



IT IS ORDERED as set forth below:

Date: September 27, 2018

**Sage M. Sigler
U.S. Bankruptcy Court Judge**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:

SPRING TREE LENDING, LLC,

Debtor.

CHAPTER 11

CASE NO. 18-55171-SMS

**AMERICAN CREDIT ACCEPTANCE,
LLC,**

Movant,

v.

CONTESTED MATTER

SPRING TREE LENDING, LLC,

Respondent.

**FINAL ORDER AUTHORIZING CHAPTER 11 TRUSTEE TO USE CASH
COLLATERAL PURSUANT TO 11 U.S.C. § 363 AND GRANTING ADEQUATE
PROTECTION TO AMERICAN CREDIT ACCEPTANCE, LLC**

The matter before the Court is the MOTION FOR AUTHORITY TO USE CASH COLLATERAL AND TO PROVIDE ADEQUATE PROTECTION THEREFOR (the

"Motion") of Mark A. Smith, Chapter 11 trustee for Spring Tree Lending, LLC (respectively the "Trustee" and the "Debtor") in the above-captioned case (the "Case") for entry of an order (this "Order"), pursuant to sections 363(c)(2) and (3) of the Bankruptcy Code, and Bankruptcy Rule 4001(b) authorizing the Trustee to use cash collateral of American Credit Acceptance, LLC ("ACA").

After notice, the Court conducted an evidentiary hearing on September 17, 2018 on the Trustee's Motion to which American Credit Acceptance, LLC ("ACA") objected.¹ Present at the hearing were counsel for the Trustee, counsel for ACA, counsel for Pacific Island Equity Corporation and counsel for the Debtor. Based upon the Court's review of the Motion and the testimony and evidence presented at the hearing, the Court has entered separate findings of fact and conclusions of law. For the reasons announced in open court and as set forth in the findings of fact and conclusions of law, the Court having concluded that the Trustee has met his burden of proof by a preponderance of the evidence in order for the Trustee's Motion as modified at the hearing to be granted, the Court hereby **ORDERS, ADJUDGES AND DECREES** as follows:

1. Relief. The Motion as modified at the hearing is GRANTED, on the terms and conditions set forth herein.

2. Trustee Accounts. All Cash Collateral received by the Estate shall be deposited into one or more trustee bank accounts or court-approved bank accounts as may be permitted by the U.S. Trustee's Office or by separate order of this Court (the "Trustee Account(s)") and shall be segregated from any other monies received by the Estate that do not constitute Cash Collateral of ACA, or at a minimum, such Cash Collateral shall be accounted for on the Estate's books and records such that the Cash Collateral of ACA is clearly and separately identifiable from any

¹ The evidentiary hearing was held on both the Trustee's Motion and on a Motion for Relief from Stay that had been filed by ACA that was opposed by the Trustee

monies that may be commingled with the Cash Collateral in the Trustee Account(s).

3. Adequate Protection. Pursuant to 11 U.S.C. §363(c)(2), the Trustee may use Cash Collateral that is encumbered by ACA's prepetition secured claim against the Debtor (the "ACA Secured Claim"), and ACA shall receive as adequate protection, the following:

(a) Replacement Liens. Without limiting any security interests or liens in the Estate's assets that are granted or extended to ACA pursuant to 11 U.S.C. § 552, ACA is hereby granted a security interest in, and lien in and upon all assets of the Estate existing on or after the Petition Date of the same nature and type, and to the same extent, validity, amount, and priority, as ACA's security interests and lien upon the Pre-Petition Collateral (the "**Replacement Liens**") to secure against any diminution in value of any Pre-Petition Collateral in which ACA holds a valid, enforceable and perfected security interest resulting from the imposition of the automatic stay or the Trustee's use of Cash Collateral. The Estate's assets encumbered by the Replacement Liens are referred to as the "**Post-Petition Collateral.**" The Replacement Liens shall be subject and junior in priority to: (i) any non-avoidable, perfected pre-petition liens in the Pre-Petition Collateral of any other party that are superior in priority to the pre-petition liens of ACA in such Pre-Petition Collateral, and (ii) any pre-petition lien(s) of ACA against the Pre-Petition Collateral that are subsequently avoided and preserved for the benefit of the Estate pursuant to 11 U.S.C. § 551. Upon the entry of this Order, the Replacement Liens shall be automatically deemed perfected. Although not required, ACA is authorized to file and record any instruments or documents necessary to perfect the security interest and liens granted by this Order and any such actions taken by ACA shall not be deemed a violation of the automatic stay. Nothing in this Order is or shall be considered as altering, impairing, or otherwise limiting any rights of ACA under Section 552(b) of the Bankruptcy Code. No lien in Chapter 5 avoidance actions is

granted by this Order;

(b) The Trustee shall pay the fees of the United States Trustee's Office pursuant to 28 U.S.C. § 1930 as and when due;

(c) ACA shall be permitted to apply to the principal balance of the Debtor's indebtedness to ACA, the remaining balance in the Collection Account that is approximately \$19,782.24, and ACA shall notify the Trustee of the exact amount in the Collection Account that has been so applied;

(d) The Trustee shall be authorized to pay to ACA the sum of \$31,280.38 as additional adequate protection, which represents the principal payments on loans that are Collateral for the ACA Secured Claim received by the Trustee during the months of June, July and August, 2018, less the \$9,250 adequate protection payment made in June 2018 to ACA, and ACA shall apply such payment to the principal balance of the Debtor's indebtedness to ACA;

(e) The Trustee shall be authorized to pay to ACA by the fifteenth (15th) day of each month beginning in October, 2018 through the month in which a plan of reorganization is confirmed in this Case, the total amount of the principal payments on loans that are Collateral for the ACA Secured Claim received by the Trustee during the prior calendar month, and ACA shall apply such payment to the principal balance of the Debtor's indebtedness to ACA;

(f) Insurance Proceed and Repossession Proceeds. No later than the fifteenth (15th) day of each month, the Trustee shall remit to ACA the lesser of the following amounts, if any, received during the prior calendar month: (i) 100% of any net insurance proceeds and/or net repossession liquidation proceeds paid to the Estate with respect to vehicles pledged as collateral to ACA or (ii) the outstanding principal balance of the consumer loan that relates to such insurance or repossession liquidation proceeds. ACA shall deliver the original title documents

relating to a vehicle for which the Trustee delivers to ACA a borrower payoff or insurance payment, with its lien marked satisfied, upon receipt of a payment as provided herein;

(g) Proof of Incurred Expenses. Upon request by ACA, the Trustee shall provide copies of any invoices or other documents to substantiate any payments made by the Trustee; and

(h) Access to Information. As additional adequate protection of ACA's security interests in the Cash Collateral, the Trustee shall allow ACA reasonable access during normal business hours to the Estate's books and records, and shall otherwise reasonably cooperate in providing any other financial information requested by ACA.

4. Pro Forma Budget. The Trustee will operate within a five (5%) variance of the "Operating Expenses" line-items the budget attached hereto as Exhibit A and incorporated herein by reference (the "Budget"). The Budget has been modified to include a payment of \$8,610 to Spring Tree Financial in full satisfaction of its final invoice to the Trustee for servicing the Debtor's loan portfolio. The Budget does not include a specific dollar amount for the principal payments described in paragraph 3(e) above because such amounts are not yet known and the variance described above shall not apply to the amount of such adequate protection payments.

5. Termination of Cash Collateral Usage. The Trustee's authorization to use Cash Collateral shall terminate on December 29, 2018, without prejudice to the Trustee's right to file one or more additional motions to use Cash Collateral or to any other party's right to object to such a motion.

6. Reservation of Rights. This Order shall not be construed as prejudicing any rights that Debtor, the Chapter 11 Trustee, any creditor of Debtor including ACA, or any unsecured creditors or committee of unsecured creditors may have to (a) object to the amount of or basis for any claims asserted against Debtor by ACA; (b) challenge the validity, extent, or priority of

ACA's lien; or (c) as an admission as to the validity or priority of any claim against Debtor.

7. No Waiver. Nothing in this Order shall be construed as a waiver by Debtor, the Chapter 11 Trustee, or ACA of any rights, claims, defenses, or objections they may have (a) respecting the nature, amount, validity, priority or perfection of any pre-petition liens or security interests asserted against Debtor or Debtor's property, (b) respecting any requests for relief from the automatic stay under 11 U.S.C. § 362(d), or (c) respecting demands for further adequate protection in addition to those provided by this Order.

8. No Third Party Rights. Except as explicitly provided for herein, this Order does not create any rights for the benefit of any third party, creditor, equity holder, or any direct or indirect, or incidental beneficiary.

9. Order Immediately Effective. Notwithstanding anything to the contrary in the Bankruptcy Rules or otherwise, the effectiveness of this Order shall not be stayed, and this Order shall be immediately effective upon its entry.

10. Retention of Jurisdiction. This Court hereby retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

11. Service of Order. Trustee's counsel shall promptly serve a copy of this Order on counsel for ACA, the U.S. Trustee's Office, Pacific Island Equity Corporation, and any other party requesting notice in this case and shall file a certificate of service.

END OF DOCUMENT

Prepared and presented by:

LAW OFFICE OF J. MICHAEL LEVENGOOD, LLC

/s/ J. Michael Levengood

Georgia Bar No. 447934

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Identification of parties to be served pursuant to BLR 9013-2(b):
DISTRIBUTION LIST

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Exhibit "A"

	September		October				November				December				17 Week Total					
	7-Sep	14-Sep	21-Sep	28-Sep	4	5	12-Oct	19-Oct	26-Oct	8	9	10	11	12		13	14	15	16	17
Beginning Cash Balance																				
Cash Receipts:																				
Customer Receipts - Car Loan Payments	10,700	7,152	11,566	10,487	4,834	4,834	4,834	4,834	4,834	6,819	6,819	6,819	6,819	6,819	6,819	6,819	6,819	6,817	9,000	
Sale of Repossessed Cars	-	3,000	6,000	-	6,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9,000
Other	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Cash Receipts:	\$10,700	\$10,152	\$13,155	\$11,566	\$10,487	\$10,834	\$4,834	\$4,834	\$4,834	\$6,819	\$6,819	\$6,819	\$6,819	\$6,819	\$6,819	\$6,819	\$6,819	\$6,817	\$19,784	
Recurring Cash Disbursements																				
Financing Expenses	4,530	150	-	8,610	4,440	-	-	-	-	4,380	-	-	-	-	-	-	-	-	-	26,190
Repairs	-	-	-	-	-	150	-	-	-	-	-	-	-	-	-	-	-	-	-	600
Rec'd Expense & Repairs	1,000	-	1,000	-	1,000	-	-	-	-	1,000	-	-	-	-	-	-	-	-	-	9,000
Misc	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Operating Expenses	\$5,530	\$150	\$1,000	\$8,610	\$5,440	\$150	\$1,000	\$1,000	\$1,000	\$5,380	\$0	\$1,150	\$1,150	\$1,150	\$1,150	\$1,150	\$1,150	\$1,150	\$0	\$11,500
Operating Cash Flow	\$5,170	\$10,002	\$12,155	\$2,956	\$5,047	\$10,684	\$3,834	\$3,834	\$4,834	\$14,795	\$10,133	\$5,669	\$6,913	\$6,913	\$6,913	\$6,913	\$6,913	\$6,817	\$18,784	
Debt Service	-	-	-	31,280	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	31,280
US Trust Office	-	-	-	-	-	-	-	975	-	-	-	-	-	-	-	-	-	-	-	975
Professional Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Professors	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	46,500
Total Other Cash Disbursements	\$0	\$0	\$0	\$31,280	\$33,500	\$0	\$0	\$975	\$0	\$0	\$10,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$46,500
Net Cash Flow	5,170	10,002	12,155	(28,324)	(28,453)	10,684	3,834	3,859	3,859	14,795	133	5,669	6,913	6,913	6,913	6,913	6,913	6,817	18,784	
Ending Cash Balance - Book	\$43,844	\$53,846	\$66,001	\$37,676	\$9,223	\$19,907	\$23,741	\$27,600	\$42,395	\$42,395	\$42,395	\$48,197	\$55,110	\$71,129	\$76,991	\$84,280	\$94,280	\$103,064	\$180,936	