

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

IN RE:)
)
CHALMERS AUTOMOTIVE, LLC) **Case No. 17-41924-cgn**
) **Chapter 11**
DEBTOR.)
)

MOTION TO PROHIBIT DEBTOR'S USE OF CASH COLLATERAL

COMES NOW First Business Bank, successor by merger to Alterra Bank (the "Bank") and pursuant to 11 U.S.C. § 363(e) respectfully submits this Motion to Prohibit Debtor's Use of Cash Collateral. In support of its Motion, the Bank states and alleges as follows:

1. Debtor filed the above-captioned Chapter 11 case on July 19, 2017.
2. On July 20, 2017, Debtor filed a motion seeking leave to use cash collateral. (ECF 8).
3. In the Motion, Debtor acknowledged that the Bank has a first-position lien on all Debtor's assets including Debtor's cash.
4. As adequate protection for the use of the Bank's collateral, Debtor proposed to pay the Bank the amount of \$12,474.82 per month until confirmation of a Plan and that such payment would be the same as the regular, pre-petition, payment to the Bank (the "Adequate Protection Payment").
5. On July 25, 2017, the Court entered an interim order granting Debtor's use of cash collateral but incorporating the requirement that Debtor make the Adequate Protection Payments to the Bank. (ECF 23).
6. On August 14, 2017, the Court entered a final order authorizing the use of cash collateral and granting adequate protection, which such Order continued to incorporate the

requirement that Debtor make the Adequate Protection Payments to the Bank with the first payment being made on August 10, 2017, and the 10th of each month thereafter (the "Cash Collateral Order"). (ECF 45).

7. Debtor failed to make the Adequate Protection Payment on August 10, 2017.

8. Debtor also failed to make the Adequate Protection Payment that was due on September 10, 2017.

9. Based on Debtor's failure to make the required Adequate Protection Payments, Debtor's ability to use cash collateral should be terminated and the Cash Collateral Order be negated.

WHEREFORE First Business Bank, successor by merger to Alterra Bank respectfully requests that the Court enter an Order terminated Debtor's use of cash collateral and rescinding the Cash Collateral Order and that the Court enter such other and further relief as is deemed just and appropriate.

Dated this 18th day of September, 2017.

STINSON LEONARD STREET LLP

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ATTORNEYS FOR FIRST BUSINESS
BANK

CERTIFICATE OF SERVICE

This is to certify that the foregoing document was filed this 18th day of September, 2017, using the Court's CM/ECF system which gave automatic notice thereof to all registered filing users.

/s/ Andrew W. Muller
Attorney for First Business Bank