

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
GULFPORT DIVISION

IN RE: § CASE NO. 17-51243
§
NATIONAL TRUCK FUNDING, LLC, § CHAPTER 11
§
DEBTOR. §
§

DEBTOR’S MOTION FOR ORDER AUTHORIZING DEBTOR, *NUNC PRO TUNC*, TO INCUR DEBT PURSUANT TO 11 U.S.C. § 364(c)(2), EXECUTE AND MAKE CASH DOWN PAYMENT AND MONTHLY PAYMENTS PURSUANT TO INSURANCE PREMIUM FINANCING AGREEMENT WITH PRIME RATE PREMIUM FINANCE CORPORATION

NOW INTO COURT, through undersigned counsel, comes National Truck Funding, LLC. (“*Debtor*”), which files this motion for entry of an Order authorizing the Debtor, *nunc pro tunc* to June 26, 2017, to incur debt pursuant to 11 U.S.C. § 364(c)(2), execute and make cash down payment and subsequently monthly payments pursuant to a premium financing agreement with Prime Rate Premium Finance Corporation (“*PRPFC*”), and respectfully represents as follows:

1.

On June 25, 2017 (the “*Petition Date*”), the Debtor commenced a voluntary bankruptcy case under Chapter 11, Title 11 of the United States Code (the “*Bankruptcy Code*”). The Debtor continues to operate its business and manage its properties as debtor-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

2.

In the ordinary course of business, the Debtor maintains insurance policies providing insurance in amounts and types of coverage in accordance with the state and local laws, as well

as in accordance with certain contractual obligations.

3.

The Debtor's "Drive Away" policy came up for renewal prior to the Petition Date. A "Drive Away" policy is a policy endorsement that broadens the collision coverage for autos being driven or transported from point of purchase or distribution to destination. Maintaining such insurance is crucial to the ability of the Debtor to continue operating its business.

4.

The insurance will bear total premiums of \$34,676.00 and the payment of that amount from the Debtor's cash on hand in a single payment would potentially hinder the Debtor's ability to pay other operational expenses in the ordinary course of its business. Therefore, it is necessary for the Debtor to finance the premiums of the subject insurance policy.

5.

The Debtor has determined that PRPFC will agree to finance the premiums of the insurance policy pursuant to the terms of the Premium Finance Agreement attached hereto as Exhibit A.

6.

The Debtor's obligations under the Premium Finance Agreement include payment of a cash down payment in the amount of \$6,936.00 and nine (9) monthly payments in the amount of \$3,229.16 commencing on July 26, 2017.

7.

The Debtor forwarded the down payment required by the Premium Finance Agreement to the insurance agent, Bolt Insurance Agency, on or about January 26, 2017. Undersigned counsel received a copy of the Premium Finance Agreement and notice of the down payment on the on

June 27, 2017.

8.

The Debtor's obligations under the Premium Finance Agreement will be secured by all right, title and interest to the subject insurance policy including (a) all money that is or may be due to the Debtor because of a loss under the subject insurance policy that reduces the unearned premiums; (b) any unearned premium under the subject insurance policy; (c) dividends which may become due to the Debtor in connection with the subject insurance policy; and (d) interests arising under any state guarantee fund. Furthermore, under the Premium Finance Agreement, PRPFC is appointed as the attorney in fact for the Debtor, and all named insureds under the subject insurance policy, and has authority to, among other things, cancel the subject insurance policy in the event of non-payment.

9.

No party currently holds a lien or security interest over the type of property covered by the Premium Finance Agreement.

10.

In view of the importance of maintaining insurance coverage to the Debtor's business operations, as well as preserving the Debtor's cash flow and estate by financing the premiums, execution of the Premium Finance Agreement, payment of the cash down payment, and payment of the monthly payments to PRPFC.

11.

No previous motion for the relief sought herein has been made to this or any other court.

WHEREFORE, the Debtor respectfully requests entry of an order (a proposed form of which is attached hereto as Exhibit B) granting the relief requested herein, *nunc pro tunc* to June

26, 2017, and granting the Debtor such other and further relief as the Court deems just and proper.

Respectfully submitted,

WESSLER LAW FIRM

/s/ William P. Wessler
WILLIAM P. WESSLER (MS #7110)
1624 24th Avenue
Gulfport, MS 39501
Telephone: (228) 863-3686
Facsimile: (228) 863-7877
wwessler@cableone.net

AND

LUGENBUHL, WHEATON, PECK,
RANKIN & HUBBARD

/s/ Christopher T. Caplinger
STEWART F. PECK (LA #10403),
pro hac vice application pending
CHRISTOPHER CAPLINGER (#25357),
*pro hac vice *
MEREDITH S. GRABILL (LA #35484),
pro hac vice application pending
JAMES W. THURMAN (AL #2400S15B),
pro hac vice application pending
601 Poydras Street, Suite 2775
New Orleans, LA 70130
Telephone: (504) 568-1990
Facsimile: (504) 310-9195
E-mail: speck@lawla.com; ccaplinger@lawla.com;
mgrabill@lawla.com; jthurman@lawla.com
Proposed Counsel for the Debtors

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the parties identified below that receive electronic notice via the Court's CM/ECF system, as well as Prime Rate Premium Finance Corp., 2141 Enterprise Dr., P.O. Box 100507, Florence, SC 29502-0507 and Bolt Insurance Agency, 10 Waterside Dr., Ste. 202, Farmington, CT 06032 as well as those parties which are listed on the attached service list via first class mail on this 27th day of June 2017.

/s/ Christopher T. Caplinger