

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

In re:

Case No. 17-18574-PGH

Chapter 11

**TECHNOLOGY WAY HOLDINGS,
LLC,**

Debtor.

**TECHNOLOGY WAY HOLDINGS, LLC'S
THIRD MOTION TO USE CASH COLLATERAL**

Debtor, Technology Way Holdings, LLC (hereinafter "Debtor"), pursuant to 11 U.S.C. §363, Local Rules 4001-2, 4001-3, 9013(G) and (H), and Federal Rule of Bankruptcy Procedure 4001(b), files this its Third Motion to Use Cash Collateral and in support thereof states:

BACKGROUND AND JURISDICTION

1. This Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A). Venue is proper in this District pursuant to 28 U.S.C. §1408.
2. On July 7, 2017 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 11, Title 11, United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code").
3. Debtor is operating its businesses and managing its affairs as debtor in possession. 11 U.S.C. §1107(a) and 1108. To date no committee of unsecured creditors has been appointed.
4. Debtor is and has at all material times been a Florida Limited Liability Company with its headquarters and records maintained in Boca Raton, Florida.
5. Debtor owns commercial condominiums at 1477 Technology Way, Boca Raton

Florida comprising of Units 1-201 and 1-202, approximately 4,595 square feet. There are five (5) tenants. The gross amount of monthly rental income to be received from the tenants is \$8,000.00, net of sales tax.

6. Technology Way executed a note, mortgage, assignment of rents and related loan/security documents for a loan in the principal amount of \$671,500.00 from PNC Bank, National Association. There is a second mortgage now owned by the Small Business Association (previously assigned by PNC Bank) in the approximate amount of \$522,000.

7. The Secured Creditor, PNC Bank ("Secured Creditor") has a first mortgage and first priority security interest as to all assets, including rents. The Secured Creditor is owed approximately \$650,000.00 as of the Petition Date.

8. It is essential in order to avoid immediate and irreparable harm to the Debtor, its creditors and tenants that the Debtor be granted authority to use cash collateral to continue the level of operations which is necessary and customary for this commercial property in order to allow sufficient time to sell the property.

9. The Debtor sought and was granted the ability to use cash collateral pursuant to a proposed budget and such relief was granted by order dated July 27, 2017 [D.E.36]. The relief was extended through January 15, 2018 by Court Order entered on November 8, 2017 [D.E. 58].¹ This Court's order provides that any request for additional use of cash collateral shall be filed on or before the expiration of the current order.

10. The Debtor has to date complied with the budget. There was a dormant period due to the Hurricane and holidays in regard to the progress in selling the property. It is anticipated

¹ January 15, 2018 was a federal holiday.

that the sale prospects will increase over the next several months covered by this prospective cash collateral period.. Debtor is seeking an additional 90 days use of cash collateral at this time.

11. There have not been any recent payments to secured creditors and there will be no payments pursuant to this Motion or otherwise as there are insufficient funds to both maintain critical operations and make adequate protection payments. However, the continued operation of this business is in essence a material form of adequate protection as the secured creditors and all creditors will benefit from the going concern sale proposed then from a foreclosure and cessation of this business operation.

12. The Secured Party, PNC Bank has advised that it consents to the relief sought herein for a period of ninety (90) days.

13. This cash collateral request expressly provides for payment out of operating revenue to pay for United States Trustee Fees pursuant to 28 U.S.C. § 1930 and all additional law. To the extent additional U.S. Trustees fees are owed subsequent to the sale of the assets, the U.S. Trustee fees shall be paid from the proceeds of the sale, the first \$6,500.00 of which shall be for U.S. Trustees fees.

14. The Debtors operations have changed since the last Motion as two tenants vacated at the end of December 2017. The Debtor is seeking to obtain any funds necessary for operating shortfall and expects to be successful in such regard and/or obtain short term tenant(s).

15. WHEREFORE, Debtor, Technology Way Holdings , LLC, respectfully requests that this Court grant this Third Motion to Use Cash Collateral in the form and amounts requested and such other relief, *nunc pro tunc*, from January 16, 2018 to April 16, 2018 and such other and further relief this Court deems just and appropriate.

Dated: January 16, 2018.

Respectfully submitted,

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

GAMBERG & ABRAMS

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By: /s/ Thomas L. Abrams

Thomas L. Abrams, Esquire

Florida Bar No. 764329

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was served *electronically via CM/ECF on January 16, 2018 as noted to all parties on the attached Service List:*

SERVICE LIST

Notice Service via CM/ECF electronic filing

The following is the list of **parties** who are currently on the list to receive email notice/service via CM/ECF for this case.

- Thomas L Abrams tabrams@tabramslaw.com, dabrams@tabramslaw.com
- Linda S Cook linda.cook@sba.gov
- Orfelía M Mayor omayor@ombankruptcy.com, legalservices@pbctax.com;carmen@ombankruptcy.com;cmbk@ombankruptcy.com;omayor@ecf.inforruptcy.com
- Office of the US Trustee USTPRegion21.MM.ECF@usdoj.gov
- Stephen P Orchard sporchard@orchardlaw.com, G17905@notify.cincompass.com
- Michael W Simon ppaoletti@simonsigalos.com, dgasser@simonsigalos.com
- Howard S Toland htoland@mitrani.com

By: /s/ Thomas L. Abrams, Esq.
Thomas L. Abrams,

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
West Palm Beach Division
www.flsb.uscourts.gov

In re: Chapter 11
TECHNOLOGY WAY HOLDINGS, LLC, Case No. 17-18574-PGH
Debtor.

**THIRD INTERIM ORDER AUTHORIZING THE DEBTORS TO USE CASH
COLLATERAL ON AN INTERIM BASIS PURSUANT TO 11 U.S.C. § 363**

THIS MATTER was before this Court for hearing on _____ upon the third motion (the “Third Motion”) of Debtor, **TECHNOLOGY WAY HOLDINGS, LLC** (“Debtor”), as debtor-in-possession in the above-captioned case, for entry of an Order Authorizing the Debtor to use Cash Collateral on an Interim Basis Pursuant to 11 U.S.C. §363 [D.E. 63]; the Court finding that it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); the relief requested in the Motion is in the best of interests of the Debtor, its estate and creditors; proper and adequate notice of the Motion and the hearing thereon has been given and that no



other or further notice is necessary; and upon the record herein after due deliberation thereon, good and sufficient cause exists for the granting of the relief as set forth herein. Accordingly, it is

ORDERED:

1. The Motion is GRANTED.
2. The Debtor is authorized to use Cash Collateral, as defined in 11 U.S.C. §363(a) and in the Motion for a period of ninety (90) days from January 16, 2018 and in accordance with the Budget attached to the Notice of Filing Budget filed by the Debtor on November 6, 2017 [D.E. 57], but shall not pay any attorneys fees or costs absent further Order of this Court. The Cash Collateral shall be utilized solely for the ordinary course of business and quarterly U.S. Trustee fees.
3. The Debtor shall be authorized to exceed the amounts set forth in the Budget by the sum of 110% of the disbursements projected for such week in the Budget (except for the first week) plus any unused portion of the disbursements projected for any prior week in the Budget (but excluding, for avoidance of doubt, any amounts in excess of 100% of the projected disbursements for any week).
4. This Order, together with the authorization to use Cash Collateral shall be with a full reservation of the rights of the Debtor and the Debtor's bankruptcy estate to contest the extent, validity and priority of the debt owed, and liens granted, to the Lender.
5. This Cash Collateral Order shall be effective for ninety (90) days nunc pro tunc from January 16, 2018 through April 16, 2018.¹

¹ Debtor is required to file another motion for use of cash collateral prior to the expiration of this Order if it seeks to continue use of cash collateral subsequent to April 16, 2018.

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Submitted by:

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Gamberg & Abrams
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Telephone: (954) 523-0900
tabrams@tabramslaw.com

Copy to: Thomas L. Abrams, Esq.
(Attorney Abrams is directed to serve a conformed copy of this Order on all parties in interest)