## UNITED STATES BANKRUPTCY COURT DISTRICT OF MASSACHUSETTS EASTERN DIVISION

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GARBER BROS., INC.,

Debtor

Chapter 11

Case No: 17-11802-MSH

## ORDER CONCERNING INTERIM USE OF CASH COLLATERAL AND ADEQUATE PROTECTION

Upon consideration of the Debtor's Motion for Order Authorizing the Use of Cash Collateral and for Related Relief dated July 26, 2017 (the "Motion") filed by Garber Bros., Inc. (the "Debtor"), pursuant to which the Debtor seeks authority to use funds and assets of the Debtor constituting cash collateral subject to the security interest claimed by Citizens Bank, N.A. (the "Lender"), Zurich American Insurance Company, and the Massachusetts Department of Revenue as well as funds received and other cash collateral that are subject to replacement liens granted by this Order (all of the foregoing, the "Cash Collateral"); the Debtor having filed the Statement by Debtor in support of Further Use of Cash Collateral [docket no. 295]; and after due deliberation and sufficient cause appearing therefor,

## THE COURT FINDS AND RULES THAT:

- A. This Court has jurisdiction over these cases under 28 U.S.C. Section 1334(b).
- B. The Motion initiates a core proceeding pursuant to 28 U.S.C. Section 157(b)(2) as to which this Court may issue a final order.
- C. The form of the Motion and the Cash Collateral Stipulation<sup>1</sup> meet the requirements of Fed. R. Bankr. P. 4001(b)(1)(A) and (B) and MLBR 4001-2(a) and (c). Service thereof has been made

<sup>1</sup> All terms used in this Order with initial capitalization that are defined in the Motion shall have the same meaning when used in this Order as in the Motion.

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in accordance with Fed. R. Bankr. P. 4001(b)(1)(C) and MLBR 4001-2(b). Notice of the hearing thereunder (the "Hearing") has been given in accordance with Fed. R. Bankr. P. 4001(b)(3) and MLBR 4001-2(e). Due and adequate notice has been given to all parties entitled thereto, and no other or further notice is necessary or required.

- D. This Court has reviewed the Motion and the Cash Collateral Stipulation and has considered the representations of the Debtor regarding the relief requested therein. The Hearing was held before this Court on January 9, 2018. At the Hearing, this Court heard and considered arguments by all parties that wished to be heard.
- E. The relief requested in the Motion and the Cash Collateral Stipulation is necessary pending the final hearing contemplated by Fed. R. Bankr. P. 4001(b)(2), and is in the best interest of the Debtor, its estate, its creditors and other parties in interest.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

- 1. The use of Cash Collateral is approved on an interim basis through June 1, 2018 in accordance with the Motion, this Court's prior orders regarding Cash Collateral dated July 17, 2017 [docket no. 139], August 2, 2017 [docket no. 161] and October 4, 2017 [docket no. 229], and the budget attached to this order as Exhibit A (the "Budget"), and under the terms and conditions of the Cash Collateral Stipulation.
- 2. On or before the 15<sup>th</sup> day of each month, the Debtor shall submit to the Office of the United States Trustee and file with the Court a cash flow report showing a comparison for the prior calendar month of actual results of all items contained in the Budget to the amounts originally contained in the Budget.
- 3. Any and all objections to the Motion and the Cash Collateral Stipulation, insofar as they seek interim relief, are hereby overruled. All objections to the Motion and the Cash Collateral

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Stipulation, insofar as they seek other than interim relief, are hereby expressly preserved to the final hearing on Cash Collateral, *provided* that any such objection shall be made in writing, filed with this Court and served upon the United States Trustee and upon counsel to the Debtor, the Lender, and all parties requesting notice in this case on or before the objection deadline as established by the Court.

- 4. The further hearing on Cash Collateral is hereby scheduled for May 36,

  2018 at 6:15 a.m. before the Court.
- 5. The Debtor shall file a budget for further use of cash collateral on or before

  May 1 , 2018 at 4:30 p.m.
- 6. All objections to the further use of Cash Collateral shall be filed not later than May 23, 248 at 4:30 p.m.
- 7. The Debtor shall serve a copy of this Order on all persons entitled to receive notice under Fed. R. Bankr. P. 4001(b)(3) and MLBR 4001-2(e).

Dated: January \_\_\_\_\_\_\_, 2018

Melvin S. Hoffman

United States Bankruptcy Judge

EXHIBIT A

10-Week Extended Budget thru 6/1/18																				
	Budgee Week 1	Budget Week 2	Budget Week 3	Budget Week 4	Budget Week S	Budger Week 6	Budger Week 7	Budget Week 8	Budget Week 9 V	Budget B	Budger 1	Budger B. Week 12 Wo	Budget Ba Week 13 We	Budger Bu Week 14 Wer	Budger Budger Weck 15 Week 1	Budget Budget Week 16 Week 17	e 17 Week 18	er Budger	et Budger 19 Week 20	£4.
	19-Jan	26-Jan	2-Feb	9-Feb	16-Feb		1	ı								1				5
Inflows: AR Collection	162	96	ß	138	32	92	26	87	46	æ	47	82	17	219	09	29	58	\$	88	22
Total inflows	162	96	52	128	32	76	56	8.7	46	53	47	78	7.1	219	09	59	58	48	88	77
"Part A" Expenses	۶	<b>J</b>	Ę	ć	۶	ş	ş	ş	ş	۶	ş	Ę	ş	ę	ş	ş	ş	Ę	ć	5
Special Courses for Collection	<b>?</b> "	3 ~	₹ "	3 -	3 "	70,	Ş, °	3 ,	۲ و	3,	3,	۲ 7	٦,	07°	€ "	3 -	3 .	3,	, te	۲ ۾
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Independent Contractor	. ~	. ~	· m	. "		'n	'n	ı m	'n	۰ ۳	, m	m	'n	, m	) en	, m	, 10	, ~	. ~	'n
Other 11S Trustee Fee	4	4	4	4	m	m	m	m	. 10	ю	•	m	8	m	m Y	m	ы	m	. 15	m
Subtotal Expenses	32	32	32	32	33	31	31	F	31	=	=	F.	3,1	31	36	33	31	<u> </u>	31	=
Inflows Net of Expenses	130	B	20	96		45	25	56	15	22	16	47	40	188	24	28	27	17	57	(6)
Estimated Tobacco & Sales Tax Disbursements Tobacco Taxes	32	52	3	11	4	10	*	83	83	51	17	<u>~</u>	23	23	17	61	61	6	15	59
Tobacco Tax - Disputed Tax Reserve Sales Tax	S	6	v		7	2	ব	m	'n	7	.m	7	4	4	22	۳	۳	m	r	۰
Subtotal Estimated Tax Disbursements	37	19	36	19	48	12	28	21	33	17	20	18	29	27	82	22	22	22	18	33
Total Outflows	69	93	89	15	29	43	59	52	Z	48	5 }	49	09	58	118	53	53	53	49	54
Net Cash Inflow (Outflow)	93	m	(16)	11	(47)	32	€	35	(18)	4	€	39	~	161	(65)	9	٥	(5)	39	(42)
Beginning Cash	90	154	88	44	119	23	\$6	36	89	7.7	31	25	25	47	200	36	35	35	24	63
Loan (Paydowns) Advances	(29)	(69)			(49)	•	(16)	3	(23)	•	(2)		(13)	(8)	(105)	(9)	(9)	(S)		(14)
Ending Cash Balance	154	88	44	119	23	<b>Ş</b> ę	36	89	27	3]	25	54	47	200	36	35	35	24	63	7
Beginning Loan Balance	382	353	285	257	256	207	207	161	187	164	3	162	162	145	136	<u>ε</u>	25	19	4	7
Loan (Paydowns) Advances Adjustment to Loan Balance	(53)	(69)	(28)	Ξ	(49)	•	(16)	<del>(</del> E)	(3)		3		(17)	(8)	(105)	(9)	9	(5)	,	(14)
Ending Loan Balance	353	285	257	256	207	207	191	187	164	164	162	162	145	136	31	25	39	14	14	<b>©</b>
Tobacco Tax Liabilities Beginning Tobacco Tax Liability Payments - Tobacco Taxes	\$ (822) \$ 32	\$ (791) <b>\$</b>	<b>s</b> (738) 31	s (707) 71	\$ (691) 42	\$ (649) 10	\$ (639) 24	\$ (614)	\$ (596) \$	(568) \$	(\$\$3) <b>S</b>	(536) \$	(521) \$	(496) <b>S</b> 23	\$ (£73) \$ 7.1	(402) \$ ( 19	(382) \$ (	) <b>\$</b> (96)	(344) <b>\$</b> (	(329) 29
Disputed Excise Tax Reserve Ending Tobacco Tax Liability	\$ (191)	\$ (738)	\$ (707)	\$ (691)	\$ (649)	\$ (639)	\$ (614)	(965) \$	\$ (\$68)	\$ (553) \$	(536) \$	(521) \$	(496) \$	(473) \$	(402) \$	(382) \$ (	(363) \$ (	. (344) \$ (	. (329) \$ (	(300)
AR Roliforward Beginning A/R Balanco	\$ 7,858	\$ 7,858 \$ 7,692 \$ 7,593	\$ 7,593	\$ 7,540	\$ 7,408	\$ 7,375	\$ 7,297	\$ 7,240	\$ 7,150	\$ 7,103 \$	7,048 \$	7,000 \$	6,920 \$	6,847 \$	6,622 \$ 6	6,560 \$ 6	6,499 \$ 6,	6,439 \$ 6,	6,390 \$ 6,	6,299
Collections Credits/Returns	(162)	(96)	(52)	(128)	33	(76)	(2)	(£)	(46)	(53)	£ (£)	(38)	(3)	(612)	<u>@</u> 2	(59)	(58)	(48)	(88)	33
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