

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION

In re:)	
)	Chapter 11
)	
CRYSTAL LAKE GOLF CLUB, LLC)	Case No. 16-41324-CJP
)	
DEBTOR)	

In re:)	
)	Chapter 11
)	
CRYSTAL LAKE OPEN SPACE, INC.)	Case No. 16-41325-CJP
)	
DEBTOR)	
)	<i>(Jointly Administered)</i>

**DEBTOR'S MOTION FOR ORDER AUTHORIZING FURTHER USE OF CASH
COLLATERAL AND ADEQUATE PROTECTION TO SEPTEMBER 30, 2017**

Crystal Lake Golf Club LLC, the debtor and debtor-in-possession in the above-captioned case numbered 16-41324 (the "Debtor"), respectfully moves this Court for entry of an Order pursuant to 11 U.S.C. §363(c)(2)(B) and (c)(3), 4001(b)(2) of the Federal Rules of Bankruptcy Procedures, and MBLR Rule 4001-2: i) authorizing the Debtor's further use of cash collateral of the secured lenders, Pentucket Bank, (the "Pentucket") and the Internal Revenue Service (the "IRS") until September 30, 2017; ii) granting replacement liens as described herein to the holders of an interest in the cash collateral as adequate protection for any diminution in value which may result from the Debtor's use of cash collateral; and iii) setting a final hearing on final authorization for use thereof. The Debtor intends to use the cash collateral to operate and maintain, in the normal course of business and in accordance with the proposed budget attached

hereto as Exhibit "A" (the "Proposed Budget"), the Debtor's business, Crystal Lake Golf Club ("Golf Club"), and would further extend as set forth herein, an offer of adequate protection to said secured lender. As grounds therefore, the Debtor states as follows:

1. On June 30, 2017, this Court issued an Order allowing the use of cash collateral and payment of adequate protection through August 25, 2017. The Order also stated that the Debtor shall file a proposed budget and form of order for further use of cash collateral and adequate protection with the Court on or before August 14, 2017.

2. Attached is a Proposed Order allowing the further use of Cash Collateral through September 30, 2017.

Need for Further Use of Cash Collateral

In order to maintain the viability of the Debtor's business, the Debtor must pay the costs of maintaining, preserving and operating not only its business, but the property upon which it operates as well.¹ These costs include, but are not limited to fertilizer, fuel, utilities, insurance, repairs and maintenance, landscaping, wages, taxes, legal and accounting fees, and other costs of operating the Golf Club. In addition, the Debtor must also pay adequate protection to Pentucket and the IRS. In order to meet these obligations and avoid disruption of the Golf Club, the Debtor will need to utilize the proceeds generated through the operation of its business and the membership income. Unless the Debtor is authorized to use cash collateral, the Debtor will be unable to continue business operations and perform its obligations to Pentucket and the IRS, the Debtor's employees, and vendors. This will result in all parties suffering significant harm and irreparable economic loss.

¹ Crystal Lake Open Space Inc. ("Open Space"), the owner of the land upon which the Golf Club operates and which has also filed for bankruptcy protection, is a non-profit entity that has no income.

Requested Relief

Pursuant to Section 363(c)(2)(B) of the Bankruptcy Code, the Debtor seeks this Court's authorization to utilize, to the extent hereinafter set forth, all proceeds generated through the Debtor's ownership and operation of the Golf Club, including all post-petition collections of memberships, greens fees, rentals, and other income, in the operation of the Golf Club.

Annexed hereto as Exhibit A is the projected monthly budget for funding the Debtor's business operations through September 30, 2017 (the "Budget").² The Proposed Budget also includes U.S. Trustee's estimated distribution, if any. By this motion, the Debtor seeks authority to use cash collateral generated through ownership and operation of the Golf Club: (i) to continue to pay the expenses of ownership and operation of the Golf Club, up to the amounts set forth in the Budget; and (ii) to continue to pay Pentucket Bank and the IRS adequate protection pays as set forth in the Budget, and, (iii) be authorized to pay the real property taxes due quarterly on the land upon which the Golf Club operates to the City of Haverhill.

The Debtor believes that the Proposed Budget will be adequate to pay all administrative expenses due and payable during the period covered by the Proposed Budget, in addition to the payments for adequate protection and the real estate taxes. To accommodate the normal vagaries involved with operating a business, other than taxes, the Debtor seeks authority to use cash collateral to meet actual and necessary expenses for the business in an amount of up to 110 percent (110%) of the aggregate expenses (and not on a line item basis) set forth in the Budget for such business.

Adequate Protection

The Debtor proposes to continue to pay monthly principal and interest payments in the amount of \$10,818.00 to Pentucket and \$2,700.00 to the IRS, plus an amount for real estate taxes

² The figures used to prepare the Budget were provided by the Debtor and its staff.

sufficient to keep the post-petition real estate taxes current the period covered by the Proposed Budget.

In addition to the proposed Adequate Protection Payments described herein, the Debtor proposes, as additional adequate protection for any diminution in the value of Pentucket's and the IRS's prepetition collateral resulting from the Debtor's post-petition use of Pentucket's and the IRS's cash collateral, that Pentucket and the IRS be granted post-petition replacement liens ("Replacement Liens") in those assets generated in the postpetition period that would have, absent the Chapter 11 filing, constituted collateral subject to such Pentucket's and the IRS's prepetition liens and security interests ("Post-petition Liens"), which Post-petition Liens shall have the same priority as Pentucket's and the IRS's prepetition liens. The Replacement Liens shall be recognized, however, only to the extent of any diminution in value of Pentucket's and/or the IRS's Pre-Petition Collateral after the petition date resulting from the Debtor's use of Cash Collateral during this Chapter 11 case. The Debtor expects that its ongoing post-petition maintenance and operation of the Golf Club will preserve the current value of the Golf Club and thereby protect Pentucket's and the IRS's interest in the Debtor and its assets.

As to Pentucket and the IRS holding liens against the Debtor and its assets, the Debtor's post-petition maintenance and operation of the Golf Club, coupled with the Adequate Protection Payments (and payment of statutory interest on any prepetition real property tax arrearages), and the proposed replacement liens, will provide ample adequate protection of Pentucket's and the IRS's interest in such business and assets of the Debtor.

Notice

In accordance with MLBR 4001-2(b), copies of this motion have been served by United States mail upon the United States Trustee, Pentucket, taxing authorities known to have claims

against the Debtor, the holders of the 20 largest unsecured claims against the Debtor as listed in the schedule filed by the Debtor pursuant to Fed. R. Bankr. P. 1007(d) (an official committee of unsecured creditors having not yet been appointed), and any parties that have requested notice and service of pleadings in this case. Although former members of the Golf Club were listed on the creditor matrix so they received notice of the bankruptcy, they have no interest in the cash collateral and therefore the Debtor will not be sending them notice of this motion. The Debtor requests that this Court find such notice to be appropriate and sufficient notice of this motion in the particular circumstances.

Conclusion

The Debtor requests that this Court find that good cause has been shown for the entry of an order pursuant to Fed.R.Bankr.P. 4001(c)(2) authorizing the approval of the further cash collateral usage on the terms set forth above. Entry of an order granting such relief is in the best interest of the Debtor, the Debtor's creditors and the estate. Therefore, to enable the Debtor to maintain operation of the Golf Club and the land upon which it operates, and to prevent immediate and irreparable harm pending a final hearing on this Motion, the interim use of the Cash Collateral should be authorized by this Court.

WHEREFORE, the Debtor respectfully requests that this Court: (a) enter an order, in substantially the form submitted herewith, granting the interim relief sought by this motion; (b) schedule a final hearing on this motion; and (c) grant such other and further relief as this Court may deem just and proper.

* * * *[Nothing follows. Signature on next page]* * * *

Dated: August 14, 2017

Respectfully submitted,

CRYSTAL LAKE GOLF CLUB LLC

By its attorneys,

/s/ Richard A. Mestone

Richard A. Mestone (BBO# 642789)

Arthur M. Capozzo (BBO# 556950)

MESTONE & ASSOCIATES LLC

65 Flagship Drive, Suite A

North Andover, MA 01845

Tel: (617) 381-6700

richard.mestone@mestonehogan.com