

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION**

IN RE:) **CASE NO. 17-70587**
)
MIDWEST PORTABLE MACHINE, INC.,) **CHAPTER 11**
)
DEBTOR.) **HON. BASIL H. LORCH III**
)
)
)

**DEBTOR’S MOTION FOR AN ORDER AUTHORIZING
USE OF CASH COLLATERAL AND GRANTING ADEQUATE PROTECTION**

MIDWEST PORTABLE MACHINE, INC. debtor and debtor in possession (“Debtor”), move this Court for entry of an order authorizing Debtor’s use of cash collateral, as that term is defined in 11 U.S.C. § 363(a), on an interim and final basis, pursuant to 11 U.S.C. § 363 of the Federal Rules of Bankruptcy Procedure. In support of this Motion, Debtor states as follows:

1. On June 13, 2017, (the “Petition Date”), Debtor filed its petition for reorganization under Chapter 11 of the Bankruptcy Code. Pursuant to 11 U.S.C § 1107 and § 1108, Debtor remains in possession of its assets and is authorized thereby to continue to operate as a debtor in possession. No committee of unsecured creditors has been appointed.

2. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§157 and 1334. This proceeding is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A) and (M). Venue is proper in this district pursuant to 28 U.S.C. §§1408 and 1409. The basis of this Motion is 11 U.S.C. §363.

3. Debtor is an Indiana Corporation organized under the laws of the State of Indiana and conducting business within the State of Indiana at its plant in Booneville, Indiana. The

Debtor's business relates to repairing heavy equipment and machinery primarily for the coal industry. In order to facilitate this business, the Debtors basic weekly needs are as follows: 1). payroll in the amount of \$3,000.00, employing 6 persons; 2). rent in the amount of \$347.00; 3). utilities in the amount of \$275.00; and, 4). operating budget to complete services of \$2,000.00.

As such, the Debtor generates revenue for the operation of its business through the sale of machining services to customers with which they either have existing contracts or established business relationships. Debtors are headquartered in Boonville, Indiana and have been doing business in some form since 2003. Initially, the Debtor started by offering portable machining services to the coal mining industry. The Debtor's customers, however, had increasing needs and the Debtor opened its machine shop to meet these needs in 2004. In 2008, the Debtor experience its best year with \$600,000.00 in gross revenues. However, the political climate influenced coal regulation in late 2008 and 2009. This led to a downturn in the industry and the Debtor has been struggling to revive its business. The Debtor maintains a strong customer base in the coal industry and anticipates growing beyond the gross revenue level established in 2008. As of the Petition Date, Debtor operates exclusively in Indiana with its primary customers being Brake Supply, and CSI Incorporated.

Debtors approximate projected gross annual revenue for calendar year 2017 will be approximately \$330,000.00 or more from the operation of its machine chop. As of the Petition Date, the Debtor's assets are valued in the approximate sum of \$176,873.59 and liabilities in the approximate sum of \$225,306.32, secured, and \$109,506.93, nonpriority unsecured. Currently, the Debtor has approximately 50 open jobs. This is the most open jobs the Debtor has had in the past two years; and, the Debtor is working to increase its employee base so that it can accept more available jobs.

4. The precipitating events for this Chapter 11 filing is based on a variety of economic factors; however, the primary cause was the increased regulation of the coal industry under the prior presidential administration, i.e. Dodd-Frank. Regulation over the coal industry has relaxed and this is expected to continue into the future. With improving market conditions, the Debtor expects to be able to recover from the losses it has sustained over the past several years.

5. This reorganization proceeding is filed to enable Debtor to restructure its operations, assets and liabilities so as to emerge from bankruptcy as a reorganized debtor. It is anticipated at this time that the Debtor will seek to extend and/or negotiate the debts owed to its secured creditors to enable the creditors to be paid and the Debtor to continue to operate.

6. Prior to the Petition Date, Debtor executed several agreements in favor of Direct Capital, Marlin, Timepayment Corp., and Modern Supply Company. These agreements secured the necessary equipment and machinery for the Debtor to perform its repairs to the heavy equipment of its customers. Wherefore, each of the above-stated entities have security interests in a substantial portion of the Debtors' equipment and property; and, said security interests are specifically set forth in Schedule D of the Debtor's Chapter 11 Petitions. In addition, the Debtor had a working capital loan with Windset Capital. The Debtor was making a daily payment of approximately \$170.00; and, Windset Capital has now called its loan. By restricting the repayment of Windset Capital, the Debtor fully believes that it will be able to reorganize.

7. The Debtor, in its ongoing business, is required to maintain its onsite equipment and leased premises to pay its operating expenses and generate revenue.

8. The proceeds of the repair work performed for the Debtor's customers constitutes cash collateral ("Cash Collateral") as that term is defined at 11 U.S.C. §363(a).

10. As of the Petition Date, Debtor owes its secured creditors approximately \$145,720.00 in connection with said security interests, with said amounts being specifically set forth in the Schedule Ds of the Debtor's Chapter 11 Petitions.

11. Debtor does not have sufficient funds or working capital with which to continue to operate their businesses as a debtor in possession without utilizing the Cash Collateral resultant from the sale of services. As a consequence, Debtor has an immediate and urgent need to use the Cash Collateral to pay reasonable, necessary and actual operating expenses in the ordinary course of its business and to use the Cash Collateral to operate its business, all of which is subject to the liens of the secured creditors.

12. Pursuant to 11 U.S.C. §363, Debtor may only use Cash Collateral if the secured creditors consent or this Court approves such use and the secured creditors' interests in the Cash Collateral are adequately protected. By this Motion, Debtor requests that this Court authorize Debtor to use the Cash Collateral in the ordinary course of its business.

13. Debtor has made a reasonable effort, but is unable to obtain, in the ordinary course of business or otherwise, unsecured credit allowable as an administrative expense under 11 U.S.C. §503(b)(1), unsecured credit allowable under 11 U.S.C. §364(a) or §364(b), or secured credit under 11 U.S.C. §364(c), to be able to continue to operate its business.

14. To avoid immediate and irreparable harm to Debtor and its estate, Debtor seeks, after a preliminary expedited hearing, immediate use of the Cash Collateral.

16. Debtor has provided actual notice of this Motion, via United States Mail, electronic service, or hand delivery, to the following parties, or in lieu thereof, to their counsel if known:

A. TRUSTEE:

Charles R. Wharton, Esq.
Office of U.S. Trustee
101 W. Ohio Street, Suite 1000
Indianapolis, IN 46204

Jeannette Eisan Hinshaw
101 W. Ohio St, Suite 1000
Indianapolis, IN 46204

Advanced Disposal
12900 Warrick County Line Road
Evansville IN 47725

Advanced Recovery Services
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AGLA
PO Box 305355
Nashville TN 37230

Airgas Safety, Inc.
P.O. Box 951884
Dallas TX 75395-1884

American Bureau Collections
500 Seneca St. Ste 400
Buffalo NY 14204

Blue Ribbon Couriers
PO Box 4128
Evansville IN 47724

Boonville Utilities
POB 585
Boonville IN 47601

Capital One Bank Usa N
15000 Capital One Dr
Richmond VA 23238

Cash Pro, Inc.
P.O. Box 5469
Evansville IN 47716

Citibusiness Card
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Phoenix AZ 85062-8045

Colonial Life
PO Box 903
Columbia SC 29202

Dental Health Options
PO Box 58
Evansville IN 47701

Direct Capital
155 Commerce Way
Portsmouth NH 03801

Dressler Peters LLC
70 West Hubbard St. Ste 200
Chicago IL 60654

Equipment Depot
922 Division St
Evansville IN 47711

First Bankcard
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Foncannon Tax & Financial
2528 Waterbridge Way
Evansville IN 47710

Grainger
c/o American Bureau Collections
500 Seneca St. Ste 400
Buffalo NY 14204

HR Connects Enterprises LLC
617 N Main St
Evansville IN 47711

Indiana Department of Revenue
100 N. Senate
Bankruptcy Room, N203
Indianapolis IN 46204

Internal Revenue Service

Bankruptcy Notices
PO Box 7346
Philadelphia PA 19101-7346

Jimmie Norris
7466 Upper Meadow Rd
Newburgh IN 47630

K-Hall Safety
PO Box 5241
Evansville IN 47716

Marlin
1500 JFK Blvd
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Philadelphia PA 19102

Marlin Leasing Corp.
300 Fellowship Rd.
Mount Laurel NJ 08054

Midwest Thermospray

Mining Machine Parts
522 S 2nd St
Boonville IN 47601

Modern Supply Company
PO Box 1450
Owensboro KY 42302-1450

Moore Machine & Gear
10920 N St Joseph Ave
Evansville IN 47720

MSC Industrial
75 Maxess Rd
NY 11474

Old National Bank
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Evansville IN 47736-3728

Old National Bank
c/o Greg Meyer
915 Main St
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Evansville IN 47708

Patriot Pest Control
400 N. Third St.
Boonville IN 47601

Precision Flame Hardening
6974 Georgetown Rd NW
Cleveland TN 37312

Premiere Credit of North America LLC
POB 19309
Indianapolis IN 46219

Thermion
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Silverdale WA 98383

Timepayment Corp
16 Ne Exec Office Park S
Burlington MA 01803

TimePayment Corp
16 NE Executive Park #200
Burlington MA 01803

Total Tac Parts LLC
6515 State Route 36 E
Uhrichsville OH 44683

Uline
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Waukegan IL 60085

Vectren
POB 6250
Indianapolis IN 46202-6250

Verizon Wireless
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Lehigh Valley PA 18002-5505

Vision Service Plan
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Warrick County Treasurer

One County Square Ste 270
Boonville IN 47601

Warrick Tubing
522 S Second St
Boonville IN 47601

Wayne Anderson
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Boonville IN 47601

West Metals
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Evansville IN 47712

Westfield Insurance
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Windset Capital
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Herriman UT 84096

WOW Internet & Cable
P.O. Box 4350
Carol Stream IL 60197-5715

Wright Steel
1413 W Florida St
Evansville IN 47710

WHEREFORE, Debtor respectfully requests that this Court enter the cash collateral order, substantially in the form attached hereto as Exhibit "A", authorizing Debtor's immediate use of Cash Collateral, on an interim basis, in an amount sufficient to avoid immediate and irreparable harm to the Debtor, authorizing Debtor's use of Cash Collateral after a final hearing, and granting such other and further relief as is necessary and appropriate.

Respectfully submitted,

/s/ John Andrew Goodridge, Esq.

John Andrew Goodridge, IN 19359-65

ATTORNEY AT LAW

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ATTORNEY FOR DEBTOR

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing has been mailed by United States mail, postage prepaid, on this 14th day of June, 2017, to the parties listed on the General Service List attached to the Certificate of Service being filed concurrently herewith and to the parties listed below:

A. TRUSTEE:

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Phoenix AZ 85062-8045

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