

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

WORLD VIEW INTERNATIONAL
TRADE LLC,

Debtor.

Case no. 18-41982

Chapter 11

Hon. Phillip J. Shefferly

_____ /

**ORDER GRANTING DEBTOR'S FIRST DAY MOTION FOR
ENTRY OF AN INTERIM AND FINAL ORDER AUTHORIZING DEBTOR TO
USE CASH COLLATERAL AND GRANTING ADEQUATE PROTECTION**

This matter having come before the Court on the First Day Motion for Entry of an Order Authorizing Debtor to Use Cash Collateral and Granting Adequate Protection (the "Motion") filed by the above captioned debtor ("Debtor") and Old National Bank ("Bank"), having consented to such relief on the terms contained in this Order; after notice and hearing, the Court being otherwise fully advised in the premises;

THE DEBTOR AND BANK AGREE:

A. On February 16, 2018, the (the “Petition Date”), Debtor filed for relief under Chapter 11 of the United States Bankruptcy Code (the “Bankruptcy Code”).

B. The court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

C. The Court’s consideration of this Motion constitutes a core proceeding as defined in 28 U.S.C. §§ 157(b)(2)(A), (K) and (M).

D. The procedures set forth in this Order, constitute sufficient “notice and hearing” under Section 102 and 363(c) of the Bankruptcy code, Bankruptcy Rule 2002, 4001, 6004 and 9006. This Order is being entered on an interim basis pursuant to Bankruptcy Rule 4001 and is expressly subject to the rights of parties in interest to object as specifically provided in paragraph 31 below.

E. Debtor requires funds to pay expenses in connection with maintaining operations, including purchasing inventory, satisfying taxes, payroll, and paying utilities. Failure to pay these and similar critical expenses would cause Debtor immediate and irreparable harm by disrupting Debtor’s ability to maintain operations, effectively shutting down Debtor.

F. Debtor does not have sufficient unencumbered funds to meet these expenses. Accordingly, Debtor requires authorization to use cash collateral to avoid immediate and irreparable harm. The amount of cash Debtor proposes to use before entry of a final order granting the Motion (including adequate protection payments as authorized under this Order) is set forth in the Budget attached to the Motion. Specifically, during the first thirty (30) days of this case Debtor requires the use of \$209,508.00.

On the dates as set forth below, World View executed and delivered to the Bank in the principal sums, a series of promissory notes:

Note No.	Date of Execution	Original Principal Amount	Maturity Date	Status
9772	12/29/2014	\$31,650.00	12/29/2016	In default.
0815	11/05/2015	\$100,000.00	11/05/2020	In default.
0848	02/23/2016	\$150,000.00	03/07/2017	In default.
4553	04/02/2016	\$162,000.00	09/02/2016	In default.
7209	02/02/2016	\$196,253.00	07/02/2016	In default.
9515	03/10/2016	\$61,600.00	08/10/2016	In default.
0857	03/14/2016	\$131,339.00	03/14/2021	In default.

Note No.	Date of Execution	Original Principal Amount	Maturity Date	Status
1602	04/11/2016	\$52,000.00	10/11/2016	In default.
3987	04/28/2016	\$98,560.00	10/28/2016	In default.

The above listed notes shall hereinafter be referred to collectively as the “Notes”.

In conjunction with the execution of the Notes, Jeffrey Wilkerson executed an unlimited commercial guaranty dated October 8, 2013, which guaranteed full payment and performance of any outstanding debt obligation of World View owed to the Bank, whether then in existence or later incurred (the “Guaranty”).

To secure repayment of all of its indebtedness to the Bank, World View granted the Bank a lien upon all its assets (the “Assets”), as evidenced by Commercial Security Agreements dated October 8, 2013, December 29, 2014, February 24, 2015, March 14, 2016 and April 2, 2016 (collectively the “Security Agreements”). The Bank properly perfected its lien encumbering the Assets, by filing the appropriate financing statements with the Michigan Secretary of State. The Bank also properly perfected its lien encumbering the

Assets by being added to the Certificate of Titles of the 13 vehicles and trailers.

World View is in default under the terms of the Notes, Guaranty, and Security Agreements, due to its failure to pay certain notes upon maturity, triggering cross-default language in the remaining notes, causing all Notes to be in default. Despite requests for repayment by the Bank,, the Debtor refused or otherwise failed to repay the Notes. Interest has continued to accrue as required by the Notes and related documents and the Bank has incurred attorney's fees and costs of collection that are the responsibility of World View and Jeffrey Wilkerson to pay pursuant to the Notes and Guaranty.

As of January 25, 2018, World View and Jeffrey Wilkerson, jointly and severally, owe a total of One Million One Hundred Thirty Nine Thousand Four Hundred Eighty and 27/100 Dollars (\$1,139,480.27) to the Bank pursuant to the terms of the Notes and Guaranty. The total debt owing pursuant to the Notes is broken down as follows:

Note	Principal (\$)	Interest (\$)	Late Fees (\$)	Total (\$)
9772	5,460.82	615.53	869.16	6,945.51
815	78,622.52	9,390.23	13,165.56	101,178.31
848	150,000.00	17,164.58	23,929.28	191,093.86
4553	162,000.00	21,678.75	42,774.91	226,453.66
7209	196,253.00	27,734.36	42,076.24	266,063.60
9515	61,600.00	8,420.38	13,164.95	83,185.33
857	91,512.79	4,781.54	14,340.96	110,635.29
1602	3,082.36	325.62	641.45	4,049.43
3987	98,147.00	12,815.05	15,884.28	126,846.33
Total				\$ 1,116,451.32
Atty Fees & Costs as of 12/31/2018 :				\$ 23,028.95
Grand Total				\$1,139,480.27

Plus interest continues to accrue at the rate of 9.00% per annum.

The Security Agreements grant a security interest to Bank in all of its assets and all personal property now owned and hereafter acquired, all now owned and hereafter acquired inventory, equipment, fixtures, goods, accounts, chattel paper, documents, instruments, farm products, general

intangibles, investment property, deposit accounts, letters of credit rights, payment intangibles, supporting obligations, software, and all rents, issues, profits, products and proceeds thereof, wherever any of the foregoing is located. All of the Debtor's personal property may be collectively referred to as "Collateral". The Debtor acknowledges and agrees that the Bank's security interest is a valid and fully enforceable first perfected security interest in all of the collateral.

On or about October 8, 2013, 4411 Engle Ridge Drive LLC (Engle Ridge) executed and delivered to the Bank a Promissory Note in the original principal amount of \$165,200.00 (the Note). On June 21, 2016, Engle Ridge executed and delivered to the Bank a Change in Terms Agreement changing the terms of the October 8, 2013 Promissory Note to reflect the original principal amount of the Note as \$160,000.00.

In connection with the execution of the Note, the Engle Ridge executed a mortgage in the amount of \$165,200.00 dated October 8, 2013 and recorded October 15, 2013 (Mortgage) in the Office of the Recorder of Allen County, Indiana.

The Mortgage granted the Bank a first lien on the real estate and the income therefrom along with a security interest in the personal property of

Engle Ridge, which personal property is more particularly described in the Mortgage.

On October 8, 2013, Jeffrey Wilkerson executed a Commercial Guaranty in favor of the Bank in which he unconditionally guaranteed to the Bank the payment of the indebtedness under the Note.

On October 27, 2016 World View and Engle Ridge executed a Forebearance Agreement with the Bank. The Forebearance Agreement cross-collateralizes the Loans and assets of World View and Engle Ridge. As such, the Indebtedness of World View is collateralized by World View's assets and Engle Drive's assets and vice versa. Jeffrey Wilkerson guaranteed all of the indebtedness of both World View and Engle Drive.

Engle Drive filed its own bankruptcy case on February 16, 2018. Jeffrey Wilkerson filed for bankruptcy on February 19, 2018.

G. The Debtor believes that no entity other than the Bank has an interest in the cash collateral.

Therefore, IT IS HEREBY ORDERED that:

1. All of the above recitals are incorporated by reference herein.

2. Debtor is authorized to use cash collateral, but only under the terms and conditions set forth in this Order.

3. The Bank shall receive replacement liens in the Debtor's post-petition assets to the same extent and with the same priority that they have by virtue of the pre-petition perfected security interests as of the Petition Date. The Bank has a first perfected security interest in the aforementioned assets.

4. Debtor's permission to use cash collateral shall terminate upon the occurrence of any of the following: a) Debtor's failure to abide by any of the terms and conditions contained in this Order, any debtor in possession order, or any other order of this court; b) an order being entered dismissing this case or converting it to a case under Chapter 7 of the Bankruptcy Code, appointing Trustee to perform any duties of the Debtor, or terminating the authority of the Debtor to conduct business; or c) Debtor's cessation of operations for any reason.

5. As adequate protection of Bank's interests under §§ 361, 362, 363(e) and 364(c) and (d) of the Bankruptcy Code, and to secure the payment of the Indebtedness¹, the Bank is hereby granted a first priority security interest and replacement lien upon the following property of the Debtor: a) all

¹ Indebtedness is defined as "debt owed by the Debtor to the Bank, including but not limited to, money owed pursuant to contract, claim, security agreement, promissory note or mortgage including cross collateralized debt".

assets of the Debtor, including, but not limited to, all accounts that the Debtor maintains at Bank, accounts receivable, notes (and all collateral security therefore) general intangibles (including; but not limited to any insurance proceeds provided, however, that any causes of action brought under Chapter 5 of the Code and recoveries therefrom shall be excluded from the pre and post-petition collateral of Bank), choses in action, instruments, documents, chattel paper, goods, inventory, fixtures, equipment, chattels, machinery and furniture, and the products, profits and proceeds of all of the foregoing, arising, created or acquired subsequent to the filing of the Chapter 11 Petition (hereinafter referred to as the "Post-Petition Collateral"). The security interests and liens granted by this paragraph shall constitute a first priority perfected lien security interest by the Bank on all personal property of the Debtor. As adequate protection, Bank is hereby granted a perfected security interest and replacement lien in the Debtor's post-petition assets to the same extent and with the same priority as its pre-petition security interest only to the extent of post-petition diminution of value of the collateral..

6. All Indebtedness for adequate protection due to the Bank shall have priority over any and all costs and expenses of administration or other priority claims in this Chapter 11 proceeding, including those administrative

and priority expenses described in 11 USC §§503(b) and 507(a), except the statutory fees of the United States Trustee. No security agreements or mortgages or the filing of any financing, statements or mortgages shall be necessary to evidence or perfect such security interests, mortgages and liens: provided, however, the Debtor shall execute any documents reasonably requested at any time by the Bank to memorialize or evidence these liens, security interests and mortgages. The Bank shall have all the rights and remedies of a secured creditor in connection with the security interests and liens granted by this paragraph, except to the extent that such rights and remedies may be prohibited by the Bankruptcy Code.

7. As additional adequate protection of the Bank's interest, the Debtor will pay the Bank 5% of gross revenue a month. The Debtor shall provide a copy of its monthly bank statement. The first payment shall be due March 10, 2018 for February, 2018 with subsequent monthly payments beginning April 2018, due on the tenth business day of the month. Debtor shall furnish the prior month's bank statements with payment to verify gross revenue.

8. Until satisfaction of all Indebtedness, the Debtor will: a) furnish the Bank with all financial and other information reasonably requested by

Bank , including, among other things, any bills, invoices and proofs of payment as requested by Bank b) maintain such fire, hazard and extended coverage insurance on all of the Collateral set forth herein to the full replacement value of the Collateral and the Debtor shall designate the Bank as additional lender loss payee, lender loss payable, and additional insured on all such insurance policies and requiring the insurers to notify the Bank before cancellation of the policies; c) prepare and transmit to Bank, on a monthly basis the following written reports;

- (i) Monthly check disbursement report;
- (ii) Monthly cash inflow report;
- (iii) Monthly cash outflow report;
- (iv) Proof of payment of amounts owed for insurance on the personal property;
- (v) Copies of all Bank Statements within seven (7) days of receipt
- (vi) Monthly updates of the Budget; and
- (vii) A variance report showing the actual as compared to the Budget.

and d) permit the Bank during normal business hours to conduct any and all audits or reviews of Debtor's books and records as the Bank shall deem

necessary and to make copies there from. The Debtor shall maintain all bank accounts at the Bank.

9. The Debtor shall duly pay and discharge as the same shall become due and payable all post-petition taxes, assessments and governmental and other charges, which if unpaid, might become a lien or charge upon the Collateral, assets, earnings or business of the Debtor, as the case may be. The Debtor shall also pay when due, all administrative taxes, including any and all federal and state withholding taxes and U.S. Trustee quarterly fees, personal property taxes, and shall provide the Bank with copies of depository receipts or other satisfactory evidence of the same upon request by the Bank. Further, the Debtor shall file all monthly operating reports.

10. Until satisfaction of the Indebtedness, except as permitted in this Order or further Court order after notice and opportunity to object, the Debtor will not without prior written consent of the Bank: a) engage in any transaction which is not in the ordinary course of business; b) engage in new or different business activities; c) create, assume or suffer to exist any lien or security interest in favor of any person other than Bank; (d) borrow money from any person to the extent that the repayment of any such borrowing is to be secured pursuant to §364(d)(1) of the Code by a lien or

security interest that is senior or equal to the liens and security interests held by or for the benefit of Bank , or, pursuant to §364(c)(1), senior or equal to Bank ; or (e) use cash collateral other than as provided by this Order.

11. Except as permitted in this Order or further Court order after notice and opportunity to object, the Debtor will not without prior written consent of the Bank: obtain credit or incur indebtedness secured by security interests in Collateral in which the Bank has an interest, unless a condition of the granting of relief in such proceeding is that: (i) all Pre-Petition Indebtedness shall be paid in full: or (ii) Bank shall have consented thereto previously in writing.

12. Notwithstanding anything to the contrary stated herein, nothing herein shall be construed to prejudice or otherwise limit any right of Bank to apply to this Court for expedited vacation of the automatic stay or for an order authorizing any other relief which in its sole discretion, it deems appropriate, at any time.

13. The terms of this Order and Bank's consent shall not be deemed to be a waiver of any part of the Indebtedness or a waiver of any claims the Bank may have against any third parties, and is without prejudice to any

of Bank's rights, interests and claims of any nature against any person or entity, including, without limitation, the shareholders of the Debtor, the Debtor's current and former account debtors, guarantors of the Debtor and in or to their respective assets, which rights, claims and interests are expressly reserved. Further, nothing in this Order shall be construed to prohibit any actions (including litigation) the Bank may take at any time against any guarantors of the Indebtedness or any other collateral for the Indebtedness.

14. Upon the occurrence of a material event of default by Debtor of any duty as described above, and after seven (7) calendar days' written notice given by the Bank, to Debtor, Debtor's attorney, the U.S. Trustee, and attorneys for the creditors' committee, if any, unless the default has been cured during such seven-day period, the automatic stay imposed by §362 shall be lifted and the Bank shall be permitted to pursue its pre-petition remedies, provided however the Debtor shall have the right to an expedited hearing on any issue, including whether a material default has occurred and whether the automatic stay has been, or shall be lifted.

15. Notwithstanding anything contained herein or in the, note, security agreement, guaranty and any and all loan documents executed in connection with the loans to the Debtor by Bank (the "Pre-petition Loan

Documents”), or other agreements securing or evidencing the Indebtedness to the contrary, upon the occurrence of a material default the entire Indebtedness remaining, unpaid at the time, at the election of Bank, and without notice of such election and without demand and presentment, shall become immediately due and payable in full, subject to the limitations set forth in the preceding paragraph and under the Bankruptcy Code.

16. Except as otherwise set forth in this Order: (a) the Debtor acknowledges and agrees that the Pre-Petition Indebtedness constitutes valid and binding Indebtedness of the Debtor, without defense, counter-claim or offset of any kind, and is not avoidable nor subject to reduction, disallowance or subordination of any kind, and that all of the cash generated by the Debtor’s operations and use of pre-petition collateral in the ordinary course constitutes Bank’s cash collateral as defined in §363(a) of the Bankruptcy Code, and (b) the Debtor further acknowledges and agrees that the Bank has a valid and perfected security interest in and liens on all of the Debtor’s pre-petition Collateral, with priority over all other security interests in and liens on the pre-petition Collateral., Bank's security interest and liens are not subject to avoidance.

17. No delay on the part of the Bank in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege hereunder preclude other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies hereunder specified are cumulative and not exclusive of any rights or remedies which the Bank may otherwise have.

18. The terms and conditions embodied in this Order represent an agreement among the parties negotiated in good faith and at arm's length. The Bank has acted in good faith indicating a willingness to allow the use of cash collateral under the terms and conditions set forth in this Order and are subject to: (i) entry of this Order and the fulfillment of the conditions stated herein; and (ii) the granting, regranting and continuing of the pre-petition security interest and replacement liens.

19.. Any and all cash collateral now held or hereafter received by the Debtor shall be collected, received, maintained and segregated by the Debtor by depositing all cash, checks or other forms of remittance evidencing same in the Debtor's respective debtor in possession bank accounts at the Bank. The Bank shall be and is granted a perfected security interest in the debtor in possession account superior to any interest.

20. Nothing contained herein shall: (a) bar the Bank from (i) asserting rights to default rate of interest, (ii) contesting any collateral valuation by the Debtor, or (iii) challenging the adequacy of any adequate protection provided in this Order; or (b) serve to compromise any rights of the Bank under the Bankruptcy Code, the Pre-Petition Loan Documents, this Order, or pursuant to applicable federal or state law. Likewise, nothing in this Order shall serve to prejudice any of Debtor's rights and arguments with respect to subsection (a) of this paragraph, or compromise or prejudice any other rights and interests of Debtors except as explicitly set forth in this Order.

21. In the event that this Order or any authorization contained herein is reversed or modified on appeal with respect to priorities, liens, and security interests granted under this Order, it shall not limit or affect the rights of Bank arising from the payment of cash collateral in reliance upon this Order.

22. The provisions of this Order, including the liens and security interests created and affirmed hereunder and the respective priorities of such liens as provided by this Order, and any actions taken pursuant thereto shall remain in effect and continue in this case of the Debtors under the

Bankruptcy Code; and shall be binding on the Debtors and their successors and assigns.

23. Nothing in this Order or the Budget shall constitute the consent by the Bank to the imposition of any costs or expense of administration or other charge, lien assessment or claim against the Bank or the collateral under §506(c) of the Bankruptcy Code or otherwise and all such claims under §506(c) of the Bankruptcy Code or otherwise are hereby expressly waived.

24. The Bank shall not waive, and hereby expressly reserves, any and all claims, defenses, rights and remedies it may have pursuant to any or all of the Pre-Petition Loan Documents, the Bankruptcy Code and/or other applicable law against the Debtor and any officer, director, employee, agent or other representative thereof. In addition, the rights, claims, liens, security interests and priorities of Bank arising under this Order are in addition to and are not intended as a waiver or substitution for the rights, indebtedness, claims, liens, security interests and priorities granted by the Debtor in its pre-petition capacity.

25. In taking any actions reasonably related to this Order, the Bank shall not have liability to any third party and shall not be deemed to be in

control of the operations of the Debtor or to be acting as a "controlling person," "responsible person" or "owner or operator" with respect to the operation or management of the Debtors (as such term, or any similar terms, are used in the Internal Revenue Code, the United States Comprehensive Environmental Response, Compensation and Liability Act as amended, or any similar federal or state statute), and the Bank's relationship with the Debtor shall not constitute or be deemed to constitute a joint venture or partnership of any kind between the Bank on one hand, and the Debtor, on the other hand.

26. The provisions of this Order shall be binding upon the Debtor and its successors and assigns, and, except as otherwise set forth in this Order, (i) the Prepetition Indebtedness constitutes allowed claims in accordance with §506(a) of the Bankruptcy Code for all purposes in this Case, (ii) Bank's liens and security interests on the Pre-Petition Collateral shall be deemed to be valid, legal, binding, perfected, not subject to avoidance or subordination and not subject to any other further challenge by any party in interest seeking to exercise the rights of the Debtor's estates, and (iii) as of the effective date of this Order, all claims the Debtor has or may have against the Bank and its respective officers, employees and agents, whether known or unknown, are

waived and released.

27. If any of the provisions of this Order are hereafter modified, vacated or stayed by subsequent order of this or any other Court, such stay, modification or vacatur shall not affect the validity and enforceability of any lien, priority, right, privilege or benefit authorized hereby with respect to the Pre-Petition Indebtedness, including without limitation, the replacement liens.

28. Notwithstanding any provision contained herein, this Order shall not be binding on any future trustee (chapter 7, 11 or 13).

29. Debtor may use cash collateral in the maximum amount of \$209,508.00 only until the earlier of (A) a final hearing, or (B) the date this order becomes a final order. Pending entry of a final order, Debtor may use cash collateral in accordance in the amounts set forth above with a ten percent (10%) variance for each line item.

30. Debtor shall, within twenty-four (24) hours following the entry of this Order, serve copies of this Order on each of the Debtor's 20 Largest Unsecured Creditors, all the Secured Creditors, any committee formed in this case, the United States Trustee's Office, and all other parties who are required to be served under Fed.R.Bankr.P.4001(d).

31. All parties seeking to object to this Order must file a written objection within fourteen (14) days after the entry of this Order, except that an official committee may file objections within fourteen (14) days after the official committee is served with the entered Order. If an objection is timely filed, the final hearing on this Order will be held before the Honorable Phillip J. Shefferly, United States Bankruptcy Judge, Courtroom 1975, 211 W. Fort St., Detroit, MI 48226, on **March 19, 2018 at 2:00 p.m.** If no timely objection is filed, then this Order will become a final order without a further hearing, and Debtor will be authorized to spend for those expenses referenced in the Motion, as well as any other expenses necessary for operating the business in the ordinary course going forward.

IT IS SO ORDERED.

Signed on February 26, 2018



/s/ Phillip J. Shefferly

Phillip J. Shefferly
United States Bankruptcy Judge