



ORDERED in the Southern District of Florida on October 13, 2017.

  
Laurel M. Isicoff  
Chief United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION  
[www.flsb.uscourts.gov](http://www.flsb.uscourts.gov)

In re:

Case No: 17-20457-LMI

P.D.L., Inc.

Chapter 11

Debtor-in-Possession. /

**FINAL ORDER\* GRANTING DEBTOR-IN-POSSESSION'S EMERGENCY MOTION PURSUANT TO 11 U.S.C. §§ 361, 362, 363, 542 AND 554 AND FED. R. BANKR.P. 4001, 6003, AND 9014 FOR AN ORDER (I) AUTHORIZING USE OF CASH COLLATERAL; AND (II) GRANTING ADEQUATE PROTECTION [ECF NO. 6]**

THIS CAUSE having come on to be heard October 2, 2017 at 1:30 P.M., to consider the Debtor's use of cash collateral in accordance upon the *Debtor's Emergency Motion Pursuant to 11 U.S.C. §§ 361, 362, 363, 542 and 554 and Fed. R. Bankr.P. 4001, 6003, and 9014 for an Order (I) Authorizing Use of Cash Collateral; and (II) Granting Adequate Protection [ECF No. 6]* ("The Motion"). The Court having considered this Motion, and based upon the record, it is

ORDERED:

1. The Motion is GRANTED as set forth herein.

2. Use of Cash Collateral. The Debtor is authorized, from the Petition Date through the earlier of confirmation of plan, conversion, or dismissal absent further Order of Court to use cash collateral as defined in Section 363(a) of the Bankruptcy Code to pay for the expenses and costs of administration incurred by the Debtor in accordance with the budget attached hereto as Exhibit A (the "Budget") with the exception of CPA fees and Legal fees (as directed in the Budget) which will be subject to further order of this Court. The Debtor shall not exceed any line item on the Budget by an amount exceeding five percent (5%) of each such line item; provided, however, that the Debtor may make payments up to ten percent (10%) in excess of the total budgeted expenses for that month in the Budget so long as actual disbursements do not exceed one hundred and five percent (105%) of the budgeted total expenses for such month of the Budget (the "Allowed Variance"). In the event that an expense arises which is not within any of the approved line items in the Budget, or the Debtor anticipates that any line item will need to be exceeded by more than the Allowed Variance, the Debtor shall request approval from the Secured Parties, and the Secured Creditors shall have three (3) business days from the date of the Debtor's request within which to provide consent or object. In the event the Secured Creditors do not consent, the Debtor shall file a motion with the Court seeking amendment of the Budget and approval of the additional expense, which relief may be sought on an emergency basis.
3. The adequate protection obligations provided for herein constitute adequate protection of the interests of the Secured Creditors pursuant to 11 U.S.C. § 361. Since there has been no determination of whether there is equity in any of the vehicles, the application of the adequate protection payments herein shall be applied to principle with Creditors reserving rights to seek otherwise. Adequate Protection payments are due on the 13<sup>th</sup> of each month commencing October 13, 2017 and continuing thereafter absent further Order of the Court. Unless

specifically indicated, adequate protection payments are to be sent payable to the trust account for counsel of record for each Creditor. If any adequate protection payment is not received by the 13<sup>th</sup> of each month when due, Creditor shall immediately notify Debtor's Counsel via electronic message [law@sagrelawfirm.com](mailto:law@sagrelawfirm.com) and the Debtor shall be provided a five (5) day grace period to pay. If any adequate protection payment is not received by Creditor after notification to Debtor's Counsel and the five (5) day grace period, then Creditor may seek an expedited hearing for relief from stay. The Debtor must maintain insurance coverage as required by the United State Trustee.

4. Adequate Protection to Secured Creditor Wells Fargo Equipment Finance, Inc.

The Debtor shall pay monthly adequate protection payments of \$7,000.00.

Adequate Protection payments to WELLS FARGO EQUIPMENT FINANCE, INC., ("WELLS shall be as follows: \$7,000.00 due on October 13, 2017 and on the thirteenth (13<sup>th</sup>) day of each consecutive month thereafter until further Order of the Court. Unless otherwise directed by WELLS FARGO, all payments shall be made to: WELLS FARGO EQUIPMENT FINANCE, INC., c/o Ronald M. Emanuel, Esq., / Emanuel & Zwieblel, PLLC, 7900 Peters Road, Building B-100 Planation FL 33324. In the event that the Debtor fails to make the adequate protection payments (or otherwise fails to abide by the terms of this Order) as set forth herein, then WELLS FARGO shall give Debtor's attorney notice of the default specifically and solely by email at Sagre Law Firm, P.A. <[law@sagrelawfirm.com](mailto:law@sagrelawfirm.com)> and the Debtor shall have five (5) days to cure such default ("Cure Period"). If the Debtor fails to cure the default within the Cure Period, then WELLS FARGO shall be entitled to file an emergency motion seeking final relief from stay with a request for expedited consideration, and accordingly, such hearing shall be heard on an expedited basis to the best of the Court's ability. Such motion shall be accompanied by an appropriate affidavit establishing the default (or shall be a verified motion). To the extent an

order granting relief from stay is entered, such order shall include a provision that the Debtor shall fully cooperate with WELLS FARGO'S recovery of the collateral; and WELLS FARGO may proceed with any and all remedies at law or equity, or otherwise pursuant to the Agreements which are the subject of its Motion For Relief From Stay, including but not limited to selling and disposing of the Collateral. The Debtor shall maintain insurance coverage as required under the Bankruptcy; as required by law; and needed to protect the WELLS FARGO collateral in an amount sufficient to cover the full value thereof. Debtor shall deliver to WELLS FARGO a current certificate of insurance (and verification of insurance) on the Collateral within ten (10) days of this Order and at any time upon ten (10) days' notice to Debtor. Also, WELLS FARGO shall be named as a loss payee, and shall be provided with any and all notices under the insurance policy(s). The Debtor shall keep the WELLS FARGO Collateral in good and reasonable condition and shall perform regular maintenance on same in accordance with standards commercially reasonable maintenance for such Equipment / Collateral and as required under the Agreement(s). WELLS FARGO shall be entitled to inspection of its Collateral upon five (5) days telephonic notice to the Debtor or by Email to Sagre Law Firm, P.A. <[law@sagrelawfirm.com](mailto:law@sagrelawfirm.com)> The provisions as set forth herein is without prejudice to the rights of either the Debtor or WELLS FARGO to seek other relief in this case. All other provisions of the Agreement(s) shall remain unchanged and in full force and effect to the extent not modified herein and this Order shall not have any effect whatsoever on personal guarantees, if existing. No other costs and expenses of administration shall be imposed upon WELLS FARGO or its Collateral under any Chapter of the Bankruptcy Code, whether by means of a surcharge under 11 U.S.C. §506(c) or otherwise. The Debtor shall provide all documents prepared in the ordinary course of business such as monthly receivable and cash usage reports, accounts receivable report, profit and loss statement, general ledgers and any other

documents reasonably necessary for WELLS FARGO to assess the Debtor's financial viability, and the reports shall provide sufficient detail regarding the Debtor's general ledger to allow WELLS FARGO to identify the amount and recipient of all Debtor's expenditures greater than \$250.00 every thirty (30) days, except that Debtor shall not be required to change its current accounting and reporting systems to provide such reports.

5. Adequate Protection to Secured Creditor Commercial Credit Group, Inc.

The Debtor shall pay monthly adequate protection payments of \$2,300.00.

Adequate Protection payments to COMMERCIAL CREDIT GROUP, INC., ("CCG" shall be as follows: \$2,300.00 due on October 13, 2017 and on the thirteenth (13<sup>th</sup>) day of each consecutive month thereafter until further Order of the Court. Unless otherwise directed by CCG, all payments shall be made to: COMMERCIAL CREDIT GROUP, INC., c/o Mitrani, Rynor, Adamsky & Toland P.A., 1200 Weston Road Penthouse Weston, Florida 33326. In the event that the Debtor fails to make the adequate protection payments (or otherwise fails to abide by the terms of this Order) as set forth herein, then CCG shall give Debtor's attorney notice of the default specifically and solely by email at Sagre Law Firm, P.A. <[law@sagrelawfirm.com](mailto:law@sagrelawfirm.com)> and the Debtor shall have five (5) days to cure such default ("Cure Period"). If the Debtor fails to cure the default within the Cure Period, then CCG shall be entitled to file an emergency motion seeking final relief from stay with a request for expedited consideration, and accordingly, such hearing shall be heard on an expedited basis to the best of the Court's ability. Such motion shall be accompanied by an appropriate affidavit establishing the default (or shall be a verified motion). To the extent an order granting relief from stay is entered, such order shall include a provision that the Debtor shall fully cooperate with CCG'S recovery of the collateral; and CCG may proceed with any and all remedies at law or equity, or otherwise pursuant to the Agreements which are the subject of its

Motion For Relief From Stay, including but not limited to selling and disposing of the Collateral. The Debtor shall maintain insurance coverage as required under the Bankruptcy; as required by law; and needed to protect the CCG collateral in an amount sufficient to cover the full value thereof. Debtor shall deliver to CCG a current certificate of insurance (and verification of insurance) on the Collateral within ten (10) days of this Order and at any time upon ten (10) days' notice to Debtor. Also, CCG shall be named as a loss payee, and shall be provided with any and all notices under the insurance policy(s). The Debtor shall keep the CCG Collateral in good and reasonable condition and shall perform regular maintenance on same in accordance with standards commercially reasonable maintenance for such Equipment / Collateral and as required under the Agreement(s). CCG shall be entitled to inspection of its Collateral upon five (5) days telephonic notice to the Debtor or by Email to Sagre Law Firm, P.A. <[law@sagrelawfirm.com](mailto:law@sagrelawfirm.com)> The provisions as set forth herein is without prejudice to the rights of either the Debtor or CCG to seek other relief in this case. All other provisions of the Agreement(s) shall remain unchanged and in full force and effect to the extent not modified herein and this Order shall not have any effect whatsoever on personal guarantees, if existing. No other costs and expenses of administration shall be imposed upon CCG or its Collateral under any Chapter of the Bankruptcy Code, whether by means of a surcharge under 11 U.S.C. §506(c) or otherwise. The Debtor shall provide all documents prepared in the ordinary course of business such as monthly receivable and cash usage reports, accounts receivable report, profit and loss statement, general ledgers and any other documents reasonably necessary for CCG to assess the Debtor's financial viability , and the reports shall provide sufficient detail regarding the Debtor's general ledger to allow CCG to identify the amount and recipient of all Debtor's expenditures greater than \$250.00 every thirty (30) days, except that Debtor

shall not be required to change its current accounting and reporting systems to provide such reports.

6. Adequate Protection to Secured Creditor Siemens Financial Services

The Debtor shall pay monthly adequate protection payments of \$1,000.00.

7. Adequate Protection to Secured Creditor Engs Commercial Finance Co.\*

\*The Debtor shall pay monthly adequate protection payments of \$1,000.00. This is not a Final Order as to Engs Commercial Finance Co. as its Motion for Relief and/or Adequate Protection [ECF No. 84] is set for hearing October 16, 2017 [ECF No. 85].

8. Adequate Protection to Secured Creditor Hitachi Capital

The Debtor shall pay monthly adequate protection payments of \$800.00.

9. Adequate Protection to Secured Creditor BMO Harris Bank\*

\*The Debtor shall pay monthly adequate protection payments of \$4,000.00. This is not a Final Order as to BMO Harris Bank.

10. Adequate Protection to Secured Creditor Signature Financial

The Debtor shall pay monthly adequate protection payments of \$600.00.

11. Adequate Protection to Secured Creditor Volvo

The Debtor shall pay monthly adequate protection payments of \$200.00.

12. Payments to Creditor Internal Revenue Service

The Debtor shall pay monthly payments of \$100.00 to be applied first to principle owed and then fine and penalties.

13. Notwithstanding anything to the contrary in this Order, (i) fees payable to the Clerk of the Court or United States Trustee pursuant to 28 U.S.C. § 1930(a)(6) can be paid even if the amount is higher than the line item in the Budget as approved by the Secured Creditors.



14. Notwithstanding the above or anything to the contrary in this Order, the finding that the Secured Creditors' interests are adequately protected are without prejudice to the rights of the Secured Creditors to seek modification of the adequate protection provided in this Order (and without prejudice to the rights of the Debtor or any party interest to contest any such modification), and without prejudice to any other matter pertaining to the claims and liens of the Secured Creditors
15. No Novation. This Order shall not cause a novation of any of the Secured Creditors documentation.
16. No Waiver of Rights and Remedies. This Order is not intended to and shall not prejudice, alter, affect, or waive any rights and/or remedies of the Debtor or the Secured Creditors (with respect to liens, claims, value determinations, and all other matters) under the Bankruptcy Code or applicable non-bankruptcy law (including, but not limited to, all matters pertaining to cash and other collateral) and does not bind any subsequently appointed trustee or committee.
17. The creditors are provided replacement liens on their collateral, to the same extent, and with the same validity and priority, as held prior to the filing of the Debtor's petition.
18. In the event any Creditor files an objection to the adequate protection payments herein, a further hearing shall be held in this matter.

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Submitted by:

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Sagre Law Firm, P.A.  
*Counsel for the Debtor*  
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(Attorney Ariel Sagre is directed to mail a conformed copy or serve via e-filing a copy of this Order on all interested parties and to file a certificate of service with the clerk of the Bankruptcy Court.)



**P.D.L.,INC.**  
**Profit & Loss Budget Overview**  
**October through December 2017**

	<u>Oct 17</u>	<u>Nov 17</u>	<u>Dec 17</u>
<b>Ordinary Income/Expense</b>			
<b>Income</b>			
<b>Services (7.5%)Reserve</b>	0.00	0.00	0.00
<b>Services (92.5%)</b>	<u>310,000.00</u>	<u>310,000.00</u>	<u>310,000.00</u>
<b>Total Income</b>	<u>310,000.00</u>	<u>310,000.00</u>	<u>310,000.00</u>
<b>Cost of Goods Sold</b>			
<b>Lumper</b>	3,300.00	3,300.00	3,300.00
<b>Fax</b>	300.00	300.00	300.00
<b>Tolls</b>	6,600.00	6,600.00	6,600.00
<b>Contract Services</b>	85,000.00	85,000.00	85,000.00
<b>Fuel</b>	85,500.00	85,500.00	85,500.00
<b>Prepass</b>	420.00	420.00	420.00
<b>Repairs and Maintenance</b>	<u>30,000.00</u>	<u>30,000.00</u>	<u>30,000.00</u>
<b>Total COGS</b>	<u>211,120.00</u>	<u>211,120.00</u>	<u>211,120.00</u>
<b>Gross Profit</b>	98,880.00	98,880.00	98,880.00
<b>Expense</b>			
<b>Discount (2.5%)RTS</b>	7,750.00	7,750.00	7,750.00
<b>Advertising</b>	250.00	250.00	250.00
<b>Adequate Protection Payments</b>	17,000.00	17,000.00	17,000.00
<b>Bad Debt Expense</b>	900.00	900.00	900.00
<b>Bank Service Charges</b>	500.00	500.00	500.00
<b>Depreciation Expense</b>	0.00	0.00	0.00
<b>Dues and Subscriptions(Critical Vendors)</b>	2,100.00	2,100.00	2,100.00
<b>Equipment Rental (TRAILER # 531305R)</b>	1,411.47	1,411.47	1,411.47
<b>Insurance</b>	25,000.00	25,000.00	25,000.00
<b>Interest Expense</b>	0.00	0.00	0.00
<b>Licenses and Permits</b>	3,300.00	3,300.00	3,300.00
<b>Office Expenses</b>	950.00	950.00	950.00
<b>Payroll Expenses</b>	30,000.00	30,000.00	30,000.00
<b>Postage and Delivery</b>	150.00	150.00	150.00
<b>Professional Fees( Attorney Fee)</b>	1,000.00	1,000.00	1,000.00
<b>Rent</b>	3,163.00	3,163.00	3,163.00
<b>Trustee Fee</b>	1,333.00	1,333.00	1,333.00
<b>Taxes</b>	3,500.00	3,500.00	3,500.00
<b>Telephone</b>	400.00	400.00	400.00
<b>Travel &amp; Ent</b>	0.00	0.00	0.00
<b>Utilities</b>	<u>150.00</u>	<u>150.00</u>	<u>150.00</u>
<b>Total Expense</b>	<u>98,857.47</u>	<u>98,857.47</u>	<u>98,857.47</u>
<b>Net Ordinary Income</b>	22.53	22.53	22.53
<b>Other Income/Expense</b>			
<b>Other Income</b>			

	<b>Oct 17</b>	<b>Nov 17</b>	<b>Dec 17</b>
<b>Reimbursed Expenses (Reimbursed Expenses)</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Cash Rebata(Fuel)</b>	<b>300.00</b>	<b>300.00</b>	<b>300.00</b>
<b>Lumper BP</b>	<b>3,300.00</b>	<b>3,300.00</b>	<b>3,300.00</b>
<b>Other Income (Other Income)</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Total Other Income</b>	<b>3,600.00</b>	<b>3,600.00</b>	<b>3,600.00</b>
<b>Net Other Income</b>	<b>3,600.00</b>	<b>3,600.00</b>	<b>3,600.00</b>
<b>Net Income</b>	<b>3,622.63</b>	<b>3,622.63</b>	<b>3,622.63</b>

**P.D.L.,INC.**  
**Profit & Loss Budget Overview**  
**October through December 2017**

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	Cash Basis
	<b>TOTAL</b>
	<b>Oct - Dec 17</b>
<b>Ordinary Income/Expense</b>	
<b>Income</b>	
Services (7.5%)Reserve	0.00
Services (92.5%)	930,000.00
<b>Total Income</b>	930,000.00
<b>Cost of Goods Sold</b>	
Lumper	9,900.00
Fax	900.00
Tolls	19,800.00
Contract Services	255,000.00
Fuel	256,500.00
Prepass	1,260.00
Repairs and Maintenance	90,000.00
<b>Total COGS</b>	633,360.00
<b>Gross Profit</b>	296,640.00
<b>Expense</b>	
Discount (2.5%)RTS	23,250.00
Advertising	750.00
Adequate Protection Payments	51,000.00
Bad Debt Expense	2,700.00
Bank Service Charges	1,500.00
Depreciation Expense	0.00
Dues and Subscriptions(Critical Vendors)	6,300.00
Equipment Rental (TRAILER # 631305R)	4,234.41
Insurance	75,000.00
Interest Expense	0.00
Licenses and Permits	9,900.00
Office Expenses	2,850.00
Payroll Expenses	90,000.00
Postage and Delivery	450.00
Professional Fees( Attorney Fee)	3,000.00
Rent	9,489.00
Trustee Fee	3,999.00
Taxes	10,500.00
Telephone	1,200.00
Travel & Ent	0.00
Utilities	450.00
<b>Total Expense</b>	296,572.41
<b>Net Ordinary Income</b>	67.59
<b>Other Income/Expense</b>	
Other Income	

	<b>TOTAL</b>
	<b>Oct - Dec 17</b>
<b>Reimbursed Expenses (Reimbursed Expenses)</b>	<b>0.00</b>
<b>Cash Rebate(Fuel)</b>	<b>900.00</b>
<b>Lumper BP</b>	<b>9,900.00</b>
<b>Other Income (Other Income)</b>	<b>0.00</b>
<b>Total Other Income</b>	<b>10,800.00</b>
<b>Net Other Income</b>	<b>10,800.00</b>
<b>Net Income</b>	<b>10,867.69</b>