

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:) Chapter 11
Lloyd M. Hughes Enterprises, Incorporated,) Case No. 17-16025
Debtor.) Hon. A. Benjamin Goldgar
Bankruptcy Judge

ON AN INTERIM BASIS *etc*

AGREED ORDER AUTHORIZING RESTRICTED USE OF CASH
COLLATERAL AND GRANTING LIENS AND
ADMINISTRATIVE PRIORITIES WITH REGARD TO SUCH USE

THIS CAUSE HAVING COME TO BE HEARD UPON the Motion of Debtor and Debtor-in-Possession, Lloyd M. Hughes Enterprises, Incorporated ("Debtor") to Make Adequate Protection Payments ("Debtor Adequate Protection Motion"), the Motion of Inland Bank and Trust ("Bank") For Order Prohibiting the Use of Cash Collateral ("Bank Motion to Prohibit Use of Cash Collateral") and the Motion of Debtor for Authority to Use Cash Collateral ("Debtor Motion To Use Cash Collateral") (collectively, the "Motions"); the Debtor and Bank having negotiated a resolution of the Motions and Debtor's use of cash collateral post-petition by way of granting certain administrative priorities and post-petition replacement liens and security interests as adequate protection to the Bank for the use of such cash collateral and for any diminution in the collateral of the Bank pursuant to applicable provisions of §§ 361 and 363(c)(2) and (3) of the Bankruptcy Code, together with monthly adequate protection payments to the Bank, the Court having heard statements of counsel in support thereof and examined the Motion, Response and being fully advised in the premises; and

It being stipulated and agreed to by Debtor and the Bank that:

1. Debtor commenced these proceedings on May 24, 2017, by the filing of a voluntary petition pursuant to the provisions of Chapter 11 of the Bankruptcy Code and remains as a debtor-in-possession in accordance with §§ 1107 and 1108 of the Bankruptcy Code; and
2. The Bank has secured claims against Debtor by virtue of a certain SBA note dated June 24, 2010, in the original principal amount of \$625,000.00 (the "Note"), which Note is in default.
3. The Bank is the holder of a valid perfected first lien and security interest in and to all of Debtor's assets (the "Collateral") as collateral security for the Note, including, without limitation, the following:
 - a. real estate commonly known as 6323-6333 South Martin Luther King Drive, Chicago, Illinois ("Laundromat Property") by virtue of a mortgage and assignment of rents;

- b. real estate commonly known as 9317 S. Michigan Avenue, Chicago, Illinois ("Residence 1") by reason of a mortgage and assignment of rents;
- c. real estate commonly known as 9255 S. Michigan Avenue, Chicago, Illinois ("Residence 2") by reason of a mortgage and assignment of rents;
- d. all equipment comprised of washing and drying machines ("Equipment"), furniture, fixtures, inventory, receivables, general intangibles, cash and cash proceeds derived from the use of the Equipment in the operation of the Laundromat business (the "Business") located on the Laundromat Property by reason of a Security Agreement and UCC financing statement, which Equipment was purchased new with the proceeds of the Note.

A judgment of foreclosure (the "Judgment") was entered on April 28, 2017, in the amount of \$842,355.77, with regard to the Laundromat Property. Bank filed on July 25, 2017 its Proof of Claim ("Proof of Claim"), with copies of the Note, mortgages, assignment of rents, security agreements, UCC financing statements and Judgment attached to such Proof of Claim (all of such financing documents being hereinafter referred to collectively as the "Debtor Financing Agreements").

4. Debtor acknowledges and admits (i) the authenticity and validity of the Proof of Claim and all the Debtor Financing Agreements, (ii) the validity, perfection, priority and enforceability of all liens, assignments, security interests and mortgages granted to the Bank pursuant to the Proof of Claim and Debtor Financing Agreements, including without limitation, all liens related to the equipment; (iii) the aggregate indebtedness owed to the Bank in the sum of \$842,355.77 ("Indebtedness") as of April 28, 2017 pursuant to the Proof of Claim and Debtor Financing Agreements and (iv) that it hereby waives all defenses, objections and challenges to the Proof of Claim and Debtor Financing Agreements, including any defenses to the Bank's lien on the Equipment raised in the Debtor's Response to the Bank Motion to Prohibit Use of Cash Collateral, and releases any claims against the Bank; and

5. Debtor is currently collecting cash proceeds from the operation of the Business and use of the Equipment, which constitute cash collateral of the Bank; and

6. Debtor has an immediate need for the use of cash collateral (as such term is defined in § 363(a) of the Bankruptcy Code) of the Bank to operate the Business and preserve the going concern value of its business; and

7. Bank will consent to the use of the Bank's cash collateral from the collected funds deposited in the Debtor-in-Possession accounts provided that: (A) all cash collateral of whatever type and nature realized by Debtor from the operation of the Business and use of the Equipment, including all rental income from Residence 1 [which shall be separately paid by Lloyd Hughes on the first day of each month by separate check payable to the Debtor and not by way of set off against the pre-petition unsecured debt the Debtor shows is owed to Lloyd Hughes on its bankruptcy schedules] is deposited within two (2) business day of receipt by Debtor into the Debtor-in-Possession accounts of Debtor, which accounts are to be maintained at Hyde Park Bank, provided such use is in strict conformity with the Budget and not in payment of any pre-petition obligations and any auto debits or preauthorized ACH payments not in conformity with the Budget shall be immediately cancelled with written verification thereof promptly furnished to the Bank;

and (B) the Bank, as adequate protection for all cash collateral from time to time utilized by Debtor, is granted an administrative priority pursuant to the provisions of §§ 361 and 363 of the Bankruptcy Code with equal priority with administrative expenses of the kind specified in § 503(b), including, without limitation, Debtor's accountants' and attorneys' fees, and any and all other administrative expenses of such type incurred in any subsequent liquidation of Debtor pursuant to Chapter 7 of the Bankruptcy Code but excepting fees payable to the U.S. Trustee; and (C) the Bank, as security and adequate protection for all cash collateral utilized by Debtor and for any diminution of its Collateral, is granted a post-petition replacement lien and security interest in all of Debtor's assets, whether acquired before or after the institution of these Chapter 11 proceedings to the same force and extent that Bank held a valid pre-petition lien on Debtor's assets, and (D) Debtor will pay Bank, as additional adequate protection for Debtor's use of cash collateral in the month of August, 2017, the sum of \$2,000.00 on or before August 15, 2017 for application to principal on the Indebtedness and \$2,700.00 on or before August 31, 2017 as a monthly deposit into a real estate tax escrow at the Bank for accruing real estate taxes on the Laundromat Property, Residence 1 and Residence 2; and (E) Debtor will not sell, transfer or otherwise dispose of any asset other than in the ordinary course of its business and for its fair market value without the prior written consent of the Bank or further Court order upon prior written notice to the Bank, and (F) all assets of Debtor are insured under an insurance policy of an insurer acceptable to the Bank for the higher of fair market value or replacement cost of such assets, with the Bank designated as loss payee and beneficiary under all such policies of insurance and containing a provision that such policy is not cancelable except upon not less than 30 days' prior written notice to the Bank, and (G) the Bank and its authorized agents and representatives are allowed reasonable access during the normal business hours to the premises and the books and records of Debtor, and (H) Debtor will restrict its use of the Bank's cash collateral while any amount remains owing the Bank to the payment of the monthly expenses set forth on the budget attached hereto as Exhibit A ("Budget"), plus the note payments to the Bank referenced in section (D) of this paragraph 6, and (I) Debtor agrees that it will make no disbursements or transfers, as a gift, contribution to capital, loan, reimbursement, or for any purpose whatsoever, in cash, cash equivalent, or property to any entity in which Debtor or the owners of Debtor have an ownership or other interest, nor will Debtor guarantee the borrowing of any other person or entity or encumber its property in any manner, and (J) Debtor shall have made its current federal and state tax deposits and shall also have timely paid all real estate taxes due on August 1, 2017 on the Laundromat Property, Residence 1 and Residence 2; and

8. Debtor is unable to obtain unsecured credit allowable only under § 503(b)(1) of the Bankruptcy Code as an administrative expense to permit Debtor to operate its business and is unable to incur debt or obtain credit otherwise than as hereinafter ordered; and

9. No creditors committee has been appointed by the United States Trustee; and

10. If the operating funds necessary to continue the business of Debtor are not made available, Debtor will not be able to meet its payroll and other essential expenses of operation and, therefore, will have to cease operations and be liquidated under Chapter 7 of the Bankruptcy Code, which would destroy the going concern value of the business and substantially reduce the realizable value of its fixed assets; and

11. The foregoing provisions represent an agreement between Debtor and the Bank to provide adequate protection to the Bank and provide for the use of cash collateral by Debtor, in accordance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rule 4001(d); and
12. Bank is otherwise without adequate protection for its security interest in Debtor's assets; and
13. The matters raised herein are "core" proceedings under the Bankruptcy Code.

NOW, THEREFORE, IT IS HEREBY ORDERED that Debtor shall restrict its use of the cash collateral to payment of the monthly expenses set forth on the attached Budget, such payments not to exceed the amounts indicated without the prior written consent of the Bank;

use **IT IS FURTHER HEREBY ORDERED** that Debtor is authorized ~~and directed~~ to and does assume, adopt and agree with the terms, conditions, restrictions and limitations of the Debtor Financing Agreements to the extent not specifically inconsistent with this Order; and

IT IS FURTHER HEREBY ORDERED that Debtor is authorized, directed and empowered to deposit within two (2) business day of receipt by Debtor all cash collateral realized from the operation of the Business and use of the Equipment, including all rental income from Residence 1 [which shall be separately paid by Lloyd Hughes on the first day of each month by separate check payable to the Debtor and not by way of set off against the pre-petition unsecured debt the Debtor shows is owed to Lloyd Hughes on its bankruptcy schedules], the sale, transfer or other disposition of assets of Debtor into the Debtor-in-Possession accounts of Debtor at Hyde Park Bank and is further authorized and empowered to utilize such cash collateral representing collected funds so deposited in such accounts provided such use is in strict conformity with the Budget and not in payment of any pre-petition obligations and any auto debits or preauthorized ACH payments not in conformity with the Budget shall be immediately cancelled with written verification thereof promptly furnished to the Bank; and

IT IS FURTHER HEREBY ORDERED that Debtor agrees that it will make no disbursements or transfers, as a gift, contribution to capital, loan, reimbursement, or for any purpose whatsoever, in cash, cash equivalent, or property to any entity in which either Debtor or the owners of Debtor have an ownership or other interest, nor will Debtor guarantee the borrowing of any other person or entity or encumber its property in any manner; and

IT IS FURTHER HEREBY ORDERED that the Bank is granted an administrative priority as adequate protection for all cash collateral utilized by Debtor, but only to the extent of any diminution of the Collateral during these proceedings, pursuant to the provisions of §§ 361 and 363 of the Bankruptcy Code having equal priority with administrative expenses of the kind specified in § 503(b), including, without limitation, any and all other administrative expenses of such type incurred in any subsequent liquidation of Debtor pursuant to Chapter 7 of the Bankruptcy Code but excepting fees payable to the U.S. Trustee; and

IT IS FURTHER HEREBY ORDERED that the Bank is granted as adequate protection a post-petition replacement lien and security interest in all of Debtor's assets, including the Equipment, whether acquired before or after the institution of this Chapter 11 proceedings, to the

same extent that the Bank held a valid pre-petition lien on Debtor's assets, which Debtor acknowledges are valid and perfected first liens; and

IT IS FURTHER HEREBY ORDERED that Debtor will pay Bank, as additional adequate protection for Debtor's use of cash collateral in the month of August, 2017, the sum of \$2,000.00 on or before August 15, 2017 for application to principal on the Indebtedness and \$2,700.00 on or before August 31, 2017 as a monthly deposit into a real estate tax escrow at the Bank for accruing real estate taxes on the Laundromat Property, Residence 1 and Residence 2 and the failure to timely pay such sums, or to pay any sums not in strict conformity with the Budget, shall cause an immediate cessation of Debtor's authority to use cash collateral under this Order and Debtor shall cease all use of such cash collateral and retain all cash collateral subject to further order of this Court; and

IT IS FURTHER HEREBY ORDERED that Debtor shall not sell, transfer or otherwise dispose of any of its assets, including cash collateral, in contravention of this Order without the prior written consent of the Bank or further Court order upon prior written notice to the Bank; and

IT IS FURTHER HEREBY ORDERED that Debtor is authorized and directed to maintain insurance policies on all assets of Debtor for the higher of their replacement value or fair market value, which policies shall all name the Bank as an additional insured or loss payee, as directed by the Bank, and shall contain a provision that such policies are not cancelable without at least 30 days' prior written notice to the Bank, and proof of such insurance shall, from time to time, be provided to the Bank; and

IT IS FURTHER HEREBY ORDERED that Debtor will permit the Bank and its authorized agents and representatives reasonable access to the Laundromat Property, the Equipment, Residence 1, Residence 2 and the books and records of Debtor during the normal business hours, whether for inspection or appraisal of the Collateral; and

IT IS FURTHER HEREBY ORDERED that the Bank shall be given notice and opportunity to be heard with respect to all matters in this proceeding. Notices shall be served on Bank's counsel; and

IT IS FURTHER HEREBY ORDERED that Debtor is hereby authorized, empowered and directed to execute such additional documents and financing statements and to do such other things as shall be reasonably required by the Bank to fully document and perfect the security interest granted to the Bank hereunder; and

IT IS FURTHER HEREBY ORDERED that the various acts to be taken and/or agreements, instruments or documents to be filed or recorded to perfect the various security interests granted to the Bank herein may be taken, filed and/or recorded by or on behalf of the Bank from time to time on or after the date of the entry of this Order; provided, however, that the Bank notwithstanding any other provision of this Order need not file and/or record or take any further steps to perfect the grant of priorities or liens contained in this Order; and

IT IS FURTHER HEREBY ORDERED that the entry of this Order is without prejudice to the right of the Bank and Debtor to seek modification of the terms relating solely to the continued use of cash collateral, but not the liens, security interests and adequate protection afforded the Bank hereunder, at any time upon reasonable notice to the Bank, Debtor and other parties in interest; and

IT IS FURTHER HEREBY ORDERED that the entry of this Order is without prejudice to the right of the Bank to seek relief in the future; and

~~IT IS FURTHER HEREBY ORDERED that the Court shall retain jurisdiction to enforce the terms and provisions of this Order.~~ *ack*

IT IS FURTHER HEREBY ORDERED that ~~the Debtor Adequate Protection Motion is deemed moot~~ *ack* the Debtor Motion To Use Cash Collateral is granted pursuant to the terms of this Agreed Order and ~~the Bank Motion to Prohibit Use of Cash Collateral is entered and continued to the hearing date set forth herein;~~ and

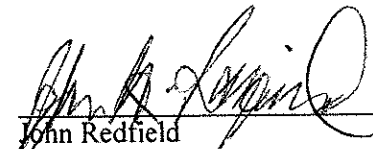
IT IS FURTHER HEREBY ORDERED that Debtor's authority to use cash collateral ^{includes} on ~~an~~ shall expire ^{at} the hearing on Debtor's continued use of cash collateral ^{on} set for the 6th day of September, 2017, at the hour of 10:00 a.m., at which time the Court ^{will} ~~may~~ consider, ^{inter alia} whether ^{final} further use of cash collateral should be authorized, ^{whether} the Court should continue, modify and/or extend the adequate protection payments granted to the Bank herein, and what, if any, ~~further~~ or other adequate protection should be granted to the Bank. *ack*


DATED: August 9, 2017

ENTER:


Bankruptcy Judge

Consented and Agreed:


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Counsel for Inland Bank and Trust

BUDGET
LLOYD M. HUGHES ENTERPRISES, INCORPORATED
FROM 8/7/17 TO 9/6/17

Rental (Lloyd Hughes)		\$ 1,000
Pending (Coca Cola)		\$ 67
Revenue		\$24,336
Returns and Allowance of quarters	\$ 1,920.00	
Soap, plastic bags merchandise	\$ 468.00	
Repairs and maintenance	\$ -0-	
Office Wages	\$ 3,432.00	
Water (bi-monthly)	-0-	
Gas	\$ 2,359.00	
Electric	\$ 1,500.00	
Life Insurance	\$ 258.00	
Officer	\$ 2,600.00	
FICA	\$ 461.45	
State w/h Tax	\$ 33.18	
Federal w/h Tax	\$ 14.00	
Bank charges	\$ 167.00	
License and Fees	-0-	
Professional Fees	-0-	
Real Estate Taxes (semi-annually)	\$ -0-	
Insurance - Group	\$ 200.00	
Insurance - General (Commercial bi-monthly)	\$ 250.00	
Insurance - Workers' Comp.(Annual premium)	\$ 846.46	
Scavenger	\$ 458.00	
Security Service	\$ 292.00	
Office Supplies	-0-	
Telephone	\$ 650.00	
Vehicle expenses	\$ 100.00	
 TOTAL EXPENSES:	 <u>\$16,009.09</u>	

Exhibit 1