

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

IN RE:)	
)	
SERVICE WELDING & MACHINE)	CHAPTER 11
COMPANY, LLC d/b/a SERVICE)	
TANKS,)	
)	
Debtor.)	CASE NO. 17-30485
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**ORDER GRANTING
EMERGENCY MOTION FOR AUTHORITY TO USE CASH COLLATERAL,
AND TO PROVIDE ADEQUATE PROTECTION**

This matter comes before the Court on the Emergency Motion for Authority to Use Cash Collateral and to Provide Adequate Protection (the “Motion”) filed by Debtor, Service Welding & Machine Company, LLC d/b/a Service Tanks (“SWMC” or “Debtor”), seeking, inter alia, pursuant to Sections 105, 361, and 363(c) of Title 11 of the United States Code (the “Bankruptcy Code”), and Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the following:

- (i) use of the Cash Collateral¹ on the terms provided herein;
- (ii) granting of adequate protection to Stock Yards Bank & Trust Company (“SYB” or “Cash Collateral Creditor”) to the extent provided herein; and

In connection with this request, **IT IS HEREBY FOUND** that:

- (a) On February 17, 2017 (the “Petition Date”), Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code. Pursuant to Sections 1107(a) and 1108² of the

¹ Capitalized terms used herein but not defined herein have the same meaning as given them in the Motion, or if not defined therein, in the Bankruptcy Code.

² All statutes cited herein refer to the Bankruptcy Code unless otherwise specified.

Bankruptcy Code, Debtor continues to operate its business and manage its property as a debtor in possession.

(b) The entry of this Order (a) will minimize the disruption to Debtor's business that would otherwise result from the filing of the petition commencing Debtor's Chapter 11 case.

(c) Proposed Counsel to Debtor has certified that notice of the Motion was given to (1) all secured creditors who are not represented by counsel; (2) all counsel of record for parties in interest; (3) the U.S. Trustee; (4) the Debtor's 20 Largest Unsecured Creditors as designated in the Debtor's Petition; (5) all governmental units having claims; and (6) all persons who filed a request to receive such notices.

(d) Debtor has requested immediate entry of this Order pursuant to Bankruptcy Rule 4001. The permission granted herein is necessary to avoid immediate and irreparable harm to Debtor pending a final hearing. Entry of this Order is in the best interests of Debtor and its estate and creditors.

Based upon the pleadings, evidence, and representations of counsel, the Court hereby grants the relief requested herein effective as of the Petition Date, *nunc pro tunc*, and

IT IS HEREBY ORDERED that:

Jurisdiction

1. This Court has jurisdiction over this proceeding and the parties and property affected hereby pursuant to 28 U.S.C. § 1334. Consideration of the Motion constitutes a core proceeding as defined in 28 U.S.C. §§157(b)(2)(A), (D), (G), (K), (M) and (O).

Notice

2. Sufficient and adequate notice of the Motion and the hearing with respect thereto has been given to prevent immediate and irreparable harm pursuant to Bankruptcy Rules

2002, 4001(b), and 9006, and as required by Section 102, 361, and 363 of the Bankruptcy Code.

Authorization to Use Cash Collateral

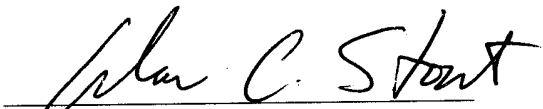
3. For the purpose of the resolution of the issues, on an interim basis, of the Debtor's use of cash collateral, and only for this purpose, this court finds it necessary that the Cash Collateral Creditor be provided adequate protection of its claim of security, which adequate protection shall consist of the following:
 - a. A continued security interest in and to all prepetition accounts receivable of the debtor.
 - b. A security interest in and to all postpetition accounts receivable of the debtor in possession and proceeds thereof.
 - c. A security interest in the inventory of the debtor and the debtor in possession and the proceeds thereof.
4. Debtor has provided a budget which has been approved by the Court and provides that the anticipated collection on accounts receivable for the term of this Order is an amount not less than \$123,558.00 ("Projected Amount"). Should Debtor's collections on accounts receivable fall short of Projected Amount, the Cash Collateral Creditor shall be entitled to the difference between Projected Amount and the actual collected amount for the term of this Order ("Collected Amount") provided, however, that Cash Collateral Creditor shall be entitled to a maximum payment of \$11,497.00 for the term of this Order. It being expressly intended that Cash Collateral Creditor is entitled to no payment if Collected Amount meets or exceeds Projected Amount.

5. The Cash Collateral Creditor be provided protection, as set forth above, for the debtor in possession's use of both prepetition and post-petition accounts receivable in its ordinary course of business.
6. The adequate protection, as set forth in paragraphs 3 and 4 above, provided to Cash Collateral Creditor and the use of the pre-and post-petition accounts receivable by the debtor in possession, will not prejudice the debtor, the Cash Collateral Creditor or any creditor or other party in interest in this chapter 11 case.
7. Therefore, it is ORDERED as follows:
 - a. The debtor in possession, be and it is hereby authorized to continue to use, in its ordinary course of business, all of the prepetition accounts receivable of the Debtor and any post-petition accounts receivable generated by the debtor in possession in this proceeding, pending further order of this Court.
 - b. The Cash Collateral Creditor shall have, as adequate protection for its claims of security for the use of the accounts receivable as cash collateral of the Debtor, a security interest in the following:
 - i. A continued security interest in and to all prepetition accounts receivable of the Debtor.
 - ii. A security interest in and to all postpetition accounts receivable of the debtor in possession and proceeds thereof.
 - iii. A security interest in the inventory of the debtor and the debtor in possession and the proceeds thereof.
 - iv. The difference, if any, between the Collected Amount and the Projected Amount only if the Collected Amount does not meet or exceed the

Projected Amount and only for a maximum payment of \$11,497.00 for the term of this Order.

8. This Court makes no finding on the amount, validity and priority of the Cash Collateral Creditor's claim of security. The tendering of the Debtor and the debtor in possession of this order shall not constitute an admission or acknowledgment of any such claim.
9. The Debtor and debtor in possession shall be and is hereby authorized to execute any documents necessary to perfect the Cash Collateral Creditor's security interest, as herein above recited.
10. This Order shall be an interim order providing for the use of Cash Collateral and a final hearing on the use of Cash Collateral shall be held at a place and time noticed by the Court. If any or all of the provisions of this Order hereafter are stayed, modified, or vacated, or a final order is not requested or granted with respect to the relief requested herein, such stay, modification, or vacation or lack of final order shall not affect (a) the validity of any indebtedness, obligation, or liability incurred by Debtor prior to the effective date of such stay, modification, or vacation, or (b) the validity and enforceability of any security interest, assignment, lien, or priority authorized or created hereby.
11. Debtor's counsel shall serve the Motion and a copy of this Order on all of the following parties: (1) all secured creditors who are not represented by counsel; (2) all counsel of record for parties in interest; (3) the U.S. Trustee; (4) the Debtor's 20 Largest Unsecured Creditors as designated in the Debtor's Petition; (5) all governmental units having claims; and (6) all persons who filed a request to receive such notices.

SO ORDERED


Alan C. Stout

United States Bankruptcy Judge

Dated: February 23, 2017

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