor

**CASE NO.: 16-26560-RBR
CHAPTER 11**

**AGREED FINAL ORDER GRANTING DEBTOR'S MOTION TO USE
CASH COLLATERAL AND MOTION TO ESTABLISH PAYMENT**

THIS MATTER came before the Court on March 29, 2017 at 10:00 am upon the Debtor's Expedited Motion to Use Cash Collateral and Motion to Establish Payment [ECF No. 3]. The Court, having reviewed the record and having heard the argument of Counsel, and being fully otherwise fully advised in the premises, does hereby

ORDER and ADJUDGE as follows:

1. The Motion is **GRANTED**.
2. S.M.S. Financial G, LLC ("SMS") shall have a first propriety lien on cash collateral of the dental practice, *to wit*: DR. MARCEL B. GEGATI, P.A.; and ReadyCap Lending LLC ("ReadyCap") shall have a first priority lien on rents

and proceeds of the Real Estate Company, *to wit*: GEGATI REAL ESTATE LLC., (which ReadyCap asserts as Cash Collateral), to the extent reflected in that certain Mortgage by and between CIT Small Business Lending Corporation and Gegati Real Estate LLC, recorded on 5-20-08, Instrument 107902861, and assigned to ReadyCap at instrument no. 112409938, OR BK 50936, Pg 901. All references to “Cash Collateral” reflected herein shall refer to the specific Cash Collateral as to each Creditor as reflected above.

3. The Debtor is authorized to use Cash Collateral for ordinary expenses and necessary costs of operating and maintaining its business in compliance with the Amended Budget attached to this Order, limited in kind and amount to the line item expenses set forth in the Budget. The Cash Collateral shall not be disbursed or otherwise used by Debtor for the payment of any expenses not specifically included in the Budget without the prior written approval of ReadyCap and SMS or further order of this Court.
4. The Debtor shall strictly account for all Cash Collateral received, held and/or used by the Debtor in the course of operations not to exceed ten percent (10%) in the materials line item. The Debtor shall not use Cash Collateral for purposes unrelated to the strict operations of the business.

SMS CASH COLLATERAL AS TO DR. MARCEL B. GEGATI, P.A.

5. As adequate protection for use of its Cash Collateral, SMS is granted (i) continuing liens and security interest under the terms and conditions of its subject loan documents and in its collateral; and (ii) a first priority perfected security interest pursuant to Section 362(2), or other applicable provision of the Bankruptcy Code, in all Cash Collateral (with regards to Dr. Marcel Gegati P.A.) generated after the petition date. Accordingly, as adequate protection of its interests in the Debtor’s Cash Collateral and the Debtor’s use of Cash Collateral, SMS is granted a replacement first priority liens to the same extent, validity and priority as existed on the petition date and shall have a perfected post-petition first priority lien against cash collateral, to the same extent and validity and priority as the pre-petition lien, and that such replacement liens

are deemed perfected without the need for further action (no filing or executing further documents).

6. Furthermore, the Debtor shall make monthly payments to SMS due on the 5th day of each month in the amount of \$4,000.00 commencing on February 5, 2017, all which shall apply to interest, until the Effective Date of a confirmed Plan, further Court order, or by agreement of the parties in writing.
7. The security interest and lien of SMS in Debtor's equipment, inventory, chattel paper, accounts receivable, general intangibles, furniture (as well as all other assets of MARCEL B. GEGATI, P.A, including accounts, account deposits, etc., as more thoroughly reflected in UCC's 20110473106X, 201609683607, and related UCC's and security agreement(s) associated therewith) are valid first priority perfected first priority liens on all such assets owned by the Debtor pre or post-petition; SMS also holds a valid, first priority perfected security interests on liens on Debtor's pre and post-petition equipment, inventory, chattel paper, accounts receivable, general intangibles, furniture (as well as all other assets of MARCEL B. GEGATI, P.A, including accounts, account deposits, etc., as more thoroughly reflected in UCC's 20110473106X, 201609683607, and related UCC's and security agreement(s) associated therewith)
8. Should the replacement lien granted SMS be insufficient to compensate SMS for use of its Cash Collateral, SMS shall be allowed an administrative Claim.

READYCAP CASH COLLATERAL AS TO GEGATI REAL ESTATE, LLC

9. As adequate protection for use of its Cash Collateral, ReadyCap is granted (i) continuing liens and security interest under the terms and conditions of its subject loan documents and in its collateral; and (ii) a first priority perfected security interest pursuant to s. 362(2) or other applicable provisions of the Bankruptcy Code, in all Cash Collateral generated after the petition date (with regards to Gegati Real Estate LLC).
10. ReadyCap has a valid, first priority perfected security interest and lien in the real property located at 300 NW 70th Avenue, Unit 108, Plantation, Florida 33317, with the improvements and fixtures thereon (the "Property") and in

any pre and post-petition rents, issues, proceeds, and profits accruing in from the Property ("Rents"). As adequate protection of its interests in any cash collateral derived from the Rents and the Debtor's use of such cash collateral, ReadyCap is granted a replacement first priority lien to the same extent, validity and priority as existed on the petition date and shall have a perfected post petition first priority lien against the cash collateral Rents, to the same extent and validity and priority as the pre-petition lien, and that such replacement liens are deemed perfected without the need for further action (no filing or executing further documents).

11. Debtor will also immediately commence paying ReadyCap the contractual mortgage amount (principal and interest plus escrow component) as adequate protection payment with the first payment due on January 1, 2017, and with all subsequent payments to be made to the Lender by the 1st of each month until the Effective Date of a confirmed Plan, further Court order, or by agreement of the parties in writing.
12. Should the replacement lien granted to ReadyCap be insufficient to compensate ReadyCap for the Debtor's use of any Cash Collateral derived from the Rents, ReadyCap shall be allowed an administrative Claim.

COMMON PROVISIONS

13. This Order and the relief herein is effective *nunc pro tunc* to December 14, 2016.
14. Nothing herein shall be deemed to be a waiver by ReadyCap and SMS of its rights to request additional or further protection of its interests in any property of the Debtor, to file and prosecute any motion for relief from the automatic stay before this Court, to seek the appointment of a trustee or examiner or the dismissal of the case, or to request any other relief in this case, nor shall anything herein constitute an admission by ReadyCap and SMS of the quantity, quality or value of any Collateral, or constitute a finding of adequate protection with respect to its interests in any Collateral. ReadyCap SMS shall be deemed to have reserved all rights to assert entitlement to the

protections and benefits of Section 507(b), or any other applicable provision in the Bankruptcy Code, in connection with any use, sale or other disposition of any of the Collateral, to the extent that the protection afforded by this Order proves to be inadequate. If the protection afforded by this Order fails in retrospect, to provide adequate protection of ReadyCap or SMS's interest in their liens or Cash Collateral, ReadyCap and SMS shall be entitled to the priority afforded under Section 507(b) of the Bankruptcy Code, or any other applicable provision of the Bankruptcy Code, to the full extent of any deficiency. Priority of secured creditors is not above any priority of fees owed to the US Trustee. This order shall not be deemed an admission by SMS as to the validity of ReadyCap's cash collateral lien or an admission by ReadyCap of the validity of SMS's cash collateral lien.

15. In the event the Debtor defaults or violates this Order, subject to Court availability, ReadyCap and / or SMS is entitled to request a hearing on stay relief on no less than five (5) days' notice (or if immediate and irreparable injury, loss, or damage, an emergency hearing within 48 hours).

Submitted by:
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Matis H. Abarbanel, Esq. is directed to serve a conformed copy of this Order on all appropriate parties and to file a certificate of service.

Dr. Marcel B. Gegati, P.A. - PROPOSED BUDGET

Beginning Cash Balance: \$ 10,000.00

	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11	Month 12
Dental services	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00
Income	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00
Real Estate Taxes	\$ 458.33	\$ 458.33	\$ 458.33	\$ 458.33	\$ 458.33	\$ 458.33	\$ 458.33	\$ 458.33	\$ 458.33	\$ 458.33	\$ 458.33	\$ 458.33
Commercial Insurance	\$ 406.42	\$ 406.42	\$ 406.42	\$ 406.42	\$ 406.42	\$ 406.42	\$ 406.42	\$ 406.42	\$ 406.42	\$ 406.42	\$ 406.42	\$ 406.42
UST Fee	\$ 650.00	\$ -	\$ -	\$ 975.00	\$ -	\$ -	\$ 975.00	\$ -	\$ 975.00	\$ -	\$ -	\$ 975.00
Legal Fees	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
Staff payroll	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 7,400.00	\$ 7,400.00	\$ 7,400.00	\$ 7,400.00	\$ 7,400.00	\$ 7,400.00	\$ 7,400.00	\$ 7,400.00	\$ 7,400.00
Gegati payroll	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00
Payroll taxes	\$ 3,000.00	\$ 3,900.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
US Bank Equip	\$ 490.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00
R/E Mortgage	\$ 2,252.01	\$ 2,252.01	\$ 2,422.80	\$ 2,422.80	\$ 2,422.80	\$ 2,422.80	\$ 2,422.80	\$ 2,422.80	\$ 2,422.80	\$ 2,422.80	\$ 2,422.80	\$ 2,422.80
Condo Fees	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00
Phone/internet/TV	\$ 542.00	\$ 542.00	\$ 542.00	\$ 542.00	\$ 542.00	\$ 542.00	\$ 542.00	\$ 542.00	\$ 542.00	\$ 542.00	\$ 542.00	\$ 542.00
FPL	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00
Medical Ins.	\$ 1,350.00	\$ 1,350.00	\$ 1,350.00	\$ 1,350.00	\$ 1,350.00	\$ 1,350.00	\$ 1,350.00	\$ 1,350.00	\$ 1,350.00	\$ 1,350.00	\$ 1,350.00	\$ 1,350.00
Malpractice Ins.	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 400.00
Life Ins.	\$ 488.00	\$ 488.00	\$ 488.00	\$ 488.00	\$ 488.00	\$ 488.00	\$ 488.00	\$ 488.00	\$ 488.00	\$ 488.00	\$ 488.00	\$ 488.00
Materials	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00
Lab	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
Accountant	\$ -	\$ -	\$ -	\$ -	\$ 500.00	\$ 500.00	\$ -	\$ 500.00	\$ -	\$ 500.00	\$ 500.00	\$ -
Software	\$ 375.00	\$ 375.00	\$ 375.00	\$ 375.00	\$ 375.00	\$ 375.00	\$ 375.00	\$ 375.00	\$ 375.00	\$ 375.00	\$ 375.00	\$ 375.00
Expenses	\$ 31,786.76	\$ 35,546.76	\$ 34,817.55	\$ 35,192.55	\$ 34,717.55	\$ 34,717.55	\$ 35,192.55	\$ 34,717.55	\$ 35,192.55	\$ 34,717.55	\$ 34,717.55	\$ 35,192.55
Opening Cash Balance	\$ 10,000.00	\$ 48,213.24	\$ 47,666.48	\$ 47,848.93	\$ 47,656.38	\$ 47,938.83	\$ 48,221.28	\$ 48,028.73	\$ 48,311.18	\$ 48,118.63	\$ 48,401.08	\$ 48,683.53
Ending Cash Balance	\$ 13,213.24	\$ 12,666.48	\$ 12,848.93	\$ 12,656.38	\$ 12,938.83	\$ 13,221.28	\$ 13,028.73	\$ 13,311.18	\$ 13,118.63	\$ 13,401.08	\$ 13,683.53	\$ 13,490.98