

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

IN RE:)	
)	
SAM MEYERS, INC.)	CHAPTER 11
)	
Debtor.)	CASE NO. 18-31559-acs
_____)	

**EMERGENCY MOTION FOR AUTHORITY TO USE CASH COLLATERAL,
AND TO PROVIDE ADEQUATE PROTECTION**

* * * * *

Comes the Debtor, Sam Meyers, Inc. (“Sam Meyers” or “Debtor”), by proposed counsel, and hereby moves the Court for entry of an order authorizing the use cash collateral and to provide adequate protection. In support of this Motion, the Debtor states as follows:

Jurisdiction

1. The Court has jurisdiction over the subject matter of this Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (B), (M) and (O). The statutory predicates for the relief requested in this motion are 11 U.S.C. §§ 105, 361, and 363 and Rules 4001(b) and 9014 of the Federal Rules of Bankruptcy Procedure.

2. Venue of these proceedings and the within motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

3. On May 17, 2018 (the “Petition Date”), the Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code. Pursuant to Sections 1107(a) and 1108¹ of the Bankruptcy Code, the Debtor continues to operate its business and manage its property as a debtor in possession.

¹All statutes cited herein refer to the Bankruptcy Code unless otherwise specified.

4. The Debtor was started in Louisville by tailor Sam Meyers in 1905. After its start in the tailoring business, Debtor branched out into formal wear on a wholesale and regional basis. In the 1950s, Sam Meyers' son-in-law, James Corbett, joined the business. As Debtor continued its growth, Mr. Corbett's sons, Sam and Pat, joined the business in the 1970s. Eventually Debtor expanded into dry cleaning and industrial uniform rentals and sales. Today, Debtor continues to run its dry cleaning, garment restoration, and wholesale formalwear business, including a formalwear retail shop, out of its headquarters located at 3400 Bashford Ave Ct. ("Corporate Office").

5. In addition to the Corporate Office, Debtor also runs a formalwear shop at The Mall St. Matthews ("Mall Shop") and runs two dry cleaning routes ("Dry Cleaners"). The Corporate Office, Mall Shop, and Dry Cleaners employ all of Debtor's employees.

6. Debtor's shares are owned as follows: James P. Corbett: 43.72%, Samuel C. Corbett: 43.71%, Mark L. Corbett: 4.19%, Lee E. Corbett: 4.19%, Carolyn L. Kendrick: 4.19%. Debtor's Board of Directors are: James "Pat" Corbett, Chair, Mark L. Corbett, Director, Mary L. Corbett, Director, Carolyn C. Kendrick, Director, Samuel C. Corbett, Director, and Lee E. Corbett, Director.

7. The Debtor currently employs approximately 20 employees.

8. The Debtor anticipates 2018 gross revenues of approximately \$1.2 million on an annualized basis.

9. Approximately ten years ago, Sam Meyers was the main supplier of rented formalwear for Goody's, LLC across the country. In 2008, Goody's filed a petition for relief under Chapter 11 while owing Debtor approximately \$570,000.00 in pre-petition debt for the rented formalwear relationship. Further complicating matters, Debtor had just purchased

approximately \$1 million in inventory to continue servicing the Goody's relationship. After the petition filing, Goody's liquidated most of its stores and ceased its rented formalwear relationship with Debtor leaving Debtor with excess inventory and significant debt.

10. More recently, Debtor expanded its operations to include menswear. This expansion required a larger space and significantly higher rent. With the influx of national retailers like Men's Wearhouse into the regional market, Debtor's menswear business was unable to be competitive and had to shut down. This combined with the Goody's bankruptcy marked the beginning of a sharp downturn in Debtor's business.

11. In addition to the precipitous decline in its market, Debtor also encountered the maturity of its line of credit Citizens Union Bank of Shelbyville, Inc. ("CUB"). The company has worked to reorganize outside of bankruptcy and closed its dry cleaning retail locations. In addition, Debtor intends to sell its Corporate Office and downsize significantly continuing to reduce its overhead and improve profitability. Sam Meyers looks forward to continuing to serve its customers in the Louisville area. There will be no interruption of business at for the Mall Shop or Dry Cleaners.

12. Debtor's Corporate Office is currently under contract for sale to Louisville Sterling, LLC ("Louisville Sterling"). Debtor will then lease a much smaller space from Louisville Sterling to utilize as its corporate office going forward.

13. Debtor has also identified a purchaser for its remaining assets and will be filing a motion to sell pursuant to 11 U.S.C. §363 to authorize the transaction free and clear of liens. It is anticipated that the purchaser will operate the Mall Shop and Dry Cleaners as well as work out of the Corporate Office.

Pre-Petition Banking Relationship with CUB

14. CUB has a claim against the Debtor arising from five notes with CUB: (1) that certain term promissory note dated December 23, 2008 in the original principal amount of \$500,000.00 as extended and modified (the “Term Note”); (2) certain revolving loan promissory note dated December 23, 2008 in the original principal amount of \$500,000.00 as extended and modified (“LOC”), (3) that certain promissory note dated December 23, 2008 in the original principal amount of \$1,430,000.00 as extended and modified (“Property Note”), (4) that certain promissory note dated December 9, 2013 in the original principal amount of \$29,847.00 as extended and modified (the “Vehicle Note”), and (5) that certain promissory note dated April 21, 2014 in the original principal amount of \$63,000.00 as extended and modified (the “Final Note” and together with the Term Note, LOC, Property Note, and Vehicle Note referred to herein as the “Note”).

15. The Note is guaranteed in its payment and performance by James Pat Corbett and Sam C. Corbett.

16. The Note is also secured in its payment and performance by that certain Mortgage, Security Agreement (Fixture Filing Statement) and Assignment of Rents and Leases dated December 23, 2008 and filed of record in the Office of the Jefferson County Clerk on December 24, 2008 at MB 11403, PG 0009 (the “Mortgage”).

17. At the time of the bankruptcy filing, the amount of the CUB’s claim under the Note was approximately \$1,666,000.00.

18. CUB claims a pre-petition security interest in the Debtor’s property, including but not limited to “all goods, equipment, fixtures, accounts receivable, books and records, farm products, documents, instruments, contract rights, rights of action, rents, condemnation awards, insurance proceeds and refunds of insurance premiums now or hereafter used on the real

property as more specifically described in Exhibit A together with all proceeds of all non-monetary collateral where sold...” (“Cash Collateral”). The Debtor states that it has \$4,710.05 in cash, \$122,113.54 in accounts receivable,² \$321,972.97 in inventory and \$33,616.64 in equipment. The Debtor estimates the going concern value of CUB’s claimed cash collateral is approximately \$482,413.20.

19. Debtor’s use of CUB’s Cash Collateral is essential for its continued operations, and CUB may be entitled to adequate protection against the deterioration, depreciation, conversion or loss and diminution in value of their Cash Collateral.

Relief Requested

20. As more fully set forth in the Debtor’s projected budget attached hereto as Exhibit “A” (the “Budget”), the Debtor seeks authorization to use Cash Collateral on an interim basis through July 1, 2018 (the “First Interim Period”). The Debtor seeks to meet its ordinary and necessary post-petition expenditures through use of approximately \$220,000.00 of Cash Collateral.

21. The Debtor’s use of Cash Collateral is imperative to ensure the Debtor’s continued operations and to maximize creditors’ recovery. Use of Cash Collateral preserves the value of Debtor’s assets, and without such use the value of the Debtor’s assets will immediately and substantially diminish. Absent authorization to use the Cash Collateral, there would be no reasonable prospect that the Debtor would be able to reorganize successfully in this Chapter 11 case.

² Of this amount, approximately \$36,039.55 is current, \$31,241.33 is less than 30 days, \$15,776.40 is 30-60 days, \$12,671.39 is 60 to 90 days, and \$26,384.87 is over 90 days.

22. Entry of the proposed Order is in the best interests of the estate and its creditors because use of Cash Collateral will minimize disruption of the Debtor as a “going concern,” and increases the possibilities for a successful reorganization.

23. CUB is entitled, pursuant to Sections 361 and 363(e) of the Bankruptcy Code, to adequate protection of its interests in the cash collateral to the extent of the diminution in value thereof.

24. As and for adequate protection in consideration of the Debtor’s continued possession and use of cash collateral, the Debtor shall grant to CUB, replacement liens on all collateral of the same type and priority as CUB held as valid and properly perfected liens prior to the petition date.

25. No previous motion for the relief sought herein has been made to this or any other court.

Notice

26. No trustee, examiner or statutory creditors’ committee has been appointed in this Chapter 11 case. Notice of this Motion has been provided 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. Debtor submits that such notice is sufficient under the circumstances.

Conclusion

WHEREFORE, the Debtor respectfully requests that the Court enter an order (1) authorizing the use of Cash Collateral; (2) establishing adequate protection for the use of Cash Collateral; and (3) granting the Debtor other just relief.

Respectfully submitted,

/s/James E. McGhee III

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Proposed Counsel for the Debtor

CERTIFICATE OF SERVICE

It is hereby certified that on May 17, 2018, a true and correct copy of the foregoing was (a) mailed electronically through the U.S. Bankruptcy Court's ECF system to the electronic addresses as set forth in the ECF system to the U.S. Trustee and all other persons receiving electronic notifications in this case, and (b) except for parties receiving notice through ECF, mailed, emailed, or faxed 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; (c) served by first class mail and certified mail to:

/s/ James E. McGhee III

JAMES E. MCGHEE III