

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

In re:	)	Chapter 11
	)	
JLT HOLDINGS, LLC,	)	Case No. 18-33604
	)	
Debtor.	)	Honorable A. Benjamin Goldgar
	)	
	)	<b>Hearing Date: March 6, 2019</b>
	)	<b>Hearing Time: 9:30 a.m.</b>

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**NOTICE OF MOTION**

PLEASE TAKE NOTICE that on **Wednesday, March 6, 2019, at 9:30 a.m.**, we shall appear before the Honorable A. Benjamin Goldgar of the United States Bankruptcy Court for the Northern District of Illinois, or any other judge sitting in his place and stead, at Courtroom 642 in the Dirksen Federal Building, 219 S. Dearborn Street, Chicago, Illinois, and then and there present the Debtor's **Motion For Entry of Agreed Interim Order to Use Cash Collateral Pursuant to § 363(c) of the Bankruptcy Code and Bankruptcy Rule 4001**, a copy of which is hereby served upon you.

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STEVEN B. CHAIKEN (ARDC #6272045)  
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ADELMAN & GETTLEMAN, LTD.  
53 West Jackson Blvd, Suite 1050  
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**Counsel for JLT Holdings, LLC**

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that true and correct copies of this notice and the documents referred to therein were served upon the parties listed on the below service list via CM/ECF, First Class Mail, and/or Facsimile as listed herein, on Tuesday, February 19, 2019.

By: /s/ Adam P. Silverman  
Adam P. Silverman, Esq.

**SERVICE LIST**

**VIA CM/ECF**

***Office of the United States Trustee***

- Patrick S. Layng [USTPRegion11.ES.ECF@usdoj.gov](mailto:USTPRegion11.ES.ECF@usdoj.gov)

***Counsel for McCormick 101, LLC***

- Mark A. Berkoff [mberkoff@nge.com](mailto:mberkoff@nge.com)
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**Via First Class Mail**

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Beach Club Master Association  
c/o Marquis Association Management  
PO Box 30140  
Tampa, FL 33630

Beach Club Three  
1800 South Ocean Drive  
Hallandale, FL 33009

Broward County Tax Collector  
c/o Records, Taxes, and Treasury  
Division  
ATTN: Bankruptcy Section  
115 South Andrews Avenue #A100  
Fort Lauderdale, FL 33301

Kendall County Collector  
111 West Fox Street  
Yorkville, IL 60560

Lakewood Springs Homeowner's  
Association  
c/o Foster Premier Inc.  
PO Box 7676  
Carol Stream, IL 60197

Law Offices of Barry B. Berk  
53 W. Jackson Blvd. Suite 1002  
Chicago, IL 60604

Prairie Garden Executive Center  
Association  
c/o Association Property Management  
PO Box 976  
Oswego, IL 60543

Dolan & Murphy  
765 Orchard Avenue  
Aurora, IL 60506

Chartnet Technologies  
220 Garden Street  
Yorkville, IL 60560

Keystrokes Transcription Service, Inc.  
220 Garden Street  
Yorkville, IL 60560

Speechcheck, Inc.  
200 Garden Street  
Yorkville, IL 60560

**Via First Class Mail and Facsimile**

Comcast Xfinity  
Comcast Center  
Attn: Law Department  
Philadelphia, PA 19103  
(215) 286-3572

Nicor Gas  
PO Box 2020  
Aurora, IL 60507  
(630) 983- 8174

United City of Yorkville  
WSB Dept. #2040  
PO Box 5905  
Carol Stream, IL 60197  
(630) 553-7575

Florida Power and Light  
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General Mail Facility  
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Woods, Weidenmiller, Michetti, &  
Rudnick  
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Naples, FL 34109  
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**MOTION FOR ENTRY OF AGREED INTERIM ORDER TO USE CASH  
COLLATERAL PURSUANT TO § 363(c) OF THE BANKRUPTCY CODE  
AND BANKRUPTCY RULE 4001**

NOW COMES JLT Holdings, LLC, debtor and debtor in possession (the “**Debtor**”), by and through its undersigned counsel, and hereby moves this Court for the entry of an agreed interim order pursuant to section 363(c) of title 11 of the United States Code (the “**Code**”) and rule 4001 of the Federal Rules of Bankruptcy Procedure (the “**Rules**”), authorizing the Debtor to use McCormick 101, LLC’s (“**McCormick**”) cash collateral on a limited basis as set forth herein (the “**Motion**”). In support of the Motion, the Debtor respectfully states as follows:

**I. FACTUAL BACKGROUND**

1. On December 3, 2018 (the “**Petition Date**”), the Debtor filed a voluntary petition for relief under Chapter 11 of the Code, commencing the above-captioned Chapter 11 case (the “**Chapter 11 Case**”). Since the Petition Date, the Debtor has remained in possession of its assets and has continued to operate its businesses as a debtor in possession in accordance with sections 1107(a) and 1108 of the Code.

2. No trustee or committee of unsecured creditors has been appointed in the Chapter 11 Case.

3. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334. Venue lies properly in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (M). The statutory predicates for the relief requested herein are sections 363(c)(2) and (3) of the Code.

4. The Debtor is a real estate holding company that holds interests in three properties (two in Illinois and one in Florida). In Illinois, the Debtor owns the real property commonly known as 220 Garden Street Building C, Yorkville, IL 60560 (“**220 Garden**”) and 4512 Deames Street, Plano, IL 60545 (“**Deames**”). In Florida, the Debtor owns the real property commonly known as 1800 South Ocean Drive, Unit 3205, Hallandale, FL, 33009 (the “**Florida Condo**”).

5. The Debtor rents 220 Garden and the Florida Condo to its affiliate, Keystrokes Transcription Service, Inc., (“**Keystrokes**”). Both leases are triple net leases whereby Keystrokes pays applicable property taxes, insurance, utilities, and association fees.

6. The Debtor rents Deames to Sheri Bray (“**Sheri**”). The Debtor pays for property taxes, insurance, and association fees on Deames. Sheri pays utilities.

7. The property at issue in this Motion is monthly rental income in the aggregate amount of \$15,575.00, broken down as follows: (1) \$10,000.00 from Keystrokes as the tenant of 220 Garden; (2) \$5,000 from Keystrokes as the tenant of the Florida Condo; and (3) \$575.00 from Sheri as the tenant of Deames. As of the date of this Motion, cash and cash equivalents in the possession of the Debtor aggregate approximately \$46,000.00. Said amount, together with such other property constituting cash and proceeds of McCormick’s collateral shall be referred to herein as the “**Cash Collateral**”.

8. On or about February 8, 2019 the Debtor and McCormick agreed to a *Second Amended Term Sheet* (the “**Term Sheet**”) that sets forth the terms for a consensual resolution of

the dispute between the Debtor and McCormick. The Term Sheet provides that, subject to an Order of this Court, among other things: (1) the Debtor shall begin making monthly adequate protection payments in the amount of \$15,000.00 to McCormick retroactive to January 1, 2019; (2) the Debtor shall pay, or cause to be paid through its tenants, or make monthly payments into escrow to fund applicable real estate taxes, HOA fees, utilities, and property insurance; and (3) the Debtor shall provide \$15,000.00 to its attorneys, Adelman & Gettleman, Ltd. (“**A&G**”) for post-petition legal services rendered, subject to allowance by the Court. This Motion is made in furtherance of the Term Sheet. It is contemplated that a motion to approve the settlement agreement arising from the Term Sheet (the “**Settlement Motion**”) will be filed with the court prior to the hearing on this Motion, although hearing on the Settlement Motion will occur after the initial presentation of the instant Motion.

## **II. Financing Prior to the Chapter 11 Case**

9. The Debtor and McCormick are parties to the below-referenced loans:

a. McCormick (as successor-in-interest to JPMorgan Chase Bank, N.A. (“**Chase**”)) made a certain term loan to the Debtor pursuant to that certain *Business Loan Agreement (Asset Based)* dated September 29, 2008 (the “**Office Loan**”). The Office Loan is evidenced by that certain promissory note dated August 15, 2008 executed by the Debtor in the original principal amount of \$950,000.00 (the “**Office Note**”). The Office Note is secured by, among other things, that certain Mortgage dated August 15, 2008 and recorded on November 21, 2008 in the Office of the Recorder of Deeds of Kendall County, Illinois as Document No. 200800024916, with respect to 220 Garden (the “**220 Garden Mortgage**”).

b. McCormick (as successor-in-interest to Chase) made a certain term loan to the Debtor evidenced by that certain promissory note dated March 2, 2010 executed by the Debtor in the original principal amount of \$475,647.50 (the “**Investment Note**”). The Investment Note is secured by, among other things, that certain: (1) Mortgage dated March 2, 2010 and recorded on March 17, 2010 in the Office of the Public Records of Broward County in the Official Records Book 46948, Pages 520-527, with respect the Florida Condo (the “**Florida Condo Mortgage**”); and (2) Mortgage dated March 2, 2010 and recorded on March 17, 2010 in the Office of the Recorder of Deeds of Kendall County, Illinois as Document No. 201000005037, with respect to Deames (individually, the

“**Deames Mortgage**” and together with the 220 Garden Mortgage and the Florida Condo Mortgage, the “**Debtor Mortgages**”).

10. The Debtor Mortgages all provide “[f]or valuable consideration, Grantor mortgages and warrants to Lender all of Grantor’s right, title, and interest, whether existing or hereafter acquired, in. . . all Rents from the Property. . . .” As such, rents collected by the Debtor from the tenants of 220 Garden, Deames, and the Florida Condo constitute cash collateral within the meaning of section 363 of the Code.

### **III. Need for Use of Cash Collateral**

11. On December 11, 2018 McCormick filed its *Notice of Non-Consent to Use of Cash Collateral and Request for Adequate Protection*, which prevented the Debtor from using the Cash Collateral. The Debtor has not used cash collateral in contravention to said notice.

12. Now, however, the Debtor requires use of Cash Collateral pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 4001 to effectuate core provisions of the Term Sheet and efficiently administer the Chapter 11 Case. In the absence of this authority to use Cash Collateral, the Debtor will be unable to begin making necessary payments required by the Term Sheet and otherwise satisfy its obligations in Chapter 11. The Debtor’s inability to comply with the Term Sheet would seriously threaten its settlement with McCormick, which would be detrimental to the Debtor’s estate, its creditors, and all other parties in interest. The Debtor does not have sufficient unrestricted cash and other financing available to make the necessary payments required by the Term Sheet absent the relief provided in this Motion.

13. The Debtor requires the use of the Cash Collateral to: (1) Make monthly adequate protection payments to McCormick in the amount of \$15,000.00; and (2) Make a one-time payment of \$15,000.00 to A&G for post-petition legal services rendered; and (3) Properly

maintain the properties by payment of property taxes, insurance, utilities, and HOA fees, as applicable.

#### IV. RELIEF REQUESTED

14. By this Motion, the Debtor requests the entry of a first agreed interim order authorizing the use of cash collateral and granting adequate protection to McCormick substantially in the form of the proposed order attached hereto (the “**Agreed Interim Order**”), approving the use of Cash Collateral consistent with the Term Sheet and this Motion from the date of the Agreed Interim Order through April 10, 2019, and setting a final hearing thereon.

#### V. FED. R. BANKR. PROC. 4001(b)(1)(B) AND L.R. 4001-2 DISCLOSURES<sup>1</sup>

15. The following disclosures are made pursuant to Bankruptcy Rule 4001(b)(1)(B) and Local Rule 4001-2 with respect to the terms of the Use of Cash Collateral and/or the impact of the relief sought by this Motion:

a. Termination of Use. The Lender may terminate the use of Cash Collateral as a result of certain enumerated events of default stated in the Agreed Interim Order. **Agreed Interim Order, ¶ 11.** Subject to further extension, the use of Cash Collateral shall terminate on April 10, 2019 if there is no prior default. **Agreed Interim Order, ¶ 7(b)(i).**

b. Validity of Pre-Petition Loan Indebtedness and Pre-Petition Collateral. The Debtor stipulates to the validity and first priority of the liens securing the Office Loan and the Investment Note to secure such debt. The Debtor is not stipulating to the amount of the indebtedness owing to McCormick prior to the Petition Date as part of the Agreed Interim Order, provided however that such stipulation shall be part of the Settlement Motion. **Agreed Interim Order, ¶ 4(c).**

c. Automatic Stay Modification. The Agreed Interim Order provides for McCormick to seek modification of the automatic stay in the event of a default. **Agreed Interim Order, ¶ 12.** The Agreed Interim Order also provides for modification of the automatic stay as necessary to allow the Debtor to make adequate protection payments to McCormick. **Agreed Interim Order ¶ 9(b).** The Debtor does not agree to the lifting of

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<sup>1</sup> References herein to the terms for the use of Cash Collateral or the Agreed Interim Order are merely a summary, and to the extent of any conflict between the summaries contained herein and the Agreed Interim Order, the Agreed Interim Order shall control.



the automatic stay under the Agreed Interim Order, provided however, that such stipulation shall be part of the Settlement Motion.

d. Adequate Protection Liens. The Agreed Interim Order provides McCormick with additional and replacement security interests, liens, and mortgages in its prepetition collateral and all property of the estate acquired on or after the petition date. **Agreed Interim Order, ¶ 9(a).**

e. Carve-Out. The Agreed Interim Order provides a carve-out in favor of A&G for post-petition attorneys' fees in the amount of \$15,000.00. **Agreed Interim Order, ¶ 8(e).**

f. Stipulations. The Debtor's stipulations as to pre-petition financing shall not be binding upon any Chapter 7 or 11 trustee or similar person appointed for the estate of the Debtor, or any official committee of unsecured creditors that may be appointed. **Agreed Interim Order, ¶ 4(d).**

g. Cross-Collateralization. The Agreed Interim Order does not grant cross-collateralization protection to any pre-petition secured creditor.

h. Priming. The Agreed Interim Order does not prime any secured lien without the consent of that lienor.

i. Lender Liability. The Agreed Interim Order does not impose lender liability on any secured creditor.

j. Waiver of 506(c) Rights. The Agreed Interim Order does not waive any rights of the estate under section § 506(c) of the Code.

k. Liens on Claims and Causes of Action. The Agreed Interim Order does not grant any prepetition secured creditor liens on the Debtor's claims and causes of action arising under §§ 544, 545, 547, 548, and 549 of the Code.

l. Post-Petition Debt. No provision of the Agreed Interim Order deems any pre-petition debt to be post-petition debt or uses post-petition loans from a pre-petition secured creditor to pay part of all of that secured creditor's pre-petition debt.

m. Treatment of Professionals. No provision of the Agreed Interim Order provides for different treatment of professionals retained by the Debtor from those retained by a committee appointed by the United States Trustee.

**VI. APPLICABLE AUTHORITY AND JUSTIFICATION FOR RELIEF REQUESTED**

16. Rule 4001(b) of the Rules governs the procedures for obtaining authorization to use cash collateral, including the contents and service of a motion for authority to use cash collateral, and any hearings thereon. The Debtor submits that this Motion complies with Rule 4001(b), as it sufficiently describes and summarizes the relief sought herein, and no less than fourteen (14) days notice of the Motion has been provided to all parties so entitled.

17. The terms and provisions of the use of Cash Collateral as set forth in the Agreed Interim Order (and the Term Sheet) have been negotiated at arms' length and in good faith. In addition, the terms and provisions of the use of Cash Collateral are fair and reasonable under the circumstances.

18. The Debtor negotiated the use of Cash Collateral as set forth in the Agreed Interim Order and Term Sheet in its business judgment. Provided that this judgment does not run afoul of the provisions of and policies underlying the Bankruptcy Code, courts grant a debtor considerable deference in acting in accordance with its business judgment. *See In re AMR Corp.*, 485 B.R. 279, 287 (Bankr. S.D.N.Y. 2013) (analyzing a debtor's request to repay obligations pursuant to section 363(b) and stating "that such transactions should be approved when they are supported by sound business reasons."); *see also, e.g., In re UAL Corp.*, No. 02-B-48191, 2002 WL 34344253 (Bankr. N.D. Ill. Dec. 11, 2002).

19. As is described in section III above, the use of Cash Collateral ensures that the Debtor is able to meet its obligations under the Term Sheet, which will result in a consensual resolution of the Debtor's dispute with McCormick and provide for the efficient administration of the Chapter 11 Case.

20. Accordingly, the Debtor believes that the approval of the use of Cash Collateral is in the best interests of its estate, its creditors, and all parties-in-interest, and that the Court should therefore approve the Agreed Interim Order.

**VII. NOTICE OF THE MOTION**

21. Notice of the filing of this Motion and the hearing scheduled therefore has been provided by CM/ECF, First Class Mail, and/or facsimile, with at least fourteen (14) days notice, to: (a) the Office of the United States Trustee for the Northern District of Illinois; (b) counsel to the Debtor's secured lender, McCormick 101, LLC; (c) the Debtor's 20 largest unsecured creditors pursuant to Bankruptcy Rule 1007(d); and (d) all other parties who have requested notice and service of pleadings via the Court's CM/ECF system in the Chapter 11 Case. In light of the nature of the relief requested, the Debtor submits that no other or further notice is required.

WHEREFORE, JLT Holdings, LLC, debtor and debtor in possession herein, respectfully requests the entry of an order in accordance with the foregoing recommendations in the form filed herewith and made a part hereof without further notice, and for such other and further relief as is just.

Respectfully submitted,  
JLT HOLDINGS, LLC  
By: /s/ Adam P. Silverman  
One of its attorneys

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