



ORDERED in the Southern District of Florida on September 24, 2018.

A handwritten signature in black ink, appearing to read "Erik P. Kimball".

Erik P. Kimball, Judge
United States Bankruptcy Court

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

In re:

FRANK INVESTMENTS, INC., *et al.*,

Debtors.

Lead Case No. 18-20019-EPK

Chapter 11
(Jointly Administered)

**INTERIM ORDER GRANTING *EXPEDITED* MOTION FOR AUTHORITY TO USE
CASH COLLATERAL PURSUANT TO 11 U.S.C. § 363 AND FOR FINAL HEARING**

THIS MATTER came before the Court for hearing on August 29, 2018 upon Frank Investment, Inc.'s (the "Debtor") *Expedited Motion for Authority to Use Cash Collateral Pursuant to 11 U.S.C. § 363 and for Final Hearing* (the "Motion") [ECF No. 18]. The Court, having considered the Motion, the argument of counsel, and the record in this case, hereby

ORDERS AND ADJUDGES as follows:

1. The Motion is **GRANTED** on an interim basis subject to a final hearing.
2. Use of Cash Collateral. The Debtor shall be entitled to use cash collateral to pay all ordinary and necessary expenses in the ordinary course of its business for the purposes contained in the budget attached hereto (the "Budget") for a period of thirty days from the date the Court grants the Motion. The Debtor is also authorized: (a) to exceed any line item on the Budget by an amount equal to ten (10%) percent of each such line item; or (b) to exceed any line item by more than ten (10%) percent so long as the total of all amounts in excess of all line items for the Budget do not exceed ten (10%) percent in the aggregate of the total Budget.
3. Replacement Liens. Notwithstanding the provisions of § 552(a) of the Bankruptcy Code, and in addition to the security interests preserved by § 552(b) of the Bankruptcy Code, the Debtor grants in favor of Bancorp Bank ("Bancorp"), as security for all indebtedness that is owed by the Debtor to Bancorp, under the secured documentation between such parties, but only to the extent that Bancorp's cash collateral is used by the Debtor, a post-petition security interest and lien in, to and against any and all assets of the Debtor, to the same extent and priority that Bancorp held a properly perfected pre-petition security interest in such assets; provided that, however, under no circumstances shall Bancorp have a lien on any causes of action arising under 11 U.S.C. § 542 *et seq.*, 547, 548, 549, 550, 551, or any of the Debtor's assets that it did not have a right to pre-petition.
4. Investigation Period for Interested Parties, Any Creditors' Committee and Any Subsequent Trustee. As provided in this Court's Guidelines for Motions Seeking Authority to Use Cash Collateral and Motions Seeking Approval of Postpetition Financing, any challenge or objection to the validity, perfection and amount of Bancorp's liens and claims as set forth herein shall be properly filed and served: (a) by any party in interest, other than the Debtor or any

creditors' committee, within thirty (30) days of entry of a final order regarding the Motion; (b) by any creditors' committee within sixty (60) days of its formation; and (c) by any Chapter 11 or Chapter 7 trustee within sixty (60) days of his or her appointment. If no challenges or objections to the validity, perfection and amount of Bancorp's liens and claims as set forth herein are timely brought as provided in the preceding sentence, Bancorp shall be deemed to hold allowed secured claims as set forth herein. If a challenge or objection is timely filed by a party in interest or any creditors' committee, Bancorp shall hold secured claims as provided in any further order entered upon and such challenge or objection.

5. Prohibited Uses of Cash Collateral. Subject to the items listed in the Budget, absent written consent of Bancorp or an Order of the Court, the Debtor shall not use the Cash Collateral: (a) to make any prepayments with respect to services which were not yet rendered, goods that have not been received, or any other item for which payment is not currently due, (b) to pay any increases in salaries or compensation for employees, (c) to pay any part or portion of pre-petition claims (other than pre-petition wage claims as approved and Ordered by the Court), or (d) to pay any fees for professionals.

6. Perfection of Replacement Liens. The replacement liens and security interests granted under paragraph 3 herein to Bancorp upon Bancorp Replacement Collateral shall be deemed attached, perfected, and enforceable against the Debtor and all other persons including without limitation any subsequent Trustee (if appointed under Chapter 11 of the Bankruptcy Code), without the filing of any financing statements or other compliance with non-bankruptcy law. The Debtor shall, however, at Bancorp's request, execute and deliver any and all documents permitting such security interests to be filed or recorded with any appropriate agency or official.

Any such filing or recording shall be deemed to have been filed or recorded on the date of the entry of this Order.

7. Additional Reporting Requirements. The Debtor shall provide Bancorp with monthly profit and loss statements with respect to the Debtor and its affiliates/sister entities, by the 10th day of the following month. The Debtor shall provide Bancorp with a month expense report and weekly income/deposit report for the Debtor and its affiliates/sister entities, by the 10th day of the following month, which details the name of each payee/payor, the date of each payment or deposit, and amount. The Debtor shall also provide Bancorp with any and all documents and disclosures as required by the loan documents within five (5) business days of Bancorp's request to counsel for the Debtor

8. Duration. The use of cash collateral provisions in this Order shall remain in effect for a period of thirty days from the date the Court grants the Motion, or until otherwise ordered by the Court.

9. Final Hearing. This Court shall hold a final hearing on cash collateral on **October 17, 2018 at 2:00 P.M.** at the United States Bankruptcy Courthouse, Flagler Waterview Building, 1515 North Flagler Drive, 8th Floor, Courtroom B, West Palm Beach, Florida 33401.

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Copy to:

Patrick Dorsey, Esq.
Counsel for the Debtor
2385 N.W. Executive Center Drive, Suite 300
Boca Raton, Florida 33431
Telephone: (561) 443-0800
Facsimile: (561) 998-0047

Patrick Dorsey, Esq. shall serve a copy of this order on all parties in interest and file a certificate of service with the Court.

FRANK INVESTMENTS, INC

Statement of Projected Income and Expenses- Cash Basis For The Period August 18, 2018 through October, 2019

Revenue:	8/18-8/31	September	October
Rent - Towne Theatre	\$ -	\$ 25,000.00	\$ 25,000.00
Rent - Outback	0.00	9,378.00	9,378.00
Rent - GSP contractor	0.00	1,000.00	1,000.00
Rent - Montgomeryville Theatre	0.00	30,894.00	30,894.00
Rent - Cape May Stores	-	50,366.00	69,590.00
Rent - Office Condominium	-	5,376.00	5,376.00
Total rent collected	<u>0.00</u>	<u>122,014.00</u>	<u>141,238.00</u>
Occupancy			
RE Taxes & Assessments	-	46,651.00	7,000.00
Common Area Maintenance	-	810.00	810.00
Licenses & Permits	-	-	-
	<u>-</u>	<u>47,461.00</u>	<u>7,810.00</u>
Utilities			
Gas & Electric	-	1,200.00	1,200.00
Water	-	1,000.00	1,000.00
Trash	-	2,550.00	2,550.00
	<u>-</u>	<u>4,750.00</u>	<u>4,750.00</u>
Security			
Fire Alarm Security	-	-	-
	<u>-</u>	<u>-</u>	<u>-</u>
Maintenance			
Landscape Maintenance	-	1,800.00	1,800.00
	<u>-</u>	<u>1,800.00</u>	<u>1,800.00</u>
Repairs			
	<u>-</u>	<u>1,000.00</u>	<u>1,000.00</u>
	<u>-</u>	<u>1,000.00</u>	<u>1,000.00</u>
Insurance			
Equipment	-	355.00	-
General Liability	-	8,800.00	4,400.00
Property	-	9,200.00	4,600.00
	<u>-</u>	<u>18,000.00</u>	<u>9,000.00</u>
General & Administrative			
Management Fee	-	6,100.70	7,061.90
Easement payment - Outback lease	-	2,385.00	2,385.00
United States Trustee fee	-	-	1,950.00
	<u>-</u>	<u>8,485.70</u>	<u>11,396.90</u>
Total Costs & Expenses	<u>-</u>	<u>81,496.70</u>	<u>35,756.90</u>
Earnings (loss) from operations	<u>-</u>	<u>40,517.30</u>	<u>105,481.10</u>
Interest and mortgage payments:			
Bancorp Bank - interest payment	-	62,337.00	62,337.00
Bancorp Bank - principal paydown	-	250,000.00	-
Anchor Commercial Bank	-	1,958.00	1,958.00
Monthly debt service	<u>-</u>	<u>314,295.00</u>	<u>64,295.00</u>
	<u>-</u>	<u>(273,777.70)</u>	<u>41,186.10</u>
DIP Account balance - beginning of month	-	249,010.00	26,467.01
Transfer of operating account cash to DIP account	249,010.00	-	-
Deposit of proceeds from Bank of Amer acct 4246	-	1,073.74	-
Deposit of proceeds from JP Morgan account	-	50,160.97	-
DIP Account balance - end of month	<u>249,010.00</u>	<u>26,467.01</u>	<u>67,653.11</u>