

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MISSOURI
AT KANSAS CITY

IN RE:)	
)	
CHALMERS AUTOMOTIVE, LLC)	Case No. 17-41924-can
Debtor.)	Chapter 11
_____)	

ORDER AUTHORIZING USE OF CASH COLLATERAL AND
GRANTING ADEQUATE PROTECTION
(Related Docket No. 8)

The Court considered the Debtor's Motion For Approval of Preliminary Order Pursuant to 11 U.S.C. 363 and Fed. R. Bankr. P. 4001 Concerning the Use of Cash Collateral and providing for adequate protection and related matters ("Motion"). The parties have reached an agreement on the terms of the use of cash collateral.

WHEREUPON, having considered the statements of counsel, the file, and evidence before it, the Court finds as follows:

1. On July 19th, 2017, ("the Petition Date") Chalmers Automotive, LLC filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the Bankruptcy Code). Pursuant to §§ 1107 and 1108 of the Bankruptcy Code, the Debtor remains as Debtor-in-Possession.
2. Debtor continues to operate its businesses and manage its property as Debtor-in-Possession.
3. Debtor is indebted to First Business Bank, Internal Revenue Service and Missouri Department of Revenue pursuant to filed liens, which hold security interests in and liens upon Debtor's cash account receivables and inventory (collectively "the Collateral"). Debtor's cash, inventory, and accounts receivable constitute Cash Collateral as defined in 11 U.S.C. § 363(a).

4. First Business Bank, the IRS and Missouri Department of Revenue claim a secured interest in cash collateral (cash, accounts, accounts receivable, inventory and the proceeds thereof) of the Debtor by virtue of Liens filed on various dates.

5. In return for the consent of First Business Bank, the IRS and Missouri Department of Revenue to the Debtor's use of the cash collateral in which First Business Bank, the IRS and Missouri Department of Revenue have a secured interest, and as adequate protection to First Business Bank, the IRS and Missouri Department of Revenue are hereby granted replacement liens in post-petition cash collateral (including cash, accounts, accounts receivable, inventory and the proceeds thereof) of the Debtor to the same extent and same priority that First Business Bank, the IRS and, Missouri Department of Revenue have valid liens on pre-petition cash collateral.

6. The Debtor shall, at all times, maintain its cash and bank account balances in the sum of at least \$25,000.00.

7. The Debtor agrees to pay \$1,000.00 to the IRS on or before August 20, 2017, with identical \$1,000.00 amounts to be paid to the IRS on or before the 20th day of each succeeding month, until confirmation of the Debtor's Plan of Reorganization. The monthly payment to the IRS shall be sent to: IRS Insolvency Unit, Attn: Lynda Walker, Mail Stop-5334LSM, 2850 NE Independence Ave., Lee's Summit, MO 64064.

8. The Debtor shall timely file all post-petition tax returns and shall make timely deposits of all post-petition taxes.

9. The Debtor shall serve copies of its monthly operating reports upon counsel for the IRS, Dennis R. Onnen, at 2345 Grand Blvd., Suite 301, Kansas City, Missouri 64108 on the same day they are filed with the U.S. Trustee or the Court.

10. If the Debtor defaults under any of the provisions of paragraphs 6 through 9 above, the IRS may give written notice of default to the Debtor's attorney, Colin N. Gotham, by mail at Evans & Mullinix, P.A., 7225 Renner Road, Suite 200, Shawnee, KS 66217. If the default is not cured within 15 days after notice, the automatic stay shall be terminated as to the IRS without further order of the Court.

11. To the extent the adequate protection provided to the IRS proves to not be adequate to protect the IRS against a post-petition diminution in the value of its collateral arising from the stay of action against such property under 11 U.S.C. 362, from the use, sale or lease of such property under section 363, or from the granting of a lien under section 364(d), within the meaning of Section 507(b), then the IRS is entitled to have its claim for any such demonstrated diminution in value of its collateral allowed as a super-priority administrative expense pursuant to section 507(b).

12. The Debtor shall make a monthly adequate protection payment of \$12,474.82 to First Business Bank beginning on August 10th, 2017 and the 10th day of each month thereafter until further order of the Court.

13. Debtor has no source of income other than from the operation of its businesses and the collection of its accounts. If Debtor is not permitted to use cash collateral in the ordinary course of its business, it will be unable to pay its operating and business expenses, thus effectively precluding its orderly reorganization in these chapter 11 proceedings and causing imminent and irreparable harm to its Bankruptcy Estate.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Debtor shall be, and hereby is, granted the use of Cash Collateral on the terms and conditions set forth in this Order.

IT IS FURTHER ORDERED that nothing contained in this Order shall act as a waiver, release, or final determination of any parties' claim to or priority of interest in the Cash Collateral.

IT IS FURTHER ORDERED that the provisions of this Order shall be binding upon and inure to the benefit of First Business Bank, the Internal Revenue Service and Missouri Department of Revenue,, and their respective successors and assignees (including without limitation any Chapter 11 or Chapter 7 Trustee, examiner or other fiduciary hereafter appointed for Debtor or with respect to any of Debtor's property).

IT IS FURTHER ORDERED that this Order shall become effective and enforceable upon approval and entry as an Order of the Bankruptcy Court. If any provision of this Order is modified, vacated, or stayed by a subsequent Order of the Court, such modification, vacation or stay shall not affect the validity of any obligation or liability incurred pursuant to this Order and prior to the effective date of such modification, vacation or stay.

IT IS SO ORDERED.

Dated: August 14, 2017

/s/ Cynthia A. Norton
United States Bankruptcy Judge

EVANS & MULLINIX, P.A.

s/ Colin N. Gotham
Colin N. Gotham, KS#19538, MO#52343
7225 Renner Road, Suite 200
Shawnee, KS 66217
(913) 962-8700; (913) 962-8701 (Fax)
cgotham@emlawkc.com
Attorneys for the Debtor