

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**IN RE:** ) **Chapter 11**  
 )  
 ) **Case No. 16-30934**  
**3324 N. CLARK STREET, LLC,** )  
 ) **Hon. Donald R. Cassling**  
**Debtor.** ) **Room 619**  
 ) **Hearing Date: November 15, 2016**  
 ) **Hearing Time: 9:30 a.m.**

**NOTICE OF MOTION**

To: See Attached Service List

PLEASE TAKE NOTICE THAT on November 15, 2016 at 9:30 a.m., we shall appear before the Honorable Donald R. Cassling, or any other Judge sitting in his stead in Courtroom No. 644, 219 South Dearborn, Chicago, Illinois, at which time we shall present **DEBTOR’S MOTION FOR USE OF CASH COLLATERAL (INTERIM HEARING) AND TO BORROW FUNDS PURSUANT TO SECTION 364 OF THE BANKRUPTCY CODE**, a copy of which is attached hereto a served upon you, and shall pray for the entry of an order in conformity with said pleading, at which time and place you may appear if you so see fit.

**3324 N. CLARK STREET, LLC, Debtor**

By:           /s/ Ariel Weissberg            
One of its attorneys

Ariel Weissberg, Esq. (Attorney No. 03125591)  
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**CERTIFICATE OF SERVICE**

I, Ariel Weissberg, certify that on October 27, 2016, I caused to be served **DEBTOR'S MOTION FOR USE OF CASH COLLATERAL (INTERIM HEARING) AND TO BORROW FUNDS PURSUANT TO SECTION 364 OF THE BANKRUPTCY CODE** to be filed electronically. Notice of this filing was sent to all parties registered with the court's ECF electronic transmission, including to the following parties:

Patrick S. Layng, Esq.  
Office of the U.S. Trustee, Region 11  
219 S Dearborn St., Room 873  
Chicago, IL 60604-2027  
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Fox Rothschild LLP  
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Dallas, Texas 75240  
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and on October 27, 2016 by first class U.S. mail to the following parties:

Illinois Department of Revenue  
Bankruptcy Section  
Level 7-425  
100 W. Randolph Street  
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District Director  
Internal Revenue Service  
230 S. Dearborn St.  
Mail Stop 5016-CHI  
Chicago, IL 60604

District Counsel  
Internal Revenue Service  
200 West Adams, Suite 2300  
Chicago, IL 60606

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Illinois Department of Revenue  
Legal Services Office MC5-500  
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Springfield, IL 62794

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Chicago, IL 60657

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Park Ridge, IL 60068

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Chicago, IL 60641

IR Design, Inc.  
5300 North Damen  
Chicago, IL 60625

Nicholas M. Duric  
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Park Ridge, IL 60068

Rick Levin & Associates, Inc.  
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Simone Singer Weissbluth  
Revocable Trust  
917 W. Washington, Suite 127  
Chicago, IL 60607

Simone Singer Weissbluth  
917 W. Washington, Suite 127  
Chicago, IL 60607

The Simone Singer Weissbluth Revocable Trust  
917 W. Washington, Suite 127  
Chicago, IL 60607

Wintrust Bank  
190 South LaSalle  
Suite 2200  
Chicago, IL 60603

WMW GC, LLC  
917 W. Washington, Suite 127  
Chicago, IL 60607

WMW Investments, LLC  
917 W. Washington, Suite 127  
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/s/ Ariel Weissberg  
Ariel Weissberg

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>IN RE:</b>	)	<b>Chapter 11</b>
	)	
	)	<b>Case No. 16-30934</b>
<b>3324 N. CLARK STREET, LLC,</b>	)	
	)	<b>Hon. Donald R. Cassling</b>
<b>Debtor.</b>	)	<b>Room 619</b>
	)	<b>Hearing Date: November 15, 2016</b>
	)	<b>Hearing Time: 9:30 a.m.</b>

**DEBTOR’S MOTION FOR USE OF CASH  
COLLATERAL (INTERIM HEARING) AND TO BORROW  
FUNDS PURSUANT TO SECTION 364 OF THE BANKRUPTCY CODE**

NOW COMES Debtor, 3324 N. Clark Street, LLC, Debtor and Debtor-in-Possession, by its attorneys, Ariel Weissberg, Devvrat Sinha and the law firm of Weissberg and Associates, Ltd. and as *Debtor’s Motion for Use of Cash Collateral (Interim Hearing) and to Borrow Funds Pursuant to Section 364 of the Bankruptcy Code*, states as follows:

**I. INTRODUCTION**

1. On September 28, 2016 (“Petition Date”), the Debtor commenced this case by filing a voluntary petition in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, seeking to reorganize under Chapter 11 of the Bankruptcy Code.

2. Since the Petition Date, the Debtor has continued in the possession, management and operation of its assets, properties and businesses in accordance with Sections 1107 and 1108 of the Bankruptcy Code.

3. No trustee, examiner, or official committee of unsecured creditors has been appointed.

4. The Debtor is the sole owner of beneficial interests in the Chicago Title Land Trust number 8002371267 under trust agreement dated May 9, 2016, which is the titleholder to the real estate and improvements at 3324 N. Clark Street, Chicago, Illinois (the “Property”) (Pin:14-20-418-032-0000).

5. The Property is a four story, mixed use property with both commercial and residential uses of approximately 12,000 square feet. Presently, there are two lessees: (a) a sign lease with Big Outdoor Media OPCO pursuant to a lease dated February 25, 2002 with monthly rent equal to \$3,000.00 if there is advertising on the sign and \$2,300.00 per month if there is no advertising on the sign (“Sign Lease”); and, (b) a commercial lease with Daku DR Corporation d/b/a/ Ricci Kapricci Salon pursuant to a lease dated August 12, 2012 with monthly rent equal to \$1,500.00 (“Salon Lease”).

6. Prior to the Petition Date, the Debtor entered into a loan arrangement with Wintrust Bank (the “Wintrust Bank”), with respect to the Property evidenced by, among others, the following documents, instruments and agreements (collectively, the “Loan Documents”):

- i. Promissory Note, dated as of July 30, 2015, in the original principal amount of \$1,350,000.00 (the “Note”);
- ii. Mortgage, dated as of July 30, 2015, (the “Mortgage”); and
- iii. Assignment of Leases, dated as of July 30, 2015, relating to the Property (the “Rent Assignment”).

7. In accordance with the terms and conditions of the Loan Documents, the Bank holds a valid, perfected, and unavoidable first lien position against the Property. Presently, the Wintrust Bank is owed approximately \$1,350,000.00. Moreover, the Mortgage and the Rent Assignment provide the Bank with valid, perfected, and unavoidable first perfected security interests in all leases and tenancies associated with the Property, including all rents, income,

receipts, revenues, issues and profits generated by the Property; and specifically, the rent proceeds generated from the Sign Lease and the Salon Lease.

8. Debtor initiated this bankruptcy case to reorganize and Debtor asserts that in the next 90 days, or less, Debtor will sell the Property for a purchase price that exceeds the indebtedness due to the Wintrust Bank. The Debtor asserts that the fair market value of the Property is at least \$2,250,000.00. All secured creditors will support the sale of the Property to the highest and best offeror.

9. Debtor has the need to use the proceeds of the rents generated from the Property, which are encumbered by the first mortgage of Wintrust Bank. These proceeds are the "cash collateral" of Wintrust Bank.

10. Debtor needs to use these rent proceeds to pay the ordinary and necessary post-petition operating expenses of the Property. Without the use of this cash collateral, Debtor cannot operate the Property or pay the expenses for the following: insurance, utilities, real estate taxes, maintenance and supplies. These ordinary and necessary expenses equal \$6,806.09 per month for the Property. A budget setting forth the income and expenses for the Property is appended hereto as Exhibit 1 ("Budget").

11. The Debtor projects a short fall between the total rent revenues and the monthly expenses of approximately \$2,306.09. The Debtor is seeking to borrow from the Simone Singer-Weissbluth Revocable Trust ("Trust") funds to pay any short fall between the total rent revenues and the monthly expenses. This request is pursuant to Section 364 of the Bankruptcy Code. There is no other realistic source of funds to pay this short fall. The Debtor is seeking to grant a security interest in the Property, only subordinate to the secured claim of the Wintrust Bank, to the Trust to secure the repayment of the funds advanced by the Trust after the entry of an Order

authorizing this request for borrowing from the Trust. No interest will accrue on the sums advanced post-petition by the Trust to the Debtor pursuant to this Motion.

12. Presently, Debtor has no realistic source of funds other than these rent proceeds and the funds to be borrowed from the Trust to pay these operating expenses. Debtor would be severely prejudiced if it could not use the cash collateral representing the rent proceeds from the Property or if the Debtor could not borrow funds from the Trust.

**II. THE COURT SHOULD GRANT DEBTOR THE RIGHT  
TO USE CASH COLLATERAL AND TO BORROW FUNDS**

13. The Budget sets forth the uses of Debtor's rents, totaling approximately \$4,500.00 per month for the Property, which Debtor must use on an interim basis, pending a final hearing on Debtor's use of cash collateral after notice to all creditors pursuant to FRBP 2002; and, on a continuing monthly basis pursuant to the entry of an order approving Debtor's use of cash collateral on a final basis.

14. Debtor proposes that Wintrust Bank may be entitled to certain protections for the use of this cash collateral, including but not limited to the following:

- a. Debtor is willing to pay monthly payments in the amount of \$5,916.09.00, which shall be applied to the outstanding interest, principal and expenses due to the Wintrust Bank, and 1/12<sup>th</sup> of the estimated annual real estate taxes for the Property;
- b. The right to inspect the Property and upon 24 hours prior written notice to Debtor; and
- c. An administrative priority claim in accordance with Section 507(b) of the Bankruptcy Code to the extent that "adequate protection" provided to the Debtor



pursuant to this Motion proves inadequate to protect the Debtor's interest in the cash collateral.

15. The foregoing payments and rights are sufficient to protect the interests of Wintrust Bank and satisfies the requirements of Sections 361 and 362 of the Bankruptcy Code, among other reasons, because the value of the Property is not declining. Debtor projects that the revenues from the Property will remain at least constant, and that the operating expenses of the Property will not increase.

16. This court has jurisdiction over this case pursuant to 28 U.S.C. Section 1334(a) and this is a "core matter" pursuant to 28 U.S.C. Section 157(b)(2)(M).

17. In light of the foregoing, this Court should grant Debtor the use of the rent proceeds from the Property on an interim basis pursuant to the Budget, and allow the Debtor to borrow funds from the Trust pursuant to the specifications set forth in paragraph 11 of this Motion; and, after notice to all creditors, at a final hearing to be set by the court, the use of cash collateral pursuant to the aggregate of the Budget. Also, this Court should grant payments to Wintrust Bank, as set forth in paragraph 14(a) of this Motion pursuant to 11 U.S.C. Sections 361 and 362.

WHEREFORE, the Debtor, 3324 N. Clark Street, LLC, Debtor and Debtor-in-Possession, prays that this court enter an order as follows:

- (a) allowing Debtor the interim use of his cash collateral subject to a final hearing;
- (b) allowing Debtor to pay Wintrust Bank the payments provided in paragraph 14(a), above;
- (c) allowing the Debtor to borrow funds from the Simone Singer-Weissbluth Revocable Trust pursuant to the specifications set forth in paragraph 11 of this

Motion;

- (d) setting a final hearing for Debtor's use of cash collateral; and,
- (e) for such other and further relief as this Court deems just and proper.

**3324 N. CLARK STREET, LLC, Debtor**

By:           /s/ Ariel Weissberg            
One of its attorneys

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# **Exhibit 1**

BUDGET  
(INCOME AND EXPENSE SUMMARY)  
3324 N. CLARK STREET  
CHICAGO, IL 60657

Scheduled Monthly Rental Income:

A. Salon Lease	1,500.00
B. Sign Lease	3,000.00

Total Monthly Rental Income: \$4,500.00

Scheduled Operating Expense Summary:

Real Estate Taxes	1,097.37
Gas	145.00
Electric	145.00
Insurance	300.00
Repairs	300.00
Mortgage	4,818.72

Total Scheduled Expenses: \$6,806.09