

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	
Family Works, Inc.)	
)	Case No. 17-57752
)	
Debtor)	Chapter 11
_____)	
)	Contested Matter
Family Works, Inc.,)	
Movant,)	
)	
vs)	
)	
First Citizens Bank and Trust Company,)	
Respondent.)	

EMERGENCY MOTION FOR ENTRY OF AN INTERIM ORDER AUTHORIZING USE OF CASH COLLATERAL

COMES NOW, Family Works, Inc. (the “Debtor”), pursuant to Section 363 of Chapter 11 of Title 11 of the United States Code, 11 U.S.C. § 363 (the “Bankruptcy Code”) and Rule 4001 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and files this Emergency Motion for Entry of an Interim Order Authorizing Use of Cash Collateral (“Motion”). In support of the Motion, the Debtor shows the Court as follows:

Jurisdiction and Venue

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. §157(b). Venue of this proceeding is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
2. The relief requested in this Motion is based on Sections §§ 105, 361, 363, and 364 of the Bankruptcy Code Bankruptcy Rule 4001(b).

Background

3. On May 1, 2017 (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code and has continued in possession of its property and management of its business as debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. As of the date of this filing, no official committee of unsecured creditors has been appointed and no request for the appointment of a trustee or examiner has been made.

4. The Debtor is a Georgia S-Corporation that operates as a mental and behavioral health clinic (the “Business”).

5. Upon information and belief, First Citizens Bank and Trust Company (“First Citizens”), asserts a first priority security interest in all “accounts” *See* UCC Financing Statement File No. 044-2013-004339 in the Superior Court of DeKalb County.

6. In order to effectively reorganize, Debtor must have access to cash to pay the operating expenses of the Business. If Debtor does not have the authority to use their available cash to pay operating expenses of the Business, including insurance, payroll, and utilities, the Business will be irrevocably harmed.

Relief Requested

7. The Debtor, after conducting an interim hearing on the Motion, seeks the entry of an order, pursuant to Sections 105, 361, and 363 of the Bankruptcy Code and Bankruptcy Rule 4001(b): (a) authorizing the Debtor to use cash collateral pursuant to the proposed budget attached to this Motion (the “Budget”); and (b) scheduling a final hearing on the Motion. In accordance with Bankruptcy Rule 4001, the following are the Debtors proposed terms for the use of cash collateral:

(a) Purpose. Cash collateral will be used to pay operating expenses of the Business, including, but not limited to, the insurance and property taxes.

(b) Use of Cash Collateral. Cash collateral will be used only pursuant to the terms of the Budget during the period following entry of the Interim Order until the earlier of: (i) 45 days following entry of the Interim Order; (ii) conversion of the case to Chapter 7 or dismissal of the case; or (iii) the Debtors' violation of the terms of the Interim Order, including failure to comply with the Budget.

(c) Adequate Protection. As adequate protection for the cash collateral expended pursuant to the Interim Order, First Citizens shall be given a replacement lien on all collateral wherever located belonging to Debtor, to the extent and validity of those liens that existed pre-petition. Cash collateral will only be used for items set forth in a budget to be approved by the Court. A copy of the Budget is attached hereto as Exhibit A.

Basis for Relief Requested

9. The Debtor's use of the cash collateral is essential to the continuing operation of the Business and for an effective reorganization. If Debtor does not have the authority to use their available cash to pay operating expenses of the Business, the going concern value of the Business will be significantly harmed and the estate and creditors will be negatively affected. The Debtor does not propose to use cash collateral to pay any creditors any amounts due and owing pre-petition.

10. Section 363(c)(2) of the Bankruptcy Code provides that a debtor may not use, sell or lease cash collateral unless each entity with an interest in such cash collateral consents or the Court authorizes such use, sale or lease. Section 363(e) provides that the Court shall condition such use of cash collateral as is necessary to provide adequate protection of such interests. Section 363(p) provides that at a hearing on the use of cash collateral, the entity asserting an interest in the cash collateral has the burden of proof on the issue of the validity, priority, or

extent of such interest, and the debtor-in-possession has the burden of proof on the issue of adequate protection.

11. The Debtor requests authority to use cash collateral for the purposes and amounts set forth in the proposed budget attached hereto as Exhibit A. In accordance with Section 363(e), the proposed Interim Order provides that adequate protection will be provided to the First Priority Lender to the extent of any diminution in value of its pre-petition collateral through replacement liens.

Request for Immediate and Emergency Interim Relief

12. Pending the Final Hearing, the Debtor requires immediate use of cash collateral to meet its obligations. It is essential that the Debtor maintain consistent operations and resume paying for ordinary, post-petition operating expenses to minimize any damage caused by the filing. Without immediate use of cash collateral, the Debtor will be unable to pay ongoing operating expenses. Accordingly, if interim relief is not granted, the Debtor's assets will be immediately and irreparably jeopardized to the detriment of the Debtor, the estate, creditors, and other parties in interest.

13. The Debtor requests the Court to schedule an Interim Hearing as soon as practicable to consider the Debtor's request for use of cash collateral. Bankruptcy Rule 4001(b) permits a court to approve a debtor's request for use of cash collateral during the 15 day period following the filing of a motion for use of cash collateral in such amounts as is necessary to avoid irreparable harm to the estate pending a final hearing. In considering requests for interim relief courts apply the same business judgment standard applicable to other business decisions.

14. For the reasons explained above, the Debtor believes that granting the relief requested is appropriate and in the best interest of the estate.

Notice

15. Notice of this Motion has been provided to the Office of the United States Trustee and First Citizens and any other creditors who may have an interest in the Cash Collateral. In light of the interim nature of the relief requested, the Debtor submits that such notice is adequate under the circumstances.

WHEREFORE, the Debtor requests that this Court enter an order granting interim use of cash collateral consistent with this Motion; and grant the Debtor such other and further relief as is just and proper.

This 1st day of May, 2017

/s/ Will B. Geer
Georgia State Bar No. 940493
Law Office of Will B. Geer, LLC
333 Sandy Springs Circle, NE
Suite 225
Atlanta, Georgia 30328
T: (678) 587-8740
F: (404) 287-2767

Exhibit "A"

Projected Income	\$68,000.00
-------------------------	-------------

Expenses		
Property Taxes		\$1,186.00
Landline and Internet		\$319.00
Gas		\$400.00
Electricity		\$500.00
Property and Liability Ins.		\$900.00
Condo Association Fee		\$2,308.00
Salaries		\$46,450.00
Staff Salary		
James Abel	\$6,000.00	
Evens Jean-Louis	\$6,000.00	
Duplessy Abel	\$3,750.00	
Ana Cerdas	\$1,400.00	
Contract Staff Wages		
Mirline Lozis (Psychiatrist)	\$14,000.00	
LaTonya Watters	\$4,500.00	
Lynne Collier	\$3,400.00	
Michele Green	\$3,400.00	
Crystal Moss	\$400.00	
Coleen Williams	\$1,400.00	
Kimberly Smith	\$100.00	
John Gaston	\$1,600.00	
Tos Rabi-Akewusola	\$500.00	
Maintenance and Repairs on Property		\$667.00
Office Supplies		\$250.00
Cleaning		\$150.00
Bank Fees		\$30.00
Company Cell Phone		\$100.00
Pest Control		\$60.00
Marketing		\$400.00
U.S. Trustee Payments		\$541.00
Liability and Property Ins.		\$500.00

Total Expenses	\$54,761.00
-----------------------	--------------------

CERTIFICATE OF SERVICE

This is to certify that on this date I served a true and correct copy of the within and foregoing Emergency Motion For Entry Of An Interim Order Authorizing Use of Cash Collateral upon the following parties by overnight mail, facsimile transmission, or electronic mail:

Office of the United States Trustee 362 Richard B. Russell Federal Building 75 Ted Turner Drive, SW Atlanta, GA 30303 USTP.Region21@usdoj.gov v	First-Citizens Bank & Trust Company 1201 Peachtree Street, NE Atlanta, Georgia 30361 bbusch@bakerdonelson.com	Georgia Dept. of Labor 148 Andrew Young International Blvd. Room 738 Atlanta, GA 30303
Georgia Department of Revenue Compliance Division ARCS - Bankruptcy 1800 Century Blvd NE, Suite 9100 Atlanta, GA 30345-3202 Fax: 404-417-2101 BHeinz@law.ga.gov	Internal Revenue Service Centralized Insolvency Operation Post Office Box 7346 Philadelphia, PA 19101-7346 Fax: 267-941-1015	Northlake Condo. Association, Inc. c/o Atlanta Comm. Serv., Inc. 4485 TENCH RD, STE 2511 Suwanee GA 30024-0000 Fax: 770-904-5269
Herve Apollon 179-07 120th Avenue Jamaica NY 11434-2717 rvapollon@gmail.com	ADT Security Services, Inc. THE CORPORATION TRUST COMPANY CORPORATION TRUST CENTER 1209 ORANGE ST WILMINGTON, DE 19801 Fax: (561) 988-3601	

This 1st day of May, 2017.

/s/ Will B. Geer
 Georgia State Bar No. 940493
 Law Office of Will B. Geer, LLC

333 Sandy Springs Circle, NE
Suite 225
Atlanta, Georgia 30328
T: (678) 587-8740
F: (404) 287-2767